The Heritage Foundation

FIRST PRINCIPLES APPLIED | No. 04

Lessons from the Founding Fathers and the Old American Tradition on Muslim Immigration

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The Founding Fathers recognized that too much immigration that is too disparate in culture, religion, and mores would change America's regime of natural rights, self-government, and ordered liberty into something both foreign and undesirable. On this basis, they would have viewed mass immigration from the Muslim world, and elsewhere, as a threat to both the country's political and cultural heritage. The Naturalization Acts of the Early Republic, which largely prohibited naturalization of immigrants from outside the Western world, epitomized this consensus. To confront the current crisis in the West caused by decades of mass immigration from the Muslim world, America should choose to reaffirm the Founders' theory of republican citizenship over the post-1965 settlement that treats America as a multicultural economic zone.

Western civilization is facing a crisis driven by mass immigration from the Muslim world. Across the Atlantic, the demographic consequences of Muslim immigration have begun to unravel the social fabric of Europe. America is following a similar course as its foreign-born population reaches historic levels. Coinciding with this trend, immigration from the Muslim world has increased dramatically in recent decades. After the Hart–Celler Act opened the United States to large-scale immigration from outside Europe in 1965, America's Muslim diaspora has grown from roughly 100,000 in 1961 to more than 5.5 million today.[1] Meanwhile, America's Muslim

population has more than doubled since the start of the Global War on Terrorism. If these patterns persist unchecked, they threaten to "change and corrupt the national spirit" of America.[2]

The growing prevalence of Islamic culture presents a host of practical problems for American society. Although Islamification is not yet a national threat on the scale seen in Europe, select urban centers and rural communities have started to become transformed by the influx of unassimilated Muslim immigrants. The West's Muslim diaspora has demonstrated a striking aversion to assimilation. The case of Lewiston, Maine, where a wave of Somali immigrants has overwhelmed the city since the early 2000s, illustrates the problem. According to Lauren Gilbert, many of the Somali diaspora in Lewiston do not wish to assimilate into America's "majority culture." "Many Somali elders," she reports from interviews, "view assimilation into the American mosaic as a threat to the very survival of the Somali people." Accordingly, the Somali elders chose Lewiston, in part, "because they believed that they could raise their children and practice their religion in relative peace, free from unwanted outside influences."[3]

Examples such as Lewiston's Somali diaspora underscore how America's embrace of multiculturalism has made it impossible to accommodate Islam without altering the character of the nation itself. As Gilbert acknowledges, "from a multiculturalist perspective, the desire not to assimilate and thus to lose one's cultural and religious identity is a legitimate choice that the host society should respect and accommodate."[4] Many Muslim immigrants and their children reject the traditional "melting pot" settlement that integrated previous waves of immigrants into a unified American national identity.

A 2026 op-ed in *The Washington Post* by Shadi Hamid, a senior fellow at Georgetown University, exemplifies this view. Hamid argues against the premise that "a minority community's right to be in the United States depends on its willingness to converge with the cultural mainstream."[5] In Hamid's view, "America was not founded on the assumption that its citizens would eventually come to agree on foundational questions."

This sentiment is widely shared by prominent Islamic organizations across America. The Council on American-Islamic Relations' (CAIR's) 2026 Civil Rights Report explicitly criticizes the old American tradition on immigration that sought to "preserve the ideal of U.S. homogeneity" and all attempts to restore the vision of America as united by a "single heritage."[6] To this end, the report asserts CAIR's commitment to protecting Muslims' "right to be different." A 2009 article reposted by CAIR, which includes "assimilation" in a list of terms "not to use with Muslims," is further indicative of this prevailing sentiment.[7] In this same spirit, the Islamic Circle of

North America declared in a statement issued ahead of the 25th anniversary of 9/11 that they "reject the premise that American belonging is contingent on loyalty tests or displays of patriotism."[8]

Contrary to Hamid's supposition, the Western tradition has long maintained that a republic depends, as Cicero would say, upon a fundamental agreement on justice and the common good. Mass immigration from civilizations with radically different political theologies and conceptions of justice, whose adherents refuse to adopt American cultural mores and the American tradition of ordered liberty, threatens the very existence of that tradition.

The old tradition on immigration was rooted in the conviction that "America must be kept American."[9] That tradition recognized that too much immigration that is too disparate in culture, religion, and mores would change America's regime of natural rights, self-government, and ordered liberty into something both foreign and undesirable. On this basis, the Founders would have viewed mass immigration from the Muslim world, and elsewhere, as a threat to both the country's political and cultural heritage.

The Naturalization Acts of the Early Republic, which largely prohibited naturalization of immigrants from outside the Western world, epitomized this consensus. This precedent was subsequently affirmed by the Reconstruction Congress and by several decades of judicial precedents from the early 20th century. Together, these various writings, debates, speeches, statutes, and court opinions form a consistent political tradition that endured for 175 years, beginning with the Naturalization Act of 1790 until the passage of Hart–Celler in 1965. Restoring this tradition offers the surest guide for navigating the challenges posed by mass immigration. What follows is a reconstruction of this tradition's prevailing ethos.

The Founders on Immigration and Republican Citizenship

The Founding Fathers did not directly address the question of Muslim immigration or the compatibility of the Islamic faith with American society. The dilemmas of late modernity, in many respects, are unique in the history of the nation. As a result, modern Americans cannot simply look back to the Founding generation for a manual on how to solve the crisis of this age. Nevertheless, the Founders thought deeply about the fundamental principles pertaining to those questions—the nature of citizenship in a republic, the moral conditions of freedom, and the need to preserve a common national sentiment. These general principles provide a star and

compass for navigating the challenges posed by mass immigration from both the Islamic world and elsewhere.

Immigration raises vital questions for political life. A political community, Aristotle writes, "does not arise from any chance multitude" of individuals.[10] The character of any given political regime depends on the character of its people. If that character changes, the very nature of the regime will change along with it. Aristotle thus warns that a "dissimilarity of stock" caused by an influx of foreigners facilitates regime change by introducing competing and often irreconcilable interests and notions of justice. The Founders likewise worried that indiscriminate immigration would threaten the stability of the republic by undermining national solidarity and transforming American society into "a heterogeneous, incoherent, distracted mass."[11]

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A country's dominion over its borders is a core aspect of national sovereignty. The abrogation of the 13 colonies' authority to promote or restrict immigration as they deemed fit was among the principal grievances against the British crown listed in the Declaration of Independence. The Founding generation established the Constitution to "secure the Blessings of Liberty to [themselves] and [their] Posterity." For the benefit and preservation of those people—the original parties to the social compact and their heirs—Article I, Section 8 of the Constitution grants Congress plenary authority to establish a "uniform Rule of Naturalization," that is, to dictate the terms on which the American people are willing to consent to the admission of foreigners.[12]

The Founders' views on immigration flowed from their understanding of society as a social compact. "The body politic," explains John Adams in the Massachusetts Constitution of 1780, "is formed by a voluntary association of individuals: It is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good."[13] Through the

ratification of the Constitution, the American people were bound together within a unified body politic by common consent. Accordingly, foreigners wishing to become citizens first had to receive the consent of the American people, who reserve the right to expand or restrict the criteria for new membership as they deem fit. As Gouverneur Morris observed during the Constitutional Convention, "every society from a great nation down to a club [has] the right of declaring the conditions on which new members should be admitted."[14]

From the outset of America's history, the Founders permitted deserving foreigners to join the social compact and enjoy the privileges and immunities of citizenship on an equal basis with native-born Americans. In this spirit, George Washington expressed his hope "that this land might become a safe & agreeable Asylum to the virtuous & persecuted part of mankind, to whatever nation they might belong."[15] The Founders' liberality was not unqualified, however. Washington's attitude conveys a degree of both openness and exclusivity. America would remain open to immigrants, but *only* to those "who are determined to be sober, industrious & virtuous members of Society."[16]

For Washington, virtue encompasses both good moral character ("sober" and "industrious") and the habits of good citizenship. As he explained to the Hebrew Congregation at Newport, America would extend the blessings of civil and religious liberty to whoever "should demean themselves as *good citizens*" (emphasis added) by giving to the government of the United States "on all occasions their effectual support."[17] Among the duties the Founders deemed essential for good citizenship is the rightly ordered love of country. Washington treats this civic obligation as equally binding on every member of the social compact, regardless of his national origin. "Citizens, by birth or choice, of a common country, that country has a right to concentrate your affections," Washington wrote in his Farewell Address. "The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations."[18]

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> called upon to meaningfully integrate into America's national heritage.

In essence, the Founders believed that the preservation of the republic depends on the existence of a national identity shaped by what today is called culture, that is, a shared way of life defined by things loved in common. "The safety of a republic," Hamilton observed, "depends essentially on the energy of a common National sentiment; on a uniformity of principles and habits; on the exemption of the citizens from foreign bias, and prejudice; and *on that love of country which will almost invariably be found to be closely connected with birth, education and family*."[19] (Emphasis added.)

Naturally, the influx of foreigners threatens this civil harmony, since immigrants are "apt to bring with them attachments to the persons they have left behind; to the country of their nativity, and to its particular customs and manners." Hamilton thus warns that the "unqualified admission of foreigners" would transform American society into "a heterogeneous compound," "change and corrupt the national spirit," "introduce foreign propensities," and be akin to admitting "the Grecian Horse into the Citadel of our Liberty and Sovereignty."

Thomas Jefferson expressed similar concerns about the unqualified "importation of foreigners" in his *Notes on the State of Virginia*. "Suppose 20 millions of republican Americans," he observes, "thrown all of a sudden into France, what would be the condition of that kingdom? If it would be more turbulent, less happy, less strong, we may believe that the addition of half a million of foreigners to our present numbers would produce a similar effect here."[20] Fearing this result, the Founders expected more from prospective citizens than a mere verbal affirmation of faith in the American creed. Immigrants were called upon to meaningfully integrate into America's national heritage.

The Founders had a clear understanding of what defined that heritage. "Every species of government has its specific principles," Jefferson observes. "Ours perhaps are more peculiar than those of any other in the universe. It is a composition of the freest principles of the English constitution, with others derived from natural right and natural reason."[21] These two sources, creed and culture together, represent the core elements of America's national heritage.

Jefferson famously remarked that the Declaration did not aim at "originality of principle or sentiment," but merely "was intended to be an expression of the American mind."[22] However, he could not boast that "all American whigs thought alike" if the American people did not first

share a common way of life. Though the Declaration appeals to abstract, metaphysical truths, these were proclaimed by a people who shared a common political and cultural heritage.[23] The *We* of the Declaration were those whose "forefathers, inhabitants of the island of Great-Britain, left their native land, to seek on these shores a residence for civil and religious freedom."[24] This cultural and political lineage serves as the foundation of America's national heritage, the roux of the proverbial melting pot. As Thomas G. West observes, "it is unlikely that the American Revolution could have succeeded without something like the Anglo-American people with their distinctive ethnic character, religion, and legal heritage."[25] Reflecting this sentiment, John Jay boasts in *The Federalist No. 2* how:

> Providence has been pleased to give this one connected country to one united people—*a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs*, and who, by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established general liberty and independence.[26] (Emphasis added.)

The Founders thus viewed naturalization as a process of both political *and* cultural assimilation. In a 1794 letter to Vice President John Adams, Washington expressed concern over the prospect of immigrants "retain[ing] the language, habits & principles (good or bad) which they bring with them." He firmly maintained that if Americans were to remain "one people," immigrants must become "assimilated to our customs, manners and laws."[27] As the younger Adams advised a German visitor, prospective citizens "must cast off the European skin, never to resume it. They must look forward to their posterity rather than backward to their ancestors; they must be sure that whatever their own feelings may be, those of their children will cling to the prejudices of this country."[28]

The Founders wanted to ensure that immigrants would successfully assimilate into American society. Among their principal concerns was prospective citizens' capacity for self-government. In general, they rejected the naive idea that, as stated by Theodore Sedgwick, "the subjects of all Governments, Despotic, Monarchical, and Aristocratical, are, as soon as they set foot on American ground, qualified to participate in administering the sovereignty of our country."[29] Beginning with the Naturalization Act of 1790 and culminating in the Naturalization Act of 1802, the Founders established clear standards for determining which foreigners were worthy of citizenship in a free republic.

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The Founders' various comments on immigration and the nature of republican citizenship illustrate four main criteria by which foreigners' assimilability would be judged: they must be virtuous, affirm America's republican creed, be loyal to their adopted home, and be culturally compatible. Each of these criteria was reflected in the provisions of the Naturalization Act of 1802. Addressing Washington's concern that only those "who are determined to be sober, industrious & virtuous members of Society" should emigrate to America, naturalization was limited to individuals of "good moral character." To ensure that immigrants were devoted republicans, immigrants seeking naturalization were required to issue an oath or affirmation proving their commitment "to the principles of the [C]onstitution of the United States" and relinquish any titles of nobility they may hold prior to naturalization.[30] Meanwhile, loyalty to the United States was ensured by requiring petitioners to renounce all allegiances to foreign powers, indicating that the Founders would have opposed America's current practice of permitting dual citizenship.[31]

In addition to these requirements, the Naturalization Act of 1802 dictated that prospective citizens undergo a probationary residency period of five years, declare their intent to seek naturalization three years prior to their application, and have been a resident of the state in which they filed their petition for at least one year. Naturalization petitions had to be approved by a court of "common law jurisdiction," which in most cases were local county courts. In practice, courts often required two citizens to attest in a court of law to the applicant's residency and that he was a devoted republican, possessed "good moral character," and committed to the community's "good order and happiness."[32]

These requirements provided a system for validating prospective citizens' ability to integrate into both American society broadly and the local community in which they intended to live. Furthermore, by involving local communities in the process of naturalization, the Naturalization Act directly operationalized the principle of consent. All parties—the immigrant, the local community, and the nation itself—in a sense had to approve the immigrant's petition to join the social compact.

The Founders described this process as an "apprenticeship" in self-government, whereby the "prejudices which the aliens had imbibed under the

Government from whence they came might be effaced...before they were admitted to the rights of a citizen."[33] Simple affirmations of the American creed are not, Michael Leib of Pennsylvania observed, "magic," which, "by hocus pocus, converted aliens suddenly into a fitness for citizenship."[34] The whole naturalization process thus facilitated the immigrant's "transmutation" into an American. "It was this which gave the knowledge and feeling, and gave the opportunity, for the intercourse that amalgamated the aliens with us, and gave them a common interest. It was the surest standard by which to test the desire for citizenship; it was action, and not declaration; it was fact and not theory."[35] In other words, this process ensured, as Washington hoped, foreigners first had to intermix "with our people" and become "assimilated to our customs, manners and laws" to become citizens.[36]

In practice, these provisions provided little barrier to immigration during the Early Republic, but only because they were appropriately tailored to the peculiar circumstances of the era. Foreign immigration to the United States was negligible for a half-century following independence. From 1790 to 1820, the United States' freeborn population (free whites and free blacks) increased from around 3.2 million to around 8.1 million.[37] In his 1823 Annual Message, President James Monroe proudly remarked on how the nation's population boom was "almost altogether native," while "immigration from other countries has been inconsiderable."[38] Roughly 250,000 immigrants arrived on American shores in the four decades after independence, equating to just under 7,000 arrivals a year according to estimates.[39] Fewer than 150,000 immigrants arrived between 1821 and 1830—roughly double the average from previous years but still a low percentage of the population.[40]

Meanwhile, almost all immigration during the Early Republic, and well into the late 1800s, came from the British Isles or Germany. As the U.S. Senate's 1950 immigration report observes,

> the immigrants who arrived after the original colonists were of a racial stock [simply meaning Northwest Europeans] closely related to that of the original settlers. Their language was either the same or similar enough to make the acquisition of English comparatively easy, and their national traditions were harmonious with those already established in America.[41]

Consequently, the size and composition of the immigrant population eased the process of assimilation.

Nor were immigrants entering a multicultural society. John Jay's description of America as a people united by a common heritage is borne out in the demographics of the Early Republic's citizen population. According

to one estimate, at the time of the Constitution's ratification, more than 90 percent of America's citizen population were of British extraction in the 1790 census (83.5 percent English, 6.7 percent Scottish, and 1.6 percent Irish).[42] Meanwhile, virtually the entire population in 1776 was Christian, with approximately 98 percent Protestant and the remainder Catholic.[43] As such, the homogeneity of the citizen population in the Early Republic created a strong imperative for immigrants to "cast off [their] European skin" and integrate into our cultural heritage.

These considerations, paired with the provisions of the Naturalization Act of 1802, ensured that immigration would not undermine the idea of America as "one people." In this regard, the Founders' views on immigration refute the notion that America was established as a nation of immigrants. The Founders' immigration policy is best understood as a core element of American ethnogenesis, whereby "English, Scotch, Irish, French, Dutch, Germans, and Swedes" were "melted into a new race of men"—the American.[44]

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In applying these principles to the issue of immigration from the Muslim world, the relevant questions are whether those populations have the virtues and habits necessary for self-government, are committed to the principles of republican government, will display loyalty to their new homeland, and are compatible with America's cultural heritage. The following sections infer how the Founding Fathers would have answered those questions.

The Founding Fathers on Islam

The Founding generation became acquainted with the Islamic world through trade, diplomacy, captivity, and war on the Barbary Coast. Generally speaking, the Founders came away from these interactions with the impression that Islam is incompatible with a free society.

A noteworthy misconception is that the Founders' commitment to religious liberty necessarily means they would have supported the integration of Islam into America's body politic. Exemplifying this view, Denise Spellberg argues that "Jefferson and others defended Muslim rights for the

sake of 'imagined Muslims,' the promotion of whose theoretical citizenship would prove the true universality of American rights."[45] As evidence for this claim, Spellberg points to the Virginia Statute for Religious Freedom, which, according to Jefferson, was intended to include "within the mantle of its protection, the Jew and the Gentile, the Christian and Mahometan, the Hindoo and infidel of every denomination."[46]

Religious toleration and the freedom of conscience are undoubtedly American values but must be understood within the context of the country's broader national heritage. The political culture of the Early Republic was not that of a secular society. Christianity served as the republic's de facto national religion.[47] As Joseph Story observes in his *Commentaries*, "the general, if not the universal, sentiment in America" at the time of the Constitution's adoption was that any "attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation."[48] As such, "[t]he real object of the [First] amendment was, not to countenance, much less to advance Mahometanism [Islam] or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects."

On its face, the 1796 Treaty of Tripoli seemingly contradicts the claim that the Early Republic rested on a Christian foundation and suggests that the Founders had no inherent opposition to the Islamic faith. It declares that "the government of the United States of America is not in any sense founded on the Christian Religion" and "has in itself no character of enmity against the laws, religion or tranquility of Musselmen [Muslims]."[49] The treaty, however, should not be treated as either a reflection on the character of American society or a guiding principle for immigration policy. Its actual meaning is simply a rearticulation of the principle that every sovereign state is entitled under the law of nations to a "separate and equal station" among the powers of the Earth.[50] The 1815 treaty with Algiers conveys the same sentiment in clearer language: "the Government of the United States of America has in itself no character of enmity against the laws, religion, or tranquility *of any nation*" (emphasis added), whether Christian or Muslim, free or despotic.[51] The Founders' respect for the right of sovereign Muslim states to govern themselves in accordance with their own customs and traditions suggests nothing about whether the subjects of those states would make good American citizens.

That is not to suggest that the Founders categorically opposed granting citizenship to non-Christians. George Washington's magnanimous "Letter to the Hebrew Congregation at Newport" proves otherwise. Indeed, the naturalization debates directly addressed the prospect of including a

religious test and rejected the idea. Addressing the claim that the "good moral character" clause would serve such a means, Theodore Sedgwick answered for the majority that it "has no particular reference whatever to religion, or whether a man believes anything or nothing."[52] The Naturalization Act's choice between offering a secular affirmation of one's fidelity to the Constitution, as opposed to a religious oath, is further indicative of this prevailing sentiment.

> The freedom of religion is not unrestrained—the exercise of that right remains as subject to the constraints of ordered liberty as any other right.

Even so, it equally does not follow from the Founders' decision not to implement a religious test that a prospective citizen's confession of faith was of no relevance to their fitness for self-government. An immigrant's religious convictions did not give him a free pass to oppose the "principles of the [C]onstitution" or to act immorally, as determined by the community's (primarily Christian) standards. The freedom of religion is not unrestrained—the exercise of that right remains as subject to the constraints of ordered liberty as any other right. No man "under colour of religion" may "disturb the good order, peace or safety of the State, or...infringe the laws of morality, or injure others, in their natural, civil, or religious rights," states the Maryland Declaration of Rights of 1776.[53]

The standards which govern the application of this principle are even stricter in matters of immigration than when governing the conduct of citizens. To be sure, Jefferson's sentiment that every American reserves the right to convert to Islam and freely practice his newfound faith holds true. It does not follow from this principle that the proliferation of every faith is healthy for the body politic. Nor does the right to religious liberty convey a right to join the social compact. The underlying principles of the First Amendment guarantee all American citizens the right to believe that monarchy is the best form of government, just as they guarantee the right to practice Islam. Despite this, the Founders wisely required immigrants to affirm their commitment to the principles of the Constitution as a necessary condition of naturalization. The freedom of association grants the American people the right to exclude whomever they may deem unfit for the mantle of citizenship. In exercising that right, the Founders recognized that

the vast privileges and immunities afforded to American citizens imposed an even greater obligation to be discerning in who was permitted to join the social compact.

In applying the "good moral character" clause, courts in the 19th century established that "whatever is forbidden by the law of the land ought to be considered, for the time being, immoral."[54] Any person who violated state law, or demonstrated a disposition to do so, would not be considered "well disposed to the good order and happiness" of the country and thus barred from citizenship. Early Americans generally viewed Islamic culture as antithetical to America's distinctively Christian mores, particularly when it came to the family. John Quincy Adams's criticism of Islam for "degrading the condition of the female sex" and for the faith's "allowance of polygamy" is illustrative of this consensus.[55] On these grounds, it is likely that some orthodox Muslims would not have met the Founders' standard of "good moral character."

Supporting this conclusion, a federal circuit court reasoned in 1878 that the practice of polygamy disqualified an applicant from naturalization. The court further determined that any alien who insists that the civil law is wrong and maintains "that polygamy may be rightfully practiced...is not entitled to citizenship."[56] According to legal scholar Julian Lim, as America began to contend with its first wave of Muslim immigration from the Ottoman Empire in the early 20th century, Turkish nationals were subject to deportation for their doctrinal support of polygamy under the 1907 Immigration Act. This statute codified the courts' earlier determination and largely carried forward the original intent of the Founders' "good moral character" standard.[57]

Even granting Jefferson's more pluralistic view of society, his writings on Islam indicate that he questioned the faith's compatibility with America's civic creed. Underlying Jefferson's support of religious liberty was his belief that "reason and persuasion are the only practicable instruments" for the advancement of "true religion," therefore, "to make way for these, free inquiry must be indulged" and promoted by society.[58] In his private notes, Jefferson criticized "Mahometanism" for "stifling free enquiry" and for how "Mahomet [Mohammed] forbade free argument," thus preventing any "reformation" of the faith.[59] Accordingly, even if Jefferson abstractly supported the freedom of a hypothetical Muslim citizen to privately practice his religion, it is doubtful that he would be indifferent to, let alone welcome, the mass immigration of people he recognized as hostile to the principles of enlightened liberty.

The Founders' impression of Islam as a hostile force was solidified by their interactions with the Barbary States. The Algerians, writes an anonymous congressman from the First Congress,

> are taught as a maxim of their religion from their infancy, that those who do not profess the Mahometan [Islamic] faith are the natural enemies to their great Prophet, and his religion, and that it is their duty to destroy them—they therefore indiscriminately cruise against all Christian powers, and make prize of the persons of all Christians whom they take alive, and sell them into perpetual slavery, unless they will become good Musselmen, and swear to support the Mahometan faith.[60]

Jefferson and Adams reached a similar conclusion in 1786 following their meeting with the Tripolitan ambassador.[61]

The Founders saw in the Barbary States' tyrannical impulse among the community of nations a reflection of the internal character of Islamic society. In 1817, Captain James Riley published his memoirs detailing his grueling experience under Arab slavery after shipwrecking on the shores of North Africa. He described the Islamic governments of the Maghreb as "in the strictest sense of the word, paternal" and akin to the "feudal system."[62] William Eaton, U.S. consul to Tunis and commander of the American expedition into Tripoli during the First Barbary War, had a similar assessment, expressing his sympathy for how the Tunisians are "abject slaves to the despotism of their government" and subjugated under the "worst of all tyrannies, the despotism of priestcraft."[63] Echoing these assessments, James Monroe later commented that the Middle East has always been dominated by "despotism[s] with great wealth and splendor at the head" and "slavery with ignorance, poverty, and wretchedness among the people."[64]

Based on these considerations, Monroe argued that "Arabian[s]... Turk[s], [and] Persian[s]," among others, are not "capable of self-government."[65] His pessimism, however, was informed less by bigotry than by a reflection on history, which demonstrates "the effect which despotic Government has on the intelligence and manners of the people under it."[66] The disheartening and spectacular failure of the French Revolution confirmed for him this unfortunate observation. Monroe judged that if even "a great nation, distinguished for its improvement in civilization and in all the arts of civilized life" could not successfully balance liberty with public order, the prospects for self-government in the despotisms of Asia were even worse.[67] Given that "those societies never had such government among them, or made an attempt to establish one, or showed

any disposition to do so," he concluded that "they are incapable of such [republican] government."[68]

Monroe's verdict that such societies lack the capacity for self-government is the creed-and-culture test in another form. Creed asks whether a people can affirm the principles of the Declaration and the Constitution. Culture asks whether their formed habits make that affirmation viable.

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America's recent ill-fated attempts to establish democracy in Iraq and Afghanistan largely vindicate the Founders' concerns regarding "the dangers incident to an effort, by an old and populous community, which had been long ruled by despotism, to subvert that government and establish a free one."[69] Following the U.S.-led coalition's invasion of Iraq in 2003, President George W. Bush optimistically predicted that "Iraqi democracy will succeed, and that success will send forth the news, from Damascus to Tehran, that freedom can be the future of every nation." President Obama expressed a similar hopeful sentiment in his September 2012 address to the United Nations General Assembly, after the so-called Arab Spring, commenting that "freedom and self-determination are not unique to one culture. These are not simply American values or Western values, they are universal values."[70] Neither the wars in Iraq and Afghanistan nor the Arab Spring delivered on their lofty promise of a democratic Middle East. The Founding Fathers would have arguably concluded from these failures that their assessment of Islamic societies' compatibility with self-government was well-founded, thus casting doubt on any such people's fitness for citizenship.

The Founders' commitment to the principles of the Declaration made them equally critical of any society they deemed despotic and religiously intolerant. John Adams reproached Medieval Christendom as an "age of darkness" whereby the masses suffered under the despotism of "the canon and the feudal law"—the "two greatest systems of tyranny" to have sprung from Christianity.[71] Following the French Revolution, Monroe leveled a similar criticism against the surviving Catholic monarchies of Europe, attacking them for depriving "man of his natural and civil rights" and raising "upon his religious faith…a long train of hierarchal establishments, which serve only to add to the power and the splendour of the court."[72]

As such, the Founders worried that mass immigration from foreign despotisms could destabilize the republic. In 1803, the Louisiana Purchase raised for the first time the question of how to successfully integrate into the social compact, *en masse*, a foreign population lacking experience in self-government. Under the terms of the treaty, the primarily French-Creole population was to be "protected in the free enjoyment of their liberty, property and the Religion," and in time, "incorporated in the Union" as citizens of the United States. However, the Founders believed that prudence warranted not immediately granting them all the privileges and immunities of citizenship.[73]

Following the acquisition of Louisiana, President Jefferson observed that "our new fellow citizens are as yet as incapable of self-government as children."[74] Congress accordingly organized the new Territory of Orleans in a manner reflecting the probationary period of the Naturalization Act. The French-Creole population would be ruled by a temporary colonial-style government administered by officials appointed by the President. This framework ensured that the inhabitants would remain secure in their civil and religious liberties, while also serving as "an apprenticeship to liberty," whereby the inhabitants could be "trained up in a knowledge of our own laws and institutions" and gradually "raised to the enjoyment and practice of independence."[75] This "apprenticeship" continued throughout Louisiana's roughly eight-year period as a territory, until its inhabitants were granted full citizenship in 1812 upon obtaining statehood.

If the Founders believed that prudence warranted requiring even the "civilized and Christian" Creoles to undergo an "apprenticeship" in self-government prior to obtaining citizenship, it is unlikely they would have deemed a people they considered utterly incapable of self-government as the ideal matter for a republic.[76] The difference that ultimately permits one and not the other is that Americans still shared a common civilizational heritage with French Creoles, Californios, Germans, Irish, and others that made it possible to integrate those populations into the body politic without compromising the nation's status as "one united people." The American people shared no such relationship with the subjects of Islamic despotism.

James Madison's comments in support of Catholic immigration during the debates over the 1795 Naturalization Act capture how the Founders weighed these considerations. Notably, Madison neither appeals to pluralism nor liberal toleration in justifying Catholics' fitness for naturalization. He appeals instead to the principles of republican citizenship, observing that "there [is] nothing inconsistent with the purest Republicanism [in Catholicism]."[77] In applying these standards to the prospect of Muslim

immigration, the question then is whether the same could be said about Islam. The aforementioned assessments of Islamic societies indicate that early Americans did not believe that a people kept as "abject slaves" to priest and sovereign possessed the independent character necessary for citizenship in a free republic.

What the Founders criticized as the "despotism of priestcraft" can be attributed to Muslim societies' adherence to Sharia law, which is predicated on the supremacy of Islamic law over secular authority. Indeed, it is for this very reason that Alexis de Tocqueville concludes that Islam is incompatible with free government. "Mohammed had not only religious doctrines descend from Heaven and placed in the Koran," Tocqueville observes, "but political maxims, civil and criminal laws, and scientific theories...[t]hat alone, among a thousand other reasons, is enough to show that [Islam] cannot dominate for long in enlightened and democratic times."[78] There can be little civil or religious liberty in a regime where political authority is predicated on the word of the Koran and Hadiths, as interpreted by muftis and executed by the caliph.

> Islam embodies the manners and principles of a rival civilization that is largely incompatible with America's national heritage.

Sharia, as Tocqueville describes it, is not abandoned by a verbal profession of the American creed. It is a revealed civil and criminal code that rejects natural rights knowable by reason, popular sovereignty, equality before the law, and religious liberty. Moreover, it demands that its followers reject Washington's commandment for citizens to "concentrate [their] affections" in the national community. Islam attaches its adherents to a transnational religious community, the *Ummah*, and divides their loyalty between two competing authorities, the Constitution and the Koran.

Among the Founders' greatest concerns about immigration was that people are apt to "entertain opinions on government congenial with those under which they have lived," making it "extremely unlikely" that immigrants from a nation with opposing political principles "will bring with them that temperate love of liberty, so essential to real republicanism."[79] Even today, support for Sharia law remains remarkably high throughout the Muslim world—as well as among the ever-growing Muslim populations in

Western Europe and the Anglosphere. Pew Research Center surveys published in 2013 found that 99 percent of Muslims in Afghanistan, 84 percent in Pakistan, 91 percent in Iraq, 89 percent in the Palestinian territories, and 74 percent in Egypt "favor making Islamic law the official law in their country." Anyone who adheres to a theological code that is antithetical to republican government is not prepared to pledge fealty "to the principles of the Constitution of the United States."[80]

By the Founders' standards, adherence to Islam fails the test of republican citizenship on nearly every measure. It is not conducive to forming republican habits and virtues, it is at odds with the fundamental tenets of the American creed, and it demands allegiance to foreign theological codes and political authorities. In short, Islam embodies the manners and principles of a rival civilization that is largely incompatible with America's national heritage.

Culture, Not Race: How the Founders Put the Civilizational Rule into Law

The Founders' views on immigration from the Muslim world are not entirely hypothetical. In practice, they recognized that not all people could easily be integrated into American society. Those similar enough to America's original settlers could gently be assimilated through residency requirements, oaths, and renunciations. Others were excluded. The Founders recognized that multiculturalism poses an existential threat to the stability of the regime. "In the composition of society," Hamilton observes, "the harmony of the ingredients is all important, and whatever tends to a discordant intermixture must have an injurious tendency."[81] Consequently, the Naturalization Act categorically excluded from citizenship non-Westerners via the "free white person" clause. James Kent presumed that the clause excluded "the inhabitants of Africa" and doubted whether "the yellow or tawny races of Asiatics" were "white persons."[82] In effect, the Founding Fathers prohibited the naturalization of immigrants from the Muslim world.

The "free white person" clause is understandably the most controversial provision of the Founders' immigration policy, since it sounds to modern ears like a purely racial category. Its meaning, often misapprehended, and its underlying rationale, rarely investigated, offers valuable insight into the Founders' approach to immigration. Notably, there is no documented debate in the congressional record surrounding the clause, suggesting that it was widely approved. Absent these records, the clause's rationale must be inferred from the Founders' broader political thought. In part, the clause

can be attributed to the unresolved issues over slavery and the legal status of American Indians. More fundamentally, the clause exemplifies the Founders' understanding of the moral conditions of freedom.

Contemporary scholarship condemns this provision as part of "an anti-canon of statutes [from American history] establishing and maintaining White supremacy."[83] Unable to look beyond the Naturalization Act's anachronistic phrasing, critics fail to understand the Founders' original intent or how their immigration policy squares with their broader political theory. These objections fail to appreciate the Founders' principled statesmanship.

> The Founders presumed that individuals from outside the Western world were unlikely to exhibit republican virtue, affirm the American creed, or be effectively assimilated into the national heritage.

The Founders' immigration policy was *not,* in essence, a narrow-minded racial doctrine. The naturalization restrictions were deliberate instruments for preserving a constitutional regime rooted in natural rights and republican self-government, made possible by a shared national heritage. The Founders recognized that a republic depends upon the character of its citizens. Far from bigotry, their approach reflected a clear-eyed assessment of what sustains ordered liberty.

Under the provision's original meaning, "white" did not have precisely the same biological connotation it eventually came to have in the antebellum South and progressive era. For example, Webster's 1828 *American Dictionary* neither defined white as a racial category nor included the racial classification of Caucasian. Moreover, the common meaning of "race" in the Early Republic was more closely associated with what we would now call ethnicity.[84] It is in precisely this register that Hector St. John de Crèvecœur referred to Americans as a "new race of men."[85]

Accordingly, as Thomas West observes, the Founders' various writings on immigration "show that they were thinking of civilization, not whiteness, when they reflected on the positive qualities that at least some European immigrants would bring with them to America."[86] If written in modern terminology, the early naturalization laws would likely substitute "free white person" with something like "Westerner" without losing its essential meaning.

The Founders' use of race was, therefore, an imperfect proxy for a political and civilizational determination, a presumption about a prospective citizen's habits, manners, and customs derived from their place of origin that spoke to their capacity for assimilation and self-government. In essence, the clause can be understood as a broader, more restrictive test of the same criteria screened for by the Naturalization Act's other provisions. It reflects the Founders' presumption that individuals from outside the Western world were unlikely to exhibit republican virtue, affirm the American creed, or be effectively assimilated into the national heritage.

Though such views may offend modern sensibilities, the Founders' prohibition of non-Westerners from naturalization is consistent with a proper understanding of the principles of the Declaration of Independence. Not all nations or cultures believe the principles of the Declaration to be true, and even fewer are equipped to put them into practice. As James Monroe illustrates, despite the fact all men are by nature equally free, because man is also "by nature a sociable being," he is "in a great measure the creature of circumstances."[87] On this basis, Monroe argues that

> no proposition according to my judgment, admits of a more satisfactory demonstration, than that in the formation of government, the condition of the society on which it is to operate is to be regarded; that the government which suits one state will not suit another, and that the most improved state of society is that which is best suited to the most free government, if it is not the only one that admits of it.[88]

Hamilton echoes this observation in a 1799 letter to the Marquis de Lafayette, noting that "a government must be fitted to a nation as much as a coat to the individual, and consequently that what may be good at Philadelphia may be bad at Paris and ridiculous at Petersburgh."[89]

Monroe defined the ability of a given society to successfully implement the principles of the Declaration as "the capacity for self-government."[90] He viewed this standard as downstream from a nation's "state of civilization," which encompassed both a people's understanding of the principles of liberty and their virtues relative to achieving that end. In his political treatise, Monroe observes that Europe is effectively the only quarter of the globe with a tradition of free government, the inference being that self-government must be the distinctive hallmark of Western civilization.[91] He concluded from this premise that Arabs, Turks, Persians, and various other non-Europeans without an organic republican tradition lack the capacity for self-government.[92] The "free white person" clause is an extension of this framework.

This logic is most clearly illustrated through the Founders' views on the legal status of American Indians. Although they were excluded from naturalization under the law, Jefferson expressed the Founders' vision that eventually American Indians would be incorporated "with us as citizens of the US."[93] The major impediment to this project, in the Founders' view, was a matter of "civilization," not race. As Monroe explains, the "rude and unlettered state" of American Indian society "made them utterly incompetent to the discharge of the duties of a well organized, free, representative government."[94] Therefore, before they could become American citizens, they first needed to become "civilized"—that is to say, develop the habits and virtues necessary for republican citizenship and become assimilated into American society. Once this process was completed, they could join with their fellow Americans as "one people."[95]

This broader, civilizational understanding of the clause was subsequently affirmed during the Reconstruction-era debates over the 1870 amendment to the Naturalization Act, which opened naturalization to "aliens of African nativity and to persons of African descent."[96] While expanding citizenship to black immigrants, Congress otherwise resoundingly voted to keep the free white person clause intact. The driving issue was lawmakers' concern that repealing the clause would grant citizenship to Chinese migrant workers who maintained their cultural and political allegiance to Beijing.

Congress did not see this decision as inconsistent. Senator William Stewart (R–NV), one of the authors of the Fifteenth Amendment, expressed the majority's reasoning as to how they could champion civil rights for blacks while simultaneously prohibiting naturalization from the rest of the non-Western world. Consistent with the Founders' framework, Stewart explained that neither the spirit of the Fifteenth Amendment nor the Declaration of Independence required America to grant "political rights to all people throughout the globe."[97] Americans, he argued, "have a right to make our own laws; and it would be a crime in us to incorporate any people in the body-politic who are hostile to free institutions."

In Stewart's estimation, American and European countries shared a common civilizational heritage, ensuring European immigrants would "assimilate rapidly" into American society. He contended that the same was largely true of blacks, who had grown culturally indistinguishable from America's white population. "This was [blacks'] native land. He [the black American] was born here.... [H]e was an American and a Christian, as much as any of the rest of the people of the country." By contrast, the nations of the Eastern Hemisphere "have another civilization at wars with ours," one which does not "believe in republican institutions" and is inhabited

by a people who "do not understand our society" or "value the privileges of citizenship."[98] Stewart concluded that such people were unfit for citizenship "until they changed their devotion to pagan despotism" and became either "republicanized or Christianized."

In this same spirit, the courts repeatedly determined throughout the naturalization cases of the 19th and 20th centuries that the Naturalization Act's use of "white" reflected the common understanding of the Founding era—compatibility with Western civilization and not race. In the seminal 1878 case of *In re Ah Yup*, a California federal court excluded Chinese immigrants from citizenship, defining "white" according to its "well settled meaning in common popular speech" as encompassing Europeans and parts of Western Asia. To support its conclusion, the court drew on the congressional debates from 1870, citing Senator Oliver Morton's concern that mass immigration from "another civilization" would have a corrosive effect on American society.[99]

In 1921, a lower court in *Terrace v. Thompson*, the precursor to the Supreme Court's decision on the constitutionality of alien land laws, captured the essence of the Founders' original intent. In his opinion, District Judge Edward Cushman opined on the dangers of multiculturalism, remarking that the courts had a solemn duty "to hold impregnable the barrier erected by Congress [via the Naturalization Act] to preserve, in its purity, our own type of civilization." It was precisely for this reason, he concluded, that immigrants from outside the West were precluded from citizenship. The basis of this objection was not

> due to color, as color, but only to color as an evidence of a type of civilization which it characterizes. The yellow or brown racial color is the hallmark of Oriental despotisms, or was at the time the original naturalization law was enacted. It was deemed that the subjects of these despotisms, with their fixed and ingrained pride in the type of their civilization, which works for its welfare by subordinating the individual to the personal authority of the sovereign, as the embodiment of the state, were not fitted and suited to make for the success of a republican form of Government. Hence they were denied citizenship.[100]

The Supreme Court subsequently reinforced this civilizational interpretation of the statute in two unanimous decisions. In *Ozawa v. United States* (1922), Justice George Sutherland held that Japanese immigrants were ineligible because they were "clearly of a race which is not Caucasian" in the popular understanding.[101] In *United States v. Bhagat Singh Thind* (1923), Justice Sutherland determined that Indians were ineligible for citizenship,

even if they were a "high-caste Hindu" who could be scientifically classified as "Caucasian."[102] Whatever the merits of this particular ruling, it hinged on culture and civilization, not race.

The federal government's brief in *Thind* reiterates the common theme that the Founding Fathers only intended to grant citizenship "for those whom they knew and regarded as worthy to share it with them—men of their own type—men in a general way living under the same social conditions, sharing or wishing to share the same political institutions and capable of entering into the life of this country in a spirit of sympathy and cooperation."[103] As such, the federal government argued that immigrants from the Indian subcontinent were precluded from citizenship because "at the time the first naturalization law was passed the Hindus were regarded as a people wholly alien to Western civilization and utterly incapable of assimilation to Western habits and customs, mode of life, political and social institutions." The federal government thus concluded that "a free white person" according to the standard of "which the Congress has now adhered for a hundred and thirty years, denominates what is historically known as the men of the Western civilization." It is this civilization "which our fathers knew and from which they were willing to recruit the citizenship of the Republic."[104]

The Supreme Court agreed. Writing for a unanimous Court, Justice Sutherland declared that the statute used the term "white persons" in their "common speech" meaning as a stand-in for those who could "quickly merge into the mass of our population." As he explained,

> the immigration of that day was almost exclusively from the British Isles and Northwestern Europe, whence they and their forbears had come. When they extended the privilege of American citizenship to "any alien being a free white person," it was these immigrants—bone of their bone and flesh of their flesh—and their kind whom they must have had affirmatively in mind.[105]

The bar was "assimilation." European children "los[t] the distinctive hallmarks of their European origin," while others did not.

The old American political traditions' keen sense of man's social nature, and of what is now called culture, cannot and should not be dismissed as residual racism. Although a subset of lower federal court decisions during the early 20th century embraced the discredited theories of race science, they do not represent the overarching legal and intellectual consensus of the tradition. The prevailing theme throughout the major precedents on naturalization was the explicit rejection of any implication of racial superiority. Justice Sutherland stressed in *Ozawa* that "there is not

implied—either in the [Naturalization Act] or in our interpretation of it—any suggestion of...racial inferiority."[106] In *Thind*, Justice Sutherland further clarified that the Court's longstanding use of racial terminology, that is, "Caucasian," was only because the term became colloquially synonymous with white, and was not an attempt to replace the Founders' "common speech" terminology of the Naturalization Act with the "science of ethnology."[107] He also again emphasized that the free white person clause's categorical restrictions were in no way premised on any idea of "racial superiority or inferiority."[108]

In applying the principles of this tradition to the modern immigration crisis, one can acknowledge that the Founders may very well have been overbroad in their determination of who is unassimilable. After all, the number of nations that now have experience with popular government has expanded considerably since 1776. Such qualifications, however, do not negate the validity of the underlying principle itself, which cautions against attempting to integrate people from civilizations whose social and political culture is utterly antithetical to the American way of life.

The Original American vs. the New Liberal Consensus on Muslim Immigration

The Founding generation was never tasked with applying the provisions of the Naturalization Act directly to the question of immigration from the Muslim world. When the issue finally arose during the 20th century, however, the enduring legacy of their principles resulted in widespread judicial skepticism over Muslim immigrants' assimilability.[109] Only when the old American political tradition was abandoned following World War II did courts determine otherwise.

Prior to the Supreme Court's decisions in *Ozawa* and *Thind*, the earliest precedents concerning immigrants from the Middle East involved Christians, namely Maronites and Armenians. These cases initially produced a circuit split, but a consensus eventually arose granting eligibility. Courts often cited Christianity and historical ties to Europe as evidence of civilizational compatibility for Syrians and Armenians. By contrast, Arab Muslims were presumably excluded from naturalization under the law. Because these cases were decided prior to *Thind*, some of the precedents over-relied on the discredited science of ethnology, often using an applicant's Christianity as evidence of their "whiteness."[110] Of course, such reasoning makes little sense if "white" is defined biologically, but it is coherent if "white" is understood as a stand-in for Western.

In the 1909 case *In re Halladjian*, the federal courts came close to fully capturing the Founders' original meaning. The government argued that Armenians were ineligible on the grounds that "white" meant European, not in the sense that the European-born child of a Syrian migrant may be considered today, but in that an individual culture embodies "the prevailing ideals, standards, and aspirations of the people of Europe."[111] In turn, Circuit Judge Francis Cabot Lowell's opinion rejected the government's conclusion by taking its appeal to a civilizational standard to its logical conclusion. Judge Lowell noted that though Armenians are not European, "the outlook of their civilization has been toward Europe," as evidenced by their Christian faith and long-standing historical alliance with the nations of Europe against "both Saracens and Turks." Therefore, Armenians *were* eligible for naturalization under the law because their cultural heritage ensured that they easily "become westernized and readily adaptable to European [Western] standards."

This framework was applied directly to the question of Muslim immigration in *In re Ahmed Hassan* (1942). Consistent with earlier precedents, Judge Arthur Tuttle recognized that the qualifications for naturalization should not be "how the group in question would be classified by ethnologists who have made a study of racial origins, but, rather, what groups of peoples then living in 1790 with characteristics then existing were intended by Congress to be classified as 'white persons.'"[112] He reasoned that "it is well known that [Arabs] are a part of the Mohammedan world and that a wide gulf separates their culture from that of the predominately Christian peoples of Europe. [Therefore,] it cannot be expected that as a class they would readily intermarry with our population and be assimilated into our civilization." Arab Muslims were thus deemed ineligible for citizenship under the law for the sake of preserving America's cultural and political heritage.

Precisely how and why the courts abandoned the Founders' approach to immigration is revealing. Support for Muslim immigration began with the rise of a new liberal consensus under the Roosevelt Administration and the shift towards globalism during World War II. In 1943, Roosevelt's Department of Justice released an official position statement rebutting the conclusion of Judge Tuttle in *Ahmed Hassan*.[113] The following year, in *Ex parte Mohriez* (1944), Judge Charles E. Wyzanski broke with 154 years of legal tradition and declared Muslim Arabs eligible for naturalization as "white persons" in line with the Administration's guidance.

The conclusions of both the opinion and guidance rested in part on the Muslim world's supposed compatibility with Western civilization. More fundamentally, however, Judge Wyzanski appealed to liberal

internationalism and America's role as a world power over the Founders' republican framework. He argued that rigid exclusion was both antithetical to the "American creed" and "repugnant to our vital interests as a world power." The purpose of America's immigration policy was no longer to maintain a common national sentiment, but to serve as an instrument of soft power, whereby the government could promote "friendlier relations" with the non-Western world by integrating foreign cultures into American society.[114]

Echoing this view, President Harry Truman argued in his failed veto of the 1952 Immigration and Nationality Act that "our immigration policy is equally, if not more important to the conduct of our foreign relations and to our responsibilities of moral leadership in the struggle for world peace."[115] Truman's message marked the beginning of the transition that would eventually culminate in the 1965 Hart–Celler Act. As Representative Jacob Gilbert (D–NY) observed, Hart–Celler was a "reaffirmation...of our enthusiasm for setting democratic standards for the rest of the world, [and] of our willingness to lead a global community of peoples toward universal recognition of human dignity."[116]

In many respects, *Ahmed Hassan* marked the culmination of a consistent legal framework originating in *Ah Yup* and refined over the decades by *Halladjian*, *Terrace*, *Ozawa*, and *Thind*. Together, these cases constitute a formidable body of precedent that faithfully applied the provisions of the Naturalization Act in accordance with the Founders' original meaning. (See the appendix for a list of these cases.) In each of these cases, the Naturalization Act was interpreted *not as a narrow biological test, but as a civilizational standard* whose purpose was to preserve America's republican character. America would remain open to immigration from across the West, while prohibiting naturalization from "hostile" cultures. In the words of Justice Sutherland, this principle deserved to be respected as "a rule in force from the beginning of the government, a part of our history as well as our law, welded into the structure of our national polity by a century of legislative and administrative acts and judicial decisions."[117]

Recovering the Original American Consensus for Today

After World War II, the newly established liberal consensus began to displace the long-standing American tradition on immigration. The year 1965 was a watershed moment in the establishment of new modes and orders. Today's crisis is the result of that new system's failure. What remains is a task of rediscovery, restoration, and adaptation. If America is to preserve

its national heritage, it should recover the old American tradition on immigration rooted in the Founders' theory of republican citizenship.

Critics of that tradition reflexively label any concern about civilizational compatibility as xenophobic, bigoted, or racist. According to their logic, to question mass immigration because of its threat to republican government is to forsake America's commitment to the principles of the Declaration.[118] In truth, such critics really challenge the Founders' ends as well as their means. Their commitment to multiculturalism demands that America accommodate and even celebrate foreign ways of life, however many foreigners arrive and whatever their political theology, family structure, or attitudes toward self-government. The critics' open-ended cosmopolitanism aligns less with the principles of the Founding than with a deracinated globalism detached from the American people's traditional way of life.

The central question for statesmanship today is not whether immigration restrictions are "politically correct," but what must be done to preserve the moral and political character of America. Though the old tradition may be controversial by modern standards, it was much more just and sensible than the current status quo of mass immigration. The Founders' system of selective immigration committed no violence against those it excluded. Non-Americans have no inherent right to the privileges and immunities of American citizenship. Admission into the social compact rests wholly on the affirmative consent of the American people, who alone determine whether it serves their best interest.

> The central question for statesmanship today is not whether immigration restrictions are "politically correct," but what must be done to preserve the moral and political character of America.

Statesmen today cannot simply reinstate the language or the policies of the Founding era, but they can recover and apply their underlying principles to modern realities. The Founders understood that America's immigration policy must adapt as prudence demands. "In the infancy of the country," Hamilton wrote in 1802, "with a boundless waste to people, it was politic to give a facility to naturalization; but our situation is now changed."[119] How much greater is the force of this observation after the

closing of the frontier and decades of mass immigration that have severely tested the limits of assimilation?

Retrieving the long-standing vision of the American Founding will require an immigration system that once again recognizes that the will and faculty to be "assimilated into our civilization" is a non-negotiable prerequisite for good citizenship. "Hyphenated Americans," who value the cultural heritage of their foreign ancestors over their status as American citizens, fail the test of assimilation. Immigrants may sometimes boost gross domestic product, but if they are unwilling to fully integrate into the American way of life, they do not belong in American society. Calvin Coolidge captured the essence of this ethos in his "First Annual Message":

> American institutions rest solely on good citizenship. They were created by people who had a background of self-government. New arrivals should be limited to our capacity to absorb them into the ranks of good citizenship. America must be kept American. For this purpose, it is necessary to continue a policy of restricted immigration.[120]

Islamic culture poses distinctive challenges to the task of assimilation. However, Americans need not, and should not, resort to the crude and arbitrary racial categories of the past. Though the original meaning of the "free white person" clause is misunderstood, its structure and tone are still dissonant to contemporary ears. Even in the clause's heyday, it was recognized as a blunt instrument with serious limitations, as illustrated by the *Ozawa* decision. Takao Ozawa was a resident of the United States for two decades prior to his application, college educated, a man of good moral character who attended an American Christian church, "maintained the use of the English language in his home," and "educated his children in American schools." By the Supreme Court's own admission, "he was well qualified by character and education for citizenship." He was still denied the privilege under a strict interpretation of the law.[121]

Whether someone can be scientifically or colloquially classified as "white" is not a reliable measure of one's capacity for self-government. What matters for immigration is whether someone can be "assimilated to our customs, manners and laws." Many immigrants from the Muslim world do not pass that test. New immigration reforms might achieve the Founders' goal of ensuring that prospective citizens possess the capacity for self-government and preserve the nation's traditional heritage, while also recognizing that the sphere of assimilable cultures could be larger than the Founders anticipated.

A cornerstone of the Founders' immigration policy was that prospective citizens be persons of "good moral character," a requirement that still remains in statute.[122] This standard could be expanded to exclude anyone who practices or otherwise believes in the legitimacy of certain cultural practices or tenets of Islamic law that are antithetical to the moral sense of the American people and the principles of the natural law. This includes polygamy, first-cousin and child marriage, marital assault, female genital mutilation, honor killings, and the tenet that apostates be condemned to death.

To be clear, such prohibitions would not amount to a religious test, as the issue at hand is not whether someone affirms the *Shahada*. The proposed standard is predicated on the recognition that an individual's "moral character" is inseparable from their moral convictions, regardless of their reason for believing so. This standard is consistent with the American tradition of ordered liberty, which has never permitted an individual "under colour of religion" to "infringe the laws of morality."[123]

A worthy model for broader reform is the Immigration and Nationality Act of 1952, otherwise known as the McCarran–Walter Act. The U.S. Senate's 1950 report on immigration, which laid the groundwork for McCarran–Walter, recognized that

> in times of peace, as in times of war, it has been clearly demonstrated that the protection of the public safety requires the exclusion from the United States of those aliens who bring with them their alien ideologies which are subversive to the national security and contrary to our constitutional form of government.[124]

The act thus implemented additional safeguards to ensure that immigrants were attached to the principles of the Constitution by prohibiting both the admission and naturalization of individuals "who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship."[125]

> America should choose to reaffirm the Founders' theory of republican citizenship over the post-1965 settlement that treats America as a multicultural economic zone.

Current immigration law maintains a weakened version of this prohibition against the admission of individuals "who favor totalitarian forms of government."[126] These prohibitions should be strengthened to prohibit the immigration of anyone fostering alien, totalitarian ideologies, and it should expand the definition to include anyone who advocates or affirms a belief in theocracy or the implementation of Sharia law as a formal, state-governed legal system or is otherwise affiliated with an organization that does the same.

The McCarran–Walter Act also recognized the need to preserve the nation's traditional heritage. The act repealed the "free white person" clause after 162 years but adapted its underlying principles to the modern world by maintaining the use of national-origin preferences to ensure the preservation of America's national heritage. The U.S. Senate report explained that this system was not premised on "any theory of Nordic superiority," but was rather "a rational and logical method of numerically restricting immigration in such a manner as to best preserve the sociological and cultural balance in the population of the United States."[127] Conservatives should regain the conviction, held by previous generations, "that the peoples who made the greatest contribution to the development of this country [are] fully justified in determining that the country [is] no longer a field for future colonization."

To confront the current crisis, America should choose to reaffirm the Founders' theory of republican citizenship over the post-1965 settlement that treats America as a multicultural economic zone. The choice is between an immigration policy whose purpose is to preserve America's civilizational heritage and a policy whose purpose is regime change. The alternative promises the very consequences the Founders feared: a different country, no longer anchored in the social compact of a particular people united by a common heritage. Justice demands that Americans choose preservation as is their right and duty to future generations.

Samuel T. Lair, PhD, is a Lincoln Fellow at the Claremont Institute and former Director of the Center for American Education at the Idaho Freedom Foundation.

Appendix: Relevant Court Cases on Muslim Immigration

***In re Ah Yup* (1878, U.S. Circuit Court, District of California):** The court held that Chinese immigrants were not "white persons" under the Naturalization Act, defining the term by common speech and civilizational compatibility.

***Terrace v. Thompson* (precursor opinion, 1921, U.S. District Court, Western District of Washington):** *Terrace* discussed how the "free white persons" clause preserved American civilization by prohibiting immigrants from "Oriental despotisms" whose culture subordinated the individual to the state.

***Ozawa v. United States* (1922, U.S. Supreme Court):** *Ozawa* held that Japanese immigrants are ineligible for citizenship due to being non-Caucasian in the common understanding; the case rejected racial superiority claims.

***United States v. Bhagat Singh Thind* (1923, U.S. Supreme Court):** The Supreme Court ruled that Indians, including "high-caste Hindus," are ineligible for citizenship despite scientific classification as Caucasian; the Court interpreted "white" by common understanding and capacity for assimilation into American society.

***In re Halladjian* (Armenian case, 1909, U.S. Circuit Court, District of Massachusetts):** *Halladjian* granted citizenship to Armenians, determining that they were white due to their Christianity and historical alignment with European civilization against Islam.

***In re Ahmed Hassan* (1942, Federal District Court):** *Hassan* denied citizenship to an Arab Muslim, ruling that the "Mohammedan world" culture created a wide gulf preventing assimilation into American civilization.

***Ex parte Mohriez* (1944, Federal District Court):** *Mohriez* broke tradition by declaring Arab Muslims eligible as "white persons," shifting from republican assimilation standards to liberal internationalism and globalist foreign policy goals.

Endnotes

1. Yvonne Yazbeck Haddad, *Not Quite American? The Shaping of Arab and Muslim Identity in the United States* (Waco: Baylor University Press, 2004), p. 5, and Besheer Mohamed, "25 Years After 9/11, a Portrait of Muslim Americans," Pew Research Center, September 3, 2026, https://www.pewresearch.org/religion/2026/09/03/25-years-after-9-11-a-portrait-of-muslim-americans/ (accessed October 1, 2026). The Immigration and Nationality Act of 1965, otherwise known as the Hart–Celler Act after its authors, repealed the long-standing national origins quota system that restricted immigration from most non-European countries to 100 immigrants a year.
2. Alexander Hamilton, "The Examination Number VIII, [12 January 1802]," Founders Online, National Archives, https://founders.archives.gov/documents/Hamilton/01-25-02-0282 (accessed October 1, 2026).
3. Lauren Gilbert, "Citizenship, Civic Virtue, and Immigrant Integration: The Enduring Power of Community-Based Norms," *Yale Law and Policy Review, Vol.* 27 (2009), p. 374.
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