

ISLAM, IMMIGRATION, & THE AMERICAN COURTS

IMPACT: The Naturalization Era (1790–1952) was a defining period for immigration and conceptualizations of citizenship in the United States. During this era, Muslim immigration and naturalization were limited by laws that barred or severely restricted immigration from Muslim-majority areas of the world and court rulings that reserved naturalization rights for white individuals. In the midst of the civil rights movement, the Immigration and Nationality Act of 1965 opened the doors to increased immigration from Muslim-majority countries. In April 2021, the US House of Representatives passed a bill titled the NO BAN Act, which would limit the ability of any US president to impose a travel ban on the basis of religion.

- The **first large-scale Muslim presence in the United States began with the forced migration and displacement of enslaved African Muslims during the transatlantic slave trade**, which reached the US between the sixteenth and seventeenth century. According to scholar Khaled Beydoun, **“social scientists estimate that 15 to 30 percent” of enslaved individuals were Muslim**. In Black Crescent, historian Michael Gomez notes that “of the estimated 481,000 Africans imported into British North America during the slave trade, nearly 225,000 came from areas influenced by Islam.” In Servants of Allah, historian Sylviane Diouf writes that “almost 24 percent of the men, women, and children who set foot in ... the United States were originally from Senegambia” and that the US potentially had “the highest proportion of [enslaved] Muslims.”
- Lasting **from 1790 until 1952, the Naturalization Era was a defining moment for Muslim immigration to the US and conceptualizations of citizenship**. Muslim immigration during this time period was limited on two grounds; American court cases that determined whether Muslims were white—and thus eligible for citizenship—and federal laws that barred or severely restricted immigration from Muslim-majority areas of the world.
- The Naturalization Act of 1790, which began the Naturalization Era, was one of the first attempts to define eligibility for citizenship by naturalization. **According to the law, citizenship was limited to “free white persons,” and in practice, “only white, male property owners could naturalize and acquire the status of citizens, whereas women, nonwhite persons, and indentured servants could not.**” Furthermore, the law stipulated that “citizenship could devolve only through the father and did ‘not descend to persons whose fathers have never been resident in the United States.’” In effect, **a racial restriction was placed on naturalization, tying citizenship to whiteness.**
- In 1808, the Act Prohibiting Importation of Slaves took effect, which “imposed heavy penalties on international traders, but did not end slavery itself nor the domestic sale of slaves.” Although the act was intended to curb the international slave trade, it drove the trade underground instead and “ships caught illegally trading were often brought into the United States and its passengers sold into slavery.” The last known ship carrying enslaved individuals was the Clotilda, which arrived in Alabama in 1860.
- The **Naturalization Act of 1870 “extended naturalization rights to all ‘aliens of African nativity and to persons of African descent,’” thus providing a path to citizenship for formerly enslaved Africans and their descendants**. However, the act denied naturalization rights “to all other groups of non-whites, particularly Asians,” keeping in line with the many barriers to citizenship that would characterize most of the Naturalization Era.
- **Throughout the twentieth century, several court cases grappled with the question of whiteness and whether Muslim and non-Muslim petitioners from the Middle East were eligible for citizenship**. In the 1915 case Dow v. United States, George Dow, a Maronite Christian from Lebanon, won his appeal to the Fourth Circuit Court and “establish[ed] the precedent that Syrian Christians as a class fit the statutory definition of whiteness and could become naturalized

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American citizens.”

- In the Eastern District Court of Michigan **case In re Ahmed Hassan (1942), Judge Arthur J. Tuttle rejected a naturalization petition from a Muslim petitioner from Yemen, stating “Arabs are not white persons within the meaning of the [Nationality] Act.”** Tuttle further explained: “Apart from the dark skin of the Arabs ... it is well known that they are a part of the Mohammedan world and that a wide gulf separates their culture from that of the predominantly Christian peoples of Europe.”
- In the District Court of Massachusetts case Ex parte Mohriez (1944), Mohamed Mohriez, a Muslim from Saudi Arabia, also petitioned for naturalization, however, his petition was successful. In his decision, District Judge Charles E. Wyzanski not only ruled that “the global political leadership of the United States requires its adherence to the principles of equality that it espouses,” but also that “the Arab passes muster as a white person.” In contrast to In re Ahmed Hassan, not only were Arab Muslims deemed white, but “the naturalization interests of ... a Muslim immigrant ... converged with the foreign policy.”
- The **decision in Ex Parte Mohriez ended the de facto Muslim ban operating during the Naturalization Era; however, immigration was still restricted from Muslim-majority areas of the world.** The Immigration Act of 1917 “implemented a literacy test[,] ... increased the tax paid by new immigrants upon arriva[,] ... allowed immigration officials to exercise more discretion in making decisions over whom to exclude ... [and] excluded from entry anyone born in a geographically defined ‘Asiatic Barred Zone’ except for Japanese and Filipinos.” **Countries and geographic regions with sizeable Muslim populations such as Afghanistan, Malaysia, India, and the Arabian Peninsula were included in the Asiatic Barred Zone.** The Immigration Act of 1924—also known as the Johnson-Reed Act—restricted “the number of immigrants allowed entry into the United States through a national origins quota ... [and] completely excluded immigrants from Asia.” As a result of the quota system, “countries could only provide immigration visas to 2 percent of the total number of people of each nationality in the U.S. as of the 1890 census.”
- At the dawn of the civil rights movement, the country directed more political attention to its immigration system. **The Immigration and Nationality Act of 1952—also known as the McCarran-Walter Act—kept the immigration quotas of the Immigration Act of 1924 in place, but introduced new reforms** such as “prioritiz[ing] immigration by skilled workers and then family reunification” and **removing “previously established racial barriers that had acted to exclude immigrants from nations such as Japan and China.”** The act also provided women the opportunity to gain “status as primary immigrants who could bring in spouses and minor children.”
- Due in part to the “growing strength of the civil rights movement,” the passage of the Immigration and Nationality Act of 1965 introduced widespread changes to the US immigration system. **The act —also known as the Hart-Celler Act—erased “America’s longstanding policy of limiting immigration based on national origin” and “erected a legal framework that prioritized highly skilled immigrants and opened the door for people with family already living in the United States.”** With passage of the act, “immigrants entering the United States ... came increasingly from countries in Asia, Africa and Latin America, as opposed to Europe.” Furthermore, the act “implemented preferences which prioritized family reunification (75 percent), employment (20 percent), and refugee status (5 percent)” and gave each country “the same annual cap of 20,000.”
- The Immigration and Nationality Act of 1965 not only introduced an overhaul of the US immigration system, but also opened the doors to increased immigration from Muslim-majority countries. **As Dr. Edward Curtis writes in Muslims in America: A Short History, “from 1966 to 1997, approximately 2,780,000 people immigrated to the United States from areas of**

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the world with significant Muslim populations ... [and] one demographer estimates that approximately 1.1 million immigrants were Muslim.”

- Throughout the remainder of the twentieth century, several laws were passed that continued to alter the US immigration and refugee system, such as the [Refugee Act of 1980](#) that “superseded the Immigration and Naturalization Act of 1965 and raised the annual ceiling for refugees from 17,400 to 50,000” and the [Immigration Act of 1990](#) that “introduced the Diversity Visa lottery, which was designed for people who had been adversely affected by the preference system introduced through Hart-Celler Act of 1965” and “provided Temporary Protected Status so that asylum seekers could remain in the United States until conditions in their homelands improved.”
- In the aftermath of 9/11, the United States restricted Muslim travel to the country. In September 2002, the Bush Administration enacted the [National Security Entry-Exit Registration System \(NSEERS\)](#), which “was a program for registering non-citizen visa holders – such as students, workers and tourists.” As part of the program, “all males 16 years of age or older from 25 countries were forced to register ... [and] although no religious groups were explicitly targeted, all but one was a Muslim-majority country.” As noted by Penn State law professor Shoba Wadhia, “the NSEERS program was discredited for not having national security value and that it affected only certain nationalities where one religion is predominant.” The [Center for Constitutional Rights \(CCR\) reports that “more than 90,000 Muslims were registered under NSEERS, and thousands were detained, interrogated, and deported for failure to comply with special registration requirements.”](#) Furthermore, the program, whose regulatory framework was dismantled in December 2016, “did not produce a single terrorism prosecution.”
- One month later, in January 2017, the Trump administration implemented the first of several executive actions that would constitute the [Muslim and African Ban](#). Building upon a “campaign trail promise to implement a total ban on Muslim entry into the United States,” the first executive order—Executive Order 13769—blocked entry for “any person from ... Iran, Iraq, Libya, Sudan, Syria, Somalia, and Yemen.” Furthermore, it implemented “an indefinite ban on Syrian refugees.” In March 2017, the second executive order—Executive Order 13780—replaced the previous order, removed Iraq from the ban, and added “extreme vetting” provisions to the refugee admissions process. **Presidential Proclamation 9645, which was issued in September 2017, removed Sudan from the ban and added Chad, North Korea, and Venezuela. Issued in January 2020, Presidential Proclamation 9983 added Eritrea, Kyrgyzstan, Myanmar, Nigeria, Sudan, and Tanzania to the ban.**
- As one of his first acts in office in January 2021, **President Joe Biden issued a presidential proclamation titled “Ending Discriminatory Bans on Entry to the United States,” which effectively ended the Muslim and African Ban.** In April 2021, the US House of Representatives passed a bill titled the NO BAN Act, which “would limit the ability of any United States president to impose a travel ban on the basis of religion.” In June 2021, Representative Ilhan Omar reintroduced a bill titled the Neighbors Not Enemies Act, which would repeal the Alien Enemies Act of 1798. The Alien Enemies Act “allows a U.S. president to decide how individuals from an enemy country should be ‘apprehended, restrained, secured and removed’ during wartime” and was used to justify “the internment of Japanese Americans during World War II and ... the Trump administration’s ban on travelers from Muslim-majority countries.”