

House Votes on Party Lines to Repeal Trump Travel Ban

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Panning President Donald Trump's multiple iterations of a travel ban targeting Muslim-majority countries as inherently discriminatory, the House voted 233-183 on Wednesday to rescind them and limit the power of future administrations to implement similar policies.

The National Origin Based Antidiscrimination for Nonimmigrants Act, or No Ban Act, effectively ends the bans Trump has issued since taking office in 2017. However, the bill is largely symbolic because it is highly unlikely to pass the Republican-controlled Senate and even more unlikely to be signed by President Trump.

The legislation, sponsored by Representative Judy Chu, a California Democrat, was added to the House's docket in March, but with the Covid-19 pandemic upending life and business as usual, it was not until Wednesday that lawmakers finally brought the bill up for a vote.

It is the first bill to pass the House that directly addresses Muslim civil rights in America and simultaneously pushes back against a 2018 ruling from the Supreme Court that upheld Trump's third stab at a Muslim-focused ban.

Justice Sonia Sotomayor wrote in her dissent at the time that "history would not look kindly upon the court's misguided decision" to retain any variation of the president's executive order that was aimed at blocking travelers or asylum seekers from places like Iran, Iraq, Libya, Somalia, Sudan, Syria, Yemen and Chad.

Sotomayor's concerns echoed through the House chamber Wednesday. Representative Jerry Nadler, the New York Democrat who chairs the House Judiciary Committee – one of Congress' most powerful and influential bodies – scorched the high court's majority ruling, saying it was a decision reached only through overly broad interpretation of the Immigration and Nationality Act.

Contained within that law is a section granting authority for the president to suspend entry "to all aliens or class of aliens" when they find entry to be "detrimental" to the United States.

But Nadler argued the justices should have ruled that detriment is limited to matters of public health and safety or international stability.

"It was not tended to provide carte blanche authority to the president to ban large categories of individuals without justification or to rewrite the immigration laws with which he disagrees," Nadler said. "As a result of the Muslim ban, our reputation as a beacon of hope and tolerance from those fleeing persecution has been forever tarnished."

Beyond rescinding the travel bans, the No Ban Act also prohibits religious discrimination in immigration decisions unless there is a statutory basis, like a provable criminal record, not the presumption of one.

Additionally, the bill stipulates that the State Department and Department of Homeland Security must report any new immigration restrictions to Congress within 48 hours. If they do not, the restrictions would immediately terminate. Reports on any potential harm to those denied entry must also be provided to Congress.

Michigan Democrats Rashida Tlaib and Debbie Dingell represent a state with the largest population of Arab Americans in the country. They recalled the chaos and confusion that unfolded at airports in the U.S. when Trump first ordered the travel ban in January 2017.

Visa holders, green card holders and even veterans, including immigrants who assisted U.S. troops in combat in Afghanistan and Iraq, were detained indiscriminately, the congresswomen said.

It was clear Muslims were targeted “very irrationally,” Dingell said. Tlaib was even more blunt, calling the bans “racist” and “federal endorsements of anti-Muslim rhetoric and discrimination.”

House Republicans like Andy Biggs of Arizona, leader of the libertarian-leaning House Freedom Caucus, pushed back on the racist label.

“Was it xenophobic or racist or hateful when the Obama administration implemented travel bans to the same nations? Was it?” he asked, throwing his hands up. “No. Nor is it here either. That kind of language is meant to incite public ridicule and distract from the real issue.”

In truth, however, then-President Barack Obama’s 2011 visa policy did not lump individuals together from seven nations and deem them highly dangerous “terrorist threats” as the Trump administration did.

Instead, the Obama policy slowed admittance for a short period as agencies like the Department of Homeland Security and Defense Department began cross-checking finger prints of refugees after an Iraqi national flew into Kentucky that year and his prints were flagged by the FBI as those once found on a roadside bomb in Iraq.

Farhana Khera, executive director of Muslim Advocates, a nonprofit that has pushed to have the bans rescinded since their inception, emphasized the differences in policies.

“Representative Biggs is disingenuously comparing apples and oranges. President Obama did not ban people. He required nationals of certain countries or people who had recently visited those countries to apply for visas to enter the U.S. and therefore go through the same vetting process that citizens of non-visa waiver countries already use,” Khera said. “This is very different from President Trump’s blanket Muslim ban which has separated countless families.”

Longtime civil rights attorney Andrew Laufer said in an email Wednesday that the No Ban Act would serve several purposes.

“It will prevent DHS from racial and religious profiling of individuals seeking admittance to the United States [and] if there’s a specific concern about an individual, they’ll still have the authority to stop, question and detain,” Laufer said. “This bill seeks to specifically prevent the

scatter gun approach of detaining individuals solely based on race, ethnicity or religion which are clear violations of the Fourth and Fourteenth Amendments to the U.S. Constitution.”

He added, “The executive branch has wide latitude in regulating immigration and access to our country. However, we’ve seen the utter abuse this administration has engaged in in utilizing this power as a basis to forward a specific racial and religious animus under color of law and not in forwarding America’s interest.”

A study from the libertarian CATO Institute confirmed Trump’s travel bans slashed the number of Muslim refugees entering the U.S. by a staggering 91% from 2016 to 2018. They also drove down overall immigration by 30%.

Representative Pramila Jayapal, a Washington Democrat, said bans are likely taking a toll on American public health as U.S. hospitals find themselves shoring up every available resource to fight the coronavirus pandemic.

“Citizens from Muslim-majority nations made up 4.5% of the U.S. physician workforce in 2019, and yet between 2016 and 2018 the number of applicants to the Educational Commission for Foreign Medical Graduates from Muslim-majority countries decreased by 15%, a decrease that is exacerbating existing gaps in the U.S. physician workforce which is so desperately needed in a time of Covid-19,” she said.

A companion bill known as the Access to Counsel Act was also passed by the House in a 231-184 vote Wednesday. The legislation mandates immigrants and refugees entering the U.S. with proper documents be able to utilize legal counsel when stopped for inspection for an hour or more.

Reports of people being pressured to sign papers relinquishing their citizenship have cropped up amid the travel bans. In one incident at the U.S.-Canada border in January, at least 100 Iranian-Americans, including young children and the elderly, were detained and questioned for up to 12 hours without access to counsel. Customs and Border Protection Commissioner Mark Morgan acknowledged agents acted “overzealously.”

The Access to Counsel Act would simply enshrine an immigrant’s right to counsel and would not prevent Customs and Border Protection from doing its job.

“It’s just a simple phone call to their attorney,” Jayapal said.