Justice For Muslims Collective Policy and Community Brief
Name of Policy: National Origin - Based Antidiscrimination for Nonimmigrants (No Ban Act)
By Darakshan Raja and Nana Brantuo
Artwork by The Sanctuaries and Justice For Muslims Collective

you can't ban us.

Sanctuaries
Justice For Muslims Collective Policy and Community Brief

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By Darakshan Raja and Nana Brantuo

Framework:
The Muslim and Refugee Bans are part and parcel of a broader history of anti-immigrant, racist, and Islamophobic policies that have been implemented and designed over the course of 500 plus years. As we reflect on the first Congressional hearing on the Ban, we recognize that nativists and white supremacists have historically weaponized immigration, refugee, and asylum laws in order to restrict American citizenship to White European communities. Citizenship is a legal construct that has been deployed over time in the United States for the express purpose of regulating who is considered worthy of protection from the law, and who is targeted by the law, hence rendering people illegal. We recognize that this legal construct of citizenship is used in the United States to uphold white supremacy, settler-colonialism, anti-Black racism, structural Islamophobia, ableism, empire, and interlocking systems of oppression.

As the first hearing on the Muslim Ban takes place in Congress, JMC is releasing this document to share our perspectives on the No Ban Act as a policy with our 1) communities as the primary audience, and 2) policy advocates, community organizers, scholars and activists committed to building power and attaining wins for the long-term. We recognize the No Ban Act is an important and critical first step that may offer immediate recourse by repealing the existing bans. However, we share our concerns about the limitations of the No Ban Act and offer some suggestions around closing loopholes for policymakers and advocates. This brief also includes a call to action for community members to join the fight and hold broader conversations on the root causes of these policies, envision liberatory policy frameworks, and build power through deepening intra-community and inter-community solidarity.

Background on the Muslim Ban:
On January 27, 2017, Trump released the first Muslim Ban 1.0 that placed a 90 - day ban on nationals from 7 Muslim - majority countries and all refugees, including an indefinite ban on Syrian refugees. Trump issued Presidential Proclamation 9645 or the Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public Safety Threats. The Administration has passed 4 different versions of the ban. Currently, there is an indefinite ban on nationals from the following countries: Iran, Libya, Somalia, Syria, Yemen, North Korea, and government officials from Venezuela. In October 24, 2017, the administration also placed a 90 - day ban for all refugees from
Egypt, Iran, Iraq, Libya, Mali, North Korea, Somalia, Sudan, South Sudan, Syria, Yemen, and certain stateless individuals. Despite a valiant fight from community members, organizers and advocates, on June 26th, 2018, the Supreme Court of the United States upheld the ban in a 5-4 decision by using national security as a justification and determining that issuing the ban was within the presidential powers granted in the Immigration and Nationality Act. The decision from the majority also refused to acknowledge the underlying anti-Muslim animus and Islamophobia that upholds the ban.

This decision set a dangerous legal precedent that has resulted in the decrease of Muslim migration to the United States, and provides a cover to the Trump Administration to justify broader anti-immigrant, anti-Muslim, and refugee policies. According to the Bridge Initiative’s report on the impact of the Muslim Ban, 60,000 to 100,000 visas were revoked within the first week of the ban’s implementation, and there has been an eighty-four percent reduction in visas issued to applicants from the 5 Muslim-majority countries. In addition, the State Department published a report detailing the impact of the Ban and visa denials from December 2017 - March 2019. According to their report, 42,650 individuals have been barred from the US, with the majority including parents, siblings, spouses, and children.

Table 1: Countries Impacted By The Ban

<table>
<thead>
<tr>
<th>Country</th>
<th>Types of Visas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iran</td>
<td>No nonimmigrant visas, except F, J, and M; No immigrant or diversity visas</td>
</tr>
<tr>
<td>Libya</td>
<td>No B-1, B-2, B-1/B-2 visas; No immigrant or diversity visas</td>
</tr>
<tr>
<td>North Korea</td>
<td>No non-immigrant visas; No immigrant or diversity visas</td>
</tr>
<tr>
<td>Somalia</td>
<td>Not applicable; No immigrant or diversity visas</td>
</tr>
<tr>
<td>Syria</td>
<td>No non-immigrant visas; No immigrant or diversity visas</td>
</tr>
<tr>
<td>Venezuela</td>
<td>No B-1, B-2, B-1/B-2 visas and no visas for most government agencies</td>
</tr>
<tr>
<td>Yemen</td>
<td>No B-1, B-2, B-1/B-2 visas; No immigrant or diversity visas</td>
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</table>

Source: State Department’s Combined Report on the Implementation of the Ban

While there is a visa-waiver process in place, JMC alongside other advocates and impacted members considers it a sham and a method for the government to evade accountability. Thus far, only 5% of visa applicants have received visa waivers.
Moreover, the broader impact of the ban includes cutting down the annual number of refugee admissions and the refugee resettlement program (a 91% decrease in Muslim refugees being resettled), targeting of asylum-seekers at the border, and fostering an environment where Muslim communities are targeted at airports and borders. After exhausting the courts as an option for change, which included over 100 legal challenges, advocates are pushing for legislative change from Congress.

Legal Remedies to Address the Ban: What is The No Ban Act

According to the No Muslim Ban Campaign, the No Ban Act was introduced on April 10, 2019 by Democrats in congress. Rep. Judy Chu (CA-27) in the House (H.R. 2214) and Sen. Chris Coons (DE) in the Senate (S. 1123) introduced the National Origin-Based Antidiscrimination for Nonimmigrants (NoBan) Act.

If passed, the NO BAN act would:

1. Void Presidential Proclamations 9645, 9822 and Executive Orders 13769, 13780, and 13815, beginning on the date of enactment. This means that all versions of the Muslim ban will be repealed, including the refugee and asylum ban.
2. Amend the Immigration and Naturalization Act to include the interdiction of religious discrimination within US visa policy, with certain exceptions. Currently, the INA doesn’t include any language that prohibits religious discrimination against immigrants or individuals applying for visas to the United States.
3. Place limitations on the Executive from issuing bans. One of the detrimental aspects of the decision authorized by SCOTUS is it increases presidential powers to issue and ban any immigrant, refugee and asylum seeker based on national security justifications. The No Ban Act would place some limitations on presidential authority.
4. The No Ban Act furthers government transparency by requiring that the Executive branch, including the Secretary of State, in coordination with other heads of relevant Federal agencies, submit a report to congressional committees that provides an overview of the implementation of all presidential proclamations and executive orders related to the Muslim ban, which include the status, impact and harm caused by the ban.

It is important to note that the ability of the president to bar entry of any immigrant or groups would be limited, not prohibited. The President, along with the State Department and Department of Homeland Security, would be able to temporarily restrict entry of any immigrant or groups of immigrants by providing evidence that demonstrate the need for restriction.
Policy Recommendations

In acknowledging the need for legislative solutions that translate into transformative policy, Justice for Muslims Collective recognizes that the NO BAN Act is an important first step in repealing the bans. We also acknowledge the important role the campaign has played in organizing and keeping our communities engaged in attaining accountability, reprieve, and change. With the goal of making policy and legislation accessible to our communities, we want to highlight that the No Ban Act is a limiting and temporary resolution that fails to address the larger system of institutional and structural prejudice and discrimination faced by Muslim immigrants through all aspects of the immigration process, especially during and after the visa issuance process.

Our concern lies most with the conditionality of nondiscrimination which, in turn, allows the President, Secretary of State, the Secretary of Homeland Security to bar entry upon demonstrating the necessity of restriction. We are concerned that with this loophole, the administration can provide national security justifications and we may end up in the future having to fight bans despite the existence of the No BAN Act. Historically and contemporarily, US Presidents and Presidential cabinet members have shown their inability to create and enforce legislation free of bias that negatively impacts marginalized and minoritized groups. The formation of the Department of Homeland Security itself is a testament to the commitment of the United States government to the criminalization of Muslims worldwide. As we keep in mind that the US is still engaged in indefinite wars and conflicts, there is a direct connection between who is banned and American foreign policy being carried out under the context of the War on Terror, which in turn already expands the executive branch's power in times of war.

It is our recommendation that amendments be made to the NO BAN Act that would completely restrict the president as well as the Secretaries of State and Homeland Security from restricting visa issuance and entry into the United States on the basis of religious identity, race, nationality, or any other social identity. We also recommend that the appropriate parties (i.e. members of congress, congressional committees and caucuses, federal agencies and departments) begin the process of overhauling current immigration legislation, policies, and protocols - making way for addressing and rectifying discriminatory actions and conduct.

Local Level Policy Recommendations For District of Columbia, Virginia, and Maryland

1. Pass local resolutions condemning the Muslim Ban and the underlying foundations of Islamophobia, xenophobia, and racism.
2. Educate local policymakers on institutionalized Islamophobia and the ways the Muslim Ban is part and parcel of broader War on Terror and immigration enforcement policies.

3. Ask local representatives in VA and MD to co-sponsor the No Ban Act: Currently there are 192 co-sponsors for the No Ban Act (H.R. 2214). In the Senate, there is a related bill called the National - Origin Based Antidiscrimination for Nonimmigrants Act (S.1123). Currently, the following legislative representatives have supported the bill in VA, MD, and DC.

<table>
<thead>
<tr>
<th>Virginia</th>
<th>Maryland</th>
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<td><strong>Note:</strong> 5 out of 11 representatives have co-sponsored the bill.</td>
<td><strong>Note:</strong> 6 out of 8 representatives have co-sponsored the bill.</td>
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<td>Rep. Trone, David J. [D-MD-6]</td>
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We hope this brief can be used as a tool to engage the remaining local legislators in VA and MD who haven’t supported the bill.

**Call To Action For Community Members**

1. We invite community members to continue reaching out to their representatives to pass the No Ban Act and use it as an opportunity to ask questions and demand transparency. We also encourage community members to use this as an opportunity to learn about the history of US laws and policies and the voting records of their legislators. An informed and strong Muslim constituency is critical to ensuring we can build up an infrastructure that helps us win on multiple fronts. Sign this petition from the No Muslim Ban Ever Campaign on asking Congressmembers to support the No Ban Act and general resources on the Ban. Also, check out Muslim Advocates’ No Muslim Ban Action Center as for resources.

2. We recommend community members center the voices of impacted community members and support them as they are separated from their loved ones. Community is always our best self-defense.

3. We recommend community members use this resource guide to learn more about root causes, the history of the ban and draw connections that build inter-community and intra-community solidarity. The only way we will produce transformative and lasting change is if we divest from playing into
the hierarchies of the good citizen, immigrant, and Muslim that have often been at the expense of our own communities.

4. We recommend communities focus on community healing and processing the collective trauma and pain that the Ban and many other policies have resulted in for our communities.

5. We recommend that our communities remain plugged into the struggle by joining JMC and other organizations at the local and national level to remain committed to dismantling cruel and inhumane policies.

6. Most importantly, we recommend that our communities hold on to visions of freedom and collective liberation to share what would humane and just immigration, refugee, and asylum policies, laws, and systems look like.

Resources

1. Analysis Framework: **1503: America’s First Muslim Ban** is a resource on the historical context of Muslim Bans in the Americas, including the targeted efforts of excluding enslaved Black Muslims, an intersection of anti-black racism and Islamophobia. The bans forbade the entry of Jews and Muslims; barring Muslims of various backgrounds, African, European, and Levantine. Article excerpt: “The US Supreme Court’s recent decision in favor of Trump’s Muslim ban is thus one of many iterations of American bans against the entry of Muslims. This history suggests that the Americas were literally founded on Islamophobic principles that continue to reign to this day.”


3. Analysis Framework: The Supreme Court's Muslim Ban Decision is Terrifying by Dr. Maha Hilal: [https://truthout.org/articles/the-supreme-court-s-muslim-ban-decision-is-terri fying/](https://truthout.org/articles/the-supreme-court-s-muslim-ban-decision-is-terri fying/)

4. Article from impacted community member: **Trump’s Muslim Ban Has Been In Force For A Year: I’m Still Waiting To See My Mom. Article in Newsweek by Ayyad Algabyali**

5. Factsheet on the Ban: No Muslim Ban Ever Campaign factsheet on Frequently Asked Questions on The No Ban Act. The document is available on National Immigration Law Center’s website [here](https://www.nilc.org/).

6. Factsheets on the Impact of the Ban by the Bridge Initiative available [here](https://www.bridgeinitiative.org/resource/)

7. Report: **One Year After The SCOTUS Ruling: Understanding the Muslim Ban and How We’ll Keep Fighting It by The No Muslim Ban Ever Campaign**

8. Report: **Muslim Advocates released a report on the impact of the Muslim Ban. Its titled “Total and Complete Shutdown” and is accessible online here.**

9. Resource Guide: **No Entry: The Muslim Ban and a US History of Exclusionary Immigration** is a resource created by Justice For Muslims Collective on positioning the Muslim Ban in broader context and history of exclusionary policies passed by the US to further white supremacy.