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Liberty and Justice Without Illusions or Appeasement: Islam and the American Constitutional Order

Jay W. Richards, PhD, Roger Severino, JD, and Victoria Coates, PhD

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Liberty and Justice Without Illusions or Appeasement: Islam and the American Constitutional Order

Jay W. Richards, PhD, Roger Severino, JD, and Victoria Coates, PhD

America's constitutional order protects religious liberty within a broadly Christian cultural inheritance. In this Special Report, we examine tensions between representative Islamic doctrines and American principles governing speech, sovereignty, and family law. Domestically, we defend equal civil rights, institutional autonomy, and accommodations for peaceful practice while supporting neutral arbitration and firm prohibitions on coercion and violations of others' rights. Immigration policy should strictly assess risks associated with countries of origin and require applicants to affirm compliance with American laws and principles. Abroad, the United States should work with allies, including nonhostile Muslim nations, to disrupt militant Islam's funding and isolate its ideological sources.

Introduction: A Republic, but Can We Keep It?

What kind of country are we? What kind do we want to be? How does our republic relate to—and depend on—the religious, legal, and cultural soil from which it emerged? And what domestic and international forces put it at risk?

These questions have gained new currency amid rising tensions with an assertive Islam, both at home and abroad. To frame those tensions correctly, we should first recall how our constitutional order protects religious freedom. The First Amendment, unlike laïcité in modern France, does not sanitize public life of all vestiges of religion. Americans do not celebrate 1776 as a Year Zero. We mark it as the year our Founding Fathers reasserted their God-given rights, including equality under the law and the free exercise of religion. These are far more than mere toleration or freedom of private belief.

When the Constitution was ratified, most American states had forms of religious establishment—some of which remained for decades. At the same time, the Constitution prohibits a single national religious establishment. These facts alone should signal how subtly the Framers understood the "free exercise" of religion. They built something old and something new: a free people, formed by a biblical inheritance and a Christian culture, governed by one limited federal government, with states allowed to retain wide discretion and jurisdiction, and with rights guaranteed by separation of limited powers and explicit, enforceable guarantees.

To be sure, the details of this settlement have changed since 1789. For instance, no state now has a religious establishment. Never, however, has the American system required either official government neutrality between religion and irreligion or a naked public square. On the contrary, it has included public acknowledgments of God as a truth of public reason, not merely of private faith. The Founders and the Framers insisted that religion should play a vital public role in sustaining our republic.

They did this even as they prevented ecclesiastical control of the federal government and federal control of churches. Take the claim in Article III of Northwest Ordinance of 1787 that "religion, morality, and knowledge" are "necessary to good government."[1] Recall George Washington's insistence in his Farewell Address that "religion and morality are indispensable supports"[2] and John Adams's admonition that "our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."[3] The Founders of the American order defended and presupposed the need for public religion without a national establishment. This is the crucial background for the Constitution and the First Amendment.

Regrettably, courts in the 20th century often failed to respect this constitutional balance. At times, they were even hostile to it. Happily, in recent decades, the Supreme Court of the United States has done much to recover the founding ideal of religious liberty.

Many Americans now fear disruption from another quarter: our fraught encounter with an aggressive, sometimes Marxist-inflected Islam.[4] Public reactions to this threat by some officials and social media provocateurs use overheated rhetoric. Such inflammatory framing, however, does not discredit the underlying concerns, especially given the experience of several of our European allies with large unassimilated Muslim populations.

Consider the following premises and conclusion:

1. Religious doctrine, culture, and mores shape individual and group behavior.

2. When they are durable and widely shared, doctrine, culture, and mores shape customs and formal law for localities, states, nations, and even civilizations.[5]

3. Hundreds of millions of Muslims hold views that both guide behavior and conflict with key principles of the American system.[6]

4. These beliefs are not marginal but historical and common in contemporary Islamic culture, theology, and practice.

5. Common Islamic thought does not map neatly onto Western divisions and conceptions of the private, family, market, political, and religious spheres.[7]

6. Recent history provides abundant evidence that polities shaped by Islam reject key American philosophical and legal principles.[8]

7. Western European countries, including the United Kingdom (U.K.) and France, are now experiencing recurring conflicts tantamount to a national identity crisis related to large, unassimilated Muslim populations.[9]

8. While Muslims in the U.S. are, on average, more assimilated than those in the U.K. and France, anti-Western attitudes are growing, especially in Muslim enclaves of recent immigrants and among Muslim politicians.

9. Therefore, the U.S. now risks being subjected to the same conflicts our Western allies struggle to contain and address.

France and the U.K. did not set out to build hostile enclaves or acquiesce to practical "no-go" zones of selective law enforcement within their borders. They drifted toward these arrangements by confusing appeasement with kindness and defaming those who noticed the early warning signs as bigots. The U.S. can and should strive to avoid the two profound mistakes both countries made in the name of diversity: They treated majority Christian religious beliefs at best as private trinkets and at worst as threats to culture, law, education, speech, or family life, and they added Islam to the pantheon of minority identities that should be publicly celebrated while pretending that the spread of Islam in their countries would only benefit their laws and culture.

In this *Special Report*, we speak frankly about tensions between representative Islamic doctrines and American principles. We do not rely on a simple dichotomy between Islam as a "Religion of Peace" on the one hand and "militant" Islam or "Islamism" as an aberration on the other. This would amount to taking a position on "true Islam" as a theological matter, or what Islam "should" be, which is not our mission. What matters for policymaking is knowing what beliefs are *commonly held and acted upon* by self-identifying Muslims in the West and Islamic countries today. For purposes of this report, we therefore rely on opinion polls, surveys, news reports, studies, and reviews of laws and practices in Muslim countries and in Muslim enclaves in the West rather than offering detailed exegesis of the Quran or the major hadith.

Certainly, most Muslims in the U.S. are not violent extremists or potential suicide bombers. But we cannot pretend that commonly held Muslim beliefs have had nothing to do with the terrorist attacks the West has endured for decades. Moreover, we must not be cowed into silence on these topics by the unjust and all too freely thrown accusations of "Islamophobia." We should certainly not caricature Islam, but neither should we ignore or absolve it of scrutiny and criticism. To analyze and resolve the problem properly, we must make careful distinctions. We should treat cultural pressure points between Islam and the West in their context, be it at home, at the border, or abroad. How the U.S. resolves conflicts involving Muslim American citizens will differ from how it resolves conflicts over immigration from Muslim-majority countries. Both will differ from the question of international alliances formed for mutual benefit.

Ideally, individual Muslims, wherever they reside, could enjoy American-style protections of their inalienable rights, including the right to the free exercise of religion and accommodations under law. But the relative lack of such protections in Muslim-majority countries is not a mere coincidence. To pretend that the governing systems of these countries do not reflect widely held conventional Islamic views is to engage in the polite fiction that all religions make identical public claims. They do not. Most Muslim immigrants and refugees in recent years have come from societies that outlaw free speech, despise religious liberty, and fail to affirm limited government. Overwhelmingly, these arrivals came for basic physical safety, economic opportunity, or our generous publicly funded services, not because they were irresistibly drawn to America's founding ideals.

When a religious population reaches a critical mass in a modern republic, it will likely shape both law and culture because republics, by definition, reflect public sentiment. We also know from history and experience that

deeply held religious beliefs strongly predict behavior.[10] This is especially true in the case of Muslims who commonly merge the public, private, religious, and legal spheres that Westerners in the Christian tradition tend to distinguish. If we want to retain our distinct form of religious liberty and republican government, we must acknowledge these tendencies and set guardrails accordingly.

The American Settlement: A Living Tradition, Not a Secular Void

The First Amendment prohibits a national established religion while protecting the free exercise of religion. The early Republic did not understand this as a demand for a religion-free public square. After all, Congress employed and still employs chaplains. Presidents have called and still call for national days of prayer, fasting, and thanksgiving to God. State disestablishments and abolition of religious tests for office proceeded in due course without federal compulsion.[11] The Founding generation took it as axiomatic that a generally Christian worldview and morality were indispensable to republican government while resisting ecclesiastical control of civil law. They believed that good citizens would render unto God what is God's and render unto Caesar what is Caesar's, seek to follow the Golden Rule, and even love one's enemies. They did not view public acknowledgments of God and religion as suspect but as both natural and good.[12]

At the Founding, public sentiments and cultural assumptions were broadly Christian and largely Protestant. Nineteenth-century courts acknowledged this. When the Supreme Court remarked in *dicta* in 1892 that the United States was a "Christian nation," it was simply describing the cultural soil from which the law had grown.[13] This Christian view was grounded in the natural law as the very basis for religious liberty and respect for conscience.[14]

Thomas Jefferson's Bill for Establishing Religious Freedom, enacted as the Virginia Statute for Religious Freedom in 1786, so perfectly encapsulates how America's Christian culture required religious liberty that it is worth quoting three vital principles flowing from his famous central premise:

> [T]hat Almighty God hath created the mind free…
>
> that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations…are a departure from the plan of the holy author of our

> religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do…
>
> that our civil rights have no dependance on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which, in common with his fellow citizens, he has a natural right…
>
> that it is time enough for the rightful purposes of civil government for its officers to interfere when [religious] principles break out into overt acts against peace and good order….[15]

When Jefferson invoked "The holy author of our religion" as the "Lord both of body and mind" and cited "natural right" to justify Virginia's landmark bill, he was invoking and codifying a Christian understanding of religious freedom in American law.[16] James Madison was even more explicit when he argued in his famous Memorial and Remonstrance that religious liberty was necessary for "the diffusion of the light of Christianity" among those "remaining under the dominion of false Religions."[17]

In 1798, Founder and signer of the Declaration of Independence Benjamin Rush said he would rather see teachings of "Confucius or Mahomed inculcated upon our youth, than see them grow up wholly devoid of a system of religious principles." He immediately clarified: "but the religion I mean to recommend *in this place*, is that of the New Testament."[18]

All that was required of religious people of whatever faith was that they respect the rights of others and the law. Washington famously made this point in his letter to the Hebrew Congregation in Newport. "Happily," he wrote, "the Government of the United States, which gives to bigotry no sanction, to persecution no assistance requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support."[19]

At a time when acceptance and integration of Jews in Europe and around the world were rare, President Washington went out of his way to welcome Jews and their faith. He treated their presence and practice as fully compatible with the American system and the Founders' vision of how voluntary faith in the public square would underpin a flourishing American republic. In keeping with this understanding, John Adams wrote to the

Massachusetts militia in 1798 that "[o]ur Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."[20]

These mutually reinforcing principles found perhaps their most integrated form in America's charter for Westward expansion, the Northwest Ordinance of 1787. It held that "the fundamental principles of civil and religious liberty...form the basis whereon these republics, their laws and constitutions are erected." It further guaranteed that "[n]o person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory" and that "[r]eligion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."[21]

Regrettably, mid-20th-century jurisprudence departed from this view. It adopted instead an aggressive secularism more at home in Revolutionary France than in the America of the Founders. Under the guise of ever-multiplying "neutrality" tests, the Supreme Court too often required official agnosticism or, worse, justified erasing religion and our religious heritage from the public sphere. Under that approach, courts treated long-standing practices as unconstitutional if a hypothetical observer might perceive a public act as the government "endorsing" a religion.[22]

Disputes across the decades involved school prayer, religious invocations to start legislative sessions, religious symbols such as crèches or the Ten Commandments in the public square or government buildings, and, most recently, even a coach's fleeting acknowledgment of God by kneeling and praying at the end of a high school football game. The high-water mark of the Supreme Court's secularist deluge was the oft-criticized *Lemon* test,[23] which was as capricious in its application as it was contradictory. It empowered anyone offended by the sight of a public religious symbol or acknowledgment (in practice, largely Christian) to challenge it in court.

These jurists claimed to promote peace and harmony. The result, however, was permanent controversy, litigation, the bureaucratization of grievance, and a detachment of American laws from American history and culture.

In recent decades, the Court has fortunately begun to recover the older balance. In *Marsh v. Chambers*,[24] the Court recognized legislative prayer as constitutional and acknowledged that *Lemon* did not reflect the Establishment Clause's original public meaning. In *Town of Greece v. Galloway*,[25] the Court allowed explicitly Christian religious invocations at town meetings. In *American Legion v. American Humanist Association*,[26] it judged long-standing, religiously expressive monuments and practices—such as

veterans' memorial crosses—to be presumptively constitutional. And in *Kennedy v. Bremerton School District*,[27] it officially abandoned the defunct *Lemon* test and held that a public-school coach's quiet, personal prayer after a football game was not an establishment of religion.

On the free-exercise side, the judicial story has highs and lows. One low point was *Employment Division v. Smith*, in which the Court held that the Constitution allows government to substantially burden religious exercise without any accommodation as long as the burden arises from "neutral and generally applicable" laws.[28] By contrast, cases such as *Church of the Lukumi Babalu Aye v. City of Hialeah*,[29] *Fulton v. City of Philadelphia*,[30] *Espinoza v. Montana Department of Revenue*,[31] and *Tandon v. Newsom*[32] closely scrutinize laws that target religious exercise specifically, bar religious institutions from accessing general funding programs, or prohibit religious conduct while exempting similar secular conduct. Among other recent high points, *Groff v. DeJoy*[33] has strengthened the right to workplace religious accommodation.

Over the past 20 years, the Court has greatly expanded the legal protections for religion in the public sphere: Students in public schools can pray, wish others a Merry Christmas, organize religious extracurricular clubs, and express religious views in graduation speeches or relevant assignments. School administrators and government bureaucrats can no longer hide behind a caricature of the "separation of church and state" to justify erasing religion from the public square or engaging in religious discrimination. Courts have not fully returned to the biblically informed culture and public square presupposed by the Founders and the Framers of the Constitution, but they have retreated from the aggressive secularism of the mid-to-late 20th century.

This recovery can be summarized as follows:

1. The Constitution does not require a religion-free public square.

2. Government must respect religious exercise and can affirmatively support it in some cases.

3. Accommodations for people of faith are proper and healthy when administered evenhandedly and when consistent with public order. Examples include staffing policies allowing sabbath observances, religious dress at work or school, vaccine opt-outs, dietary accommodations, and equal treatment of houses of worship in land use and zoning.

4. Bright lines remain: No one can unilaterally impose mandates on others to participate in religious activity or adopt or retain any specific beliefs as though those beliefs had the force of law, especially criminal law. There should be no compelled speech or religious coercion in public schools or the public square. There should be no heckler's veto for speech or religious expression that may offend someone else's religious sentiments. And courts or agencies should not enforce any rule that would deprive a person of these rights.

The Conflict Between American and Islamic Views of Law and Life

Even the casual observer should recognize that the American system described above is profoundly contrary to predominantly Islamic cultures. Again, this contradiction is not mere happenstance. It follows quite naturally from prevailing Islamic thought. Islam is not a private creed with a few rituals added. The way most Muslims understand their life path (Sharia) is quite unlike the way most other religious believers, including Christians, integrate their faith into their daily lives.

In Islamic cultures, juridical reasoning (fiqh) governs not only Muslim worship, but also marriage, inheritance, the status of women, a panoply of crimes, and the legitimacy of Muslim rulers. Ecclesiastical courts such as Catholic tribunals or Protestant boards of elders exist in the U.S., but participation in them and compliance with their rulings are voluntary. By contrast, in most Muslim cultures, many religious judgments have the force and effect of civil and criminal law enforceable by the government.[34]

The Christian West in various periods had a strong unity of religion, law, and politics, but it was mediated through popes, kings, patriarchs, emperors, and later Protestant princes, each with a distinct sphere of dominion that grew more formally separate over time. Some historians argue that such distinctions are a fruit of Christian civilization itself.[35]

Muslim polities, by contrast, adopted competing caliphate (Sunni) or imamate (Shia) structures that merged government and religious functions more tightly in ways that persist today. This dual history eventually yielded, on the one hand, an American order that respects individual rights and equality of people of all faiths and, on the other hand, Muslim societies that generally do not provide full equality to non-Muslims and especially not to former Muslims. The American system welcomes majority and minority religions in public life while respecting the boundaries between ecclesial authority and civil authority; Muslim systems by and large do not.

Despite this abstract conflict between American republicanism and Islam writ large, views vary among individual Muslims and across regions. In parts of the Middle East and North Africa and parts of South and Southeast Asia, large majorities favor making Sharia the official law of the land. Elsewhere—for example, in Lebanon, which until recent decades had a large Christian population—majorities do not.[36] In North Africa—especially Tunisia and Morocco—many report that Sharia allows multiple interpretations.[37] Reformist Muslim voices exist both in the U.S. and abroad, and some Islamic countries have modernized family law.[38]

The global picture also differs from the American one. Many Muslims in America have been shaped by our civic culture as most arrivals in the past 20 years have come to join family already here. Others entered as refugees seeking American safety after fleeing war-torn areas or failed Muslim states.[39] A much smaller subset of Muslim immigrants entered as asylees fleeing some form of persecution.[40] Surveys show higher levels of assimilation and stronger rejection of political violence among Muslims in the United States compared with Muslim minorities in Europe.[41] Our argument—that certain Islamic commitments conflict with American principles—is based on averages that do not determine the character of individual Muslims. Moreover, our argument is not an indictment of our fellow citizens who have adopted American ideals.

But once again, acknowledging past successes with integrating Muslim immigrants does not guarantee that it will always be so. Today we face unparalleled levels of Muslim mass migration (both legal and illegal) that dwarf the numbers of the past. To make matters worse, multiculturalism and diversity, equity, and inclusion policies that treat America's inherited culture and founding principles as a source of shame permeate our schools at every level. These factors guarantee that past approaches will not keep pace with the rise of large, assertive Muslim enclaves inside our borders.

Why is that a problem? Because hundreds of millions in Muslim-majority countries support policies on religious grounds that routinely violate individual rights protected by American law.[42] Where national penal codes criminalize "blasphemy" and "apostasy," sometimes with severe penalties including death, they codify an integration of religious and civil authority that violates the natural right to freedom of religion. Such laws flatly contradict an American order built on free speech and freedom of conscience. The fact that Muslim-majority countries tend to be anything but Western-style democracies is not by chance. Nor is it a mystery that efforts to impose liberal democracy in Muslim cultures in Iraq, Libya, Afghanistan, Syria, and Egypt have not flourished.

Large numbers of Muslims, both globally and in the West, will state plainly that they support laws and policies that are incompatible with the Western system if one merely has the courage to ask. At the extreme, forms of these beliefs and a failure to assimilate have inspired terrorist violence by Muslims who either came to the West ready to carry out their Islamic beliefs or were radicalized after arriving here.[43]

The quintessential example of this phenomenon is the 2015 *Charlie Hebdo* terrorist attack in France. The perpetrators included French citizens born to Algerian immigrants who went on a 12-person murder spree because a French magazine had printed caricatures of Muhammad.[44] Many Westerners were shocked that Paris-born Muslims committed mass murder over a cartoon. They should not have been. The ban on creating images of Muhammad is a deeply held belief, especially in Sunni Islam. Many Muslim-majority countries routinely and severely punish the drawing of Muhammad cartoons or criticism of Islam.[45]

Two Warnings From Europe: Laïcité and Appeasement

France and the United Kingdom have grappled with these pressures in different ways. Neither offers a model that we should follow.

France leans toward a rigid secularism that restricts religious expression in public settings. In 2004, it banned conspicuous religious symbols in public schools. In 2022, the city of Grenoble relaxed its public pool dress codes to accommodate loose-fitting full-body Muslim "burkinis," but the national government challenged the rule as a violation of secularist principles. And in 2021, it required religious nonprofits and associations that receive government funds or partner with the government to affirm that they would "not call into question the secular character of the Republic." It also imposed duties of secularism and non-accommodation on private entities performing public or quasi-public services.[46] Such bans on public religious expression contradict both the spirit and the letter of our First Amendment.[47]

Things become more complex, however, when religion is not specifically targeted for exclusion. In 2010, France banned full-face coverings in public places (with limited exceptions), arguing that public safety, equality of the sexes, and an open and democratic society depended on visible faces for human social interactions. Notably, France did not cite secularism as a justification for the ban and made the law facially neutral. Additionally, France's 2010 law punishes those who through threats, violence, or abuse of authority force others to conceal their faces on account of sex with one

year in prison and a €30,000 fine.[48] The punishment is doubled to two years and €60,000 when the victim is a minor. The law also allows claims against parents who coerce their children.

In the U.S., 18 states have some form of anti-masking law on the books, several of which originated from efforts to counter coercion and intimidation by the Ku Klux Klan.[49] American law also protects against undue influence and psychological abuse in certain family contexts. We also should not discount the historic efforts of government to regulate dress for public safety, health, and morality reasons. Nevertheless, local and state governments should take great care to protect religious freedom generally and parental rights specifically when it comes to these questions.

Britain provides a warning of what happens when a Western state lacks the courage to prevent fully parallel Islamic structures that ultimately compete with, if not displace, civil law. For years, the U.K. deferred to a patchwork of Sharia councils in mediating family disputes. An independent Home Office review found uneven practice and recurring harms to women, especially where no civil marriage had been registered, leaving wives without sufficient civil recourse in English courts.[50]

The solution, when applied, has been to keep all family law within a single civil-law framework that requires civil registration, regulatory oversight, and awareness campaigns.[51] There are no so-called no-go zones in the U.S. where enclaves conduct much of their own legal affairs or "policing" without the government (as has been reported in the U.K.).[52] But it would be naïve to imagine they could never appear here. Poorly assimilated enclaves have already formed and are growing. We should do what we can, while we can, to prevent *de facto* encroachment or replacement of American law with foreign religious law.

A second lesson from the U.K. experience is much grimmer. The 2014 Rotherham inquiry documented a years-long pattern of grotesque child sexual exploitation with an estimated 1,400 victims. It also found institutional failures, including officials' failure to speak the truth because they feared accusations of racism.[53]

The report did not satisfy survivors, however, who accused the government of continuing to conceal facts because of political correctness. They then launched an independently funded "Rape Gang Inquiry" headed by Rupert Lowe MP.[54] Shortly afterwards, a bombshell government-commissioned review, the 2025 Louise Casey National Audit, revealed that public bodies had "obfuscated" the demographics of offenders and called for a mandatory state inquiry.[55] Under extraordinary public pressure, the U.K. government launched its own investigation, the "grooming gang inquiry," which is set to issue its final report in March 2029.

It is hard to do justice to the basic details reported in the Rape Gang Inquiry. Consider these excerpts from the report:

> The Rape Gang Inquiry examined the systematic targeting of vulnerable girls, overwhelmingly White British, by predominantly Muslim Pakistani gangs across towns and cities throughout the United Kingdom. The evidence put to the Inquiry confirms that this scandal constitutes one of the most horrendous failures in the history of the country. Organised networks of perpetrators built coordinated operations that transported victims between locations, supplied them with drugs and alcohol, recorded abuse for distribution and blackmail, and passed girls between multiple adult men. These crimes have been committed for decades, since the 1950s by Pakistanis in particular, and have affected every region of our nation.
>
> The scale of the crimes committed is staggering. It has been previously established that, at the very least, 250,000 young white girls have been subjected to repeated rape, gang rape, trafficking, torture, pregnancy, forced Islamic conversion, and lifelong trauma. The true number is probably higher. The perpetrators bear primary responsibility, yet the institutional failures that enabled them for decades must also be confronted. In court records and official inquiries, around 87% of those convicted in these group-based child sexual exploitation ('CSE') cases bore distinctively Muslim names. The vast majority of men involved in these gangs were not convicted. Dr. Taj Hargey, an imam with the Oxford Islamic Congregation, believes the true proportion of gang members who are Muslims to be around 95%. This figure far exceeds the Muslim share of the overall United Kingdom population. The overwhelming majority of the rape gang networks consisted entirely of men from Muslim backgrounds—predominantly of Pakistani heritage, although smaller groups from Somali, Iranian, Syrian, Turkish, and other Muslim origins were also involved....
>
> The demographic and cultural drivers are clear. Perpetrators from Pakistani Muslim and other Muslim backgrounds operated under an honour- and shame-based clan code that treated non-Muslim girls, especially white working class girls, as property available for sexual use. This pattern was reinforced by eight theological and legal aspects of Islam. These include the doctrine of Muslim superiority drawn from Quranic verses that position Muslims at the top with a duty to correct non-believers. The gang members' justification for their crimes can be found in the Islamic principles of loyalty and disavowal known as al-walā' wa-l-barā'. It demands enmity towards non-Muslims, the superiority of men over women, forced marriage combined with the absence of any fixed

> minimum age of consent, the perception of female sexuality as inherently dangerous, a system of sex slavery that authorises sexual relations with non-Muslim captives, and a religiously sanctioned social hierarchy that subjugates conquered non-Muslims. These elements, filtered through clannish immigrant sub-cultures, provided religious justification that enabled the systematic rape and even slaughter of White British girls.[56]

The authors of the report argue that "fear of being labelled 'racist' paralysed the Metropolitan Police and City Hall in the same way it did in Rotherham and Rochdale before them."[57] They also contend that politicians such as Mayor of London Sadiq Khan have come to rely on support from these Muslim constituents:

> London has the largest Muslim population in Britain. Khan relies on significant electoral support from those communities, as well as having an ethno-religious motive to protect the public reputation of Pakistani Muslims in particular. Widespread acknowledgment of organised networks of predominantly Pakistani Muslim men targeting vulnerable white girls would have shattered the narrative of community cohesion that successive London administrations—none more than Khan's—have promoted.[58]

Toleration of rape gangs by public authorities may be hard for Americans to imagine, but such tragedies in the U.K. did not appear out of nowhere. They are the result of decades of official denials of the differences between Western and Islamic worldviews in the U.K. Those differences are even more stark in the American constitutional context.

The Sources of Tension: Speech, Sovereignty, Family, and the Public Square

One stark difference between Islamic and American practice arises where sovereignty and speech intersect. Many Muslim countries criminalize religious dissent as "blasphemy" or "apostasy." Some enforce severe penalties, including death.[59] Muslim countries restrict and discriminate against non-Muslim worship and religious expression in myriad other ways, from religious registration and identity cards to prohibitions on construction of new houses of worship. Such laws contradict the American guarantees of freedom of speech and religion, including the freedom to leave or change one's religion.

These are not fringe legal rules.[60] In the Middle East and North Africa, they are the norm rather than the exception. For instance:

- Blasphemy is a crime in 18 (90 percent) of the 20 countries in the Middle East and North Africa.
- Apostasy is a crime in 13 (65 percent) of those same 20 countries.
- Worldwide, 79 (40 percent) of 198 countries and territories had blasphemy laws in 2019; 22 (11 percent) outlawed apostasy.
- Seven countries—Nigeria, Pakistan, Iran, Afghanistan, Somalia, Mauritania, and Saudi Arabia—impose the death penalty for blasphemy.[61]

These laws reflect conventional Islamic beliefs that do not magically disappear once a Muslim immigrant enters the West.

A second source of friction involves the risk of an independent quasi-legal jurisdiction emerging in U.S. territory. Religious arbitration can be a humane way to resolve civil disputes when parties identify terms in advance and courts can enforce awards on neutral grounds. American courts have enforced Islamic marriage contracts (mahr) where settlement amounts and conditions are definite and enforcement by a secular court requires no extracontractual doctrinal substantiation.[62] By contrast, courts have refused to enforce such contracts where terms are too indefinite or where enforcement would force a judge to inform civil contracts with reasonably uncertain material terms, in this case supplied by religious doctrines missing from the contract itself (Shaban).[63]

In addition, the Supreme Court held in *United Paperworkers v. Misco, Inc.* that a court may refuse to enforce an arbitration decision "because it is contrary to public policy."[64] However, a court can do this only when the interpretation violates "some explicit public policy that is well defined and dominant...by reference to the laws and legal precedents and not from general considerations of supposed public interests."[65]

The legal line is clear: Neutral contracts consistent with American law are enforceable; doctrinal adjudication is forbidden; non-waivable bright lines remain.[66]

A third tension concerns the legal status of women and children. Where polygamy is legal, where inheritance rules favor sons, where divorce lacks due process, and where child marriage persists, Muslim law and custom collide with American law and principles. To state the obvious, American principles include equal protection under the law, prohibitions on coerced marriage, and the basic safeguards of childhood.[67]

These dueling legal principles collided recently in the case of *Azhar v. Choudhri*. In that case, a Muslim man who had lived in Texas since age

three went to Pakistan to obtain an arranged Islamic marriage to a woman who then immigrated to live with him in Texas. Some years later, the man returned to Pakistan and obtained an Islamic divorce through a procedure available only to men known as "talaq." The court summarized the practice as follows:

> Under Islamic law, a husband has the right to initiate a divorce ("talaq") against his wife. All that is required to achieve talaq is for a husband to pronounce his intent to divorce his wife on three separate occasions, either verbally or in writing. The husband does not need to communicate his three pronouncements to his wife. She need not be present for them or even aware of them. A wife cannot object to a talaq.[68]

Here, the Texas husband followed Islamic talaq procedures and filed a divorce announcement in a local Pakistani newspaper. The wife did not find out until two years later and, after unsuccessfully challenging the divorce in Pakistani courts, sued for divorce and property division in Texas. After much litigation, the Texas Supreme Court ruled for the wife and held that Pakistan's talaq judgment could not be recognized because it lacked basic due process and was contrary to Texas public policy.[69]

This is but one example of a conflict set to multiply as Muslim immigration increases. A domestic answer to such problems requires the U.S. to draw legal bright lines: no polygamy, no child marriage, no divorce without due process, no coercive punishment for conversion, no female genital mutilation, and equal civil protection for all.

What Our Own Flashpoints Reveal

Public education and fora for speech pose a different set of challenges. Though some reforms are needed, American jurisprudence already provides some workable rules if properly enforced. Schools should protect students' free speech and religious exercise. Cities should protect public spaces for speech and ensure that any rules for those spaces are applied evenhandedly and not based on content. Mutual respect and open exchange are the standard; oppression is not.

Recent flashpoints test these principles.[70] In 2023, Minneapolis, which has a large Muslim population, amended its noise ordinance to permit amplified Muslim calls to prayer (adhan) throughout the day.[71] Some defenders compare the adhan to church bells that can also publicly signal a call to prayer. The dispute is not just about decibels. The Muslim call to

prayer follows a fixed liturgical formula, is spoken five times a day in Arabic, and makes specific theological claims. It begins with "Allahu akbar" ("God [Allah] is the greatest") and proclaims both that Muhammad is God's messenger and that there is no God but Allah.[72]

Because Islam blends religion and governance in ways not practiced in the West, the adhan, when combined with other Islamic practices in a locality, can be interpreted as a claim of jurisdiction over other Muslims, if not more broadly.[73] More assimilated Western Muslims tend to downplay or ignore Islam's history, both long-standing and recent, of coercive proselytism, expansionism, and division of the world into "dar al-Islam" (territory of Islam) and "dar al-Harab" (territory of war).[74] Not every Muslim views the world in such stark terms, and some have proposed third ways for minority Muslims in the West,[75] but it would be naïve not to interpret amplified Muslim calls to prayer in that broader context. They are much more than musical chimes that mark the time or signal the start of church services.

The public square can handle free speech on equal terms. Authorities should govern non-obscene public expressive speech by the same rules of time, place, and manner, whatever the content or viewpoint. But American respect for the beliefs of others, including immigrants, comes with an implied reciprocity: respect for American values that give rise to tolerance for the beliefs of others. This requires assimilation—a concept largely rejected by European Muslims. Some instead seek separatism, and others seek a form of "integration" that resists Western values at key points of tension.

For example, the European Council for Fatwa and Research (ECFR) "urges Muslims to preserve their Muslim identity without leading an isolated lifestyle but rather integrating in their societies in a way *that does not lead to assimilation*" in order to "preserve cultural and religious peculiarities."[76] The ECFR also holds, in the context of public profanation, that "[i]f some people transgressed on the Qur'an or Islam, Muslims should seek legal channels to prevent it."[77]

At the moment, most American courts seek to enforce neutral standards that often ignore the broadly Christian character of our history and laws. But these laws also (for now) do not give pride of place to Islam. Cities and states that seek to preserve the assimilationist model that has preserved our country are not powerless. If laws use purely neutral, rights-protective language, today's courts should apply them with respect to Islam as they would with any other minority religion.

Take a recent Texas statute responding to concerns about privately organized residential developments that could have mandated that disputes be

resolved in Islamic courts. Although, the governor called these developments "Sharia compounds," the statute's text did not mention either Islam or Sharia.[78] Instead, it forbade mandatory nonjudicial tribunals in the narrow context of property-governance and barred discriminatory restrictions on transfers. It also exempted compounds owned by religious organizations. The law itself is neutrally drafted and should survive court challenge.[79]

Whom We Admit: Prudence, Not Prejudice

In the U.S., our Constitution guarantees every citizen a full panoply of civil and political rights regardless of religion. Our Constitution, however, does not extend to foreigners outside our borders, and the President has extraordinary discretion over our visa, admissions, and immigration policies.

These are the most powerful shields the U.S. can use to avoid the fate of the U.K. and France. If the U.S. is to prevent the crisis at home that is now looming in Europe, it must get serious about defending the border—both literally and figuratively—from forces and peoples that will eventually change America from within.

Generic human beings do not visit or immigrate; people do. People come with ingrained histories, beliefs, habits, virtues, vices, attachments, cultural assumptions, and expectations. No country can be indifferent to the beliefs and commitments of throngs of entrants and expect to remain the same country.

The naïve belief in the story of America as "a nation of immigrants" presupposes that the character of the immigrant does not matter to American progress. It is true that the American melting pot was able to turn waves of immigrants—from Irish, Germans, Italians, and European Jews to Chinese, Vietnamese, and emigrants from Latin American countries—into Americans. Butut the process of assimilation was made easier because most immigrants to America were Christians or Jews who sought to assimilate and enjoy American freedom. However, assimilation was not a smooth road. Catholics experienced prejudice and suspicion through the Know-Nothing era and beyond, the federal government famously clashed with Mormons over polygamy, and the *Korematsu* decision allowed internment of Japanese Americans during World War II. The U.S. nevertheless achieved assimilation through a self-confident education system and civil society that saw it as part of their missions to turn immigrants, religious minorities, and their children into full Constitution-supporting American citizens.

But what happens when a population enters America that openly resists assimilation to core American values? What if generous government

programs support such populations' efforts to live in separate enclaves without any requirement of assimilation? What happens when so many U.S. schools disparage American laws and culture instead of affirming them as superior to those in authoritarian countries from which many immigrants came?

Such questions almost answer themselves. Beliefs predict behavior, and mass behavior, once it becomes common enough, shapes and even becomes custom and law. This is especially true in countries with universal suffrage where government reflects to some degree the preferences of its voters. The United States already has many tools to protect its laws and culture at home and abroad if it will use them. The eight billion non-Americans outside U.S. borders have no natural or constitutional right to enter the United States without permission—either to visit or to become residents or citizens.[80]

Demand to enter the U.S. is practically limitless. As a result, the U.S. can and should be extremely selective in deciding whom it admits, naturalizes, and allows to remain here. The Supreme Court has recognized that authority when exercised through a documented, interagency process. It defers to a facially neutral policy.[81]

The President has plenary authority to suspend entry of classes of temporary and permanent aliens if he has reason to believe that their entry would harm the national interest.

At the top of the list should be the odds, *relative to those of other applicants*, that each individual and his or her children will assimilate to American values and support U.S. laws and the Constitution in full. This is not to say that Muslims are unassimilable; many patriotic American Muslims have already disproven that. Our point is that the United States should not be blind to the cold fact that Muslims tend to be *less assimilable* and therefore represent a higher risk than non-Muslims who come to America. For example, for around a century, the largest Arab population in the United States was Christian. This caused little social tension over assimilation compared to that surrounding Arab Muslims coming today.[82]

Additionally, the U.S. needs more filters at the border. The Immigration and Nationality Act (INA) was originally enacted on June 27, 1952. The Hart–Celler Act, signed into law on October 3, 1965, amended the INA and, departing from long-standing policy, prohibited preferences or discrimination in the issuance of immigrant visas based on race, sex, nationality, place of birth, or place of residence, subject to specified statutory exceptions. Whatever sense this made at the time, the act needs reform insofar as it threatens the safety of Americans. In the meantime, it does not prohibit the use of religion, culture, or political ideology as criteria for admissibility.[83]

The INA currently excludes and makes ineligible for immigration benefits aliens involved in Nazi and Communist parties and activities.[84] Congress should amend the relevant sections of the INA to make participants and supporters of the Muslim Brotherhood, the Council on American–Islamic Relations (CAIR), and other Islamist and Islamist-front groups inadmissible, removable, and ineligible for immigration benefits.

Notably, the INA currently bars any immigrant who is permanently ineligible for citizenship. Courts have applied this bar to draft evaders and military deserters. When it comes to selecting who may come to America, however, the U.S. should prohibit not just the granting of permanent residence and U.S. citizenship, but also the entry of those who are not "attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States." That is a statutory requirement for naturalization.[85]

America should start as it intends to finish. If an alien cannot naturalize because he fails that requirement, he should not be eligible for permanent residence or a temporary visa.

Congress has already barred aliens from admission and adjustment to lawful permanent resident status based on their past or current behavior. Grounds for inadmissibility apply to the following:

1. Foreign government officials who have committed serious violations of religious freedom;

2. Anyone who poses security-related threats, including engaging in terrorist activity or seeking to enter to act against the U.S. government;

3. Anyone who poses serious adverse foreign policy consequences for the U.S.;

4. Members of a totalitarian party;

5. Participants in genocide, torture, or extrajudicial killing;

6. Anyone permanently ineligible for citizenship; and

7. Practicing polygamists.[86]

Barring such entrants is not an extraordinary measure. It is a tool of cultural survival to ensure that entrants are well disposed to the good order and preservation of the U.S. system.

We also recommend a strict visa and admissions architecture aligned with constitutional nonnegotiables:

- **Country Baselines.** The Department of Homeland Security (DHS) should maintain a public, interagency baseline updated on a fixed cycle. In addition to scoring countries on cooperation against terrorism, it should assess whether a country's public laws correlate with foreseeable conflicts in the United States—for example, whether "blasphemy" and "apostasy" are enforced crimes; whether polygamy is legal; what the country's civil minimum age of marriage is and whether it is observed; and whether conversion from Islam or the public worship and gathering of Christians, Jews, or other religions triggers government harm or has tolerated (or encouraged) nongovernmental coercion or suppression.[87]

- **Individual Screening.** The State Department should add written questions to visa applications regarding "constitutional commitments," along with attestation language carrying harsh penalties for perjury. Applicants should answer and affirm under oath at least the following with respect to compatibility with the American system:

  1. They accept one civil and criminal law standard for all. They reject polygamy and child marriage.

  2. They reject criminal penalties for criticizing, depicting, or rejecting religious ideas or figures (excluding threats, harassment, obscenity, or similar conduct).

  3. They reject criminal penalties for religious dissent and coercion of dissenters by private actors through threats, violence, confinement, harassment, or forced travel.

  4. They renounce the use of violence to advance religious or political ends.

  5. They renounce criminal or civil punishments for people leaving or converting from their faith, including the applicant's own.

  6. They reject female genital mutilation.

7. They oppose conditioning government positions on membership in a privileged religion or caste.

- **Strict Interviews.** Consular and DHS interviews should probe entrants for consistency. Consular and DHS officials should not rush interviews or adjudications to enable travel or to meet arbitrary grant numbers. In relevant cases, the default should be "no entry" absent clear and convincing evidence that the entrant can and will abide by American laws and principles. Open-source checks should test whether an applicant's affiliations or actions contradict prior answers or attestations. Consular and DHS officials should record all findings and share them with relevant federal and state agencies.

- **Inadmissibility.** Authorities should strictly enforce inadmissibility for willful misrepresentation. If officials later discover that an entrant lied about his or her views or activities, the entrant's visa or other immigration benefit should be revoked or terminated for fraud. This should include denaturalization.[88] Active affiliation with groups that advocate beliefs hostile to American law and principles—whatever their source—should be grounds for inadmissibility and removability. Congress should codify a narrow ground of inadmissibility and removability tied to actual or likely advocacy or actions contrary to American principles. This would complement the INA's existing ideological and security provisions.[89]

- **Refugees.** Refugee and asylum policy should reflect the same prudence. The United States should focus on the most vulnerable, such as persecuted religious minorities, and still require the same questioning, attestation, and verification. It should terminate benefits in cases of fraud and accelerate the removal of violators. The U.S. should also expand private, enforceable sponsorship as well as state and local consultation and opt-in resettlement authority. This should take place early in the placement process with full transparency with respect to numbers, capacity, and projected costs. English and civics milestones should be standard conditions of support. An annual assimilation dashboard should track language acquisition, employment, school attendance, and basic civic engagement with early-help resources deployed where communities fail to meet specified standards.

We should not deny the stakes. Geography and history until recently have insulated the U.S. from some of the pressures our European allies face. But we should not invite or accept likely conflicts under the pretense of tolerance or out of fear of being accused of "Islamophobia."

How We Live Together: Equal Protection, Not Coercion

Domestically, the American way is generous toward peaceful practice and strict in opposing religious coercion. States should codify the line that courts already draw for religious arbitration. Where an award can be enforced on the same terms as other contracts without doctrinal adjudication, it may be enforced. Where enforcement would require a judge to interpret doctrine, or where terms are too indefinite, it may not be.[90] Non-waivable limits such as criminal law, child support and custody baselines, and legislatively designated civil rights should remain in the courts' hands with *de novo* review as needed. Contracts interpreted through religious arbitration must be valid *ab initio* as a condition of secular enforcement and, even so, must not contradict fundamental public policy. This structure preserves the freedom of Jews to use a Beth Din, Christians to use church tribunals or Christian mediation, and Muslims to use religious arbitral forums—on equal terms and within the same limits.

States should enact a clean "foreign-law conflict" statute that bars any court or agency from enforcing foreign or religious law to the extent that enforcement would deprive a person of a constitutional or statutory right. Such a rule should apply to all religions and be triggered only when Americans' rights are at stake.[91] Such a rule would protect everyone equally.

In practice, this means that a court should not enforce a foreign judgment or clause that would suppress speech, deny due process, or deprive a person of equal protection. It also means that a religious arbitral award is enforceable if it functions as an ordinary contract and unenforceable if it violates a non-waivable legal limit.

Coercion in domestic settings deserves a special focus because the harms are severe but often hard to detect. States should define a targeted offense of "coercion to marry": violence, punishing threats, harassment, stalking, forced travel, confiscation of documents, or abuse of authority to compel marriage or continued marriage. Courts should have authority to issue rapid protective orders that halt travel, restore access to identification documents and passports, and provide short-term relocation. As with sex and labor trafficking, schools, social services, and police need mandatory training to recognize signs of coercion and clear protocols for referral to

prosecutors and vetted nongovernmental organizations (NGOs). States should also refuse to recognize any decision of a foreign court that was rendered only because someone forced another person to travel to that foreign jurisdiction to avoid U.S. law.

Drawing on tools developed to handle domestic abuse and hazing, states should recognize new private rights of action and empower state-level authorities to investigate new forms of intimidation. These allow religious or cultural dissenters to address and prevent situations where they are coerced to adhere to religious or other private behavioral codes, especially where local authorities will not or cannot address abuses. States should address apostasy-related coercion and so-called honor violence with enhanced penalties, expedited protective orders, and trained investigators who recognize common forms of intimidation.

As for children, female genital mutilation should be prosecuted consistently with continuing education for medical professionals and tools to interdict "vacation cutting." In public schools, anti-coercion policies would protect students from being forced to participate in religious worship while not treating religion as *per se* harmful or unwelcome. Strengthening parental notification and opt-out rights on a range of subjects would empower parents without erasing students' and parents' hard-won religious-liberty protections.

States should consider expanding protections for free speech and nondiscriminatory access, including in housing and privately owned shopping centers that stand in the shoes of the traditional public forum. Preserving space for the free exchange of ideas, no matter how offensive one group or another may find them, is crucial to protecting the freedom to disagree and persuade.

At the same time, equal accommodation should be encouraged. Land-use departments should not suddenly move the goalposts if a mosque applies for a permit. Prisons should accommodate religious requests involving beards or dietary restrictions under the Religious Land Use and Institutionalized Persons Act (RLUIPA) and *Holt v. Hobbs* when security is not at issue. Schools and employers should apply existing accommodation standards that the Supreme Court has interpreted ever more favorably.[92]

Muslim Americans should enjoy the same rights as other Americans. Like anyone else, they should not be allowed to violate the natural rights of others. Robust religious-liberty accommodations and protections against government and private coercion benefit believers of all faiths. Neutrally crafted laws also prevent hostile majorities from using force to coerce religious dissenters whether in a state, enclave, neighborhood, school, or home.

The World as It Is: Allies, Enemies, and Limits

Abroad, prudence begins by ranking American interests and recognizing both the extent and the limits of American power. After 25 years of a "war on terrorism" with little to show for it, many Americans suffer from Middle East fatigue. This does not change the basic facts. The U.S. is a global power. American interests do not run only through the South China Sea and the Rio Grande; they also run through Jerusalem, Baghdad, Tehran, and the Straits of Gibraltar and Hormuz. If the United States seeks to prevent a hostile foreign ideology from subverting American laws and culture at home, it cannot ignore the parts of the world that nurture, fund, and export that ideology.

The United States should reject the hubris that powered democracy-spreading crusades and discredited them. It should also refuse to treat all regimes as fungible. Between naïveté and isolationism lies statecraft. When possible, the U.S. should reward external conduct that advances American vital interests and punish conduct that thwarts them. It should also press for internal respect for religious freedom, using diplomatic or economic tools where they can effect change.

For national security, the external conduct of other nations should be the priority. The growing tensions with Muslim populations in Europe and the U.S. are *not* just a matter of demographics; they are inspired and fed by toxic fountainheads in the Middle East.[93] The United States should work to frustrate these fountainheads without launching new wars. Among the tools it should use are the following:

- **Expand the Abraham Accords** into a practical security architecture. This should include shared air and maritime pictures, routine interdictions against weapons smuggling, joint targeting of terrorist financing, tighter export-control choke points for dual-use technology, shared investment platforms, energy and water projects, and professional exchanges among judges and prosecutors.[94] The Accords have already delivered dividends in trade, travel, technology, and deterrence.[95] The United States should work to expand the Accords' membership and deepen their practical benefits.

- **Reimpose and enforce terrorism designations** where warranted—for instance, against the Houthis—and restore "maximum pressure" sanctions on oil and banking and secondary sanctions with real bite, coordinated with willing partners.

- **Treat the Islamic Revolutionary Guard Corps (IRGC) network**—including Hezbollah, Hamas, and the Palestinian Islamic Jihad—as a single enterprise. The United States should squeeze this network through seizures at sea, targeted cyber actions, and criminal cases against facilitators.

These tools raise costs for aggressors while keeping the U.S. footprint abroad light and mobile. Fighting exported violent extremism also requires willing allies, including among some Muslim-majority countries. The United States should pursue both a carrot and a stick approach. For instance, it should:

- **Condition aid and arms** on verifiable steps that blunt extremist pipelines such as border control, terrorist-finance enforcement, and internal security that respects basic rights.

- **Reward partners who shoulder real burdens.** The United States should use tranche-based assistance tied to narrow, checkable benchmarks: interdiction performance, compliance with sanctions, and protection of basic civil order around houses of worship. Where possible, it should link this to energy, communications, and air and sea corridors that bind Israel and Arab partners in habits of cooperation. The point is not a crusade or a retreat; it is a steady policy that empowers friends, isolates sponsors of jihad, and keeps American forces focused on decisive advantages rather than military incursions and occupation.[96]

- **Press for realistic internal reforms.** Internal violations of natural rights in other countries are outside of U.S. jurisdiction but not of U.S. influence or concern. The United States should not endorse natural rights at home and relativism abroad. It should remind countries that violating the natural rights of their citizens will limit friendship with the United States. An alliance with the U.S. is a privilege. It should come with strings attached.

  When the U.S. makes religious freedom designations, for instance, these should make a real-world difference, not become occasions to preen on the international stage. Consequences include targeted sanctions against individual perpetrators, visa restrictions for implicated officials, and tightened vetting of security assistance to exclude abuses.

When national security interests require waivers, the United States should issue them publicly and with deadlines.

This approach is realist without being relativist. It rejects global crusades and empty rhetoric alike. The United States can recognize the limits of its power without tacitly endorsing domestic policies and actions in other countries that are deplorable.

A Conservative Warning and a Conservative Hope

Conservatism begins with the world as it is: fallen, fragile, and nevertheless capable of ordered liberty under the right conditions. A nation that refuses to learn from history, that fails to see how unfiltered immigration can reshape law, is not likely to endure. The forces bending parts of France and the U.K.—forces such as selective enforcement, chilled speech, quiet coercion, and the fear that keeps officials from acting—are not inevitable. They are the predictable results of refusing to act until a crisis is acute.

It is right for the American people to prize the American order and prefer it to the live alternatives. Our order is grounded in the biblical tradition and guarantees natural rights for all, free exercise without establishment, generous accommodation, and one civil law. The American system proposed here furnishes a principled template for domestic policy, immigration policy, and national security policy that is lawful and candid, not hostile or naïve, and pairs interests with workable limits. It neither seeks to remake societies by force nor shrugs at ugly atrocities abroad. It offers a way to keep what Americans have inherited: a constitutional order that is fit for a free and self-governing people and should remain an example to the world.

Such action requires the courage to speak plainly about icebergs in the path of the ship of state, the discipline to craft laws that bind all communities equally, the prudence to admit only newcomers who will embrace American laws, and a posture abroad that is neither messianic nor indifferent.

Liberty without order is license. Order without liberty is tyranny. The American settlement is the alternative to both. We can keep it or we can lose it. The choice is ours, and it is now upon us.

Appendix 1: Answering Objections

We anticipate several objections to the proposals in this *Special Report* and answer them here.

Objection 1: This approach is anti-Muslim or "Islamophobic."

Answer: False. We defend the universal human rights of all and argue for equal accommodation for peaceful practice. Our domestic proposals are facially neutral, which means that they apply the same rules to everyone. We do not recommend any legislative proposals that single out Islam or Sharia. On the contrary, they preserve religious arbitration for all faiths with the same non-waivable floors. We argue that the state should punish unjust coercion, not beliefs. This report's focus on Islam responds to current needs and a sober knowledge of historical conflicts between Islam and the largely Christian West. For example, it is not hostile to Islam or indigenous cultures to outlaw female genital mutilation for everyone. It is pro-women and pro-girls.

Objection 2: The proposals would smuggle "Christian nationalism" into law.

Answer: False. We describe facts of American history: a civic order formed by a rich biblical inheritance that underpins religious liberty and equality under law. This civic order welcomes public religion without a national church, protects the free exercise of religion, and binds everyone under a single civil law.[97] We defend the courts' recent return to historical practice as a needed correction, not as an establishment of religion.[98]

Objection 3: Muslim Americans are typically moderate and well assimilated, so there is no problem to solve.

Answer: American Muslims, on average, are more assimilated than Muslims in France and the U.K.[99] Regrettably, precise opinion surveys are scarce, and there are warning signs in Minnesota, Michigan, and Texas. In any case, our focus is on encouraging assimilation here in the U.S., and that requires that citizens conform their private and public practices to the American constitutional order.[100] If recent and future Muslim arrivals are fully assimilable (as opposed to lightly "integratable"), the proposals outlined here should not create any conflicts with Muslims who are already here or seeking to come here.

Objection 4: Screening entrants for their views and conduct is a prejudicial "religious test."

Answer: False. The President's discretion and power to safeguard our country are strongest at and outside our borders. Our recommendations follow a long tradition of prudential screenings keyed to the basic

commitments that are compatible with American law and culture: one supreme civil and criminal code; no blasphemy jails; no polygamy, child marriage, or female genital mutilation; no penalties or coercion for religious dissent; and no violence in politics or religion.[101] Religious liberty does not confer the right to violate the rights of others. Nor does it require the U.S. to pretend that all religions are on average equally compatible with American culture and principles. Aligning immigration rules with constitutional nonnegotiables is how serious nations act. All American citizens enjoy the Constitution's protections. That bright line must stay bright.

Objection 5: The proposed foreign policy and national security posture collapses into either universalist crusading or amoral realism.

Answer: It does neither. Alliances arise from shared interests, not identical regimes (as in World War II). Some moral baseline matters because the American Republic professes universal natural rights and the United States reasonably expects allies to exhibit basic decency. We advocate a realistic security policy with measurable benchmarks over slogans and concrete dividends over sanctimonious lectures. The logic of efforts such as the Abraham Accords—practical normalization with rewards as outcomes rather than preconditions—beats grand designs and cowardly silence.

Appendix 2: Practical Guidance for Policymakers

At the border, policymakers should use all existing legal authorities. In particular, they should:

- **Exercise** INA § 212(f) authority through a documented interagency process to tailor or suspend entry from countries whose laws and governance predict conflict with America's constitutional floors.[102]

- **Publish** a DHS-led baseline, updated regularly, that scores identity management, counterterrorism cooperation, and conflict-predictive legal facts (blasphemy/apostasy enforcement, polygamy legality, civil marriage–age floors in law and practice, conversion and religious expression restrictions).[103]

- **Require** a "constitutional-commitments" attestation for higher-risk tiers; probe for consistency; penalize fraud with inadmissibility and, if later discovered, rescission or denaturalization.[104]

- **Add** a narrow statutory inadmissibility ground keyed to advocacy or likely advocacy of the conflict set.[105]

- **Prioritize** the most vulnerable in immigration policy, require the same attestation, strengthen early state and local consultation on placements, and tie continued or increased support to English and civics milestones.

In federal and state law, policymakers should set clear, neutral rules with bright-line protections. In particular, they should:

- **Codify** neutral principles of enforcement for religious arbitration with explicit non-waivable floors.

- **Enact** a clean foreign-law conflict statute that is rights-triggered and facially neutral.

- **Criminalize** the abuse and coercion that are used to compel dress, marriage, foreign travel, or religious profession/exit, specifically by employing fast protective orders and document-restoration tools.

- **Train** police, schools, and social services to recognize and refer forced-marriage and apostasy-coercion risks.
- **Enforce** female genital mutilation laws with continuing medical education and "vacation cutting" interdiction authority.
- **Provide** parents and students with tools to prevent religious coercion and to ensure students' religious liberty in public schools.
- **Issue** evenhanded guidance on land-use parity for houses of worship and workplace religious accommodations consistent with the Supreme Court's improved standard under Title VII.[106]

In national security and the international context, policymakers should pair realistic moral standards with concrete actions. In particular, they should:

- **Recognize and resist** international networks and states that work to challenge and destabilize America's domestic policy and culture.
- **Use** religious-freedom designations when they unlock such tools as targeted sanctions, visa bans, and human-rights vetting of security assistance.
- **Structure** aid in tranches linked to narrow, verifiable steps: prosecutorial moratoria on blasphemy and apostasy cases, releases of named prisoners, enforcement of marriage-age floors, prosecutions for female genital mutilation, and worship-protection orders.
- **Issue** waivers publicly with deadlines and next steps where vital interests require it.
- **Expand** the Abraham Accords' practical dividends while pressing for quiet, narrow, verifiable improvements.

Case Digests

American Legion v. American Humanist Association, 588 U.S. 29 (2019). **Holding:** The Supreme Court upheld a long-standing World War I memorial cross on public land and rejected applying *Lemon* rigidly to established monuments, symbols, and practices with religious associations.

Significance: Long-standing religiously expressive monuments receive a strong presumption of constitutionality because history may give them civic, commemorative, and cultural meanings.

Avitzur v. Avitzur, 58 N.Y.2d 108 (1983). **Holding:** A civil court enforced a Jewish ketubah promise to appear before a Beth Din because enforcement could proceed on neutral contract principles without deciding doctrine. **Significance:** Religious-arbitration agreements can be enforceable when reduced to secular legal terms.

Awad v. Ziriax, 670 F.3d 1111 (10th Cir. 2012). **Holding:** The court enjoined an Oklahoma constitutional amendment that singled out Sharia; the amendment violated the Establishment Clause by denominational targeting. **Significance:** Legislators should avoid naming religions; they should draft neutral, rights-triggered statutes.

Azhar v. Choudhri, No. 24-0939 (Tex. Sept. 25, 2026) (per curiam). **Holding:** The Supreme Court of Texas refused comity to a Pakistani talaq divorce obtained without constitutionally adequate notice to the wife and reversed the dismissal of her Texas divorce and property claims. **Significance:** Foreign religious or civil judgments cannot be enforced when the procedures used to obtain them violate fundamental due-process guarantees and Texas public policy.

Church of the Holy Trinity v. United States, 143 U.S. 457 (1892). **Holding:** The Supreme Court construed a federal labor statute not to bar a church from hiring an English minister, reasoning from the statute's text, purpose, history, and the nation's religious traditions. **Significance:** Often cited for its description of the United States as a "Christian nation," in this report, it supports a historical rather than an establishment-law claim about America's cultural inheritance.

Church of the Lukumi Babalu Aye v. City of Hialeah, 508 U.S. 520 (1993). **Holding:** Laws targeting religious practice are unconstitutional; "neutral and generally applicable" standards may be applied, but religious gerrymanders fail strict scrutiny. **Significance:** Limits attempts to single out religion under a neutral pretext.

Employment Division v. Smith, 494 U.S. 872 (1990). **Holding:** The Supreme Court held that the Free Exercise Clause generally does not require religious exemptions from neutral, generally applicable laws even when those laws incidentally burden religious conduct. **Significance:** Marks a low-water point for constitutionally compelled accommodation and explains why statutory protections such as the Religious Freedom Restoration Act (RFRA) and RLUIPA remain important.

Espinoza v. Montana Department of Revenue, 591 U.S. 464 (2020). **Holding:** The Supreme Court held that once a state subsidizes private education, it

may not disqualify otherwise eligible schools solely because of their religious status. **Significance:** Religious institutions may not be excluded from generally available public-benefit programs simply because they are religious.

Fulton v. City of Philadelphia, 141 S. Ct. 1868 (2021). **Holding:** A city policy that allowed individualized exemptions but refused one to a religious foster agency violated free exercise. **Significance:** Governments cannot gerrymander discretion to burden religion.

Groff v. DeJoy, 143 S. Ct. 2279 (2023). **Holding:** The Supreme Court strengthened Title VII's religious-accommodation standard; an employer must show "substantial increased costs" to deny an accommodation. **Significance:** Practical boost for ordinary religious practice at work.

Holt v. Hobbs, 574 U.S. 352 (2015). **Holding:** Under RLUIPA, a prison's grooming policy violated a Muslim inmate's rights; the state failed to use the least restrictive means. **Significance:** Evenhanded protection for Muslim religious exercise in institutions.

In re Marriage of Shaban, 88 Cal. App. 4th 398 (2001). **Holding:** A California court declined to enforce a purported premarital property agreement because terms were indefinite and enforcement would have required extracontractual material terms substantiated by Islamic law. **Significance:** Sets the ceiling: no enforcement where contractual terms lack reasonable certainty.

Jones v. Wolf, 443 U.S. 595 (1979). **Holding:** States may resolve church-property disputes using "neutral principles of law" (deeds, statutes, corporate charters) without deferring to religious authority or deciding doctrine. **Significance:** Provides the constitutional architecture for enforcing religious-arbitration awards without doctrinal adjudication.

Kennedy v. Bremerton School District, 597 U.S. 507 (2022). **Holding:** The Supreme Court held that a public school violated a football coach's free exercise and free speech rights by disciplining him for brief, personal postgame prayer that was not undertaken as government speech. **Significance:** Formally displaced *Lemon* and the endorsement test, directing courts to interpret the Establishment Clause by reference to historical practices and understandings while protecting private religious expression.

Lamb's Chapel v. Center Moriches Union Free School District, 508 U.S. 384 (1993). **Holding:** A public-school district violated the Free Speech Clause when it denied a church access to school facilities to show a religious film series while permitting comparable secular uses. **Significance:** Government may not exclude religious viewpoints from an otherwise available forum; Justice Antonin Scalia's concurrence also sharply criticized the *Lemon* framework.

Lemon v. Kurtzman, 403 U.S. 602 (1971). **Holding:** The Supreme Court adopted a three-part Establishment Clause test asking whether a law had a secular purpose, a principal effect that neither advanced nor inhibited religion, and no excessive government entanglement with religion. **Significance:** The test shaped Establishment Clause litigation for decades but was later abandoned in favor of an approach grounded in historical practices and understandings.

Marsh v. Chambers, 463 U.S. 783 (1983). **Holding:** The Supreme Court upheld Nebraska's practice of opening legislative sessions with a prayer by a paid chaplain, relying on the unbroken historical practice of legislative prayer dating from the First Congress. **Significance:** Shows that long-standing public religious practices may be constitutional even when they do not fit the *Lemon* test.

Odatalla v. Odatalla, 355 N.J. Super. 305 (2002). **Holding:** A New Jersey court enforced an Islamic mahr provision as a valid contract under neutral principles; no doctrinal interpretation was required. **Significance:** Confirms parity for Islamic marital contracts when terms are definite and enforcement is secular.

Pleasant Grove City v. Summum, 555 U.S. 460 (2009), and *Shurtleff v. City of Boston*, 596 U.S. 243 (2022). **Holding:** Government may speak in its own voice (*Summum*). Where a city operates a forum inconsistently, it must apply criteria evenhandedly (*Shurtleff*). **Significance:** Provides the doctrinal basis for neutral flagpole policies and cautions against ad hoc discrimination.

Tandon v. Newsom, 593 U.S. 61 (2021). **Holding:** California COVID-19 lockdown regulations subjecting religious worship to more stringent restrictions than some comparable secular activities were subject to and failed strict scrutiny. **Significance:** Comparability turns on the government's interest, not its opinion of the gathering's importance.

Town of Greece v. Galloway, 572 U.S. 565 (2014). **Holding:** The Supreme Court upheld a town's practice of opening board meetings with prayer, including prayers expressly invoking Christianity, where the town maintained a nondiscriminatory selection process and did not coerce participation. **Significance:** Confirms that legislative prayer need not be nonsectarian and that historical practice, nondiscrimination, and absence of coercion are central.

Trump v. Hawaii, 585 U.S. 667 (2018). **Holding:** The Supreme Court upheld a facially neutral entry proclamation grounded in an interagency process under INA § 212(f), applied deferential review, and repudiated *Korematsu*. **Significance:** Confirms lawful tailoring of entry on security and administrative grounds; moral reassurance against internment analogies.

United Paperworkers International Union v. Misco, Inc., 484 U.S. 29 (1987). **Holding:** The Supreme Court held that courts may refuse to enforce an arbitration award on public-policy grounds only when the policy is explicit, well defined, dominant, and ascertainable from laws and legal precedents rather than general notions of public interest. **Significance:** Supplies a narrow, objective public-policy limit for enforcing religious or other arbitral awards without inviting judges to invalidate them based on free-ranging policy preferences.

Implementation Notes (for Bill Drafters and Counsel)

- **Findings:** Bill drafters should avoid religious labels or attributions of religious motive. They should state the police-power interest against concrete harms: preserving one civil law, protecting constitutional and statutory rights, and preventing coercion.

- **Definitions:** All definitions should be concrete and narrow; they should focus on enforcement effects (denial of rights), not identities.

- **Enforcement:** The bill should provide clear remedies (protective orders, document restoration, *de novo* review) and should specify jurisdiction and venue to avoid forum-shopping.

- **Severability:** The bill should include a strong severability clause and add narrow savings clauses to preserve voluntary mediation where rights are respected.

- **Fiscal Notes:** Bill drafters should estimate training costs (Peace Officer Standards and Training, judicial education); data-system updates; and modest grants for survivor services. They should offset these costs with existing federal funding streams where possible.

Endnotes

1. See *The Public Statutes at Large of the United States of America, from the Organization of the Government in 1789, to March 3, 1845*, Vol. 1, ed. Richard Peters (Boston: Charles C. Little and James Brown, 1845), p. 52, https://dn760003.eu.archive.org/0/items/us_stat_1/c1.pdf (accessed November 6, 2026).
2. George Washington, "Farewell Address," September 17, 1796, in *A Compilation of the Messages and Papers of the Presidents*, Vol. 1, ed. James D. Richardson (New York: Bureau of National Literature, 1897), p. 212, https://dn721601.ca.archive.org/0/items/us_stat_1/c1.pdf (accessed November 6, 2026.
3. "From John Adams to Massachusetts Militia, 11 October 1798," National Archives, *Founders Online*, https://founders.archives.gov/documents/Adams/99-02-02-3102 (accessed November 6, 2026).
4. Some call this hybrid of Marxism and Islamism a "red–green alliance." We do not explore this phenomenon in this report, but it is a key part of the current dilemma. For background, see Hendrik Hansen and Peter Kainz, "Radical Islamism and Totalitarian Ideology: A Comparison of Sayyid Qutb's Islamism with Marxism and National Socialism," *Totalitarian Movements and Political Religions*, Vol. 8, No. 1 (2007), pp. 55–76, https://www.tandfonline.com/doi/epdf/10.1080/14690760601121648 (accessed November 7, 2026); Margherita Picchi, "Islam as the Third Way: Sayyid Quṭb's Socio-Economic Thought and Nasserism," *Oriente Moderno*, Vol. 97, No. 1 (2017), pp. 177–200, https://doi.org/10.1163/22138617-12340144 (accessed November 7, 2026); and Emmanuel Karagiannis and Clark McCauley, "The Emerging Red-Green Alliance: Where Political Islam Meets the Radical Left," *Terrorism and Political Violence*, Vol. 25, No. 2 (2013), pp. 167–182, https://doi.org/10.1080/09546553.2012.755815 (accessed November 7, 2026).
5. Douglass C. North, "Institutions," *Journal of Economic Perspectives*, Vol. 5, No. 1 (Winter 1991), pp. 97–112, https://doi.org/10.1257/jep.5.1.97 (accessed November 7, 2026); Robert C. Ellickson, *Order Without Law: How Neighbors Settle Disputes* (Cambridge, MA: Harvard University Press, 1991), esp. pp. 123–183; Joshua T. Mauldin, "Religious Origins and Modern Legal Norms: A Dialectical Account," *Oxford Journal of Law and Religion*, Vol. 8, No. 2 (June 2019), pp. 378–395, https://doi.org/10.1093/ojlr/rwz013 (accessed November 7, 2026).
6. See "Chapter 1: Beliefs About Sharia," in Pew Research Center Forum on Religion and Public Life, *The World's Muslims: Religion, Politics and Society*, April 30, 2013, pp. 41–58, https://www.pewresearch.org/religion/wp-content/uploads/sites/7/2013/04/worlds-muslims-religion-politics-society-full-report.pdf (accessed November 6, 2026). Cited hereinafter as Pew, "Beliefs About Sharia."
7. Wael B. Hallaq, *An Introduction to Islamic Law* (Cambridge: Cambridge University Press, 2009), esp. pp. 57–71; "Dīn," *The Oxford Dictionary of Islam* (Oxford: Oxford University Press, 2003), https://www.oxfordreference.com/display/10.1093/oi/authority.20110810104746857 (accessed November 7, 2026).
8. See Daniel Philpott, *Religious Freedom in Islam: The Fate of a Universal Human Right in the Muslim World Today* (New York: Oxford University Press, 2019), esp. chaps. 1–5; Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics*, 5th ed. (Boulder, CO: Westview Press, 2013); Ani Sarkissian, "Religious Regulation and the Muslim Democracy Gap," *Politics and Religion,* Vol. 5, No. 3 (December 2012), pp. 501–527, https://doi.org/10.1017/S1755048312000284 (accessed November 7, 2026); Rainer Grote and Tilmann J. Röder, eds., *Constitutionalism in Islamic Countries: Between Upheaval and Continuity* (Oxford: Oxford University Press, 2012); and Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-First Century* (Cambridge: Cambridge University Press, 2005), esp. chaps. 2–5, https://dn790009.ca.archive.org/0/items/qamoos-al-fiqah-5/Crime%20and%20Punishment%20in%20Islamic%20Law.pdf (accessed November 7, 2026).
9. See, for instance, Gilles Kepel with Antoine Jardin, *Terror in France: The Rise of Jihad in the West* (Princeton, NJ: Princeton University Press, 2017); Matthias Koenig, "Religious Diversity, Islam, and Integration in Western Europe—Dissecting Symbolic, Social, and Institutional Boundary Dynamics," *Kölner Zeitschrift für Soziologie und Sozialpsychologie [Cologne Journal of Sociology and Social Psychology]*, Vol. 75 (2023), pp. 627–655, https://doi.org/10.1007/s11577-023-00911-5 (accessed November 7, 2026); and David Jacobson and Natalie Delia Deckard, "Surveying the Landscape of Integration: Muslim Immigrants in the United Kingdom and France," *Democracy and Security*, Vol. 10, No. 2 (2014), pp. 101–120, https://doi.org/10.1080/17419166.2014.908283 (accessed November 7, 2026).
10. See Michael E. McCullough and Brian L. B. Willoughby, "Religion, Self-Regulation, and Self-Control: Associations, Explanations, and Implications," *Psychological Bulletin*, Vol. 135, No. 1 (2009), pp. 69–93, https://doi.org/10.1037/a0014213 (accessed November 7, 2026); Adam B. Cohen, "Religion's Profound Influences on Psychology: Morality, Intergroup Relations, Self-Construal, and Enculturation," *Current Directions in Psychological Science,* Vol. 24, No. 1 (2015), pp. 77–82, https://doi.org/10.1177/0963721414553265 (accessed November 7, 2026); Ara Norenzayan, "Does Religion Make People Moral?" *Behaviour*, Vol. 151, Nos. 2–3 (2014), pp. 365–384, https://doi.org/10.1163/1568539X-00003139 (accessed November 7, 2026); and Azim F. Shariff et al., "Religious Priming: A Meta-Analysis with a Focus on Prosociality," *Personality and Social Psychology Review*, Vol. 20, No. 1 (2016), pp. 27–48, https://doi.org/10.1177/1088868314568811 (accessed November 7, 2026).
11. Washington, "Farewell Address," *supra* note 2.
12. George Washington, "Thanksgiving Proclamation, 3 October 1789," National Archives, *Founders Online*, https://founders.archives.gov/documents/Washington/05-04-02-0091 (accessed November 7, 2026).
13. *Church of the Holy Trinity v. United States*, 143 U.S. 457 (1892). See also "Case Digests," *infra*.
14. James Madison, "Memorial and Remonstrance Against Religious Assessments, [CA. 20 June] 1785," National Archives, *Founders Online*, https://founders.archives.gov/documents/Madison/01-08-02-0163 (accessed November 7, 2026).

15. Thomas Jefferson, "A Bill for Establishing Religious Freedom," 1779, National Constitution Center, https://constitutioncenter.org/the-constitution/historic-document-library/detail/thomas-jefferson-a-bill-for-establishing-religious-freedom (accessed November 7, 2026). Emphasis added.
16. Whether Jefferson personally believed in a Trinitarian God is a separate matter that is almost beside the point. What matters is what the people understood the language they were enacting in law to mean at the time, and it was thoroughly and obviously Christian.
17. Madison, "Memorial and Against Religious Assessments, [CA. 20 June] 1785." Notably, Madison's argument for religious liberty is explicitly theistic and clearly Christian, regardless of his personal theological views ("that Religion or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and conviction, not by force or violence....").
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19. "George Washington to the Hebrew Congregation in Newport, Rhode Island, 18 August 1790," National Archives, *Founders Online*, https://founders.archives.gov/documents/Washington/05-06-02-0135 (accessed November 7, 2026).
20. "From John Adams to Massachusetts Militia, 11 October 1798," *supra* note 3.
21. *The Public Statutes at Large of the United States of America*, Vol. I, *supra* note 2.
22. *Lamb's Chapel v. Center Moriches Union Free School District*, 508 U.S. 384, 398 (1993) (Scalia, J., concurring in judgment) ("Like some ghoul in a late-night horror movie that repeatedly sits up in its grave and shuffles abroad, after being repeatedly killed and buried, *Lemon* stalks our Establishment Clause jurisprudence once again, frightening the little children and school attorneys of Center Moriches Union Free School District.") See also "Case Digests," *infra*.
23. *Lemon v. Kurtzman*, 403 U.S. 602 (1971). See also "Case Digests," *infra*.
24. *Marsh v. Chambers*, 463 U.S. 783 (1983). See also "Case Digests," *infra*.
25. *Town of Greece v. Galloway*, 572 U.S. 565 (2014). See also "Case Digests," *infra*.
26. *American Legion v. American Humanist Association*, 588 U.S. 29 (2019). See also "Case Digests," *infra*.
27. *Kennedy v. Bremerton School District*, 597 U.S. ____ (2022). See also "Case Digests," *infra*.
28. *Employment Division v. Smith*, 494 U.S. 872, 878–879 (1990). See also "Case Digests," *infra*.
29. *Church of the Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993). See also "Case Digests," *infra*.
30. *Fulton v. City of Philadelphia*, 141 S. Ct. 1868 (2021). See also "Case Digests," *infra*.
31. *Espinoza v. Montana Department of Revenue*, 591 U.S. 464 (2020). See also "Case Digests," *infra*.
32. *Tandon v. Newsom*, 593 U.S. 61 (2021). See also "Case Digests," *infra*.
33. *Groff v. DeJoy*, 600 U.S. 447 (2023). See also "Case Digests," *infra*.
34. See, for instance, Wael B. Hallaq, *An Introduction to Islamic Law* (Cambridge: Cambridge University Press, 2009), pp. 1–4, 14–30, and 57–82, and Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Oxford: Oneworld Publications, 2008), pp. 14–67, 141–178, and 199–245.
35. See, for instance, chap. 9, "Revolution," in Tom Holland, *Dominion: How the Christian Revolution Remade the World* (New York: Basic Books, 2019), and chap. 2, "The Origin of the Western Legal Tradition in the Papal Revolution," in Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, MA: Harvard University Press, 1983).
36. Pew, "Beliefs About Sharia,"
37. Ibid.
38. Republic of Tunisia, Ministry of Justice, "Promulgation of the Personal Status Code," https://www.justice.gov.tn/index.php?id=436&L=3 (accessed November 7, 2026); Food and Agriculture Organization of the United Nations, "Moroccan Family *Law No. 70.03 (Moudawana) 2004*," date of text February 5, 2004, https://leap.unep.org/en/countries/ma/national-legislation/moroccan-family-law-no-7003-moudawana-2004 (accessed November 7, 2026); Republic of Indonesia, Regulatory Database, "Law No. 16 of 2019: Amendments to Law No. 1 of 1974 Concerning Marriage," determination date October 14, 2019, effective date October 15, 2019, https://peraturan.bpk.go.id/Details/122740/uu-no-16-tahun-2019 (accessed November 7, 2026); Cabinet Secretariat of the Republic of Indonesia, Office of Assistant to Deputy Secretary for State Documents & Translation, "New Law Raises Minimum Marriage Age to 19," October 24, 2019, https://setkab.go.id/en/new-law-raises-minimum-marriage-age-to-19/ (accessed November 7, 2026).
39. Table 3, "Refugee Arrivals by Country of Nationality: Fiscal Years 2022 to 2024 (Ranked by 2024 Country of Nationality)," in U.S. Department of Homeland Security, Office of Homeland Security Statistics, "Refugees: 2024," last updated August 20, 2025, https://ohss.dhs.gov/topics/immigration/refugees/annual-flow-report/fy-24-refugees-flow-report (accessed November 7, 2026).
40. See, for example, Table 13, "Refugee Arrivals: Fiscal Years 1980 to 2022"; Table 16, "Individuals Granted Asylum Affirmatively or Defensively: Fiscal Years 1980 to 2022"; Table 17, "Individuals Granted Asylum Affirmatively by Region and Country of Nationality: Fiscal Years 2013 to 2022"; and Table 19, "Individuals Granted Asylum Defensively by Region and Country of Nationality: Fiscal Years 2013 to 2022," in U.S. Department of Homeland Security, "Yearbook of Immigration Statistics 2022," https://ohss.dhs.gov/topics/immigration/yearbook/2022 (accessed November 7, 2026).

41. Pew Research Center, *U.S. Muslims Concerned About Their Place in Society, but Continue to Believe in the American Dream*, July 26, 2017, https://www.pewresearch.org/wp-content/uploads/sites/20/2017/07/U.S.-MUSLIMS-FULL-REPORT-with-population-update-v2.pdf (accessed November 7, 2026).

42. The only global survey that asked Muslims whether converts from Islam should be executed is Pew's 2011–2012 interviews in 39 countries, published in 2013. It found that large majorities who wanted Sharia as official law in Afghanistan, Pakistan, Egypt, and Jordan favored the death penalty for leaving the faith. This amounts to roughly three-fifths to four-fifths of all Muslims in those countries. Pew's 2024 update still found that about nine in 10 Muslims in Bangladesh, Indonesia, and Malaysia wanted Muslims bound by Islamic law. Arab Barometer's 2023–2024 surveys found majorities in Jordan and Mauritania willing to accept a sharia regime even without elections. From an American viewpoint, the most troubling publics are Afghanistan, Pakistan, Egypt, Jordan, the Palestinian territories, Iraq, and Malaysia. In these countries, there is high demand for Islamic law to govern the state. There is majority or near-majority support for killing apostates and, in several of those countries, for amputation or stoning, and blasphemy remains a capital or socially lethal offense. Attitudes on the same questions in Turkey, Central Asia, and the Balkans are far less severe. Indonesians in general want sharia as law but not death for apostasy. Iran's anonymous surveys suggest a large hidden secularization that official face-to-face polls conceal. No later study has re-asked the apostasy or "hudud" items across a comparable range of countries, so the strongest findings remain those from the 2013 Pew survey. See Pew Research Center Forum on Religion and Public Life, *The World's Muslims: Religion, Politics and Society*; "What Role Should Religion Play in Muslim- and Jewish-Majority Countries?" chap. 5 in Jonathan Evans, Maria Smerkovich, Sneha Gubbala, Manolo Corichi, and William Miner, *Comparing Levels of Religious Nationalism Around the World*, Pew Research Center, January 28, 2025, https://www.pewresearch.org/wp-content/uploads/sites/20/2025/01/pg_2025.01.28_comp-rel-nat_report.pdf (accessed November 7, 2026); Michael Robbins, "Political System Preference in the Middle East & North Africa," Arab Barometer–Wave VIII, August 2025), https://www.arabbarometer.org/wp-content/uploads/ABVIII_Democracy_Political_System_Pref_ENG.pdf (accessed November 7, 2026); United States Commission on International Religious Freedom, *2026 Annual Report*, https://www.uscirf.gov/sites/default/files/2026-08/USCIRF_2026_AR.pdf (accessed November 7, 2026); Ammar Maleki and Pooyan Tamimi Arab, "Iranians' Attitudes Toward Religion: A 2020 Survey Report," Group for Analyzing and Measuring Attitudes in Iran (GAMAAN), August 2020, https://gamaan.org/wp-content/uploads/2020/09/GAMAAN-Iran-Religion-Survey-2020-English.pdf (accessed November 7, 2026); Kirsten Lesage, Kelsey Jo Starr, and William Miner, *Around the World, Many People Are Leaving Their Childhood Religions*, Pew Research Center, March 26, 2025, https://www.pewresearch.org/wp-content/uploads/sites/20/2025/03/PR_2025.03.26_international-religious-switching_report.pdf (accessed November 7, 2026); and Virgina Villa, "Four-in-Ten Countries and Territories Worldwide Had Blasphemy Laws in 2019," Pew Research Center, January 25, 2022, https://www.pewresearch.org/short-reads/2022/01/25/four-in-ten-countries-and-territories-worldwide-had-blasphemy-laws-in-2019-2/ (accessed November 7, 2026).

43. See, for example, Gilles Kepel, *Terror in France: The Rise of Jihad in the West*, trans. Cynthia Schoch (Princeton, NJ: Princeton University Press, 2017); Petter Nesser, *Islamist Terrorism in Europe: A History* (Oxford: Oxford University Press, 2015); Robert S. Leiken, *Europe's Angry Muslims: The Revolt of the Second Generation* (Oxford: Oxford University Press, 2012); Peter Bergen, *United States of Jihad: Investigating America's Homegrown Terrorists* (New York: Crown, 2016); Marc Sageman, *Understanding Terror Networks* (Philadelphia: University of Pennsylvania Press, 2004); Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11* (New York: Knopf, 2006); and Thomas Hegghammer, "Should I Stay or Should I Go? Explaining Variation in Western Jihadists' Choice Between Domestic and Foreign Fighting," *American Political Science Review*, Vol. 107, No. 1 (2013), pp. 1–15.

44. *PBS NewsHour Classroom*, "Charlie Hebdo, Terrorism and Free Speech—Lesson Guide," January 15, 2015, https://www.pbs.org/newshour/classroom/posts/2015/01/charlie-hebdo-terrorism-and-free-speech-lesson-guide (accessed November 7, 2026). Fourteen other defendants were later convicted for assisting in the attacks. See Colin Dwyer, "14 Accomplices Found Guilty of Aiding 2015 'Charlie Hebdo' Attacks," NPR, December 16, 2020, https://www.npr.org/2020/12/16/947122749/14-accomplices-found-guilty-of-aiding-2015-charlie-hebdo-attacks (accessed November 7, 2026).

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46. French Republic, "Law No. 2004-228 of 15 March 2004 Restricting, in Application of the Principle of Secularism, the Wearing of Signs or Clothing Showing Religious Affiliation in Public Schools, Colleges and High Schools (1)," https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000417977/ (accessed November 8, 2026); French Republic, "Law No. 2010-1192 of 11 October 2010 Prohibiting the Concealment of the Face in Public Spaces (1)," Article 4, https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000022911670 (accessed November 8, 2026); French Republic, "Law No. 2021-1109 of 24

August 2021 Consolidating Respect for the Principles of the Republic (1)," https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043964778 (accessed November 8, 2026).

47. A 2023 Council of State interim order allowed a school abaya restriction to stand pending litigation; France's administrative jurisprudence continues to test the margins of laïcité. Again, this is an approach that we should not import. French Republic, "Council of State—Judge of Summary Proceedings, Collegiate Formation, No. 487891," September 7, 2023, https://www.legifrance.gouv.fr/ceta/id/CETATEXT000048062623 (accessed November 8, 2026).
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