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SHARIA-FREE AMERICA: WHY POLITICAL ISLAM & SHARIA LAW ARE INCOMPATIBLE WITH THE U.S. CONSTITUTION

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT

OF THE

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

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SHARIA-FREE AMERICA: WHY POLITICAL ISLAM &SHARIA LAW ARE INCOMPATIBLE WITH THE U.S. CONSTITUTION

Tuesday, February 10, 2026

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Subcommittee met, pursuant to notice, at 2:08 p.m., in Room 2141, Rayburn House Office Building, the Hon. Chip Roy [Chair of the Subcommittee] presiding.

Present: Representatives Roy, McClintock, Hageman, Grothman, Harris, Onder, Gill, Scanlon, Cohen, and Raskin.

Also present: Representative Biggs of Arizona.

Mr. ROY. The Subcommittee will come to order. Without objection, the Chair is authorized to declare a recess at any time. We welcome everyone to today's hearing on Sharia law in America.

I will now recognize myself for an opening statement.

There's a movement afoot across the United States that seeks to overthrow our legal system and the Constitution to replace it with a foreign legal system that upends our American way of life. It seeks to replace these foundational elements of our constitutional order with Islamic law, known as Sharia.

The principles of Sharia are at odds with the Constitution and the laws of the United States, as Sharia fails to include due process, treats non-Muslims as second-class citizens, and prescribes barbaric punishments.

All the while, polygamy, misguided corporal punishment for perceived violations of Islam, and acts of violence and terrorism on behalf of Sharia are permitted by its adherents. Sharia encourages violence, silences dissent, rejects religious freedom, and subjugates women and children.

Let's be clear: This is not about having the freedom of worshipping a religion of one's choosing, such as Islam, but forcing a foreign legal code that is incompatible with our laws and legal system, that provides unwanted consequences to the American people. It's everything we have fought against for more than 250 years.

Thomas Jefferson recognized this problem at the beginning of the 19th century when he confronted Islamists in the Barbary Wars to keep trade lanes open and end Islamic religious slavery.

When envoys and future Presidents John Adams and Thomas Jefferson inquired by what right the Islamic Barbary states preyed on American shipping, enslaving both crews and passengers, America's two foremost envoys were told by Tripoli's Ambassador, quote,

> It was written in the Koran, that all nations who should not have acknowledged their authority were sinners, that it was their right and duty to make war upon whoever they could find and to make slaves of all they could take as prisoners, and that every Mussulman who should be slain in battle was sure to go to paradise.

While the rest is history, with American marines victorious on the shores of Tripoli as their anthem rings, the American people—this Congress—must recognize the same issue our Founders identified and defeated over 200 years ago.

The Islamists are forcing their legal code onto nonbelievers by violence or the threat of it by any means necessary. The same problem of radical Islam enforcing Sharia has reared its head in the 21st century, this time using different tactics to advance it across the United States.

Some of you might think of Sharia as a 2010s buzzword. That is wrong. Over the last few years, efforts to impose Sharia on American communities have taken off, and nowhere more than in my home State of Texas.

In 2024, members of a Plano mosque sought to create their own 402-acre Islamic enclave governed by Sharia within the State of Texas. It was called the East Plano Islamic Center, or EPIC. Thankfully, after advocacy by many in Texas, the Texas State government has currently stymied it from advancing.

The EPIC's leader, Yasir Qadhi, is a prominent imam with a long history of involving himself in Islamist causes, openly expressing hatred for Jews and support for Holocaust denial ideas.

Despite claims Qadhi renounced his earlier extremism and antisemitism, in October 2016, Qadhi offered a defense of the Taliban. Following the October 7th attacks by the terrorist group Hamas, in which over 1,200 Israelis were murdered, Qadhi declared he had, quote, "the luxury of bluntly saying I am not going to condemn the fight of an oppressed people."

However, the EPIC is only one example of Sharia taking root in Texas. Shadow Islamic courts have also proliferated. One Dallas tribunal, for example, purports to make final judgments on legal disputes according to Islamic jurisprudence, placing Sharia law above binding State and Federal law.

Both EPIC cities and Islamic tribunals are repugnant to the spirit of the Constitution, which guarantees religious freedom and confirms that Federal law is supreme.

We see further evidence of a Sharia movement with imams making concerning claims. For example, in a recent video posted on X this month, a Texas imam said the following:

> Mamdani is victory. We didn't succeed to conquer Vienna by the sword for 200 years, and now it's 10 percent Muslims. We need to enlarge the Muslim population in America.

Sheikh Ustadh, an imam from the EPIC Mosque in Texas, preaches regularly that jihad against the non-Muslims and martyrdom is the highest cause of reward in Islam, and he praises Hamas and other terror groups, espousing the following, quote:

> My brothers and sisters, we are going to die anyway, so why don't we aim to die as a shaheed.

Shaheed is Arabic for witness, but used in Islamic context for martyrdom on behalf of Allah.

All this while the Muslim-observing population in Texas has grown. For example, in 2000, there were 115,000 Muslims in Texas. In 2020, the most recent data available, it's an estimated 313,000, a 172 percent jump, and it's much greater five years later.

One can make the claim that not all devotees agree or enforce with Sharia, but no one can deny the increase of Muslim observers in Texas, many of whom likely harbor support for Sharia's tenets. Moreover, Texas ranks third among U.S. States in the number of mosques with 224 counted in 2020 and estimated over 300 today.

Let's look at immigration numbers from those who immigrate from Muslim-majority countries, many of whom have settled in Texas.

Since 2002, after the September 11, 2001, terrorist attacks, the United States has issued 4.6 million green cards, or lawful permanent status, to nationals from Muslim-majority nations, allowing them to remain here indefinitely.

Some of these countries include Afghanistan, Bangladesh, Cameroon, Egypt, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Malaysia, Mauritania, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Sierra Leone, Somalia, and the list goes on and on.

Put another way, there's been a 48 percent increase in green cards to these countries from 2002–2023 after 9/11.

We must take a sobering look at our immigration policies to ensure we do not admit those who refuse to assimilate and try to establish their own legal code in contravention of our laws. All this is particularly true when one looks at Muslims in the United States' view of Sharia and in what capacity it should exist in our country.

To give a nationwide perspective, a September 2024 survey discovered the following about United States Muslims: Fifty percent favored Sharia blasphemy law, making it illegal to show a picture or cartoon of Muhammad; 46 percent were in favor to form a Muslim political party; 39 percent supported broad application of Sharia in the United States; 33 percent wanted Islam declared as our national religion.

A previous Pew study found 19 percent of American Muslims believed suicide bombing on behalf of Islam should be justified. These results should be troubling to every American.

Additionally, Islamists and groups who adhere to Sharia have tried to influence the Texas State education system to drill Sharia into young minds. The Middle East nation Qatar has been reported as Hamas' most important financial backer and foreign ally. Qatar has provided $1.8 billion to the terrorist group Hamas since 2012.

During his first term in the White House, President Trump fired off a series of posts that cast Qatar as facilitating, quote, "radical ideology."

That same year, former United States officials raised concerns about Qatari support for terrorism. "I don't know instances in which Qatar aggressively goes after terrorist finance networks of

Hamas, Taliban, or Al-Qaeda," former Defense Secretary Robert Gates stated.

Taken together, the U.S. arm of the Doha-based and Qatari state-supported Qatar Foundation, known as Qatar Foundation International, claims its goal is to promote and provide support for certifying, quote, "teachers of Arabic and primary and/or secondary, K–12, public/State-funded schools."

In Texas, QFI has directly funded Arabic language and culture programs in several districts, raising questions about the content and implications of such foreign-backed curricula in public education.

Here are examples.

At the Manara Academy, a public charter school in Irving, Texas, QFI-supported activities have included classroom materials featuring maps of the Arab world that exclude Israel entirely, replacing it with Palestine.

Austin Independent School District received a $100,000 grant from QFI to launch a new Arabic language and culture program funding teacher salaries and curriculum development and instructional materials similar to what I just described.

In 2015, Houston Independent School District obtained an $85,000 grant to perpetuate those curricula.

Texas A&M University has received over $197 million through the Qatar National Research Fund for research contracts; additional undisclosed funds estimated at over $100 million routed through the Texas Engineering Experiment Station.

In fact, it was just last year that A&M shuttered its Qatar campus, which was being funded by the Qatar Foundation after it faced significant concerns over foreign influence, national security risks, and geopolitical ties.

This subversion should shock every American's conscience.

To better illustrate how pervasive this movement of radical Islam and Sharia is in Texas, according to data compiled by the Middle East Forum, of the 8,000-plus Islamic nonprofit organizations in the United States, almost 650, or 10 percent, are based in Texas.

One of the major Islamic networks that operate in Texas is the Qubits, which is tied to various Muslim Brotherhood branches and Hamas.

How about the Council on American–Islamic Relations' influence in Texas, an Islamist organization that actively associates with other Islamist and Sharia-supporting groups like Hamas and the Muslim Brotherhood?

Three months ago, Governor Abbott designated CAIR as a foreign terrorist and transnational criminal organization, and for good reason. CAIR is listed as an unindicted coconspirator in the 2007 *Holy Land Foundation* case, the largest terror financing prosecution in United States history, a case centered in Richardson, Texas.

Additionally, Nabil Sadoun, a former Dallas resident and CAIR board member, was deported to Jordan in 2010 and denied reentry after the U.S. Government alleged, he had lied on naturalization documents when he denied membership with Hamas and the Muslim Brotherhood.

These examples underscore CAIR's network of spreading Sharia across Texas and the rest of the country. I'll end with one more example in Texas.

In September, video footage surfaced of an imam in Houston going to convenience stores in Houston threatening to occupy if the presumed Muslim store owners did not stop selling Haram products: Alcohol, pork, lottery tickets, and other prohibited items under Sharia.

While some may attribute this as nonissue or benign, can any of my colleagues point to individuals of other faiths whose tenets demand this type of force—not opinion, but force—of subservience to it.

The overtaking by Sharia isn't limited to Texas; it's the entire West. An Islamic cleric from New Jersey said of Muslims overtaking the electoral system, mayors, school boards, and local communities, quote:

> Where is Mecca now? It's coming. Change is coming to America. And what is Allah saying? You are the best of nations. You're better than everybody else. Let's work toward that. Let's work toward a Muslim mayor.

This should be a stark warning to all Americans in all 50 States. If Texas falls, so does the Nation.

These efforts to undermine the Constitution and demonstrate political Islam have only been worsened by an unchecked immigration system that admitted Sharia adherents into our borders.

Europe gives us a clear example of what will happen if we don't close the door on Sharia now. In England and Wales, more than 85 Sharia courts operate as a parallel Islamic government depriving women of the rights they are entitled to under British law.

This year, the United Arab Emirates announced that it will end all support for Emirati students studying in the U.K. because of fears that students will be exposed to and join the Muslim Brotherhood, which the UAE has declared a terrorist organization, but the U.K. has not.

As recent as last March, supporters of Sharia and other Islamists have signaled their desire to advance jihad to other nations. The Qatar-based International Union of Muslim Scholars, a global network of Muslim scholars, called for, quote, "armed jihad" against our friend and ally Israel.

You might think the Sharia crisis is only in foreign countries or has not yet arrived in the United States, but it is here.

Now is the time to protect every American's right to freely practice their own faith and defend the supremacy of our shared political system. Now, is the time to take decisive action as our Founders did when confronted with the same issues today.

Our Nation is founded on these ideas. Sharia law shares none of these principles. By its Arabic definition, it is a law, one pushed in our country for too long. It has no place in American government, not now or ever.

With that, I will now recognize the Ranking Member, Ms. Scanlon, for her opening statement.

Ms. SCANLON. Thank you, Chair Roy. Thank you to our witnesses for being here today.

When the Chair began his remarks with a concern about forces trying to undermine our Constitution, I thought we might have

some unintended agreement; but, unfortunately, I don't think that's the case.

I can't think of anything more un-American than for Members of Congress to be stoking fear and suspicion against fellow Americans or anyone else on the explicit basis of their religious beliefs.

No matter what hysterical rhetoric we hear from our Republican colleagues, our Constitution is clear. In this country, people have the right to hold and express whatever religious beliefs they choose, or none at all.

You don't have to agree with those beliefs, but no one can use the power of the government to punish or discriminate against those who do. There's nothing foreign or suspicious about that. In fact, there's nothing more American.

Whether our colleagues actually believe the histrionic and unsupported statements they've made about Muslims and Sharia law, I'm not sure.

It does appear that today's hearing is the most recent expression of a cynical political ploy driven by the Texas Republican primary where early voting starts in a week, and Federal, State, and local candidates are trying to outdo one another with anti-Sharia, anti-Muslim sentiment to score political points.

In the words of one Texas Republican political strategist: "The Muslim community is the boogeyman for this cycle."

It seems the pretext for all this bluster is a proposed real estate development in the Dallas suburbs led by the area's growing Muslim population, but there's no evidence it has anything to do with imposing Sharia law on nonbelievers of Islam.

There's no evidence it's a Sharia compound, as Texas Republicans have alleged. The Trump Justice Department itself closed an investigation into the development, finding no basis for any violation of fair housing laws.

As with so many things, Republicans bring to this Committee, there's just no "there" there. Their view seems to be, as long as they can scapegoat someone or something for political gain, who cares, right?

It's entirely clear they don't care at all whether fellow Americans or others end up as collateral damage to the anti-Muslim hatred and fear that's being stoked.

In addition, this hearing appears designed to support unconstitutional legislation. Last October, Chair Roy introduced H.R. 5722, a bill that requires the government to, among other things, deny any immigration benefit, visa, immigration relief, or admission to the United States to any foreign national who adheres to Sharia law. It similarly directs the government to remove any foreign national already here if the government determines that the person is an adherent of Sharia law.

This kind of government discrimination based purely on a person's religious beliefs—not actions—is a blatant violation of the First Amendment's free exercise and free speech guarantees.

To the extent that this bill implicitly favors Christianity or another faith over Islam by singling out Islam for government disfavor, it could violate both the spirit and the letter of the Establishment Clause.

By banning an adherent of Sharia law from the country, the bill essentially targets any observant Muslim for government discrimination.

Sharia is concerned with guiding individual, personal religious observance, not shaping national laws. Just as other belief systems guide the adherents of those faiths, Sharia guides Muslims in how to pray, dress, eat, or fast, and includes rules about marriage, divorce, and the raising of children.

To say that an adherent of Sharia law should be excluded or removed from the country is to say that all Muslims should be excluded or removed from the country because of their religious beliefs and observances.

It goes against everything that America stands for, and we need look no further for confirmation of that than one of our Founding Fathers, Thomas Jefferson.

In his autobiography, Jefferson wrote about what he considered one of his proudest achievements: The drafting of the Virginia Statute for Religious Freedom of 1786, a precursor to our First Amendment. He affirmed that religious freedom was meant to encompass within the mantle of its protection people of every denomination.

In addition to expressing the fundamentally American belief in the right to freely practice one's religion and to prevent the government from favoring one religion over another, Jefferson's writing specifically referenced, among other faiths, believers in Islam, illustrating that from our Republic's earliest days, Muslims were intended to be included within the fabric of American life.

The kind of demagoguery that this hearing represents is unbecoming of this Subcommittee as one that is dedicated to the Constitution and unbecoming of Members of Congress.

Our attention should be focused on the Trump Administration's repeated attacks on our constitutional order and on Americans' rights, including the rights to free speech, a free press, to peaceably assemble, to petition the government for redress of grievances.

We shouldn't be furthering ugly Islamophobia and justifying a blatantly unconstitutional bill. It's shameful, and it's un-American.

I yield back.

Mr. ROY. I will now recognize the Ranking Member, Mr. Raskin, for his opening statement.

Mr. RASKIN. Thank you kindly, Mr. Chair. Thanks to the witnesses for joining us today.

We live in a country so great that we don't need the anti-Sharia and anti-Muslim legislation our friends are proposing today because our Constitution already forbids theocratic imposition and establishment of any kind at all, whether it's Christian White nationalism expressed in compulsory Ten Commandments displays, an Orthodox Jewish set-aside school district in New York, or any effort to replace secular public law with a religious sectarian code, whether that's Sharia law, the Analects of Confucius, the Torah, or anything else.

This completely unnecessary hearing, another distraction from the administration's coverup of the Epstein files and the continuing brutal violation of people's constitutional rights in Minneapolis, is a wonderful opportunity to remind ourselves why our Constitution has three essential religion clauses and why they do all of the work

that people are talking about doing today—the Establishment Clause, the Free Exercise Clause, and the clause guaranteeing no religious test for public office.

If you take time to study them, they will dispel all the anxiety stirred up by legislation and agitation like this. Anything legitimate that our colleagues want to say about preventing the imposition of Sharia law in America is already accomplished by the Establishment Clause. Everybody can rest easy with Thomas Jefferson's wall of separation between church and State that he identified in his famous letter to the Danbury Baptists.

Let's say someone proposes that all public schools and government offices should post the core principles of Sharia law, which I don't know what they are exactly. I looked online and there were like four or five different versions. Let's take one which said protecting religion, life, family, intellect, property, and wealth. Another one said protecting honesty, trustworthiness, mercy, humility, moderation, and honoring promises.

Whatever it is, if somebody said that we want to put Muslim Sharia law up in all the schools and all the government buildings, we would know very quickly how to deal with that because we're not writing on a blank slate.

In fact, we're in something of a furor over the laws compelling the posting of the Ten Commandments right now that were recently passed in Louisiana and Texas, but the Supreme Court already struck down such Ten Commandment laws in 1980, more than 45 years ago, in a case called *Stone* v. *Graham*, as a plain violation of the Establishment Clause, which forbids governmental endorsement of any religious text or any religious doctrine.

We don't even have one agreed-upon version of the Ten Commandments. There's a Catholic version, there's a Lutheran version, there's an Episcopalian version, and many others you can find online. Which one would the government even endorse?

Well, we've got Members of this body who vehemently denounce Sharia law but also agree with Louisiana and Texas that we should be posting the Ten Commandments of some particular sectarian variety up in the schools.

When this came up last Congress, there were members of the Oversight Committee who said we should not only be putting the Ten Commandments up in public schools but in Congress and all public buildings. I told them the Ten Commandments have been doing fine for millennia without an endorsement by the Freedom Caucus in the House of Representatives.

One guy told me, well, you know the Ten Commandments are the basis for the Bill of Rights. I was kind of confused, because there are ten in each one. I said, let's test the proposition. The First Commandment says, "Thou shall have no other God before me." The First Amendment says, "Congress shall make no law respecting an establishment of religion." I don't think the First Commandment dictates the First Amendment.

They wanted to go to the floor and have an up-or-down vote on the Ten Commandments. I said, "if we're going to vote on the Ten Commandments in 2025, we should vote on each commandment separately, and you shouldn't be allowed to vote on any command-

ment you yourself have ever violated." That would make more sense.

In any event, this is res judicata, it's a closed case. The government cannot endorse Muslim law, Jewish law, Christian law, Methodist law, Baptist law, and none of it. We don't need a special anti-Sharia law or a special anti-Sharia caucus. The First Amendment already takes care of it.

Well, anything illegitimate or discriminatory that our colleagues would want to selectively impose on Muslims is conversely a violation of the Free Exercise Clause and also forbidden by the Constitutions.

Muslims afraid that Congress might actually impose one of these anti-Sharia bills—and, of course, they're just introduced for political purposes, I don't think they have any delusions that they're going to pass Congress—but, if you were afraid of that, all you would have to do is read the case law to understand why that can't be done.

Check out, for example, a case with the wonderful name *Church of the Lukumi Babalu Aye* v. *City of Hialeah* in 1992, where the city of Hialeah in Florida selectively banned animal rituals and sacrifice by people practicing the Santeria religion.

The Supreme Court shrewdly said, look, if you want to have general laws that apply to every religion and to every citizen that ban certain kinds of animal slaughter as cruel or unusual or particularly harmful, then you can do it, but you can't pass a law that targets a specific religion. Justice Kennedy called it "religious gerrymandering."

I don't know, Mr. Chair, about the East Plano Islamic Center, which sounds like a compound with a mosque and some residential and some restaurants and so on. Of course, those kinds of religious compounds exist across America, whether we're talking about the Amish, the Mennonites, Catholics, and Jews, you name it. Lots of those exist.

They do violate a separate principle if the government actually gives, clothes them with secular power. I would agree with you if they're giving them the power to set up their own police force, their own school system, that would violate the Supreme Court's decision in a case called *Kiryas Joel Village School District* v. *Grumet*.

That was in 1994, where New York created a separate public school district for members of the Satmar Hasidic Jewish religion in upstate New York. The Supreme Court said, "No, you can't endow a religious group with secular power."

If that's going on there, then I'm with you. If it's not going on, then it's just a compound. If they own the property, it's private property and they bought it, why would we want to mess around with that? That sounds like you're just vilifying and demonizing people because you don't like their religion, and I know you wouldn't do that.

Let me just say, finally, to uniquely blockade members of a particular religion—here Islam—from participating in government or politics, the kind of thing you do hear from people calling for Ilhan Omar to be expelled from Congress or deported from the country, that plainly violates Article VI, Clause 3, of the Constitution, which says,

No religious test shall ever be required as a qualification to any office or public trust under the United States.

Let's repose some of our faith and trust in the founders of the Constitution, the Establishment Clause, the Free Exercise Clause, the ban on religious tests for public office. They've been working pretty well for America. They take care of every single thing that anybody is talking about in this hearing.

I do think we'd be much better off getting back to the work of the country right now, trying to deal with the runaway problem of inflation or to deal with the problem of the continuing administration coverup of the Epstein files.

Any of those, would be a little more valuable. Although I've got to say, as a washed-up professor of constitutional law, I do welcome the opportunity to remind people about the First Amendment.

I yield back to you, Chair Roy.

Mr. ROY. I thank the Ranking Member for his opening statement. Without objection, all other opening statements will be included in the record. We will now introduce today's witnesses.

First, Mr. Stephen Gelé. Mr. Gelé is the Chair of the Pelican Institute for Public Policy, a nonprofit organization that works to reduce barriers to opportunity in Louisiana. He's also a partner at the law firm of Bivalacqua, Gelé & Ellis in New Orleans.

Mr. Robert Spencer. Mr. Spencer is a Shillman Fellow at the David Horowitz Freedom Center, a nonprofit organization that advocates for free societies. He's authored 32 books on Islam and jihadism.

Ms. Krista Schild. Ms. Schild is the Texas Director for the RAIR Foundation, a grassroots organization that advocates for American values. She has volunteered for decades for causes that serve vulnerable populations, particularly women and girls.

Finally, Professor Ilya Somin. Professor Somin is a Professor of Law at the Antonin Scalia Law School at George Mason University. His research focuses on constitutional law, property law, democratic theory, federalism, and migration.

We thank our witnesses for appearing today, and we'll begin by swearing you in. Would you please rise and raise your right hand?

Do you swear or affirm under penalty of perjury that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

Let the record reflect that the witnesses have answered in the affirmative.

Thank you. Please, may be seated.

Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes. I'll also remind each of you to turn the microphone on in front of you so that everybody can hear, and it will be inserted into the record.

Mr. Gelé, you may begin with your five minutes.

STATEMENT OF STEPHEN GELÉ

Mr. GELÉ. Thank you, Chair Roy, Ranking Member Scanlon, and the Members of the Subcommittee, for inviting me here today to discuss the phenomena of alternative, Sharia law-based institutions; why the enforcement by American courts of decrees issued by

such institutions would be inconsistent with the fundamental rights guaranteed by the United States Constitution; and potential legal remedies to prevent such violation of fundamental constitutional rights.

I'm an attorney practicing in the State of Louisiana for over 32 years. During the last 17 years, I've had the opportunity, largely on behalf of the Center for Security Policy, to research and study the interaction of foreign law, including Islamic Sharia, with American law.

The interaction of foreign law with American law and American courts arises in four contexts: The enforcement of foreign judgments by American courts via comity; the application of foreign law in American courts through conflicts of law; the enforcement of choice of law clauses in contracts; the enforcement of forum selection clauses in contracts; the enforcement of arbitration clauses in contracts; and the transfer of lawsuits to foreign jurisdictions under the doctrine of forum nonconveniens.

In all these contexts, American courts—and even American law enforcement—could be called on to enforce foreign law, even though the enforcement of foreign law would violate fundamental rights guaranteed by the United States Constitution.

I've studied the numerous occasions in which foreign discordant law, including Sharia, has been litigated before American courts. Although the vast majority of foreign law applications are routine and do not violate American constitutional norms, over the past half century the number of cases adjudicating the application of discordant foreign law in American State courts, including through arbitrations, has steadily increased.

The most prominent category of foreign law that has been increasingly intruding on American courts is Islamic Sharia law, a body of law which consistently violates American public policy and fundamental constitutional rights, including the right to equal protection, including equal protection based on race, religion, and gender, the right of due process, freedom of religion, and freedom of speech. Numerous tenets of Sharia show bias against women, the LGBTQ community, non-Muslims, former Muslims, and people designated as blasphemers.

Courts in dozens of Muslim-majority nations, and some non-Muslim nations, currently apply Sharia. In hundreds of reported cases throughout the United States, litigants have attempted to apply Sharia, often succeeding.

Examples include the enforcement of foreign child custody judgments or jurisdiction not based on the best interest of the child, but instead based on gender or religious discrimination; the transfer of cases to foreign countries whose courts discriminate on gender or religion; the enforcement of Islamic marriage contracts—dubbed mahrs—as prenuptial agreements; talaq or other Sharia divorces; and increasingly, the creation of arbitration tribunals applying Sharia law within the United States.

The law applied by such tribunals discriminates based on gender and religion, and in cases of custody disputes does not apply the best interests of the child standard. Those arbitration tribunals also lack traditional American legal formalities, lessening due process.

Furthermore, legislation over the past half century has suppressed certain American legal protections against the intrusion of discordant foreign law. Public policy exceptions and common law rules have been overwritten by uniform acts adopted by the States, sometimes related to foreign treaties.

Some uniform acts now treat foreign country judgments like sister State judgments essentially extending the Full Faith and Credit Clause of the United States Constitution to foreign nations.

Moreover, the U.S. Court of Appeals for the Ninth Circuit has explicitly held that foreign court orders are not subject to the constraints of American constitutional law.

Responding to this encroachment of discordant foreign law into the United States, multiple efforts have been undertaken, primarily at the State but also the Federal level, to address discordant foreign law. The model statute, American Laws for American Courts, passed, in some form, in 13 States to protect fundamental constitutional rights against the infiltration of foreign law, such as Sharia. Additional State acts and Federal acts have also passed, including the SPEECH Act.

Americans for over 250 years have toiled and suffered, including spilling blood, toward guaranteeing fundamental constitutional rights. No U.S. citizen should be denied the fundamental liberties guaranteed in our constitutional Republic. The intrusion of discordant foreign laws, including Sharia, into the American legal system should be resisted.

Thank you for your time, and I look forward to answering your questions.

[The prepared statement of Mr. Gelé follows:]

Congressional Testimony of Stephen M. Gelé
before The United States House of Representatives
Subcommittee on the Constitution and Limited Government of the Committee on the Judiciary
"Sharia-Free America:
Why Political Islam & Sharia Law Are Incompatible with the U.S. Constitution"
Tuesday, February 10, 2026, 2:00 p.m.
Rayburn House Office Building, Room 2141

Thank you, Chairman Roy, Ranking Member Scanlon, and Members of the Subcommittee for inviting me here today to discuss: the phenomena of alternative, sharia law-based legal institutions; why the enforcement by American courts of decrees issued by such institutions would be inconsistent with the fundamental rights guaranteed by the United States Constitution; and potential legal remedies to prevent such violation of fundamental constitutional rights.

I am an attorney practicing in the State of Louisiana for over thirty-two (32) years. During the last seventeen (17) years, I have had the opportunity, largely on behalf of the Center for Security Policy, to research and study the interaction of foreign[1] law, including Islamic sharia, with American law.

The interaction of foreign law with American law in American courts arises in four (4) contexts: the enforcement of foreign judgments by American courts via comity[2]; the application of foreign law in American courts through conflicts of laws;[3] the enforcement of choice of law clauses in contracts[4]; the enforcement of forum selection clauses in contracts;[5] the enforcement of arbitration clauses in contracts;[6] and the transfer of lawsuits to foreign jurisdictions under the doctrine of forum non conveniens[7]. In all these contexts, American courts–and even American law enforcement–could be called upon to enforce foreign law, even though the enforcement of foreign law would violate fundamental rights guaranteed by the U.S. Constitution.

I have studied the numerous occasions in which discordant foreign law, including sharia, has been litigated before American courts. Although the vast majority of foreign law applications are routine and do not violate American constitutional norms, over the past half century, the number of cases adjudicating the application of discordant foreign law in American State courts, including through arbitrations, has steadily increased.[8] The most prominent category of foreign law that has been increasingly intruding upon American courts is Islamic sharia law, a body of law which consistently violates American public policy and fundamental constitutional rights, including the rights to equal protection (including based on race, religion, and gender), due process, freedom of religion, and freedom of speech. Numerous tenets of sharia show bias against women[9], the LGBTQ community, non-Muslims[10], former Muslims, and people designated as blasphemers. Courts in dozens of Muslim-majority nations, and some non-Muslim nations, currently apply sharia.

In hundreds of reported cases throughout the U.S., litigants have attempted to apply sharia, often succeeding. Examples include: the enforcement of foreign child custody judgments or jurisdiction not based on the best interests of the child but instead based on gender or religious discrimination;[11] the transfer of cases to foreign countries whose courts discriminate on gender or religion;[12] the enforcement of Islamic marriage contracts–dubbed mahrs–as prenuptial agreements;[13] talaq or other sharia divorces;[14] and increasingly, the creation of arbitration tribunals applying sharia law within the U.S.[15] The law applied by such tribunals discriminates based on gender and religion,

and in the case of custody disputes, does not apply the best interests of the child standard. Those arbitration tribunals also lack traditional American legal formalities, lessening due process.

Furthermore, legislation over the past half century has suppressed certain American legal protections against the intrusion of discordant foreign law. Public policy exceptions and common law rules have been overwritten by Uniform Acts adopted by the States, sometimes related to foreign treaties.[16] Some Uniform Acts now treat foreign country judgments like sister State judgments, essentially extending the Full Faith & Credit Clause[17] of the U.S. Constitution to foreign nations.[18] Moreover, the U.S. Court of Appeals for the Ninth Circuit has explicitly held that foreign court orders are not subject to the constraints of American constitutional law.[19]

Responding to this encroachment of discordant foreign law into the U.S., multiple efforts have been undertaken, primarily at the State, but also at the federal, level, to address discordant foreign law. The model statute, *American Laws for American Courts*[20], passed, in some form, in thirteen (13) States[21] to protect fundamental constitutional rights against the infiltration of foreign law, such as sharia. Similar, but more limited, legislation has been passed by multiple States and the Congress. Legislation requiring some threshold for applying foreign law or empowering foreign venues, includes the SPEECH Act, *Rachel's Law* or the *Free Speech Defense Act*, and several Uniform laws. The *SPEECH Act* affords to defendants adjudged with libel in a foreign court standing to seek a declaratory judgment from a U.S. district court that any judgments issued by the foreign court are unenforceable. A similar law–dubbed *Rachel's Law* or the *Free Speech Defense Act*–passed in at least eleven (11) States.[22] The *Free Speech Defense Act/Rachel's Law* affords protections to citizens exercising free speech against judgments rendered in libel suits filed in foreign countries where defendants do not have the same free speech protections that Americans enjoy under the First Amendment to the U.S. Constitution.[23] Statutory provisions establishing thresholds for the application of foreign law can be found in the *Uniform Child Custody Jurisdiction Enforcement Act* (UCCJEA)[24], the *Uniform Interstate Family Support Act* (UIFSA)[25], the *Uniform Foreign Money-Judgments Recognition Act*[26], and the *Uniform Model Choice Of Forum Act.*[27] However, these statutes either apply to narrow areas of law, or do not require an analysis of whether the foreign law or tribunal guarantees fundamental constitutional rights.

Potential additional federal legislation–including legislation that would protect Americans from efforts to establish alternative, sharia-based institutions–could include: strengthening the SPEECH Act;[28] creating a statutory threshold for the enforcement of foreign country judgments by federal courts;[29] creating a statutory standard for forum non conveniens in federal courts; enacting a federal version of *American Laws for American Courts*; and funding State efforts to require specific training for family law mediators and arbitrators based upon States restricting arbitrations.

Americans have for over two hundred and fifty (250) years, toiled and suffered, including spilling blood, towards guaranteeing fundamental constitutional rights: by war against foreign tyrannies and domestic insurrection; by engaging in social and political movements, such as the suffragette and civil rights movements; and by creating landmark legal precedents. No U.S. citizen should be denied the fundamental liberties guaranteed in our constitutional republic. Women and children, common victims of discriminatory foreign laws, especially deserve protection. The intrusion of discordant foreign laws, including sharia, into the American legal system should be resisted.

Thank you for your time, and I look forward to answering your questions.

[1] The word "foreign" as used herein refers to a foreign country, not a sister State or Territory of the United States.

[2] The conclusiveness of foreign judgments in American courts rests upon considerations of comity. One nation extends comity within its own territory upon recognition of the legislative, executive, or judicial acts of another. "Comity" is defined in BLACK'S LAW DICTIONARY as "courtesy; complaisance; respect; a willingness to grant a privilege, not as a matter of right, but out of deference and good will . . . . In general, [the] principle of 'comity' is that courts of one state or jurisdiction will give effect to laws and judicial decisions of another state or jurisdiction, not as a matter of obligation but out of deference and mutual respect." Comity is a recognition which one nation extends within its own territory to the legislative, executive, or judicial acts of another. Comity is not a rule of law, but one of practice, convenience, and expediency. Although it is more than mere courtesy and accommodation, comity does not achieve the force of an imperative or obligation. Comity rather is a nation's expression of understanding which demonstrates due regard both to international duty and convenience and to the rights of persons protected by its own laws.

Many States have not codified their law of comity. *See, e.g.,* David Henry, Run from the Border: The Need for Recognition of Foreign-Commercial Judgments in Texas Courts, 31 Tex. Tech L. Rev. 211, 214 (2000).

[3] Many States have few statutory provisions regarding conflicts of law but instead adopt the *Restatement (Second) of Conflict of Laws. See* Charles M. Thatcher, *Choice of Law in Multi-State Tort Actions After Owen v. Owen: The Less Things Change …*, 35 S.D. L. Rev. 372, 388 (1990); Charles M. Thatcher, *Choice of Law under the Restatement (Second) of Conflict of Laws: A Suggested Analysis Applied to the South Dakota Cases*, 42 S.D.L.Rev. 66, 68–69 (1997). For example, South Dakota generally applies the *Restatement (Second) of Conflict of Laws* to determine which State's laws govern in a particular factual situation. *Stockmen's Livestock Exch. v. Thompson*, 520 N.W.2d 255, 257 (S.D.1994); *O'Daniel v. NAU Country Ins. Co.*, 2007 WL 4568991, *6 (D.S.D. Dec 21, 2007) (NO. CIV. 05-5089-KES). For conflict of law analysis involving sharia, *see Bridas Corp. v. Unocal Corp.*, 16 S.W.3d 893 (Tex. App. 2000)(applying laws of Turkmenistan and Afghanistan to a suit by a hydrocarbon developer against oil and gas companies, alleging civil conspiracy and tortious interference with existing and prospective contractual relationships between developer and governments of Turkmenistan and Afghanistan); *CPS Int'l, Inc. v. Dresser Indus.*, Inc., 911 S.W.2d 18 (Tex. App. 1995) (applying the law of Saudi Arabia to tort claims between an American corporation and its Panamanian subsidiary against a Saudi Arabian businessman); *In re Ombabi*, 2016 WL 4163311 (Ct. App. Minn. 2016) (Court rejected the demand of one of the parties that the "court should apply Islamic law … with the males to receive 'twice the share of the female'" in a wrongful death suit. The party argued "the law of all of parties … is the Islamic Law and they are all Muslims and follow the specifics of the religion." The party further contended that the Court should have "honor[ed] a legal declaration issued by the Sudanese Family Court … under Sudanese Islamic law.").

[4] A choice of law provision in a contract dictates which jurisdiction's law will apply but is separate from any determination relating to which jurisdiction should adjudicate the matter. Courts generally enforce contractual choice of law provisions when some material element of the contract has a real relation to the jurisdiction whose law was designated unless the choice of law would violate the public policy of the forum jurisdiction. However, as the regulation of contracts need only have a rational basis to meet constitutional muster, States regularly regulate choice of law provisions. For example, the *Uniform Commercial Code* has long regulated choice of law provisions in commercial contracts. A public policy review is incorporated into the *Second Restatement of Conflicts of Laws'* analysis of choice of law clauses under Section 187. *See Schulke Radio Productions, Ltd. v. Midwestern Broadcasting Co.*, 6 Ohio St.3d 436, 438; 453 N.E.2d 683 (Ohio 1983). Subsection (2), the heart of Section 187, states that the law of the state chosen by the parties to govern their contractual rights and duties will be applied unless either: (a) the chosen state has no substantial relationship to the parties or the transaction and there is no other reasonable basis for the choice; or (b) application of the law of the chosen state would be contrary to a fundamental policy of a state which has a materially greater interest than the chosen state in the determination of the particular issue and which, under the rule of Section 188, would be the state of the applicable law in the absence of an effective choice of law by the parties. Section 187(2) reflects the policy that the demands of certainty, predictability, and convenience dictate that, subject to some limitations, the parties to a contract have the power to choose the law applicable to their contract. *See* Jeffrey D. Dunn, Texas Choice of Law Analysis for Contracts, Tex. J. Bus. L., Spring 2004, at 37, 69. (To justify a court's refusal to enforce a legal right accruing under the law of another state on public policy grounds, the legal right "must appear that it is against good morals or natural justice, or that for some other such reason the enforcement of it would be prejudicial to the general interests of our own citizens."); *see DeSantis v. Wackenhut Corp.*, 793 S.W.2d 670, 677 (Tex. 1990), cert. denied, 498 U.S. 1048 (1991). Thus, American jurisprudence, referencing the *Second Restatement of Conflicts of Laws*, allows for only a limited public policy analysis, and fails to require that the foreign law chosen not violate the fundamental constitutional rights of the parties. *See Jarvis v. Ashland Oil, Inc.*, 17 Ohio St. 3d 189, 192; 478 N.E.2d 786 (Ohio 1985). For analysis of choice of law clauses involving sharia, *see*

Barnett v. DynCorp Int'l, L.L.C., 831 F.3d296, 301 (5th Cir. 2016)(holding that Kuwaiti choice-of-law provision would not contravene a fundamental Texas policy.); Matt Anderson, *The Threat to Interest-Free Home Financing: The Problem of State Governments' Prohibition of Islamic-Compliant Financing Agreements*, 37 Hamline L. Rev. 311, 313 (2014).

[5] *See*, e.g., *Petersen v. Boeing Co.*, No. CV-10-00999-PHX-ROS, 2014 WL 12516257 (D. Ariz. July 1, 2014).

[6] Arbitrations in America are governed by the Federal Arbitration Act (FAA), and arbitration acts in the several States, which largely track the *FAA,* but often contain certain differences relating to arbitration procedure. Except for States that have adopted a form of *American Laws for American Courts*, described below, there is currently no requirement that, for a choice of forum or arbitration clause to be enforceable, the forum or arbitrator designated must grant the parties the same fundamental liberties, rights, and privileges granted under the U.S. and State Constitutions. *See In re Aramco Services Co.*, 01-09-00624-CV, 2010 WL 1241525 (Tex. App. Mar. 19, 2010) (under an arbitration agreement, governed by law of Saudi Arabia, the Saudi "Authority" would appoint arbitrators, instead of the Texas trial court.)

[7] Forum non conveniens is a common-law doctrine that allows a court to decline to exercise its otherwise statutorily mandated jurisdiction if it appears that there is a forum more convenient for the litigants and witnesses. The doctrine of forum non conveniens was designed to prevent a plaintiff from using a liberal venue statute to vex, oppress or harass a defendant by bringing a suit in a forum unrelated to the parties or cause of action. Accordingly, the doctrine permits a court to dismiss an action to further the ends of justice and to promote the convenience of the parties, even if jurisdiction and venue are otherwise proper in the court chosen by the plaintiff. *See*, e.g., *Gulf Oil Corp. v. Gilbert* (1947), 330 U.S. 501, 67 S.Ct. 839; *Rhodes v. ITT Sheraton Corp.*, 9 Mass. L. Rptr. 355 (Mass. Super. Ct. 1999; *see also Chandler v. Multidata Sys. Int'l Corp., Inc*., 163 S.W.3d 537 (Mo. Ct. App. 2005) (evidence was sufficient to establish that Panama was an adequate forum despite contention that the Panama judicial system was subject to corruption and political manipulation); *Vazifdar v. Vazifdar*, 130 N.H. 694 (1988).

In 2008 the Rhode Island Supreme Court in *Kedy v. A.W. Chesterton Co.,* 946 A.2d 1171 (R.I. 2008) explained:

> Our survey of sister jurisdictions reveals that forty-six states have recognized the doctrine of forum non conveniens for cases not involving child custody disputes.
>
> At least twenty-two states have enacted forum non conveniens statutes or promulgated rules of civil procedure: Ala.Code § 6–5–430 (2005); Ark.Code Ann. § 16–4–101 D. (1999); Cal.Civ.Proc.Code § 410.30 (2004); Colo.Rev.Stat. Ann. § 13–20–1004 (West 2005); Ga.Code Ann. § 9–10–31.1 (2007); La.Code Civ. Proc. Ann. Art. 123 (2007); Md.Code. Ann., Cts. & Jud. Proc. § 6–104(a) (2006); Mass. Gen. Laws ch. 223A, § 5 (West 2000); Miss.Code Ann. § 11–11–3(4) (1972); Neb.Rev.Stat. § 25–538 (1995); N.Y. C.P.L.R. 327(a) (McKinney 2001); N.C. Gen.Stat. § 1–75.12 (2007); Okla. Stat. tit. 12, § 1701.05 (1993); 42 Pa. Cons.Stat. § 5322(e) (West 1981); Tex. Civ. Prac. & Rem.Code § 71.051 (Vernon 1997); Va.Code § 8.01–265 (2000); W. Va.Code § 56–1–1a (Lexis Nexis 2007); Wis. Stat. Ann. § 801.63 (West 1994); Fla. R. Civ. P. 1.061; Ill. S.Ct. R. 187; Ind. R. Trial P. 4.4(C)-(E); N.D. R. Civ. P. 4(b)(5).
>
> In Arkansas, California, Colorado, Florida, Georgia, Illinois, Massachusetts, Mississippi, New York, Oklahoma, Pennsylvania, Texas, and West Virginia the doctrine was recognized by the state's highest court before the enactment or promulgation of the respective statute or rule of civil procedure. Including these states, thirty-eight states have recognized the doctrine through case law. *See Crowson v. Sealaska Corp.,* 705 P.2d 905, 907–08 (Alaska 1985); *First National Bank & Trust Co. v. Pomona Machinery Co.,* 107 Ariz. 286, 486 P.2d 184, 188 (1971); *Running v. Southwest Freight Lines, Inc.*, 227 Ark. 839, 303 S.W.2d 578, 580–81 (1957); *Price v. Atchison, T. & S.F. Ry. Co.*, 42 Cal.2d 577, 268 P.2d 457, 458–63 (1954); *McDonnell–Douglas Corp. v. Lohn*, 192 Colo. 200, 557 P.2d 373, 374 (1976); *Union Carbide Corp. v. Aetna Casualty and Surety Co.*, 212 Conn. 311, 562 A.2d 15, 19–21 (1989); *General Foods Corp. v. Cryo–Maid, Inc.*, 198 A.2d 681, 683–84 (Del.1964); *Kinney System, Inc. v. Continental Insurance Co.*, 674 So.2d 86, 87–94 (Fla.1996); *AT & T Corp. v. Sigala*, 274 Ga. 137, 549 S.E.2d 373, 375–77 (2001); *Lesser v. Boughey*, 88 Hawai'i 260, 965 P.2d 802, 804–06 (1998); *Whitney v. Madden,* 400 Ill. 185, 79 N.E.2d 593, 595–96 (1948); *Rath Packing Co. v. Intercontinental Meat Traders, Inc.*, 181 N.W.2d 184, 189–90 (Iowa 1970); *Gonzales v. Atchison Topeka and Santa Fe Railway Co.*, 189 Kan. 689, 371 P.2d 193, 196–200 (1962); *Beaven v. McAnulty*, 980 S.W.2d 284, 285–88 (Ky.1998); MacLeod v. MacLeod, 383 A.2d 39, 41–43 (Me.1978); *Universal Adjustment Corp. v. Midland Bank, Ltd. of London*, England, 281 Mass. 303, 184 N.E. 152, 157–62 (1933); *Cray v. General Motors Corp.*, 389 Mich. 382, 207 N.W.2d 393, 395–99 (1973); *Johnson v. Chicago, Burlington and Quincy Railroad Co.*, 243 Minn. 58, 66 N.W.2d 763, 767–76 (1954); *Strickland v. Humble Oil & Refining Co.*, 194 Miss. 194, 11 So.2d 820, 822–23 (1943); *State ex rel. Chicago, Rock Island & Pacific Railroad Co. v. Riederer*, 454 S.W.2d 36, 37–40 (Mo.1970); *Qualley v. Chrysler Credit Corp.*, 191 Neb. 787, 217 N.W.2d 914, 915–16 (1974); *Eaton v. Second Judicial District Court*, 96 Nev. 773, 616 P.2d 400, 401–02 (1980); *Thistle v. Halstead*, 95 N.H. 87, 58 A.2d 503, 505–07 (1948); *Gore v. United States*

Steel Corp., 15 N.J. 301, 104 A.2d 670, 672–76 (1954); *Buckner v. Buckner*, 95 N.M. 337, 622 P.2d 242, 243–44 (1981); *Silver v. Great American Insurance Co.*, 29 N.Y.2d 356, 328 N.Y.S.2d 398, 278 N.E.2d 619, 621–23 (1972); *Chambers v. Merrell–Dow Pharmaceuticals, Inc.*, 35 Ohio St.3d 123, 519 N.E.2d 370, 372–78 (1988); *St. Louis–San Francisco Railway Co. v. Superior Court*, 276 P.2d 773, 775–79 (Okla.1954); *Plum v. Tampax, Inc.*, 399 Pa. 553, 160 A.2d 549, 552–54 (1960); *Nienow v. Nienow*, 268 S.C. 161, 232 S.E.2d 504, 507–08 (1977); *Rothluebbers v. Obee*, 668 N.W.2d 313, 316–21 (S.D.2003); *Zurick v. Inman,* 221 Tenn. 393, 426 S.W.2d 767, 768–72 (1968); *Dow Chemical Co. v. Castro Alfaro*, 786 S.W.2d 674, 676–79 (Tex.1990); *Mooney v. Denver & R.G.W.R. Co.*, 118 Utah 307, 221 P.2d 628, 638–49 (1950); *Burrington v. Ashland Oil Co.*, 134 Vt. 211, 356 A.2d 506, 509–11 (Vt.1976); *Werner v. Werner,* 84 Wash.2d 360, 526 P.2d 370, 377–78 (1974); *Norfolk and Western Railway Co. v. Tsapis,* 184 W.Va. 231, 400 S.E.2d 239, 242–45 (1990), abrogated by *State ex rel. Smith v. Maynard*, 193 W.Va. 1, 454 S.E.2d 46, 50–54 (1994) (holding that intrastate forum non conveniens is regulated by statute); *West Texas Utilities Co. v. Exxon Coal USA, Inc.*, 807 P.2d 932, 935 (Wyo.1991).

Three states have yet to definitively recognize the doctrine of forum non conveniens. The Montana Supreme Court has not seen fit to adopt the doctrine. *See Rule v. Burlington Northern and Santa Fe Railway Co.,* 325 Mont. 329, 106 P.3d 533, 536 (2005) ("this Court does not recognize the doctrine of forum non conveniens in FELA actions"); *State ex rel. Burlington Northern Railroad Co. v. District Court,* 270 Mont. 146, 891 P.2d 493, 498 (1995) (explaining that the court has "neither accepted nor rejected the application of forum non conveniens in non-FELA cases and we have neither denied nor recognized the existence of that doctrine in cases where there is no strong policy favoring plaintiff's forum selection"). The Supreme Court of Idaho has mentioned the doctrine only in passing. *See Marco Distributing, Inc. v. Biehl,* 97 Idaho 853, 555 P.2d 393, 396–97 (1976) (deciding the case on personal jurisdiction grounds and not addressing the lower court's forum non conveniens inquiry). Similarly, the Supreme Court of Oregon has not ruled on the matter definitively, but Oregon appellate courts have employed the doctrine. *See State ex rel. Hydraulic Servocontrols Corp. v. Dale*, 294 Or. 381, 657 P.2d 211, 216 n. 5 (1982) (mentioning forum non conveniens in dicta); *Maricich v. Lacoss*, 204 Or.App. 61, 129 P.3d 193, 195 n. 1 (2006) ("We assume, for purposes of this case, that the doctrine can be applied in Oregon courts.").

Most States follow the federal forum non conveniens test. *See* Martin Davies, Time to Change the Federal Forum Non Conveniens Analysis, 77 Tul. L.Rev. 309, 315 (2002)(thirty States have "effectively identical" analyses to the federal test, and thirteen other states employ a "very similar" test); David W. Robinson & Paula K. Speck, Access to State Courts in Transnational Personal Injury Cases: Forum Non Conveniens and Antisuit Injunctions, 68 Tex. L.Rev. 937, 950 (1990) (as of 1990, thirty-two States recognized "something very closely resembling" the federal doctrine, and four other states indicated they would follow the federal doctrine).

Under the federal test, in determining whether a dismissal is proper based upon forum non conveniens, the trial court must consider the facts of each case, balancing the private interests of the litigants and the public interest involving the courts and citizens of the forum state. Important private interests include the relative ease of access to sources of proof; availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses; possibility of view of the premises, if view would be appropriate to the action; and all other practical problems that make trial of a case easy, expeditious, and inexpensive. See, e.g., *Gulf Oil Corp. v. Gilbert* (1947), 330 U.S. 501, 67 S.Ct. 839; *Chambers v. Merrell Dow Pharmaceuticals, Inc.*, 519 N.E.2d 370 (1988); Public interest factors to be considered include the administrative difficulties and delay to other litigants caused by congested court calendars; the imposition of jury duty upon the citizens of a community which has very little relation to the litigation; a local interest in having localized controversies decided at home; and the appropriateness of litigating a case in a forum familiar with the applicable law. *Id.* Because the central purpose of a forum non conveniens inquiry is to ensure that the trial is convenient, a foreign plaintiff's choice of forum deserves less deference than that of a plaintiff who has chosen his home forum. *See id*; *Lee v. Burnett,* Franklin App. No. 07AP-40, 2007-Ohio-3742, at ¶ 8-9. The traditional forum non conveniens analysis does not include any consideration of the whether the plaintiff's fundamental constitutional rights would be recognized in the foreign forum.

The *Uniform Child Custody Jurisdiction Enforcement Act* (UCCJEA) contains a provision regarding inconvenient forums. None of the criteria in the *UCCJEA* forum non conveniens provision includes any consideration of constitutional, or even human, rights (although the human rights consideration of the jurisdictional provision might apply). Specifically, the traditional common law factors ("whether the parties will be 'deprived of all remedies or treated unfairly.' *Vasquez v. Bridgestone/Firestone, Inc.,* 325 F.3d 665, 671 (5th Cir. 2003); any 'obstacles to [a] fair trial' in the alternative forum. *Flaiz v. Moore,* 359 S.W.2d 872, 874 (Tex. 1962)) are not included in the list of factors enumerated in the *UCCJEA*.") *See, e.g.,* Tex. Fam. Code Ann. § 152.207(2). In *Powell v. Stover*, 165 S.W.3d 322, 328 (Tex. 2005), the court explained that the *UCCJEA* allows the court in a child's home state to defer jurisdiction to

a court of another state if the home state is an inconvenient forum under the circumstances and the other state would be a more appropriate forum.

[8] Details on examples of sharia being invoked in U.S. court cases can be found in a 2011 study conducted by the Center for Security Policy: "Shariah Law and American State Courts." *See* http://shariahinamericancourts.com/ . The study found fifty (50) published appellate opinions across twenty-three (23) States where sharia was either relevant or highly relevant to the arguments made in or outcome of the case; *see also* jurisprudence cited herein. The vast majority of trial court filings and opinions are not widely published or electronically available, and therefore virtually impossible to monitor. Further, deleterious trial court rulings are often not appealed. The women often caught in these disputes typically lack the resources of the men who are seizing their children or denying them support or property upon divorce.

[9]*See Aghaian v. Minassian*, 234 Cal. App. 4th 427, 435, 183 Cal. Rptr. 3d 822, 828 (2015), *review denied* (May 13, 2015) (finding that "the evidence is overwhelming that Iranian courts discriminate against women and non-Muslims. Among other things, … the testimony of a woman counts for half the value of that of a man, and that women are not treated equally before the courts, particularly in personal status matters relating to marriage, divorce, inheritance, and child custody, and only men can serve as judicial officers. … [T]he judiciary in Iran is heavily influenced by religious authorities and that the law requires the head of the judiciary as well as the prosecutor general and all Supreme Court judges to be high ranking clerics. [There are] 'many accounts of unequal treatment afforded to non-Muslims by Iranian courts [and] the Iranian legal system discriminates on the grounds of sex, religion, and political opinion.").

In *S.D. v. M.J.R.,* 415 N.J.Super. 417, 2 A.3d 412 (N.J.Super.A.D., 2010) (a New Jersey trial court, although later reversed on appeal, refused to grant a wife a restraining order against her husband who beat and sexually abused her because the husband lacked criminal intent as he was a Muslim, and sharia, as described by an imam, mandated that a wife submit to her husband's sexual advances.)

[10] *See Seda Galstian Aghaian, et al. v. Shahen Minassian*, 2015 WL 11027479 (Cal.) (Dispute over whether Iran is a suitable alternative forum to hear civil suit between non-Muslim Iranian citizens over land located in Iran.)

[11] Exemplar child custody cases include:

In *Hosain v. Malik*, 108 Md. App. 284 (Md. Special App. 1996), a Maryland appellate court, enforced a Pakistani custody order, issued under a sharia rule granting sole custody to the father when the child reaches the age of seven, handing a little girl brought to America by the mother over to the father. The Maryland court bowed to the order by the Pakistani court, even though the mother lacked representation during the Pakistani proceedings because, although she might have been arrested for adultery if she returned to Pakistan for the custody hearing, and been subject to "public whipping or death by stoning," the court found such punishments were "extremely unlikely." The appellate court judges explicitly proclaimed that the best interest of the child should not be "determined based on Maryland law, i.e., American cultures and mores," but rather "by applying relevant Pakistani customs, culture and mores." The appellate court, explaining that "in the Pakistani culture, the well-being of the child and the child's proper development is thought to be facilitated by adherence to Islamic teachings," intentionally applied Islamic, rather than American, cultural and legal precepts.

In *Amin v. Bakhaty,* 798 So.2d 75 (2001), Louisiana trial, appellate and supreme courts resisted attempts by a father to seize custody of his child. The Egyptian wife and mother traveled to Louisiana with her child to improve her relationship with her husband who lived in the U.S. Her husband, upon learning she traveled to the U.S., traveled to Egypt, had her convicted of the crime of leaving Egypt without her husband's permission, filed for divorce and custody under Egyptian law, and then traveled to Louisiana to seize their child under the Egyptian custody decree. The Louisiana Supreme Court rejected the demand to enforce Egyptian child custody law because "Islamic family law ... structures some of the rights between family members based solely on gender" and not "the minor child's best interest."

In *In re Marriage of Malak*, 182 Cal.App.3d 1018 (1986), a California appellate court enforced a Lebanese custody decree granting custody to the husband, even though the trial court had found that the wife had been denied due process in Lebanon, and the Lebanese Islamic court did not base its ruling upon the best interests of the child.

In *In re Makhlouf*, 695 N.W.2d 503 (Iowa Ct. App. 2005), an Iowa appellate court enforced a Jordanian Sharia Court of Appeals custody order awarding a daughter to her father solely because the mother had remarried.

In *Donboli v. Donboli*, 128 Wash.App. 1039, 2005 WL 1772328 (Wash.App. Div. 1), *cert denied* 156 Wash.2d 1032, 134 P.3d 232, Washington State trial and appellate courts resisted an attempt by a father to enforce an Iranian custody order against the mother who suffered spousal abuse, was detained in Iran against her will, and was not able to participate in the Iranian proceedings.

In *Noordin v. Abdulla*, 947 P.2d 745 (1997), a Washington State trial court, although later reversed on appeal, upheld a custody order by a sharia court in the Philippines granting a father custody.

In *In re Y.M.A.*, 111 S.W.3d 790 (Tex. App. 2003), a Texas court enforced an Egyptian decree–despite the father's argument than an irrebuttable presumption under Egyptian law giving custody of a male child to the mother until the

age of ten violated the standards of human rights–finding that the father had failed to preserve the error for review because he did not specifically make the argument below that the basis for his contention was the Texas Equal Rights Amendment. The Texas trial court thereby enforced a foreign custody judgment that was rendered on a principle of foreign law that violated American concepts of equal protection. The Texas appellate court upheld the trial court, albeit on procedural grounds. A man lost custody of his child until his child was ten purely because of his gender.

In *Tazziz v. Tazziz*, 26 Mass.App.Ct. 809, 814-15 (1988), a Jordanian husband and dual citizen of Jordan and the U.S. wife married in Massachusetts in an Islamic ceremony. They then moved to Israel for 22 years. The wife returned with minor children to Massachusetts and filed for custody of the children in state court. Husband sought custody to be determined in Jerusalem by an Israeli Sharia Court. The trial court deferred to the jurisdiction of the Israeli Sharia Court. But the appellate court returned the matter to the trial court with instructions to address several concerns, including "the nature and the composition of the Sharia Court and of the substantive law and principles which would be applied" and "the wishes, intentions, and purposes of each of the parties and of each of their minor children with respect to their continued residence in Massachusetts and in the United States." The appellate court instructed the lower court to inquire as to "whether and to what extent the law which the Sharia Court should apply is consistent with Massachusetts law . . . (in addition to due process requirements concerning such procedural matters as notices, representation by counsel, and opportunity to be heard)."

In *Wahba v. Abdel-Kerim*, 684 S.W.2d 868 (Mo. Ct. App. 1984), the court noted that "under Egyptian law, [the father] would be solely entitled to the son's custody."

In *State ex rel. Rashid v. Drumm*, 824 S.W.2d 497 (Mo. Ct. App. 1992), a mother, U.S. citizen and resident of Missouri brought a dissolution of marriage action against Adel Mohammed Zaghdi, father, a citizen and resident of Saudi Arabia. The mother sought custody of the parties' six-year-old daughter, a dual citizen whose home was in Saudi Arabia but was physically present in St. Louis at the commencement of the proceedings. The mother was given temporary custody of the child ex parte. The father filed a motion to set aside the temporary custody order on the grounds of fraud. The trial court treated the motion as a challenge to the jurisdiction of the court to determine child custody. After a two day hearing, the trial court, applying the provisions of the *Uniform Child Custody Jurisdiction Act* (UCCJA) as enacted in Missouri, § 452.440 et seq., ruled that it did not have jurisdiction to exercise custody jurisdiction and that Saudi Arabia did have jurisdiction, and ordered the child returned to the custody of the father. In addition, court held that the term "state" in Missouri's then enacted UCCJA did not include foreign nations.

In *Elahham v. Al-Jabban*, 319 Mich. App. 112, 899 N.W.2d 768 (2017), the court addressed several issues in a divorce, including child custody, child support, spousal support, and property division. The court determined that it could not grant physical custody of the minor child to a parent while the parent resided in Egypt because Egypt was not a party to the *Hague Convention on the Civil Aspects of International Child Abduction*, explaining that if the parent decided not to return the minor child to the United States the trial court could not enforce the parenting time order. The court further determined that a later putative marriage in Egypt would not be recognized, explaining that "although there was a strong argument that plaintiff was married under Sharia law, the court was not bound by the religious law in Egypt."

In re Marriage of El Krim & Amin, No. 16-1620, 2017 WL 2465806 (Iowa Ct. App. June 7, 2017), the appellate court held that the Iowa district court, not an Egyptian court under claim of forum non conveniens, had jurisdiction to dissolve a marriage and decide the related custody and property issues, and to award the father only supervised visitation because the father was a citizen of Egypt, a country that is not a signatory to the *Hague Convention*, his citizenship posing a risk of abduction.

In *Bergstrom v. Bergstrom*, 320 N.W.2d 119 (N.D. 1982), the North Dakota Supreme Court addressed the issue of child custody in the context of removing children from the United States, specifically restricting a parent from bringing the child to Dubai.

See also In the Matter of Ismal Yaman and Linda Yaman, 2014 WL 5798586 (N.H. 11/07/2014).

Intertwined with the child custody issue, there is an entire body of law, both statutory and jurisprudential, regarding restricting parents from bringing their children to certain foreign countries because those countries have a history of not respecting American custody orders and allowing one parent to keep the child in the foreign country. *See, e.g., Kelly v. Faizi*, 1 CA-CV 08-0583, 2009 WL 3116160 (Ariz. Ct. App. Sept. 29, 2009); *In re Marriage of Jawad & Whalen*, 326 Ill. App. 3d 141, 759 N.E.2d 1002 (Ill. App. Ct. 2001); *Al-Zouhayli v. Al-Zouhayli*, 486 N.W.2d 10 (Minn. Ct. App. 1992); *Kamal v. Imroz*, 277 Neb. 116, 759 N.W.2d 914 (2009); *Div. of Youth & Family Servs. v. D.L.*, A-1848-07T4, 2008 WL 4239439 (N.J. Super. Ct. App. Div. Sept. 18, 2008); *Bergstrom v. Bergstrom*, 320 N.W.2d 119 (N.D. 1982); *Al-Silham v. Al-Silham*, 93-A-1770, 1994 WL 102480 (Ohio Ct. App. Mar. 25, 1994); *Pirayesh v. Pirayesh*, 359 S.C. 284, 596 S.E.2d 505 (S.C. Ct. App. 2004); *Soltanieh v. King*, 826 P.2d 1076 (Utah Ct. App. 1992); *Long v. Ardestani*, 2001 WI App 46, 241 Wis. 2d 498, 624 N.W.2d 405. *See also In re S.M.*, 938 S.W.2d 910, 919-20 (Mo. Ct. App. 1997).

[12] In several cases Americans have suffered personal injuries in foreign countries, sued in the U.S., and have had to fend off motions to transfer or dismiss based on forum non conveniens to prevent being subject to very unfavorable foreign law that would not recognize fundamental constitutional rights. *See*, e.g., *Rhodes v. ITT Sheraton Corp.*, 9 Mass. L. Rptr. 355 (Mass. Super. Ct. 1999); *Wilmot v. Marriott Hurghada Management, Inc.*, 2016 WL 2599092, (D. Del. 2016), report and recommendation adopted, 2016 WL 3457007 (D. Del. 2016) (Egypt not an inconvenient forum to litigate slip and fall.); *DiFederico v. Marriott Int'l, Inc.*, 677 F. App'x 830, 833 (4th Cir. 2017) (application of Pakistani law regarding tort claims arising out of an event that occurred in Islamabad, Pakistan.)

[13] Exemplar marriage contract cases:

In *Zawahiri v. Alwattar*, 2008-Ohio-3473; 2008 Ohio App. Lexis 2928; 2008 WL 2698679, Mohammed Zawahiri and Raghad Z. Alwattar were married, in an arranged marriage. The day of the wedding, Zawahiri signed a "mahr," an Islamic marriage contract. The court refused to enforce the mahr on the grounds that it was not a valid antenputial agreement because it was entered into as a result of overreaching or coercion. The wife's father had presented the mahr to the husband only two hours before the ceremony was to begin after family and guests had arrived. Furthermore, the husband did not have the opportunity to consult with an attorney prior to signing the marriage contract. Therefore, the court refused to enforce the mahr as an antenuptial agreement.

In *Ahmed v. Ahmed*, 261 S.W.3d 190 (Tex. App. 2008), one spouse attempted to enforce an Islamic mahr agreement, whereby one spouse contracted to give the other spouse $50,000 either at the time of the marriage or deferred in the event of a divorce, as a premarital agreement. The Texas appellate court remanded the case to the trial court to allow one spouse the opportunity to prove that the mahr agreement was enforceable as a partition and exchange agreement or otherwise.

In *Chaudry v. Chaudry*, 159 N.J. Super. 566 (1978), a New Jersey appellate court, applying Pakistani law, denied a wife spousal and child support, and division of property, based upon a prenuptial agreement signed by her parents allowing her only $1,500 upon divorce.

In *Alesawy v. Badawi*, 56 Misc. 3d 949, 57 N.Y.S.3d 879 (N.Y. Sup. Ct. 2017), the court recognized a judgment of divorce from Abu Dhabi, including award of $250,000 pursuant to the parties' mahr.

See also, Matt Anderson, *The Threat to Interest-Free Home Financing: The Problem of State Governments' Prohibition of Islamic-Compliant Financing Agreements*, 37 Hamline L. Rev. 311, 318-19 (2014).

[14] Exemplar Islamic divorce cases:

In *Husein v. Husein*, 2001 Ohio App. Lexis 3334; 2001 WL 842023, the court refused to recognize a divorce certificate issued by the Sharia Court in Ramallah because no evidence was presented showing that Ramallah did not have the same residency requirement as Ohio, and the petitioner in the Ramallah divorce was only present in Ramallah for a short time prior to the alleged divorce. Because Ohio has a six-month residency requirement before granting a divorce and no evidence was presented that Ramallah did not require the same residency, the presumption that Ramallah law was the same as Ohio law was not rebutted, and the divorce was not recognized.

In *Mustafa v. Elfadi,* 2013-Ohio-1644; 2013 Ohio App. LEXIS 1534; 2013 WL 1787383, comity was not extended to a Sudanese divorce because its proponent never mentioned his divorce in his answer and counterclaim to his wife's complaint, in which he invoked the trial court's jurisdiction, requested a fair and equitable division of the parties' assets and liabilities, and sought custody of a minor child of the marriage. Further, the court held that the Sudanese proceeding denied the wife due process, as she was never served with notice of the proceeding or participated therein and her husband participated in absentia.

In *Tarikonda v. Pinjari*, No. 287403 (Mich. Ct. App. 2009), a husband and wife were married in India. The husband obtained an Islamic summary divorce by verbally performing a talaq renunciation (repeating "I divorce you" three times) against his wife. The wife, possibly without knowing about the talaq, filed for divorce in Michigan. The trial court granted comity to the talaq verbal divorce that the husband pronounced in India and dismissed wife's complaint. The appellate court reversed the trial court, holding that the talaq divorce ritual violated wife's right to due process because: (a) she had no prior notice of the talaq pronouncement; (b) she had no right to be present at the pronouncement and did not have an attorney; and (c) the talaq provided no opportunity for a hearing. The Michigan appellate court also held that the talaq violated equal protection because women do not also enjoy the right to pronounce talaq. Additionally, the appellate court held that talaq violated Michigan public policy because, upon divorce, Islamic law allows women to recover only the property that is in their names while Michigan law provides for an equitable division of the marital estate.

In *Aleem v. Aleem,* 947 A.2d 489, 404 Md. 404 (2008), Maryland trial and appellate courts resisted attempts by husband to enforce a talaq divorce performed in Pakistan which would have precluded the wife from receiving her share of the community property.

In *Hamdeh v. Hamdeh*, Kan. Ct. App., No. 111,998 (11/10/2016), a Wichita State University physics professor, who filed for a divorce from his wife, sought to apply provisions of their Islamic marriage contract, made in Lebanon,

which granted the wife only a $5,000 payment should they divorce. He argued that the contract settled all property issues, and Islamic law limited spousal maintenance payments to her to three months.

In *Mohammadi v. Abdolaziz*, 2016 WL 3401958 (Ct. App. Wash. Div. 3 2016), the wife argued that a "mahr, which is an agreement under Islamic law where the husband agrees to pay a dowry to his wife in exchange for marrying him," was not contrary to public policy and a valid contract.

In *Ahmad v. Khalil*, 51 Misc. 3d 1212(A), 37 N.Y.S.3d 206 (N.Y. Sup. Ct. 2016), the court found that the Islamic marriage contract was not a valid prenuptial agreement preventing wife from seeking equitable distribution of assets.

In *Ashfaq v. Ashfaq*, No. 01-14-00329-CV (Tex. Ct. App. 1st Dist. April 28, 2015), a Texas appellate upheld on appeal a trial court recognizing a Pakistani talaq divorce in dismissing a Texas resident's petition for divorce.

In *Seth v. Seth*, 694 S.W.2d 459 (Tex. App. 1985), a purported second wife filed a petition for divorce, and the first wife intervened. The second wife contended that the Texas court should recognize a talaq divorce between the first wife and the husband. The Texas court explained that a talaq divorce is a "summary, ex parte procedure [wherein] the divorce [is] rendered when [the] husband pronounce[s] three times: 'I divorce you.'" The appellate court held that circumstances justified applying Texas law instead of Islamic law. The court explained that Texas law governed a case in which a wife claimed her husband divorced her unlawfully in an ex parte Islamic proceeding in a foreign country. The factors the court considered were that the couple lived and acquired property in Texas and that Islamic law, allowing for ex parte divorces, ran counter to notions of good morals and natural justice.

See also Schacht v. Schacht, 435 S.W.2d 197 (Tex. Civ. App.–Dallas 1968, no writ); *Dunn v. Tiernan*, 284 S.W.2d 754 (Tex. Civ. App.–El Paso 1955, writ ref'd n.r.e.); *Manjlai v. Manjlai*, 447 S.W.3d 376 (2014)(referencing an apparent talaq divorce "pursuant to Islamic law" and "Islamic tradition."); § 7:218. Divorce obtained in foreign country, 2 Tex. Prac. Guide Family Law § 7:218 (2012-2013 ed.); *see also Overseas Inns S.A. P.A. v. U.S.*, 685 F. Supp. 968 (N.D. Tex. 1988).

[15] In *Jabri v. Qaddura*, 108 S.W.3d 404, 413-14 (Tex. App.-Fort Worth 2003, no pet.), one spouse sought to enforce a "purported Islamic Dowry agreement" labeled **Error! Main Document Only.**"Islamic Society of Arlington Islamic Marriage Certificate" in district court, but the other spouse sought to enforce an agreement to arbitrate "according to the Islamic rules of law by Texas Islamic Court." The Texas appellate court held that the agreement to arbitrate before the Texas Islamic Court was valid and enforceable and stayed the proceedings in the district court so that the Texas Islamic Court could rule, thereby requiring arbitration of child custody before the Texas sharia arbitration panel. *See In re N.Q.*, No. 2-09-159-CV (Court of Appeals of Texas, Fort Worth, July 15, 2010) 2010 WL 2813425. The Texas appellate court thereby acknowledged both the existence of the "Islamic Court" and permitted binding arbitration by the "court." *See also In re N.Q.*, No. 2-09-159-CV (Court of Appeals of Texas, Fort Worth, July 15, 2010) 2010 WL 2813425; *see also* Press coverage of a Texas case involving an Islamic tribunal chosen through an arbitration clause, Tuesday, February 19th, 2008, Don Cruse, Supreme Court of Texas Blog (http://www.scotxblog.com/news-and-links/islamic-tribunal-chosen-through-an-arbitration-clause/). Only a relatively small percentage of arbitrations that are litigated in trial courts are later appealed to appellate courts rendering published written decisions. There might be numerous instances of rulings applying foreign law that have never been challenged in a district court or appealed to an appellate court– in Texas or elsewhere.

Enforcing arbitration awards rendered in reliance on foreign laws fails in many, but not all, States. Some State courts simply refuse to recognize any arbitration of child custody. The State of New York, which has a well-developed jurisprudence regarding arbitration of family law matters by Jewish beth din arbitration panels, does not uphold arbitration of child custody disputes. In *Cohen v. Cohen*, 600 N.Y.S.2d 996 (App. Div. 1993), a New York appellate court simply stated, "[d]isputes over custody and visitation are not subject to arbitration."; *Stein v. Stein*, 707 N.Y.S.2d 754, 758 (Sup. Ct. 1999) ("[c]ustody of children, once a proper subject for arbitration, is no longer subject to arbitration based upon the public policy of this state"); s*ee Rakoszynski v. Rakoszynski*, 663 N.Y.S.2d 957, 958 (Sup. Ct. 1997) (citing *Cohen v. Cohen*); Ginnine Fried, The Collision of Church and State: A Primer to Beth Din Arbitration and the New York Secular Courts, 31 Fordham Urb. L.J. 633 (2004); *see also Berg v. Berg*, No. 25099/05, 2008 WL 4155652, at *11 (N.Y. Sup. Ct. Sept. 8, 2008), aff'd, 926 N..Y.S.2d 568 (N.Y. App. Div. 2d Dept. 2011); *Schechter v. Schechter*, 881 N.Y.S.2d 151, 152 (App. Div. 2009); *Hom v. Hom*, 704 N.Y.S.2d 885, 885 (App. Div. 2000); *Glauber v. Glauber*, 600 N.Y.S.2d 740, 743 (N.Y. App. Div. 1993); *Lieberman v. Lieberman*, 149 Misc.2d 983, 566 N.Y.S.2d 490 (N.Y.Sup.1991). Further, Ohio jurisprudence holds that child custody and parental visitation cannot be subject to binding arbitration. *See Kelm v. Kelm*, 92 Ohio St. 3d 223; 749 N.E.2d 299; 2001-Ohio-168 (2001) (Allowing arbitration of spousal and child support, but not child custody and visitation). The Canadian Province of Ontario has also banned arbitration of child custody under religious law.

Some States refuse to recognize child custody arbitration rulings unless the best interests of the child were considered, such as whether domestic violence has occurred and is likely to likely to continue in the future. *See*, e.g., *In re Marriage of Popack*, 998 P.2d 464, 468-69 (Colo. App. 2000); *Miller v. Miller*, 620 A.2d 1161, 1164 (Pa. Super.

Ct. 1993). Other States have adopted a much less stringent standard, requiring that child custody arbitration be honored unless "harm to the child" can be shown because of the ruling. *See*, e.g., *Fawzy v. Fawzy*, 973 A.2d 347, 362 (N.J. 2009); *See also, Dick v. Dick*, 534 N.W.2d 185, 191 (Mich. Ct. App. 1995); s*ee, generally*, Evan M. Lowry, Note, Where Angels Fear to Tread: Islamic Arbitration in Probate and Family Law, a Practical Perspective, 46 Suffolk U. L. Rev. 159 (2013); E. Gary Spitko, Reclaiming the "Creatures of the State": Contracting for Child Custody Decisionmaking in the Best Interests of the Family, 57 Wash. & Lee L. Rev. 1139 (2000); Amanda M. Baker, A Higher Authority: Judicial Review of Religious Arbitration, 37 Vt. L. Rev. 157 (2012); Christina Fox, Note, Contracting for Arbitration in Custody Disputes: Parental Autonomy vs. State Responsibility, 12 Cardozo J. Conflict Resol. 547, 547 (2011); Aaron E. Zurek, Note, All the King's Horses and All the King's Men: The American Family After Troxel, the Parens Patriae Power of the State, a Mere Eggshell Against the Fundamental Right of Parents to Arbitrate Custody Disputes, 27 Hamline J. Pub. L. & Pol'y 357, 373-75 (2006).

In Tex. Fam. Code Ann. § 153.0071, Texas rejected the approach of prohibiting its courts from recognizing the arbitration of child custody but has followed an approach that allows review as to whether the decision is in the best interest of the child. However, Texas has required that the person challenging the arbitration ruling bear the burden of proof and has not addressed whether the parties have been granted fundamental constitutional rights in the arbitration proceeding. Tex. Fam. Code Ann. § 153.0071 (West). It should be noted that arbitrations of child custody before Islamic Courts in Texas can be distinguished from other religious tribunals, such as the operation of Catholic canon law tribunals, or even Jewish beth din arbitration tribunals. Catholic canon law tribunals address ecclesiastical matters, and their decisions as to annulments have no civil effect. Catholic canon law does not encroach upon typical matters of civil litigation, such as divorce and child custody, even within the Vatican. *See Magi XXI, Inc. v. Stato Della Città Del Vaticano*, 818 F. Supp. 2d 597 (E.D. N.Y. 2011). And although Jewish beth din arbitration tribunals may address family law matters, as noted above, New York State, which has the most Jewish beth din arbitration panels, does not uphold arbitration of child custody and visitation disputes.

In 2005, the American Academy of Matrimonial Lawyers published a *Model Family Law Arbitration Act* (UFLAA), which allows a court to refuse to recognize child custody arbitration decisions that fail to meet the best interests of the child standard. The *UFLAA* is an overlay statute meant to work together with the State's existing choice-of-law rules and contractual arbitration law. Unlike the *Uniform Arbitration Act* and the *Revised Uniform Arbitration Act*, however, the *UFLAA* is designed to address the unique complexities of family law arbitration, imposes explicit restrictions on arbitrator authority, and allows more judicial oversight in disputes relating to family law, with special and often stricter provisions for child-related disputes. For example, arbitrators under the *UFLAA* cannot grant a dissolution or legal separation, terminate parental rights, grant an adoption, or issue domestic violence protection orders. Moreover, unless waived by the parties, the *UFLAA* requires arbitrators to be trained in detecting domestic violence and child abuse before arbitrating a family law dispute. The *UFLAA* imposes additional safeguards on the arbitration of child-related matters such as heightened court oversight–an award may not be confirmed by a court unless the court finds that the award complies with applicable law and is in the best interests of the child–mandatory recording of hearings, additional affirmations made in written agreement, requirements to serve the best interests of the child, and mandatory reporting of suspected abuse or neglect. If the arbitrator detects abuse, the arbitrator must stay the arbitration and refer the dispute to court. Likewise, if a party is subject to a protection order, the dispute will be referred to court for resolution. States may exclude child-related disputes (i.e. custody, visitation, or child support) from arbitration altogether. Versions of the *UFLAA* have been adopted by Utah, Washington, Montana, Hawaii, D.C., Pennsylvania, North Carolina, and North Dakota.

[16] The American law of comity of foreign judgments, choice of law contractual clauses, conflicts of laws analysis, or pleas of forum non conveniens, which often was primarily jurisprudential, has become increasingly codified, often through Uniform Laws, sometimes implementing international treaties. The National Conference of Common Uniform State Laws, the creator of the *Uniform Child Custody Jurisdiction Enforcement Act* (UCCJEA), the *Uniform Interstate Family Support Act* (UIFSA), the *Uniform Foreign Money-Judgments Recognition Act*, and the *Uniform Model Choice Of Forum Act,* appears to approach the international aspects of those acts as an afterthought, and does not appear to be sensitive to the unique problems often caused by the application of foreign law that is incompatible with American constitutional norms. Their codifications deviate from traditional common law and lack specific protections of American constitutional rights in the application of foreign law, only sometimes allowing for vague protections of human rights. Moreover, these uniform laws often implement treaties.

Examples of international treaties that affect the rights of natural persons include the *Convention on the Civil Aspects of International Child Abduction,* the *2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance,* and the *Hague Convention on Choice of Court Agreements of June 30, 2005.* The *Convention on the Civil Aspects of International Child Abduction* with its enabling federal legislation entitled the *International Child Abduction Remedies Act* does preempt regarding some jurisdictional issues for child custody, but

only as to nations who are signatories to the *Convention*. *See* http://en.wikipedia.org/wiki/Hague_Convention_on_the_Civil_Aspects_of_International_Child_Abduction. Countries that apply discordant foreign law, including sharia law, are generally not signatories to the *Convention on the Civil Aspects of International Child Abduction*, with the exceptions of Turkey, Morocco, Albania, Bosnia, Turkmenistan, Uzbekistan, Sri Lanka, Singapore and Israel. Further, Article 20 of the *Convention on the Civil Aspects of International Child Abduction* states: "The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms." Also, Article 13 of the Convention states that: "Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that - ... b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation." *See Souratgar v. Fair*, 2012 WL 6700214 (S.D.N.Y., December 26, 2012). Thus, even when the *Convention on the Civil Aspects of International Child Abduction* does apply, the treaty grants the state courts discretion as to "fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms."

The *2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* was signed by the U.S. on November 23, 2007, and the Senate gave its consent to, and the President signed, the Convention in 2010. Signatories to the *2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* include only a few Muslim majority nations that would likely apply discordant sharia law: Albania, Azerbaijan, Bosnia and Herzegovina, Kazahkstan, Kygryzstan, and Turkey. Although the federal preemption of the issue via the treaty clause was sufficient to make the Convention "the law of the land," *see* U.S. Const. art. VI., cl. 2, the treaty is not self-executing, and therefore additional federal or State statutory enactments are necessary to enable the treaty. In 2010 the *Strengthen and Vitalize Enforcement* (SAVE) *Child Support Act of 2010* was introduced in, but not passed by, Congress. *See Strengthen and Vitalize Enforcement Child Support Act of 2010*, S.3848, 111th Cong. (2010). The *SAVE Act* was designed to encourage States to adopt provisions implementing the *Hague Convention*. The *SAVE Act* would condition federal funds on implementation of the *2007 Hague Convention*, like the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA")* used conditional spending as a means to institute uniformity of State law and the universal enactment of *Uniform Interstate Family Support Act (UIFSA)*.

There does not appear to be sufficient communication between the Governors who appoint the Uniform Law Commissioners, the Uniform Law Commissioners who draft the Uniform Laws, the diplomats who negotiate the respective treaties, the U.S. Congressmen and Senators who pass enabling legislation for the treaties and Uniform Laws, and the State legislators who enact the Uniform Laws in the several States, including Uniform Laws that implement non-self-executing treaties. There certainly does not appear to be any unity of policy regarding foreign law regarding those Governors, Commissioners, diplomats, Congressmen, U.S. Senators, and state legislators.

[17] The Full Faith & Credit Clause of the United States Constitution only applies to sister States. Moreover, even sister States may deny comity if the Sister state's judgment violates the domestic state's public policy.

[18] For example, an earlier version of the model *Uniform Commercial Code*, replaced in 2008, did not allow foreign law to be applied "to the extent that application of the law of the State or country designated would be contrary to a fundamental policy of the State or country whose law would govern in the absence of agreement." However, the current version of the model *Uniform Commercial Code*, approved in 2008, deletes the distinction between "international" and "domestic" transactions, deletes the requirement that the foreign law may not be "contrary to a fundamental policy of" the State, but requires only that the "transaction bears a reasonable relation to" the other State or nation.

For another example, the *Uniform Child Custody Jurisdiction Act* ("UCCJEA"), which imposes jurisdictional restrictions upon a court's capacity to uphold a foreign custody decree, as of 1997 mandates that the court analyze the dispute as if the custody decree was rendered in any U.S. State other than the state in which the action was filed. "A court of this state shall treat a foreign country as if it were a state of the United States … ." *See Barajas v. Santiago*, 01-10-00914-CV, 2012 WL 760921 (Tex. App. Mar. 8, 2012) (§ 152.105(a) (providing that foreign country is treated "as if it were a state of the United States" for purposes of section 152.201)).

The *UCCJEA* has been passed in all U.S. states except Massachusetts. It also has not been adopted in Puerto Rico. *See* Ala. Code § 30-3B-105 (2009); Alaska Stat. § 25.30.810 (2009); Ariz. Rev. Stat. § 25-1005 (2009); Ark. Code Ann. § 9-19-105 (2009); Cal. Fam. Code § 3405 (West 2009); Colo. Rev. Stat. § 14-13-105 (2005); Conn. Gen. Stat. § 46B-115D (2009); Del. Code tit. 13, § 1905 (2009); D.C. Code § 16-4601.04 (2009); Fla. Stat. § 61.506 (2009); Ga. Code Ann. § 19-944 (2009); Haw. Rev. Stat. § 583A-105 (2009); Idaho Code Ann. § 32-11-105 (2009); 750 Ill. Comp. Stat. § 36/105 (2009); Ind. Code. § 31-21-1-3 (2009); Iowa Code § 598B.105 (2009); Kan. Stat. Ann. § 38-1340

(2008); Ky. Rev. Stat. Ann. § 403.806 (West 2009); La. Rev. Stat. Ann. § 13:1805 (2008); Me. Rev. Stat. Ann. tit. 19-A, § 1735 (2009); Md. Code Ann., Fam. Law § 9.5-104 (West 2009); Mich. Comp. Laws § 722.1105 (2009); Minn. Stat. § 518D.105 (2009); Miss. Code Ann. § 93-27-105 (2008); Mo. Rev. Stat. § 452.720 (2009); Mont. Code Ann. § 40-7-136 (2007); Neb. Rev. Stat. § 43-1230 (2009); Nev. Rev. Stat. § 125A.225 (2008); N.H. Rev. Stat. Ann. §458-A:4 (2009) (effective December 1, 2010); N.J. Rev. Stat. § 2A:34-57 (2009); N.M. Stat. § 40-10A-105 (2009); N.Y. Dom. Rel. Law § 75-d (2009); N.C. Gen. Stat. § 50A-105 (2009); N.D. Cent. Code § 14-14.1-04 (2008); Ohio Rev. Code Ann. § 3127.04 (West 2009); Okla. Stat. tit. 43, § 551-105 (2009); Or. Rev. Stat. § 109.714 (2003); 23 Pa. Cons. Stat. § 5405 (2009); R.I. Gen. Laws § 15-14.1-5 (2008); S.C. Code Ann. § 20-7-6008 (2007); S.D. Codified Laws § 26-5B-105 (2009); Tenn. Code Ann. § 36-6-208 (2009); Tex. Fam. Code Ann. § 152.105 (Vernon 2009); Utah Code Ann. § 78B-13-105 (2009); Va. Code ann. § 20-146.4 (2009); Wash. Rev. Code § 26.27.061 (2005); W. Va. Code § 48-20-105 (2009); Win. Stat. § 822.05 (2009); Wyo. Stat. Ann. § 20-5-205 (2009). Some states, such as Missouri, have not adopted the provision of the *UCCJEA* applying the statute to international judgments. *See Rashid v. Drumm*, 824 S.W.2d 497 (1992). Additionally, when South Dakota adopted the *Uniform Child Custody Jurisdiction Act* (UCCJA), South Dakota initially omitted the provision regarding international judgments. *See* CHILD CUSTODY JURISDICTION, Roger M. Baron, 38 S.D. L. Rev. 479 noting that S.D.C.L. § 26-5A-23 was described in the South Dakota Codified Laws as "Reserved." However, in 2005 South Dakota revised its version of the *UCCJA* through 2005 South Dakota Laws Ch. 137 (HB 1193) and included section 26-5B-105.

Although the UCCJEA only applies to foreign child custody judgments for those foreign countries not "contracting parties" to the *Hague Child Abduction Convention*, and the *UCCJEA* specifically exempts States from granting comity or enforcing a foreign child custody judgment or foreign jurisdiction when doing so violates "fundamental principles of human rights," the *UCCJEA* does not clearly indicate what qualifies as fundamental principles of human rights. The UCCJEA states in pertinent part: "(3) A court of this state need not apply this part if the child custody law of a foreign country violates fundamental principles of human rights." Section 61.506 of the *Uniform Child Custody Jurisdiction and Enforcement Act* (UCCJEA) (ss. 61.501-61.542). This language is derived from Article 20 of the *Hague Convention on the Civil Aspects of Child Abduction*. The article reads, "The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested state relating to the protection of human rights and fundamental freedoms."

> The drafting committee of the UCCJEA did not attempt to define what aspects of a foreign custody law would violate fundamental principles of human rights. The committee considered a hypothetical case where the foreign custody law awarded custody of children automatically to the father. When asked to decide whether such a provision violated fundamental principles of human rights, the committee, along with the advisors and observers, could not agree. Therefore, the application of that provision was left to the courts to determine on a case-by-case basis.

Jurisprudence has also failed to clarify the interpretation of "fundamental principles of human rights" in this context. However, according to the U.S. Department of State's legal analysis of the *UCCJEA*, the "human rights/fundamental freedoms" defense to may be invoked "on the rare occasion that the return of a child would utterly shock the conscience of the court or offend all notions of due process." *See* Marianne Blair, *International Application of the UCCJEA: Scrutinizing the Escape Clause*, 38 Fam. L. Q. 547, 565-66 (2004).

A Texas court acknowledged this lack of guidance in the law, stating: "The text of section 152.105(c) … provides little guidance; it is silent with respect to what constitutes a violation of 'fundamental principles of human rights.' *In re Hickman*, No.01–12–00572–CV, 2012 WL 4858070, at *2 (Tex.App. Houston [1st Dist.] Oct. 11, 2012, orig. proceeding). A handful of courts in other jurisdictions have addressed the issue, but none have clearly defined what would constitute a violation of fundamental principles of human rights. In *In McKinney's DRL § 75–d. S.B. v. W.A.*, a New York court held that an award of child custody to the mother, in a divorce decree entered by Abu Dhabi court, was entitled to recognition, registration, and entry in New York, based on principles of comity, under *UCCJEA*, where the Abu Dhabi court had jurisdiction over the parties at the time the award was made, and the country's child custody laws, on which the award was based, did not violate fundamental principles of human rights. 38 Misc. 3d 780, 959 N.Y.S.2d 802 (Sup 2012). In *Dyce v. Christie*, a Florida court held that Jamaican child-custody laws did not violate fundamental principles of human rights, as necessary to warrant refusal to enforce a registered child custody judgment in Florida under the *UCCJEA*, codified at Fla. Stat. Ann. § 61.506(3), despite the father's contention that the foreign court had failed to apply the principle of considering the best interests of the child, given that the foreign law recognized the principle of considering the child's best interest, regardless of whether it had correctly applied the principle. 17 So. 3d 892 (Fla. Dist. Ct. App. 4th Dist. 2009).

The *UCCJEA*'s requirement that foreign countries must almost always be treated as if they were sister States applies regardless of whether the foreign country affords similar recognition to U.S. courts, and because most foreign countries do not provide such recognition, the *UCCJEA* affords far greater deference to foreign custody orders than U.S. custody

orders are afforded by other countries. *See*, e.g., Morley, International Family Law Practice § 7:1; 66 ALR6th 269; *Kelly v. Faizi*, 1 CA-CV 08-0583, 2009 WL 3116160 (Ariz. Ct. App. Sept. 29, 2009); *In re Marriage of Jawad & Whalen*, 326 Ill. App. 3d 141, 759 N.E.2d 1002 (Ill. App. Ct. 2001); *Al-Zouhayli v. Al-Zouhayli*, 486 N.W.2d 10 (Minn. Ct. App. 1992); *Kamal v. Imroz*, 277 Neb. 116, 759 N.W.2d 914 (2009).

The *Uniform Child Custody Jurisdiction Act* (UCCJA), which was the predecessor to the *UCCJEA*, and still applies in Massachusetts, specifically required that the foreign law be "in substantial conformity with the provisions" of the U.S. State's law, which is arguably a stricter standard that most States applied before adopting the *UCCJEA*. However, there was some dispute as to the proper function of the "in substantial conformity" provision. Yet, several courts interpreted the UCCJA to require application of a "best interests" or similar standards in the foreign court. It would be much more difficult to interpret the *UCCJEA* to require such a standard. The *UCCJEA* only requires the "child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of" the *UCCJEA*. Thus, the adoption of the *UCCJEA* made it easier to enforce foreign custody decrees. Further, the current standard of the *UCCJEA* requiring a violation of "fundamental principles of human rights" is much narrower than the common law standard of not violating public policy. *See generally*, Stoner, The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)—A Metamorphosis of the Uniform Child Custody Jurisdiction Act (UCCJA), 75 N.D. L.Rev. 301, 313 (1999); House Comm. on Juvenile Justice and Family Issues, Bill Analysis, Tex. H.B. 797, 76th Leg., R.S. (1999) (stating that "this Act revises the child custody jurisdiction law to prioritize home state jurisdiction"); *see In re Forlenza*, 140 S.W.3d at 374–75 (discussing the *UCCJEA* in the context of continuing jurisdiction over custody matters).

Additionally, the proposed *2013 Amendments Pertaining to International Proceedings* ("*2013 Amendments*") to the *UCCJEA* would not provide significant additional protections against foreign custody judgments rendered under discordant foreign law. Instead, the proposed *2013 Amendments* appear to weaken such protections. Generally, the *2013 Amendments* maintain the same requirement that custody judgments rendered in foreign countries be enforced, like custody judgments rendered in sister States, except when the child custody law of the foreign country violates fundamental principles of human rights. However, the *2013 Amendments* actually appear to require that a court must enforce the custody judgments rendered in a foreign country, even when the child custody law of the foreign country violates fundamental principles of human rights, as long as the foreign country in which the judgment was rendered is a party to *The Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* ("*1996 Hague Convention*"). Yet, the *2013 Amendments* do allow a court to decline to recognize a custody judgment rendered in a foreign country that is party to the *1996 Hague Convention* when "the issuing authority did not allow the respondent an opportunity to be heard [or] the issuing authority did not provide the child an opportunity to be heard in violation of fundamental principles of procedure of this state. ..." However, these additional procedural protections are minimal and only apply to foreign countries that are members of the *1996 Hague Convention*. (The *2013 Amendments* are unlikely to be adopted by the several States soon because the U.S. State Department is still in the process of considering the appropriate federal model to implement the *1996 Hague Convention*. Because federal implementing legislation has not yet been passed, the Uniform Law Commission does not intend to present the *2013 Amendments* for State enactment at this time. *See*, e.g., *In the Interest of S.L.*, 61 2d 276, 303 (Kan. App. 11/12/21).

To cure the lack of guidance to the courts, and the lack of specific protection to children and parents, found in the *UCCJEA*, a few States, including New York (N.Y. Dom. Rel. Law § 75-d(c)), New Jersey (N.J. Stat. Ann. § 2A:34-57(c)), and Connecticut (C.G.S.A. § 46b-115ii; Conn. Gen. Stat. Ann. § 46b-115ii (West)), have recently passed legislation analogous to *ALAC*. The Connecticut statute specifically precludes enforcement of a foreign custody determination that is "repugnant to the public policy of this state." This language permits a court in Connecticut to review the foreign custody order in its entirety and to determine whether it was issued in compliance with Connecticut's public policy.

For an additional example of a uniform law being liberalized to accommodate foreign law, the *Uniform Interstate Family Support Act* (UIFSA) (2008), was amended in 2008 with all States passing the 2008 amendments–New Jersey being the last in May of 2016. In the 2008 Amendments to *UIFSA* the term "of a state," was amended to read, "of a state or foreign country." UIFSA2008 § 102(26). Further, the *UIFSA* now states that "a tribunal of this state may refuse recognition and enforcement of a registered Convention support order [if]: (1) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard," which sets a standard similar to, but not as rigorous as, *American Laws for American Courts* (ALAC), discussed below. UIFSA2008 § 708(b).

[19] In *Naoko Ohno v. Yuko Yasuma*, 723 F. 3d 984, 993 (9th Cir. 2013), the United States Court of Appeals for the Ninth Circuit explicitly held that, although an American court, state or federal, may not be able to substantively render a certain judgment because of the U.S. Constitution, an American court can enforce such a judgment issued by a

foreign court and recognized under State law, because the content of the foreign judgment is not attributable to a state actor. *Id.* at 993-95. The Court reasoned that, because a foreign court is not considered a state actor, and without a state actor there can be no constitutional violation, a foreign court may therefore render a judgment in clear violation of American constitutional rights, and a U.S. federal or state court can enforce that judgment in the United States without running afoul of the United States Constitution.

[20] The American Public Policy Alliance, a non-partisan organization that advocates for the constitutionality of U.S. and State laws and public policies, promotes the model *American Laws for American Courts Act* (ALAC) to prevent enforcement of foreign law that violates fundamental constitutional rights. *ALAC* limits interactions between U.S. and foreign law by imposing various exceptions to the enforcement of foreign laws and judgments. The overarching limitation imposed by the *ALAC* prohibits the application of foreign law only to the extent that it would violate a fundamental constitutional right. In practice, these violations have occurred primarily, but not exclusively, in the context of sharia law. *ALAC* precludes enforcement of choice of law provisions if the chosen law would not grant the same rights that would be required under the U.S. or a particular State's constitution. To that effect, *ALAC* imposes a statutory directive requiring courts to conduct a threshold inquiry into whether the application of foreign law would deny parties the fundamental rights and liberties guaranteed by the U.S. or a particular State's constitution. Instead of relying on judicial discretion and piecemeal doctrines developed across choice-of-law, conflicts-of-law, family-law, arbitration, forum-non-conveniens, and comity jurisprudence, *ALAC* directs the codification of a single, consistent standard, thereby reducing uncertainty and preventing contractual or procedural mechanisms from being used to circumvent these constitutional safeguards. Generally speaking, if a dispute is arbitrated under foreign law, any arbitration ruling or award based upon the foreign law will not be upheld unless a court determines that the arbitrator granted the parties the same fundamental constitutional rights guaranteed by the U.S. Constitution, including the rights to equal protection, due process, free speech and free exercise of religion. *See Soleimani v. Soleimani*, 2012 WL 3729939 (Kan. Dist. Ct. 2012).

[21] In 2010, the Louisiana Legislature passed Louisiana Revised Statute 9:6001 and the Tennessee Legislature passed Tennessee Code § 20-15-104. La. Rev. Stat. Ann. § 9:6001 (2010); H.B. 3768, Reg. Sess. (Tenn., 2010), signed into law as TENN. STAT. CODE. ANN. § 20-15-104 (Westlaw 2010). In 2011, Arizona passed House Bill 2064. H.B. 2064, 50th Leg., 1st Reg. Sess. (Ariz., 2011) (Unlike the bills passed in Louisiana and Tennessee, the Arizona bill does not go into nearly as much detail regarding specific enforcement and application.) In 2012, the Kansas Legislature, by an overwhelmingly bipartisan 33-3 vote in the Kansas Senate, following a unanimous 120-0 vote in the Kansas House of Representatives, passed SB 79, which was then signed into law by Governor Sam Brownback. K.S.A. 60-5101, et seq, 2012 Kansas Laws Ch. 136 (S.B. 79), eff. July 1, 2012. (Also in 2012, South Dakota passed a statute that achieved a similar effect as *ALAC*: "No court, administrative agency, or other governmental agency may enforce any provisions of any religious code.") S.D. Codified Laws §19-8-7 H.R. 1253, 2012 Legis. Assemb., 87th Sess. (S.D. 2012)). In 2013, HB 1060 passed the Oklahoma House of Representatives 85-7 and the Oklahoma Senate 40-3. The bill was signed into law by Governor Mary Fallin on April 18, 2013. Okla. Stat. Ann. tit. 12, § 20 (West). Also in 2013, a version of ALAC, SB 5797, also passed into law for specialty courts in the State of Washington. Wash. Rev. Code Ann. § 2.28.165; Wash. Rev. Code §4.24.820. On May 12, 2014, Florida Governor Rick Scott signed SB 386 into law. Fla. Stat. Ann. § 61.0401 (West). In 2014, HB 522 passed the North Carolina House 75-37 and Senate 31-2. N.C. Gen. Stat. Ann. § 1-87.12, et seq (West). Moreover, a version of ALAC passed the Alabama legislature overwhelmingly in 2014 as constitutional Amendment 1 that on November 4, 2014, passed a statewide vote of the people with over 72% in favor. Ala. Const. Art. I, §13.50 (*also cited as* Ala. Const. Amend. No. 884); *See also* S.B. 33, 2012 Leg., Regular Sess. (Ala. 2012)(prior version). On March 23, 2015, Mississippi Governor Phil Bryant signed into law HB 177 after it passed the Mississippi House 115-3 and the Mississippi Senate 52-0. 2015 Miss. Laws WL No. 104 (H.B. 177); 2015 HB 177; Miss. Code Ann. § 11-63-1 (2015). In 2017, a version of *ALAC* became law after passing the Arkansas House with approximately three times more yea votes than nay votes and after passing the Arkansas Senate with approximately twice as many yea votes than nay votes. Act 980, 2017 Ark. Laws (HB1041) *available at* http://www.arkleg.state.ar.us/assembly/2017/2017R/Pages/BillInformation.aspx?measureno=HB1041; AR ST § 1–1–103. Also in 2017, Texas Governor Greg Abbott signed into law House Bill 45, a version of *ALAC* that passed the Texas House 135-8, and the Texas Senate 26-5. 2017 Tex. Sess. Law Serv. Ch. 771 (H.B. 45). (Unlike other versions of ALAC, the Texas version requires the Texas Supreme Court to adopt *ALAC*-like provisions by rule.) These statutes have most often passed by large, bipartisan margins. (Even when versions of *ALAC* have not become law, *ALAC* has often passed legislative committees or houses by overwhelming margins, such as in the New Hampshire House, the Indiana Senate twice, and the Judiciary Committee of Georgia, only to be scuttled through interventions by legislative leadership. Likewise, in 2013 the Missouri Legislature passed by a wide margin a version of *ALAC* that was vetoed by the Governor. On June 2, 2013, Missouri Governor Jeremiah ("Jay") Nixon returned to the Missouri Secretary of State Senate Substitute for Senate Bill No. 267, entitled the *Civil Liberties Defense Act.* An

attempt to override the veto failed by one vote.) Not one of these laws has ever been challenged in court. In addition to these statutes passed in thirteen (13) States from the Pacific to the Atlantic, and from the Midwest to the entire Gulf Coast, in 2010 the Idaho House of Representatives passed House Concurrent Resolution 44 that provided, similar to *ALAC*, in pertinent part: "For any domestic issue, no court should consider or use as precedent any foreign or international law, regulation, or court decision … ." H.R. Con. Res. 44, 60th Leg., Reg. Sess. (Idaho 2010) (enacted); *See* https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2010/legislation/HCR044.pdf.

Some courts have referenced or interpreted *ALAC* statutes. In 2014, a federal district court sitting in Arizona applied the Arizona version of *ALAC* "to preclude application of Saudi law for … claims for intentional infliction of emotional distress and negligent infliction of emotional distress by a former employee plaintiff who claimed injury while being employed in Saudi Arabia," despite the former employee having executed an "employment agreement that provided that Saudi law would govern the terms and conditions of his employment." *Petersen v. Boeing Co.*, No. CV-10-00999-PHX-ROS, 2014 WL 12516257 (D. Ariz. July 1, 2014). The federal judge commented that the employee plaintiff was "correct that under Arizona law, courts are precluded from enforcing foreign law if doing so 'would conflict with the laws of the United States or of [Arizona].'" This ruling came on the heels of the U.S. Court of Appeals for the Ninth Circuit ruling that a forum selection clause requiring any contractual disputes to be resolved in the Labor Courts of Saudi Arabia could not be enforced without an evidentiary hearing. *Petersen v. Boeing Co.,* 715 F.3d 276, 278–79 (9th Cir. 2013). The Ninth Circuit noted that "evidence submitted by [plaintiff] corroborated his concerns: the United States Department of State's *2009 Human Rights Report* on Saudi Arabia states that '[i]n practice, the judiciary was not independent' and that 'the judiciary was subject to influence' by powerful individuals within the executive or legislative branch. Furthermore, 'judges may discount the testimony of ... persons of other [non-Muslim] religions.'" *Id*. at 281.

In 2012, a Kansas district court explained that the recently passed Kansas version of *ALAC* "intended to preclude the courts from applying foreign law, legal codes or systems that violate the public policy of our state or federal constitutions." *Soleimani v. Soleimani*, 2012 WL 3729939 (Kan. Dist. Crt. 2012). The judge noted that the Kansas version of *ALAC* "has been widely viewed as precluding courts from applying Shari'a law, although it does not mention the same." *Id.* The judge refused to uphold an Islamic mahr marriage contract entered into as part of a "temporary" Iranian marriage. *Id.* The court spent much effort to explain how legal application of the policy considerations behind Islamic cultural marriage practices were incompatible with Kansas public policy and equal protection between the sexes. *Id.* He noted that the "temporary marriage" "allows a man to engage in relations with a woman for a negotiated period of time," and "is not impeded by an existing marriage." *Id.* Moreover, he explicated that "under Islamic law, a husband enjoys … unilateral rights" to divorce. *Id.* The Court characterized the Iranian temporary marriage as a form of "legally sanctioned prostitution in Iran." *Id.* The judge highlighted that "[a]s part of this 'temporary' marriage, an exchange of a Quran, a mirror, a pair of candlesticks and a promise to pay 14 gold coins (valued at $500) was required." *Id.* The judge further explained that for the wife "it was degrading for her to marry an older man like petitioner but she did so anyway and returning now would be a further humiliation." *Id.* Although acknowledging that her abusive, domineering "relationship with [her husband] reflected a more conservative relationship consistent with Islamic culture that precluded her from working and learning English," the judge rejected her plea that she could not support herself in the United States, holding that "she will have to support herself eventually in a manner that is decidedly different from a paternalistic society." *Id.* The judge further rejected her claim for 1,354 gold coins in accordance with the mahr. *Id.* He noted that enforcing the mahr terms "may require evidence of Islamic law" and would be "contrary to the public policy of Kansas law." *Id.* After extensive discussion of legal commentary and jurisprudence regarding Islamic mahrs, the judge concluded that "mahr agreement[s] … clearly emanate from a legal code that may be antithetical to Kansas law [and] stem from jurisdictions that do not separate church and state, and may, in fact, embed discrimination through religious doctrine." *Id.* The court found that the legal and cultural precepts underpinning Islamic mahrs suggest women are, comparatively-speaking, chattel, not human beings. This entire valuation process is contrary to American jurisprudence even if a Western court could somehow divine a purpose for in the mahr amount for anticipated spousal support, as opposed to simply divining an intangible value for a wife's cultural value. The judge proclaimed that "[p]erpetuating such discrimination under the guise of judicial sensitivity to Establishment Clause prohibitions would, in effect, abdicate the judiciary's overall constitutional role to protect such fundamental rights, a concern that presumably lead to the recently-enacted [Kansas ALAC]." *Id.* The judge ultimately concluded that "the protection of Kansas law … requires an equitable division of property in a secular system that is not controlled by the dictates of religious authorities or even a society dominated by men who place values on women in medieval terms." *Id.*

There have been numerous references to versions of *ALAC* in legal literature. Versions of *ALAC* have been addressed in several legal treatises. *See, e.g.*, 3 Litigation of International Disputes in U.S. Courts § 18:5; 5 Kan. Law & Prac., Code of Civ. Proc. Anno. § 60-5101 (5th ed.). Approximately thirty (30) law review articles published since 2010

have cited and discussed versions of *ALAC*. Intisar A. Rabb, *The Islamic Rule of Lenity*, 44 VAND. J. TRANSNAT'L L. 1299 (2011); Martha F. Davis & Kalb Johanna, *Oklahoma and Beyond: Understanding the Wave of State Anti-Transnational Law Initiatives*, 87 Ind. L. J. Supp. 1, 3 (2011); Aaron Fellmeth, *International Law and Foreign Laws in the US. State Legislatures*, 15 ASIL Insights (May 26, 2011); Carlos M. Vasquez, *Customary International Law as U.S. Law: A Critique of the Revisionist and Intermediate Positions and a Defense of the Modern Position*, 86 Notre Dame L. Rev. 101 (2011); Asma T. Uddin & Dave Pantzer, *A First Amendment Analysis of Anti-Sharia Initiatives*, 10 First Amend. L. Rev. 363 (2012); Lee Tankle, *The Only Thing We Have to Fear Is Fear Itself: Islamophobia and the Recently Proposed Unconstitutional and Unnecessary Anti-Religion Laws*, 21 WM. & MARY BILL RTS. J. 273 (2012); David L. Nersessian, *How Legislative Bans on Foreign and International Law Obstruct the Practice and Regulation of American Lawyers,* 44 Ariz. St. L.J. 1647 app. (2012); David L. Nersessian, *How Legislative Bans on Foreign and International Law Obstruct the Practice and Regulation of American Lawyers*, 44 Ariz. St. L.J. 1647 (2012); Aaron Fellmeth, *U.S. State Legislation to Limit Use of International and Foreign Law*, 106 Am. J. Int'l L., 107 (2012); Bradford J. Kelley, *Bad Moon Rising: The Sharia Law Bans*, 73 LA. L. REV. 601 (2013); Sarah M. Fallon, Note, *Justice for All: American Muslims, Sharia Law, and Maintaining Comity Within American Jurisprudence*, 36 B.C. INT'L & COMP. L. REV. 153 (2013); Ryan H. Boyer, "*Unveiling" Kansas's Ban on Application of Foreign Law*, 61 U. KAN. L. REV. 1061, 1061 (2013); Davis, M.F., *Shadow and Substance: The Impacts of the AntiInternational Law Debate on State Court Judges*, 47 NEW ENG. L. REV. 631 (2013); Prasatik, S., *Assessing the Viability of State International Law Prohibitions*, 35 HOUS. J. INT'L L. 465 (2013); Fellmeth, *U.S. State Legislation to Limit Use of International and Foreign Law, 106 Am. J. Int'l L. 107* (2012); Volokh, Foreign Law in American Courts, 66 Okla. L. Rev. 219 (2014); Estin, A. L., Foreign and Religious Family Law: Comity, Contract, and the Constitution, 41 *Pepp. L. Rev.*1029 (2014); Samir Islam, *The Negative Effects of Ill Advised Legislation: The Curious Case of the Evolution of Anti Sharia Law Legislation Into Anti Foreign Law Legislation and the Impact on the CISG*, 57 How.L.J. 979 (2014); Strong, S.I., *Recognition and Enforcement of Foreign Judgments in U.S. Courts: Problems and Possibilities*, 33 REV. LITIG. 45 (2014); James A. Sonne, *Domestic Applications of Sharia and the Exercise of Ordered Liberty*, 45 SETON HALL L. REV. 717 (2015); Symeon C. Symeonides, 63 AM. J. COMP. L. 299 (2015); Judith Resnik, *Constructing the Foreign: American Law's Relationship to Non Domestic Sources,* COURTS AND COMPARATIVE LAW 437 (2015); Rahdert, *Exceptionalism Unbound: Appraising American Resistance to Foreign Law*, 65 Cath. U. L. Rev. 537 (2016); Andrew L. Milne, *Sharia And Anti-Sharia: Ethical Challenges For The Cross-Cultural Lawyer Representing Muslim Women*, 57 S. Tex. L. Rev. 449 (2016); Holly Tao, *Congress, Courts, And Control Over Persuasive Sources Of Law*, 51 Gonz. L. Rev. 235 (2016); Ann M. Lousin, *Symposium*, 77 Ohio St. L.J. 387 (2016); Judge M. Margaret McKeown, *How International Law Became A Four-Letter Word*, 23 Sw. J. Int'l L. 101 (2017); *see also* Molina III, *2012 Legislative Update*, 81 J. Kan. B. Ass'n 30, 33 (2012). The American Bar Association has passed a resolution addressing legislation which some argue encompasses versions of *ALAC*. Salli A. Swartz, *American Bar Association Resolution and Report 113A* (Aug. 8-9, 2011)(ABA resolving, inter alia, "[t]hat the American Bar Association opposes federal or state laws that impose blanket prohibitions on consideration or use by courts or arbitral tribunals of foreign or international law.") The Center for American Progress and the Brennan Center for Justice issued a policy paper addressing versions of ALAC. Patel, Duss, & Toh, *Foreign Law Bans: Legal Uncertainties and Practical Problems* (Center for American Progress and Brennan Center for Justice, May 2013) *available at* http://www.brennancenter.org/sites/default/files/ publications/ForeignLawBans.pdf. Several state bar associations and committees of state bar associations have addressed *ALAC* or the issues raised by *ALAC*. Several state attorneys general have supported *ALAC* or issued letters or formal opinions addressing versions of, or the policies underpinning, *ALAC*. *See* Texas Attorney General Opinion KP-094.

[22] *See* Wikipedia, *Rachel Ehrenfeld*,
http://en.wikipedia.org/wiki/Rachel_Ehrenfeld#Rachel.27s_Law_and_Free_Speech_Legislation (last visited 2/7/26) (Rachel Ehrenfeld wrote a book, "Funding Evil," that alleged that Saudi billionaire Khalid bin Mahfouz had financed terrorist groups through his bank and charity organization. Mahfouz sued Ehrenfeld in England and was awarded a default judgment against her for defamation. Ehrenfeld pre-emptively countersued Mahfouz in New York to obtain a declaration that the judgment would not be enforced in the United States and that the book was not defamatory under U.S. laws. The New York court ruled that they lacked personal jurisdiction and dismissed the case. However, in April of 2008, the New York legislature passed the *Libel Terrorism Protection Act*, which is known as "Rachel's Law." N.Y. C.P.L.R. 5304 (McKinney). The law offers New Yorkers greater protection against libel judgments from countries whose laws are inconsistent with the freedom of speech guaranteed by the U.S. Constitution.)

Subsequently, in August 2008, Illinois passed Public Act 095-0865 as part of its Code of Civil Procedure. 735 ILCS 5/12-664 (West). In 2009, California passed Senate Bill No. 320 as part of the California Code of Civil Procedure. Ca. Civ. Pro. § 1716 (West). In 2009, Florida passed House Bill No. 949. Fla. Stat. Ann. § 55.605 (West). In 2010, Maryland's Senate Bill No. 13 was added to the Maryland Code of Courts and Judicial Proceedings. Md. Cts. & Jud.

Pro. § 10-704 (West). Also in 2010, Tennessee added Section 26-6-108 to the Annotated Code, Tenn. St. § 26-6-108 (West). Utah passed House Bill 96, Ut. St. § 78B-5-321 (West), Illinois passed Public Act 095-0865, 735 ILCS 5/12-664 (West), and Louisiana passed Acts 712 and 878, Louisiana Code of Civil Procedure Article 2542. (Although Illinois adopted a form of *Rachel's Law* in 2008, part of the statutory language constituting *Rachel's Law* was overwritten in 2012 when Illinois adopted the current version of the *Uniform Foreign Money-Judgments Recognition Act.* 735 ILCS 5/12-618 to 5/12-626 repealed by P.A. 97-140, § 10, eff. Jan. 1, 2012.) In 2013, Oklahoma passed House Bill 2072. Ok. St. Tit. 12 § 718A (West). In March of 2013, South Dakota's governor signed Bill No. 174, South Dakota's *Free Speech Defense Act*. S.D. St. § 15-16-44 (West). In 2017, Connecticut passed its version. 2017 CT S.B. 1020 (NS)**;** Public Act No. 17-88. Thus, eleven (11) states have passed versions of *Rachel's Law/Free Speech Defense Act.*

[23] The problem of foreign libel judgments violating the rights to free speech and press has been widely recognized. *See* Doug Rendleman, *Collecting a Libel Tourist's Defamation Judgment?*, 67 Wash. & Lee L.Rev. 467, 468 (2010); Tara Sturtevant, *Can the United States Talk the Talk & Walk the Walk When it Comes to Libel Tourism: How the Freedom to Sue Abroad Can Kill the Freedom of Speech at Home*, 22 Pace Int'l L.Rev. 269, 269 (2010); Robert L. McFarland, *Please Do Not Publish This Article in England: A Jurisdictional Response to Libel Tourism*, 79 Miss. L.J. 617, 625 (2010); Sarah Staveley–O'Carroll, *Libel Tourism Laws: Spoiling the Holiday and Saving the First Amendment?*, 4 N.Y.U. J.L. & Liberty 252, 264 (2009); Marissa Gerny, Note, *The SPEECH Act Defends the First Amendment: A Visible and Targeted Response to Libel Tourism*, 36 Seton Hall Legis. J. 409 (2012); Lili Levi, *The Problem of Trans-National Libel*, 60 Am. J. Comp. L. 507 (2012); Daniel C. Taylor, Note, *Libel Tourism: Protecting Authors and Preserving Comity*, 99 Geo. L.J. 189 (2010).

See *Pontigon v. Lord*, 340 S.W.3d 315 (Mo. Ct. App. 2011) (Petitioner, who prevailed in defamation suit against author in Canada, sought registration of purported judgment. The district court granted registration of judgment. Author appealed. The appellate court held that: trial court neglected to consider whether defamation laws of foreign jurisdiction afforded minimal free speech protections to author; and the record did not contain a certified and authenticated copy of the purported judgment as was necessary to afford the judgment full faith and credit.)

[24] The *UCCJEA* has been passed in all U.S. States except Massachusetts. It also has not been adopted in Puerto Rico. Some States, such as Missouri, did not adopt the provision of the *UCCJEA* applying the statute to international judgments. *See Rashid v. Drumm*, 824 S.W.2d 497 (1992). Additionally, please note that when South Dakota adopted the *Uniform Child Custody Jurisdiction Act* (UCCJA), South Dakota initially omitted the provision regarding international judgments. *See* CHILD CUSTODY JURISDICTION, Roger M. Baron, 38 S.D. L. Rev. 479 noting that S.D.C.L. § 26-5A-23 was described in the South Dakota Codified Laws as "Reserved." However, in 2005 South Dakota revised its version of the UCCJA through 2005 South Dakota Laws Ch. 137 (HB 1193) and included section 26-5B-105.

[25] The *Uniform Interstate Family Support Act* has been passed in all U.S. States in some form. The current *UIFSA* defines a "State" whose orders and jurisdiction must be recognized to include "A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under [the *UIFSA*], the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act." Therefore, the provisions of the current *UIFSA* determine when comity should be granted to foreign child support judgments from foreign countries which are foreign reciprocating countries under federal law, have a reciprocal arrangement with the United States or have a similar law.

The *UIFSA* was preceded by the *Uniform Reciprocal Enforcement of Support Act* ("URESA"), and the *Uniform Desertion and Non-Support Act*, which did not focus on support orders from foreign countries. The 2001 amendments to *UIFSA*, adopted by over twenty States, began to focus, for the first time, on international obligations pertaining to the international aspects of child support. *See* Tina M. Fielding, The Uniform Interstate Family Support Act: The New Uresa, 20 U. Dayton L. Rev. 425 (1994). Prior to these changes, *UIFSA* continued the basic approach first found in RURESA which defined a state as "any foreign jurisdiction in which this [RURESA] or substantially similar reciprocal law is in effect." The 2001 amendments expanded the definition of "state" to include foreign countries that had entered into bilateral agreements with the United States. The definition of "state" was expanded to include foreign countries that the U.S. State Department had declared to be reciprocating jurisdictions. However, the determination that a foreign nation was a reciprocating country was merely advisory and did not obligate the States to act. The amendments also clearly provided that an order issued by a foreign country may be enforced as a matter of comity.

Since 2010, when the U.S. Senate gave its advice and consent to the *2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance*, the *Strengthen and Vitalize Enforcement* (SAVE) *Child Support Act of 2010,* S.3848, 111th Cong. (2010), was introduced in, but not passed by, Congress. The SAVE Act was designed to encourage States to adopt provisions implementing the *Hague Convention*. (Although the federal preemption of the issue via the treaty clause was sufficient to make the Convention "the law of the land," see U.S.

Const. art. VI., cl. 2, the treaty is not self-executing, and therefore additional federal or State statutory enactments are necessary to enable the treaty.) Not all States have adopted the 2008 Amendments to *UIFSA* which were designed to facilitate full implementation of the *2007 Hague Convention*. Thus, the version of *UIFSA* in some States primarily applies to foreign jurisdictions with reciprocity agreements, with child support orders from other jurisdictions being subject only to the common law of comity. However, with an estimated 150,000 international child support cases that currently involve parties in the United States and attempts at implementing the *2007 Hague Convention* through the 2008 Amendments to *UIFSA* ongoing, States will likely continue to be pressured to revisit their versions of *UIFSA*.

[26] About half of the States have passed a version of the *Uniform Foreign Money-Judgments Recognition Act*. Alabama passed the Act in 2012. *See* Ala.Code 1975 § 6-9-250. *See also* Alaska AS 09.30.100 to 09.30.180.; Connecticut P.L. 88-39, C.G.S.A. §§ 50a-30 to 50a-38; Delaware 10 Del.C. §§ 4801 to 4808; District of Columbia D.C. Law 11-84, D.C. Official Code, 2001 Ed. §§ 15-381 to 15-388; Florida F.S.A. §§ 55.601 to 55.607; Georgia O.C.G.A. §§ 9-12-110 to 9-12-117; Illinois S.H.A. 735 ILCS 5/12-618 to 5/12-626; Maine 14 M.R.S.A. §§ 8501 to 8509; Maryland §§ 10-701 to 10-709; Massachusetts M.G.L.A. c. 235, § 23A; Missouri V.A.M.S. §§ 511.770 to 511.787; New Jersey N.J.S.A. 2A:49A-16 to 2A:49A-24; New York McKinney's CPLR 5301 to 5309; North Dakota NDCC 28-20.2-01 to 28-20.2-06; Ohio R.C. §§ 2329.90 to 2329.94; Pennsylvania 42 P.S. §§ 22001 to 22009; Texas V.T.C.A., Civil Practice and Remedies Code §§ 36.001 to 36.008; Virgin Islands 5 V.I.C. §§ 561 to 569; Virginia Code 1950, §§ 8.01-465.6 to 8.01-465.13. The Act requires that any foreign money-judgment may only be enforced if the foreign court followed basic due process and the claim is not repugnant to the public policy of the State. The Act is an example of legislatures codifying the requirements for comity, retorting the argument that long-standing jurisprudence on comity is always sufficient. For example, the *Florida Uniform Foreign Money Judgments Recognition Act*, Fla. Stat. §§ 55.601 to 55.607 circumscribes the granting of comity to foreign judgments. Section 55.605(h), Florida's version of Rachel's law, mimics *ALAC*, but only as to First Amendment rights.

[27] The *Uniform Model Choice of Forum Act* has only been adopted by Nebraska, Neb. Rev. Stat. § 25-413 et seq., and New Hampshire, N.H. Rev. Stat. § 508-A:1 et seq. It is designed to implement the *1965 Hague Convention on the Choice of Courts*. Under the *Uniform Model Choice of Forum Act,* if another forum is chosen by contract, the plaintiff's case shall be dismissed unless the plaintiff "cannot secure effective relief in the other state" or it would be "unfair or unreasonable to enforce the agreement." No consideration of constitutional rights is explicated.

[28] All Americans receive some protection from the SPEECH Act, 28 U.S.C. 4101-4105. However, the SPEECH Act contains the following exception limiting its effectiveness:

> (B) even if the defamation law applied in the foreign court's adjudication did not provide as much protection for freedom of speech and press as the first amendment to the Constitution of the United States and the constitution and law of the State, the party opposing recognition or enforcement of that foreign judgment would have been found liable for defamation by a domestic court applying the first amendment to the Constitution of the United States and the constitution and law of the State in which the domestic court is located.

See Trout Point Lodge, Ltd. v. Handshoe, 729 F.3d 481, 486 (5th Cir. 2013) (suggesting that, had more evidence been introduced in the Canadian proceeding, the foreign libel judgment may have been enforceable.) Section (B) could be removed to strengthen the Act.

Moreover, an anti-suit injunction provision could be added to the *SPEECH Act*. An anti-suit injunction could order the plaintiff(s) in the foreign court to cease to pursue the litigation in the foreign court, and if the plaintiffs continued to pursue the litigation in the foreign court, the plaintiff(s) could be held in contempt of court by the American court, be assessed a fine, and either arrested if they travel to the United States, or have any property in the United States seized to satisfy any fine. The model *Free Speech Defense Act* contains the following anti-suit injunction language:

> F. Any person against who a foreign defamation action has been instituted may bring an action for an injunction where the foreign defamation action would: (1) frustrate a policy of the State, the guarantee of due process, and the protection of freedom of speech; (2) be vexatious or oppressive; or (3) where the proceedings prejudice other equitable considerations.

[29] In the absence of a federal statute or treaty or some other basis for federal jurisdiction, such as admiralty, recognition and enforcement of foreign country judgments is a matter of State law, and an action to enforce a foreign country judgment is not an action arising under the laws of the United States. Thus, State courts, and federal courts applying State law, recognize and enforce foreign country judgments without reference to federal rules. American Law Institute, Restatement of the Law (Third) – Foreign Relations Law of the United States, §481, cmt a. 13 A.L.R. Fed. 208 explains:

> § 3. State or federal law as controlling
> The United States Supreme Court's decision in *Erie R. Co. v Tompkins* (1938) 304 US 64, 82 L Ed 1188, 58 S Ct 817, 114 ALR 1487, established the general principle that, except as to matters governed by the Federal

> Constitution or by acts of Congress, the federal courts are required, in diversity of citizenship cases, to apply state law rather than federal law in determining issues of substantive law. And the Supreme Court's decision in *Klaxon Co. v Stentor Electric Mfg. Co.* (1941) 313 US 487, 85 L Ed 1477, 61 S Ct 1020, established the general principle that on the basis of the *Erie v Tompkins* decision, a federal court was required, in a diversity of citizenship case, to follow the conflict-of-laws rules of the state in which the court was sitting. On the basis of these general principles, it has been held, in diversity of citizenship cases decided subsequently to *Erie v Tompkins*, that state law rather than federal law is controlling in determining whether a valid judgment of a court of a foreign country is entitled to extraterritorial effect in a Federal District Court.
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> Thus, in *Svenska Handelsbanken v Carlson* (1966, DC Mass) 258 F Supp 448, the court, relying upon *Erie v Tompkins*, concluded that Massachusetts law rather than federal law was applicable in determining whether to give conclusive effect to a judgment by a Swedish court.
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> Similarly, in *Somportex Ltd. v Philadelphia Chewing Gum Corp.* (1971, CA3 Pa) 453 F2d 435, 13 ALR Fed 194, cert den 405 US 1017, 31 L Ed 2d 479, 92 S Ct 1294, the court, relying upon *Erie v Tom*pkins, held that where jurisdiction was based solely on diversity of citizenship, the question whether an English judgment was entitled to recognition by a Federal District Court was governed by the law of the state where the federal court was located.

See Compania Mexicana Rediodifusora Franteriza v Spann (1941, DC Tex) 41 F Supp 907 (affd (CA5) 131 F2d 609)(court, citing *Erie v Tompkins* and *Klaxon v Stentor*, indicated that it would assume that State law was controlling as to the question whether a Mexican judgment was against public policy); *Territory of Curacao v Solitron Devices, Inc.* (CA2 NY) 489 F2d 1313, cert den 416 US 986, 40 L. Ed. 2d 763, 94 S Ct 2389 (*Convention on Recognition and Enforcement of Arbitral Awards* (9 U.S.C.A. §§ 201 et seq.) involves only enforcement of foreign arbitral awards and not enforcement of foreign judgments confirming foreign arbitral awards, and accordingly State law is not pre-empted to extent that it permits, regulates, and establishes procedure for enforcement of foreign money judgment.); *Kim v. Co-op. Centrale Raiffeisen-Boerenleebank B.A.,* 364 F. Supp. 2d 346 (S.D. N.Y. 2005)(Under New York choice of law rules, in determining preclusive effect of foreign court's judgment, court looks to law of foreign jurisdiction and gives judgment same preclusive effect that it would enjoy in that jurisdiction.); *Ecoban Finance Ltd. v. Grupo Acerero Del Norte*, S.A. De C.V., 108 F. Supp. 2d 349 (S.D.N.Y. 2000)(Decision whether to grant comity in diversity suit, deferring to foreign proceeding, is to be determined under State law.); *South Carolina Nat. Bank v Westpac Banking Corp.* (1987, DC SC) 678 F Supp 596. (Enforceability of judgments rendered by courts of foreign nations is to be determined under law of State in which enforcement is sought.); *Hunt v BP Exploration Co., Ltd.* (1984, ND Tex) 580 F Supp 304, § 7[c]; *Ingersoll Milling Machine Co. v Granger* (1986, ND Ill) 631 F Supp 314, affd (CA7 Ill) 833 F2d 680. (Federal District Court sitting in diversity action should apply State law in determining conclusive effect of foreign court judgment.); *Toronto-Dominion Bank v Hall* (1973, DC Ark) 367 F Supp 1009 (citing annotation). (In diversity of citizenship action, enforceability of judgment obtained in Canada would be governed by State law.).

However, the *Convention on the Civil Aspects of International Child Abduction* with its enabling federal legislation entitled the *International Child Abduction Remedies Act* does preempt regarding some jurisdictional issues for child custody, but only as to nations who are signatories to the *Convention*. Countries that apply sharia law are generally not signatories to the *Convention*, with the exceptions of Turkey, Morocco, Albania, Bosnia, Turkmenistan, Uzbekistan, Sri Lanka, Singapore and Israel. Further, Article 20 of the *Convention* states: "The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms." Also, Article 13 states that: "Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that - ... b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation." *See Souratgar v. Fair*, 2012 WL 6700214 (S.D.N.Y., December 26, 2012).

Also, the *Hague Convention on Choice of Court Agreements of June 30, 2005* has been signed by the United States, and provides for the enforcement of choice of court agreements and the recognition and enforcement of judgments of the chosen court in the courts of Contracting States. *See* http://www.hcch.net/upload/conventions/txt37en.pdf. The Uniform Law Commission has been working with the U.S. Department of State and other interested parties, most recently under the auspices of the American Society of International Law, to develop an implementation method for the Choice of Court Convention that will allow that Convention to be implemented by State law to the extent that State law implementation is effective to ensure that the United States meets its treaty obligations under the Convention. The implementation, through revision of the *Uniform Foreign-Country Money Judgments Recognition Act*, has not been accomplished. Additionally, even once the Convention is implemented in a State, Article 9 Refusal of recognition

or enforcement, Section (e), allows for non-recognition if "recognition or enforcement would be manifestly incompatible with the public policy of the requested State, including situations where the specific proceedings leading to the judgment were incompatible with fundamental principles of procedural fairness of that State," which is similar, but not as specific as *American Law for American Courts* legislation.

Mr. ROY. Thank you, Mr. Gelé, for your testimony. Mr. Spencer, I remind you to turn your microphone on, and you have five minutes.

STATEMENT OF ROBERT SPENCER

Mr. SPENCER. Thank you. The U.S. Constitution and Sharia are incompatible, and the conflicts between the two legal systems will grow as Sharia adherents increase in number in the West. This fact has been obscured by misinformation about what Sharia actually is.

When the city of Keller, Texas, scrapped an anti-Sharia resolution in January 2026, the Hamas-linked Council on American–Islamic Relations, CAIR, stated that,

> Like Canon law for Catholics and Halacha for Orthodox Jews, Sharia refers to the rules that Muslims follow, including praying five times a day, fasting in Ramadan, giving in charity, and following the laws of the land in which they live.

If that were really all that Sharia were about, no reasonable person would have any problem with it. CAIR doesn't mention, however, that Sharia is inherently political, supremacist, expansionist, and violent.

Far from being the Islamophobic conspiracy theories of CAIR's imagining, these are facts that Muslim authorities on Sharia openly attest.

The "Reliance of the Traveller," "Umdat al-Salik," is a classic manual of Islamic sacred law, that is, Sharia. In 1990, Dr. Taha Jabir al-Alwani, President of the International Institute of Islamic Thought, as well as President of the Fiqh Council of North America, stated that this Sharia manual was useful as a textbook for teaching Islamic jurisprudence.

The most prestigious institution of Islamic learning in the world, al-Azhar in Cairo, stated in 1991 that the same manual of Sharia "conforms to the practice and faith of the orthodox Sunni Community."

We read in this same guide to Sharia that "jihad means war against non-Muslims," and that it is a communal obligation on the Muslim community. The object of this war is to establish the hegemony of Sharia over the conquered land.

For non-Muslims, this means an institutionalized, highly codified second-class status that denies them basic rights. Non-Muslims living under Sharia must "pay the non-Muslim poll tax," jizya, that is specified in the Koran Verse 929.

This religion-based tax is designed to indicate, as the renowned Islamic scholar Ibn Kathir explained, that the non-Muslims who are paying it are "disgraced, humiliated, and belittled."

The non-Muslims in this State of disgrace and humiliation are not allowed to build new houses of worship or repair old ones, so their communities are in a perpetual State of decline. They are forbidden to make any public display of their religion. They're relegated to the most menial jobs in society, for they are forbidden to hold authority over Muslims. If they say anything critical about Islam, Muhammad, or the Koran, they're liable to be put to death.

From all this it is clear that Sharia is not simply Muslim personal religious law. On the contrary, Sharia-based legal and civic

institutions are contrary to America's founding principles and violate Federal law and the Constitution in numerous particulars.

The death penalty for mentioning what "Reliance of the Traveller" terms as "something impermissible about Allah, the Prophet, or Islam," that is, blasphemy, is directly at variance with First Amendment freedom of speech protections.

The Islamic imperative to establish the hegemony of Sharia as the law of the land, as it is today in the Islamic Republic of Iran, Afghanistan, and elsewhere, is obviously at variance with the First Amendment principle of nonestablishment of a religion.

Even in its personal aspects, Sharia does contradict U.S. law. The Koran states that a man should "beat" a woman from whom "he fears disobedience," that's Chapter 4, Verse 34. Domestic violence is a crime in U.S. law, but it is not a crime under Sharia, and we have the example of what happens in Britain. Britain began establishing Sharia courts several years ago with the understanding that cases that came under the purview of British criminal law would be referred to the British criminal courts.

Instead, the Muslim Arbitration Tribunal on its website urged the Crown Prosecution Service to "reconsider" bringing criminal charges against Muslim men who had been accused of domestic violence.

As this is in the Koran, same thing would happen here. If Sharia is considered divine law, those Muslims who adhere to it always consider that it takes precedence over the laws of the land.

Moreover, emigration to a new land to bring Sharia to it is also an Islamic imperative. The Koran, in Chapter 4, Verse 100, promises a reward from Allah to those who "emigrate for the sake of Allah," which means for the purpose of bringing Sharia to a non-Muslim land.

Thank you.

[The prepared statement of Mr. Spencer follows:]

Robert Spencer
Testimony before Subcommittee on the Constitution and Limited Government
February 10, 2026

The US constitution and Sharia are incompatible, and the conflict between the two legal systems will grow as Sharia adherents increase in number in the West. This fact has been obscured by misinformation about what Sharia is. When the city of Keller, Texas scrapped an anti-Sharia resolution in January 2026, the Council on American-Islamic Relations, CAIR, stated that "like canon law for Catholics and halacha for Orthodox Jews, sharia refers to the rules that Muslims follow, including praying five times a day, fasting in Ramadan, giving in charity, and following the laws of the land in which they live."

If that were really all that Sharia was about, no reasonable person would have any problem with it. CAIR doesn't mention, however, that Sharia is inherently political, supremacist, expansionist, and violent. Far from being the "Islamophobic conspiracy theories" of CAIR's imagining, these are facts that Muslim authorities on Sharia openly attest.

Reliance of the Traveller, or Umdat al-Salik, is a classic manual of Islamic sacred law, that is, Sharia. In 1990, Dr. Taha Jabir al-Alwani, President of the International Institute of Islamic Thought and president of the Fiqh Council of North America, stated that this Sharia manual was useful as "a textbook for teaching Islamic jurisprudence... or as a legal reference for use by scholars, educated laymen, and students."

The most prestigious institution of Islamic learning in the world, al-Azhar in Cairo, stated in 1991 that the same manual of Sharia "conforms to the practice and faith of the orthodox Sunni Community."

We read in this guide to Sharia that "Jihad means to war against non-Muslims," and that jihad is a communal obligation upon the Muslim community. When a Muslim land is attacked, even in defense against its aggression, it becomes personally obligatory upon every Muslim. The object of this war is to establish the hegemony of Sharia over the conquered land. For non-Muslims, this means an institutionalized, highly codified second-class status that denies them basic rights.

Non-Muslims living under Sharia must "pay the non-Muslim poll tax (jizya)" that is specified in the Qur'an. This religion-based tax is designed to indicate, as the renowned Islamic scholar Ibn Kathir explained, that the non-Muslims who are paying it are "disgraced, humiliated and belittled."

The non-Muslims in this state of disgrace and humiliation are not allowed to build new houses of worship or repair old ones, so their communities are in a perpetual state of decline. They are forbidden to make any public display of their religion. They are relegated to the most menial jobs in society, for they are forbidden to hold authority over Muslims. If

they say anything critical about Islam, Muhammad, or the Qur'an, they are liable to be put to death.

From all this it is clear that Sharia is not simply Muslim personal religious law. On the contrary, Sharia law-based legal and civic institutions are contrary to America's founding principles and may violate federal law and the Constitution.

The death penalty for mentioning what Reliance of the Traveller terms "something impermissible about Allah, the Prophet, or Islam," that is, blasphemy, is directly at variance with First Amendment protections of the freedom of speech. The Islamic imperative to establish the hegemony of Sharia as the law of the land, as it is today in the Islamic Republic of Iran, Afghanistan, and elsewhere, is at variance with the First Amendment principle that the United States will not have an established religion.

Even in its personal aspects, Sharia contradicts U.S. law. The Qur'an states that a man should "beat" a woman from whom "he fears disobedience." Domestic violence is a crime in U.S. law, but it is not a crime under Sharia. Britain began establishing Sharia courts several years ago, with the understanding that cases that came under the purview of British criminal law would be referred to the British courts. Instead, the Muslim Arbitration Tribunal on its website urged the Crown Prosecution Service to "reconsider" bringing criminal charges brought against Muslim men who had been accused of domestic violence.

This was no aberration. As Sharia is considered divine law, those Muslims who adhere to it consider it always to take precedence over the laws of the land.

Moreover, emigration to a new land to bring Sharia to it is also an Islamic imperative. The Qur'an promises a reward from Allah to those who "emigrate for the sake of Allah," which means for the purpose of bringing Sharia to a non-Muslim land. Thus the conflict between Sharia and the U.S. Constitution will only grow as the Muslim population in the U.S. grows, for among that population will always be some Muslims who take these imperatives with the utmost seriousness.

Robert Spencer
Testimony before Subcommittee on the Constitution and Limited Government
February 10, 2026

When the city of Keller, Texas scrapped an anti-Sharia resolution in January 2026, the Council on American-Islamic Relations, CAIR, stated that "like canon law for Catholics and halacha for Orthodox Jews, sharia refers to the rules that Muslims follow, including praying five times a day, fasting in Ramadan, giving in charity, and following the laws of the land in which they live."[1]

If that were really all that Sharia was about, no reasonable person would have any problem with it. CAIR doesn't mention, however, that Sharia is inherently political, supremacist, expansionist, and violent. Far from being the "Islamophobic conspiracy theories" of CAIR's imagining, these are facts that Muslim authorities on Sharia openly attest.

It is also important to note that Omar Ahmad, the cofounder and longtime Board chairman of CAIR, once said, "Islam isn't in America to be equal to any other faith, but to become dominant. The Koran should be the highest authority in America, and Islam the only accepted religion on earth."[2]

When these words were initially published in a news report, Ahmad denied saying them; however, the reporter who had been present when Ahmad spoke, Lisa Gardiner of the *Fremont Argus*, maintained that her story was accurate.[3]

Adding to the likelihood that Ahmad's words had indeed been reported accurately was a similar statement from longtime CAIR spokesman Ibrahim Hooper: "I wouldn't want to create the impression that I wouldn't like the government of the United States to be Islamic sometime in the future."[4]

In service of that goal, the Muslim Brotherhood says in a captured internal document that its goal in the United States is "eliminating and destroying Western civilization from within, and sabotaging its miserable house…so that it falls, and Allah's religion is victorious over other religions."[5]

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[1] "CAIR-Texas Welcomes Scrapping of Keller Council's Anti-Muslim 'Sharia' Resolution," Council on American-Islamic Relations (CAIR), January 7, 2026, https://www.cair.com/press_releases/cair-texas-welcomes-scrapping-of-keller-councils-anti-muslim-sharia-resolution/.
[2] Art Moore, "Did CAIR founder say Islam to rule America?," *WorldNetDaily*, December 11, 2006, https://www.wnd.com/2006/12/39229/.

[3] Ibid.

[4] *Minneapolis Star Tribune*, April 4, 1993, quoted in Daniel Pipes and Sharon Chadha, "CAIR: Islamists Fooling the Establishment," *Middle East Quarterly*, Spring 2006, https://www.meforum.org/middle-east-quarterly/cair-islamists-fooling-the-establishment.

[5] Mohamed Akram, "An Explanatory Memorandum on the General Strategic Goal for the Group in North America," May 22, 1991, Government Exhibit 003-0085, US vs. HLF, et al. P. 7 (21),

In 2007, Abdul Alim Musa, an imam in Washington, DC, stated that as far as he was concerned, the goal of Muslims in America should be to "establish an Islamic State of America by 2050."[6]

One of America's best-known Muslim leaders and a highly sought-after figure on the Muslim speaking circuit, Siraj Wahhaj, said in 1992: "If only Muslims were clever politically, they could take over the United States and replace its constitutional government with a caliphate."[7]

These are not the boasts or braggadocio of isolated individuals. They represent a core Sharia imperative.

Reliance of the Traveller, or *Umdat al-Salik*, is a classic manual of Islamic sacred law, that is, Sharia. In 1990, Dr. Taha Jabir al-Alwani, President of the International Institute of Islamic Thought and president of the Fiqh Council of North America, stated that this Sharia manual was useful as "a textbook for teaching Islamic jurisprudence… or as a legal reference for use by scholars, educated laymen, and students."[8]

The most prestigious institution of Islamic learning in the world, al-Azhar in Cairo, stated in 1991 that the same manual of Sharia "conforms to the practice and faith of the orthodox Sunni Community."[9]

We read in this guide to Sharia that "Jihad means to war against non-Muslims," and that jihad is a communal obligation upon the Muslim community.[10] When a Muslim land is attacked, it becomes personally obligatory upon every Muslim. This doesn't mean that every Muslim takes up this obligation, but this is what Islamic law states. The object of this war is to establish the hegemony of Sharia over the conquered land. For non-Muslims, this means an institutionalized, highly codified second-class status that denies them basic rights.

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https://centerforsecuritypolicy.org/wp-content/uploads/2014/05/Explanatory_Memoradum.pdf. Accessed October 30, 2024.

[6] Robert Spencer, "DC Imam wants to establish an 'Islamic State of North America no later than 2050,'" Jihad Watch, November 9, 2007, https://jihadwatch.org/2007/11/dc-imam-wants-to-establish-an-islamic-state-of-north-america-no-later-than-2050.

[7] Laura L. Rubenfeld, "Democrats Embrace Siraj Wahhaj: Supporter of Cop-Killer, Al Qaeda and Hamas," FrontPageMagazine.com, August 29, 2012, https://www.meforum.org/islamist-watch/democrats-embrace-siraj-wahhaj-supporter-of-cop-37450.

[8] Reliance Of The Traveller: The Classic Manual Of Islamic Sacred Law, translated by Nuh Ha Mim Keller (Beltsville, Maryland: Amana Publications, 1997), xviii.

[9] Ibid., xx.

[10] Ibid., 599.

Non-Muslims living under Sharia must "pay the non-Muslim poll tax (jizya)" that is specified in the Qur'an.[11]

The Qur'an states: "Fight against those do not believe in Allah or the last day, and do not forbid what Allah and his messenger have forbidden, and do not follow the religion of truth, even if they are among the people of the book, until they pay the jizya with willing submission and feel themselves subdued." (9:29).

In this passage, Muslims are explicitly directed to make war against and subjugate Jews and Christians, the "People of the Book," who once subjugated enter the *dhimma*, the protection of the Muslims, and become *dhimmis*, protected (or guilty) people. A Qur'an commentary, the *Tafsir al-Sadi,* explains: "This verse contains instructions to fight the disbelievers among the Jews and Christians."[12]

Islamic tradition places this command within the context of Muhammad's attempt to take on the army of the Christian Byzantine, or Eastern Roman, Empire. The renowned Islamic scholar and authority on the Qur'an, Ibn Kathir, says: "Allah commanded His Messenger to fight the People of the Scriptures, Jews and Christians, on the ninth year of Hijrah, and he prepared his army to fight the Romans and called the people to Jihad announcing his intent and destination."[13]

The *Tafsir al-Sadi* adds that the "aim of that fighting" is so that non-Muslims turn over "wealth that is given in return for the Muslims not fighting them and allowing them to stay among the Muslims, granting them safety for their lives and their property."[14] A hadith depicts Muhammad saying: "I have been commanded to fight against people so long as they do not declare that there is no god but Allah, and he who professed it was guaranteed the protection of his property and life on my behalf."[15] That is, his property and life are not protected if he does not make this declaration.

The nineteenth-century Islamic scholar Allamah as-Sawi specifies that the payment of the jizya signifies that the non-Muslims are "humble and obedient to the judgements of Islam."[16] According to legend, the Bedouin commander al-Mughira bin Sa'd explained to the Persian Rustam that he "must pay the jizya while you are in a state of abasement," and elaborated: "You pay it while you are standing and I am sitting and the whip hanging is over your head."[17]

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[11] Ibid., 602.
[12] Abdur-Rahman Nasir as-Sadi, *Tafsir as-Sadi*, Nasiruddin al-Khattab, trans. (Riyadh: International Islamic Publishing House, 2018), IV, 75.
[13] Ibn Kathir, *Tafsir Ibn Kathir* (abridged) (Riyadh: Darussalam, 2000), IV, 405.
[14] *Tafsir as-Sadi*, IV, 75.
[15] *Sahih Muslim* 21a. https://sunnah.com/muslim:21a.
[16] "Surat at-Tawba: Repentance, Tafsir," op. cit.
[17] Ibid.

Ibn Kathir says that the dhimmis must be "disgraced, humiliated and belittled. Therefore, Muslims are not allowed to honor the people of Dhimmah or elevate them above Muslims, for they are miserable, disgraced and humiliated."[18] The seventh-century jurist Sa'id ibn al-Musayyab is said to have declared: "I prefer that the people of the dhimma become tired by paying the jizya since He says, 'until they pay the jizya with their own hands in a state of complete abasement.'"[19] The Qur'anic scholar As-Suyuti elaborates that this verse "is used as a proof by those who say that it is taken in a humiliating way, and so the taker sits and the dhimmi stands with his head bowed and his back bent. The jizya is placed in the balance and the taker seizes his beard and hits his chin."[20] Yet another Islamic scholar, Zamakhshari, agreed that the jizya should be collected "with belittlement and humiliation."[21]

With remarkably little variation, throughout Islamic history whenever Islamic law was strictly enforced, this is generally how non-Muslims were treated. Although today they're often presented as tolerant toward the Christians, Ibn Kathir says that these rules "ensured their continued humiliation, degradation and disgrace."[22] The Christians agreed not to "restore any place of worship that needs restoration"; "ride on saddles, hang swords on the shoulders, collect weapons of any kind or carry these weapons"; or "publicize practices of Shirk," that is, worshiping others besides Allah. They also agreed not to build "crosses on the outside of our churches and demonstrating them and our books in public in Muslim fairways and markets" or "sound the bells in our churches, except discreetly, or raise our voices while reciting our holy books inside our churches in the presence of Muslims, nor raise our voices [with prayer] at our funerals, or light torches in funeral processions in the fairways of Muslims, or their markets."[23]

The twentieth-century *Tafsir Anwarul Bayan* laments that "in today's times, the system of Atonement (Jizya) is not practised at all by the Muslims. It is indeed unfortunate that not only are the Muslim States afraid to impose Atonement (Jizya) on the disbelievers (kuffar) living in their countries, but they grant them more rights than they grant the Muslims and respect them more. They fail to understand that Allah desires that the Muslims show no respect to any disbeliever (kafir) and that they should not accord any special rights to them."[24]

The twentieth-century Muslim Brotherhood theorist Sayyid Qutb argues that these rules should be revived, for "these verses are given as a general statement, and the order to fight

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[18] Ibn Kathir, IV, 406.
[19] "Surat at-Tawba: Repentance, Tafsir."
[20] Ibid.
[21] Ibid.
[22] Ibid.
[23] Ibid.
[24] Muhammad Aashiq Ilahi Bulandshahri, *Illuminating Discourses on the Noble Qur'an* (*Tafsir Anwarul Bayan*), Afzal Hussain Elias and Muhammad Arshad Fakhri, trans. (Karachi: Darul Ishaat, 2005), IV, 441.

the people of the earlier revelations until they pay the submission tax with a willing hand and are subdued is also of general import."[25]

Likewise, the twentieth-century Pakistani politician and Islamic scholar Maulana Maududi states that unbelievers have "absolutely no right to seize the reins of power in any part of God's earth nor to direct the collective affairs of human beings according to their own misconceived doctrines. For if they are given such an opportunity, corruption and mischief will ensue. In such a situation the believers would be under an obligation to do their utmost to dislodge them from political power and to make them live in subservience to the Islamic way of life."[26]

The non-Muslims in this state of disgrace and humiliation are not allowed to build new houses of worship or repair old ones, so their communities are in a perpetual state of decline. They are forbidden to make any public display of their religion. They are always to be humiliated, and so are relegated to the most menial jobs in society, for they are forbidden to hold authority over Muslims. If they say anything critical about Islam, Muhammad, or the Qur'an, they are liable to be put to death.[27]

From all this it is clear that Sharia is not simply Muslim personal religious law. On the contrary, Sharia law-based legal and civic institutions are contrary to America's founding principles and may violate federal law and the Constitution.

The death penalty for mentioning what Reliance of the Traveller terms "something impermissible about Allah, the Prophet, or Islam," that is, blasphemy, is directly at variance with First Amendment protections of the freedom of speech.[28] The Islamic imperative to establish the hegemony of Sharia as the law of the land, as it is today in the Islamic Republic of Iran, Afghanistan, and elsewhere, is at variance with the First Amendment principle that the United States will not have an established religion.

Even in its personal aspects, Sharia contradicts U.S. law. The Qur'an states that a man should "beat" a woman from whom "he fears disobedience."[29] Domestic violence is a crime in U.S. law, but it is not a crime under Sharia. Britain began establishing Sharia courts several years ago, with the understanding that cases that came under the purview of British criminal law would be referred to the British courts. Instead, the Muslim Arbitration Tribunal on its website urged the Crown Prosecution Service to "reconsider" bringing

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[25] Sayyid Qutb, *In the Shade of the Qur'an* (*Fi Zilal al-Qur'an*), M. A. Salahi and A. A. Shamis, trans. (Leicester, England: The Islamic Foundation, 1999), VIII, 126.
[26] Sayyid Abul A'la Mawdudi, *Towards Understanding the Qur'an* (*Tafhim al-Qur'an*), Zafar Ishaq Ansari, trans. (Leicester, England: The Islamic Foundation, 1995), III, 202.
[27] *Reliance of the Traveller*, 608-9.
[28] Ibid., 609.
[29] Qur'an 4:34.

criminal charges brought against Muslim men who had been accused of domestic violence.[30]

The sanction of wife-beating is just the beginning. The Qur'an allows for marriage to pre-pubescent girls, as it stipulates that Islamic divorce procedures "shall apply to those who have not yet menstruated" (65:4). Throughout a woman's life, she is viewed as a possession of a man, to be used as he wills: "Your women are a tilth for you, so go to your tilth as you will" (2:223). Her testimony is worth only half of his: "Get two witnesses, out of your own men, and if there are not two men, then a man and two women, such as you choose, for witnesses, so that if one of them errs, the other can remind her" (2:282). It rules that a son's inheritance should be twice the size of that of a daughter: "Allah directs you as regards your children's inheritance: to the male, a portion equal to that of two females" (4:11).

The Qur'an also allows men to marry up to four wives, and even grants men permission to have sex with slave girls: "If you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two or three or four; but if you fear that ye shall not be able to deal justly, then only one, or one that your right hands possess, that will be more suitable, to prevent you from doing injustice" (4:3).

Islamic law stipulates that a man's prayer is annulled if a dog or a woman passes in front of him as he is praying. A hadith has his favorite wife, Aisha, saying: "The things which annul the prayers were mentioned before me. They said, 'Prayer is annulled by a dog, a donkey and a woman (if they pass in front of the praying people).' I said, 'You have made us (i.e. women) dogs.' "[31]

In another hadith, Muhammad says that most women end up in hell: "I looked into Paradise and I saw that the majority of its people were the poor. And I looked into Hell and I saw that the majority of its people are women."[32] When asked about this, he explained that women were "ungrateful to their companions (husbands) and ungrateful for good treatment."[33] Another version of this has him explaining that women are "deficient in intelligence and religious commitment" – in intelligence because the testimony of one man is equal to that of two women, and in religious commitment because women are not to pray or fast while menstruating.[34]

Saudi Arabia, which bases its legal system strictly upon Sharia, frequently encounters criticism for its discrimination against women: they are not allowed to appear in public

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[30] Tom Peck, "Sharia Courts interfered to protect domestic abusers, MPs told," Independent, October 31, 2016.
[31] Muhammed Ibn Ismaiel Al-Bukhari, *Sahih al-Bukhari: The Translation of the Meanings*, translated by Muhammad M. Khan, Darussalam, 1997, vol. 1, book 8, no. 511.
[32] Bukhari, 6546; Imam Muslim, *Sahih Muslim*, Abdul Hamid Siddiqi, translator, Kitab Bhavan, revised edition 2000, no. 2737.
[33] Bukhari 29.
[34] Bukhari 1951.

without their heads covered, they must have a male "guardian's" permission to venture outside the home, and most notoriously, for many years were not allowed to drive, until Saudi authorities began moving away from strict adherence to Sharia. This was based upon a general concern to prevent "corruption," as one Saudi Islamic scholar detailed: "taking off hijab, loss of modesty, leaving the house too much, streets becoming overcrowded, going against and defying her husband, and depriving some of the youth from driving."[35] The *Washington Post* reported in 2015 that, "because of these factors, international bodies consistently rank Saudi Arabia low on matters of gender equality. In 2014, the World Economics Forum ranked it 130 out of 142 countries in its annual report on gender equality."[36]

Do the Saudis not understand Sharia? Was Saudi Arabia just a hardline Sharia state, while other Muslim countries implemented an interpretation of Sharia that was kinder to women? If so, where exactly was that interpretation of Sharia?

The world's other renowned Sharia state is the Islamic Republic of Iran. Women hardly fare better there than they do in Saudi Arabia. On March 19, 2017, Iranians celebrated the birthday of Fatima, one of the daughters of Muhammad, the prophet of Islam. Iran's Supreme Leader, Ayatollah Ali Khamenei, seized the opportunity to expatiate on the evils of how women are treated in the West. Not surprisingly, he blamed the Jews: "Making women a commodity and an object of gratification in the Western world is most likely among Zionist plots aiming to destroy the society."[37]

That Zionist plot didn't just include the objectification of women, but the very idea of the equality of men and women: "Today, Western thinkers and those who pursue issues such as gender equality regret the corruption which it has brought about."[38]

Did the Ayatollah Khamenei have a superficial understanding of Sharia, confined to the "basics"? Did he misunderstand Sharia? Khamenei is a *marja*, a source of emulation – an honorific given in Shi'ite Islam to clerics who have devoted years to intensive study of Islam, and are therefore to be emulated in their teachings and actions by their followers and students. When a cleric becomes a *marja*, he is given the title Grand Ayatollah, and is considered to be one of the foremost authorities on Shi'ite theology and law. As of this writing, there are only 64 Grand Ayatollahs worldwide for the world's two hundred million Shi'ite Muslims. Khamenei is among them.

Is it likely that this man, who has devoted his life to understanding Islam correctly and communicating it properly, would get it wrong on the crucial questions of gender equality and women's rights?

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[35] "According to Islam is it permissible for women to drive?," Islamquest, September 24, 2006.
[36] Adam Taylor, "The facts — and a few myths — about Saudi Arabia and human rights," *Washington Post*, February 9, 2015.
[37] "Women and men are different in some cases, similar in others," Khamenei.ir, March 19, 2017.
[38] Ibid.

Khamenei wasn't simply expressing his private opinion, either. Human Rights Watch reported that "women's rights are severely restricted in Iran, to the point where women are even forbidden from watching men's sports in stadiums. That ban includes Iran's national obsession – volleyball.... Women confront serious discrimination on issues such as marriage, divorce, and child custody. Women have been sent to jail for publicly speaking out in favor of equal rights for women. Because the government wants Iran's population to grow, it's even moving to ban voluntary medical procedures women can undergo to avoid becoming pregnant. And that's just the beginning."[39]

Julie Lenarz of Britain's Human Security Center charged that in Iran, "women are stoned for being raped."[40] This is because of the assumption, quite widespread among Muslims, that women are responsible for making sure that men are not tempted to commit sexual sins, and likewise responsible if men do so anyway. This is the rationale behind the veil, which is mandatory for women in Iran. In March 2017, the al-Arabiya news agency reported that there had been an increase in acid attacks in Iran, with men spraying acid in the faces of women whom they deemed to be improperly veiled.[41]

On Sept. 16, 2022, in Tehran, the Iranian morality police arrested Mahsa Amini, a 22-year-old woman, for not wearing her hijab properly. Amini later died in a hospital in Tehran, and numerous Iranians charged that she had been tortured to death while in custody.[42] All over the country, protesters took to the streets to protest not against the hijab laws, but against the repressive and brutal Sharia state itself.

Other women, and male protesters as well, were killed as the Iranian regime ruthlessly applied the Qur'anic injunction to "strike terror in the enemies of Allah" (8:60). The protests went on for months until the regime began summarily executing protesters, and even then some indomitably courageous Iranians continued to take to the streets to demand their freedom.

Iran has a women's soccer team that competes internationally. However, in September 2015 the husband of its captain, Niloufar Ardalan, forbade her to participate in the Asian Football Confederation's women's championship competition in Malaysia.[43] This was in accord with Sharia. Radio Free Europe/Radio Liberty reported: "Ardalan says she will not be able to compete in an upcoming tournament in Malaysia because her husband has refused to grant her permission to travel abroad as required by Islamic laws enforced in Iran."[44]

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[39] "Women's Rights In Iran," Human Rights Watch, October 28, 2015.
[40] Benjamin Weinthal, "Iran Sentences Woman to Death by Stoning," *The Jerusalem Post*, December 10, 2015.
[41] "Alarming rates of acid attacks in Iran back on the rise," Al Arabiya, March 20, 2017.
[42] "Two years after Mahsa Amini's death in Iran, protest movement endures harsh persecution," France 24, September 15, 2024.
[43] Golnaz Esfandiari, "Iranian Female Soccer Star Faces Husband-Imposed Travel Ban," Radio Free Europe/Radio Liberty, September 14, 2015.
[44] Ibid.

One of the world's foremost female critics of Islam, Ayaan Hirsi Ali, was a victim of female genital mutilation – the excision of the clitoris – as a child in her native Somalia. Female genital mutilation is a disturbingly common practice among many Muslims. The idea behind it is that this cutting reduces women's sexual pleasure, so as to render them more easily controlled. Sarsour was likely to have known that Hirsi Ali was a victim of female genital mutilation when she wrote her tweet, as Hirsi Ali's harrowing description of what happened to her gained international attention after she wrote about it in her 2007 memoir *Infidel*:

> Grandma caught hold of me and gripped my upper body… Two other women held my legs apart. The man, who was probably an itinerant traditional circumciser from the blacksmith clan, picked up a pair of scissors. With the other hand, he caught hold of the place between my legs and started tweaking it, like Grandma milking a goat…
>
> Then the scissors went down between my legs and the man cut off my inner labia and clitoris. I heard it, like a butcher snipping the fat off a piece of meat. A piercing pain shot up between my legs, indescribable, and I howled. Then came the sewing: the long, blunt needle clumsily pushed into my bleeding outer labia, my loud and anguished protests, Grandma's words of comfort and encouragement… When the sewing was finished, the man cut the thread off with his teeth. That is all I can recall of it.
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> I must have fallen asleep, for it wasn't until much later that day that I realized that my legs had been tied together, to prevent me from moving to facilitate the formation of a scar. It was dark and my bladder was bursting, but it hurt too much to pee. The sharp pain was still there, and my legs were covered in blood. I was sweating and shivering. It wasn't until the next day that my Grandma could persuade me to pee even a little… When I just lay still the pain throbbed miserably, but when I urinated the flash of pain was as sharp as when I had been cut."[45]

Reliance of the Traveller stipulates that "circumcision is obligatory (for every male and female) (by cutting off the piece of skin on the glans of the penis of the male, but circumcision of the female is by cutting out the bazr 'clitoris' [this is called *khufaadh* 'female circumcision'])" (parenthetical and bracketed material as in the original).[46]

Why is it obligatory? Because Muhammad is held to have said so: "Abu al-Malih ibn Usama's father relates that the Prophet said: 'Circumcision is a law for men and a preservation of honour for women.'"[47] Another hadith depicts Muhammad recommending

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[45] Ayaan Hirsi Ali, *Infidel*, Free Press, 2007. Pp. 31-3.
[46] *Reliance of the Traveller*, 64.
[47] Ahmad Ibn Hanbal 5:75; Hamdun Dagher, *The Position of Women in Islam*, Light of Life, 1997.

moderation in the practice, but by no means forbidding it outright: "Narrated Umm Atiyyah al-Ansariyyah: A woman used to perform circumcision in Medina. The Prophet (peace be upon him) said to her: 'Do not cut severely as that is better for a woman and more desirable for a husband.' "[48]

It is commonly claimed to be an East African problem, and indeed, according to an Egyptian government report, 92 percent of Egyptian women between the ages of 15 and 49 had had their genitals mutilated.[49] But female genital mutilation is also common among Muslims in many other areas of the world. 93 percent of Muslim women in Malaysia have suffered this procedure, and it is common also in Indonesia.[50] In one province in Iran, 60 percent of the women have suffered FGM.[51] These extraordinarily high rates are directly related to the encouragement that Muslim clerics give to the practice. An April 2016 *Times of India* report noted that attempts to stamp out the practice in Mumbai had been stymied by a Muslim cleric (from the same Dawoodi Bohra sect to which the Michigan doctors belonged) urging, obliquely but unmistakably, that it be done. Syedna Muffadal Saifuddin declared: "The act has to happen! If it is a man, then it is right, it can be openly done, but if it is a woman then it must be done discreetly, but then the act has to be done. Please understand what I am trying to talk about."[52]

At least some Muslim leaders in non-Muslim countries, including some in the West, agree with Saifuddin. A Muslim cleric in Russia said that "all women should be circumcised."[53] Even in the United States, a leading U.S. Muslim jurist from the Assembly of Muslim Jurists of America (AMJA) said it was an "honor" in Islam.[54]

And so it is becoming more common in the West. A marabout – a Muslim holy man – was arrested in France in 2012 for having it done on his daughters.[55] In the UK, there were 5,500 cases of FGM in 2016 alone.[56]

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[48] Abu-Dawud Sulaiman bin Al-Aash'ath Al-Azdi as-Sijistani, *Sunan abu-Dawud*, Ahmad Hasan, translator, Kitab Bhavan, 1990, no. 5251.
[49] Nick Thompson, "Female genital mutilation: Why Egyptian girls fear the summer," CNN, June 25, 2015.
[50] Gabrielle Paluch, "Female genital cutting in Thailand's south," *Al Jazeera*, April 2, 2015; Marie Dhumieres, "Female genital mutilation persists in Indonesia," *Global Post*, April 16, 2015.
[51] Hajir Sharifi, "Study reveals shocking FGM prevalence in Iran," Rudaw, July 4, 2015.
[52] Mohua Das, "Bohra cleric urges female genital mutilation?," *Times of India*, April 29, 2016.
[53] Roland Oliphant, "Outrage in Russia after religious leaders back female genital mutilation," *The Daily Telegraph*, August 18, 2016.
[54] "AMJA Senior Committee Member: Female Genital Mutilation Is 'an Honor' per Islam," *Translating Jihad*, April 27, 2012.
[55] Craig Mackenzie, "Islamic holy man and his wife are jailed for mutilating the genitals of their four daughters," *Daily Mail*, June 3, 2012.
[56] Sofia Petkar, "REVEALED: Thousands of Female Genital Mutilations STILL taking place illegally in Britain," *Express*, March 7, 2017.

Imam Afroz Ali, founder and president of the Al-Ghazzali Centre for Islamic Sciences and Human Development in Sydney, Australia, declared that "Islamic law permits by definition, by prophetic statement and by practice female circumcision."[57]

And then there is rape. The Western world is facing a rape crisis.

In 2015, there were 62.02 rapes per every 100,000 people in England and Wales. By 2022, that rate had grown to 117.3, second in the entire world only to the tiny Caribbean nation of Grenada.[58] Sweden was sixth in the world in 2022 with 85.6 rapes per 100,000 people, up from 56.29 in 2015.[59] During the same seven-year span, the rape rate in France nearly tripled, going from 20.09 per 100,000 people in 2015 to 58.94 in 2022.[60] In Germany, there was a relatively low 8.56 rapes per 100,000 people in 2015, but by 2022, that rate had almost doubled to 15.06.[61] By comparison, the rape rate in the United States remained fairly static, going from 38.85 in 2015 to 41.82 in 2022.[62]

Meanwhile, in 2016, Muslims comprised 6.1 percent of the population of Germany, 6.3 percent of the United Kingdom, 8.1 percent of Sweden, and 8.8 percent of France.[63] Since then, millions of Muslim migrants have settled in those countries and others in Europe. According to the British Census, "the proportion of the overall population who identified as 'Muslim' increased from 4.9% (2.7 million) in 2011 to 6.5% (3.9 million) in 2021."[64] 800,000 Muslims entered Germany in 2015 alone.[65] Because of the low birth rates among the native populations and the high birth rates among the migrants, many predicted that there would be Muslim majorities in many Western European countries by the end of the twenty-first century.

Did the massive influx of Muslims into Europe account for the sharp rise in rape rates? The reflex action of Western political and law enforcement authorities, as well as the Western media, is to regard such questions as offensive and "Islamophobic," and hence unworthy even to be asked, much less answered. Yet this is not simply an instance of the *post hoc,*

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[57] Rachel Baxendale, "Female circumcision is a right, says imam," *The Australian*, December 24, 2012.
[58] United Nations Office on Drugs and Crime, crime-violent-offenses, https://dataunodc.un.org/crime-violent-offences. Accessed April 17, 2025.
[59] Ibid.
[60] Ibid.
[61] Ibid.
[62] Ibid.
[63] "Europe's Growing Muslim Population," Pew Research Center, November 29, 2017, https://www.pewresearch.org/religion/2017/11/29/europes-growing-muslim-population/. Accessed April 17, 2025.
[64] Prabhu Chawla, "Europe facing identity challenge," New Indian Express, July 15, 2024, https://www.newindianexpress.com/opinions/columns/pc/2024/Jul/15/europe-facing-identity-challenge. Accessed April 17, 2025.
[65] "Germany to Spend $6.6 Billion on 800,000 Refugees and Migrants," NBC News, September 7, 2015, https://www.nbcnews.com/storyline/europes-border-crisis/billions-migrants-germany-spend-6-6b-800-000-newcomers-n422811. Accessed April 17, 2025.

ergo propter hoc fallacy: the rise in rape rates followed a rise in the number of Muslims in Europe, therefore Muslims are responsible for the rise in the number of rapes. However unwelcome the fact may be, there is a good reason to think that Europe's rape problem is a component of its problem with Islam.

This may appear to be counterintuitive at first glance, for rape rates in Muslim countries are generally extremely low. In Pakistan, the rape rate in 2022 was 2.22 per 100,000 people.[66] In Indonesia, the world's most populous Muslim country, it was 0.52 in the same year.[67] In Iraq, it was 2.53 in 2021.[68] So how can it possibly be argued that Muslims are responsible for the rise in the number of rapes in Europe, when they don't commit the same crime in any significant numbers in their home countries?

The answer is twofold. One is that many rapes go unreported in Muslim countries because the behavior involved simply isn't considered a crime. As we shall see, Islamic law, based on words attributed to the Islamic prophet Muhammad himself, forbids a woman to refuse sexual intercourse to her husband under any circumstances. With such a rule in place, how can a rape ever even be said to have occurred? It never could in the context of a marriage; it could only take place when a man forces himself upon a woman who is not his wife.

The second reason is as shocking as it is unmistakable: the Islamic religion forbids the rape of Muslim women, but it does not forbid the rape of non-Muslim women. In fact, the Qur'an specifically allows for this as a legitimate sexual outlet for Muslim men. And such activity doesn't make its way into crime statistics, as it is not considered to be a crime at all.

In light of these two factors, it's no surprise whatsoever that rape rates in Muslim countries would be low to nonexistent, but that mass Muslim migration into Europe would account for the continent's new rape crisis.

"The punishment for rape in Islam," says the popular fatwa site Islam Question & Answer, "is the same as the punishment for zina, which is stoning if the perpetrator is married, and one hundred lashes and banishment for one year if he is not married."[69]

However, several passages of the Qur'an make it not at all clear that the prohibition of rape applies to non-Muslim women at all. The Qur'an tells Muslims to "marry the women who seem good to you, two or three or four, and if you fear that you cannot do justice, then one, or those that your right hands possess. In this way it is more likely that you will not do injustice." (4:3) A bit later, the Qur'an enumerates the women whom a Muslim man is forbidden to marry: "Forbidden to you are your mothers, and your daughters, and your sisters, and your father's sisters, and your mother's sisters…" and so on (4:23). This long list

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[66] United Nations Office on Drugs and Crime, crime-violent-offenses, op. cit.
[67] Ibid.
[68] Ibid.
[69] "What is the ruling on the crime of rape in Islam?," Islam Question & Answer, August 21, 2005, https://islamqa.info/en/answers/72338/punishment-for-rape-in-islam.

concludes with this: “And all married women except those whom your right hands possess.” (4:24)

The renowned medieval Qur’anic scholar, Ibn Kathir, whose commentary on the Qur’an is still widely popular among Muslims today, explains this passage by noting that Muslim males “are prohibited from marrying women who are already married,” but that there is one key exception to this rule: Muslims may marry, or simply have sexual relations, with “those whom you acquire through war, for you are allowed such women after making sure they are not pregnant.”[70] Islamic law doesn’t allow a man to marry a married woman, but this poses no problem when it comes to captive women, for, as one manual of Islamic law stipulates, “when a child or a woman is taken captive, they become slaves by the fact of capture, and the woman’s previous marriage is immediately annulled.”[71]

Ibn Kathir quotes a tradition of Muhammad in which the prophet of Islam allows his men to have sexual relations with captive women; nothing whatsoever is said about obtaining the women’s consent. “Imam Ahmad recorded that Abu Sa’id Al-Khudri said, ‘We captured some women from the area of Awtas who were already married, and we disliked having sexual relations with them because they already had husbands. So, we asked the Prophet about this matter, and this Ayah [verse] was revealed…Consequently, we had sexual relations with these women.’”[72] Ibn Kathir adds that other respected Islamic authorities agree on this, including “At-Tirmidhi, An-Nasa’i, Ibn Jarir and Muslim in his Sahih.”[73]

The hadith collection Sahih Muslim, which Muslims consider along with Sahih Bukhari to be the most reliable source of traditions about Muhammad, contains a version of this story that differs only slightly from the one that Ibn Kathir records. Muhammad’s men hesitate before engaging in sex with the women they have captured, but once again neither the women’s marital status nor their consent is the issue. Instead, they are unsure that they should go ahead “because of their husbands being polytheists.”[74] Muhammad, however, tells them that it is all right to go ahead.

Sahih Muslim also contains another variant of this tradition, in which the men hesitate because they hope to exchange the captive women for ransom:

> Abu Sirma said to Abu Sa‘id al Khadri (Allah he pleased with him): O Abu Sa‘id, did you hear Allah’s Messenger mentioning al-azl [*coitus interruptus*]? He said: Yes, and added: We went out with Allah’s Messenger on the expedition to the Bi‘l-Mustaliq and took captive some excellent Arab women; and we desired them, for we were

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[70] Ibn Kathir, *Tafsir Ibn Kathir* (abridged) (Riyadh: Darussalam, 2000), II, 422.
[71] Ahmed ibn Naqib al-Misri, *Reliance of the Traveller (‘Umdat al-Salik): A Classic Manual of Islamic Sacred Law*, translated by Nuh Ha Mim Keller, (Amana Publications, 1999), o9.1-2.
[72] Ibn Kathir, II, 422, op. cit.
[73] Ibid.
[74] Muslim ibn al-Hajjaj, *Sahih Muslim*, translated by Abdul Hamid Siddiqi, (New Delhi: Kitab Bhavan), revised edition 2000, no. 3432.

> suffering from the absence of our wives, (but at the same time) we also desired ransom for them. So we decided to have sexual intercourse with them but by observing azl (Withdrawing the male sexual organ before emission of semen to avoid-conception). But we said: We are doing an act whereas Allah's Messenger is amongst us; why not ask him? So we asked Allah's Messenger, and he said: It does not matter if you do not do it, for every soul that is to be born up to the Day of Resurrection will be born.[75]

Once again, no one involved seems troubled in the slightest degree by the question of whether or not these women consent to sexual intercourse. They are captives. They are slaves. Consent is simply not a factor.

Not in marriage, either

In fact, consent wasn't a factor in Islamic marriage, either. A hadith depicts Muhammad saying: "If a husband calls his wife to his bed [i.e. to have sexual relation] and she refuses and causes him to sleep in anger, the angels will curse her till morning."[76]

And: "By the One in Whose Hand is the soul of Muhammad! No woman can fulfill her duty towards Allah until she fulfills her duty towards her husband. If he asks her (for intimacy) even if she is on her camel saddle, she should not refuse.'"[77]

If wives had no right to refuse sexual relations, what chance did slave women have?

A twentieth-century commentary on the Qur'an, the *Tafsir Anwarul Bayan*, reflects the same understanding of the passage, and defends the practice as a just punishment for the unbelievers' refusal to accept Islam: "During Jihad (religion war), many men and women become war captives. The Amirul Mu'minin [leader of the believers, or caliph—an office now vacant] has the choice of distributing them amongst the Mujahidin [warriors of jihad], in which event they will become the property of these Mujahidin. This enslavement is the penalty for disbelief (kufr)."[78]

The same Qur'an commentary specifies that the rules about taking infidel women captive and enslaving them do not apply only to the Muslims of Muhammad's time, but for all time: "None of the injunctions pertaining to slavery have been abrogated in the Shari'ah. The reason that the Muslims of today do not have slaves is because they do not engage in Jihad (religion war). Their wars are fought by the instruction of the disbelievers (kuffar) and are halted by the same felons. The Muslim [sic] have been shackled by such treaties of the

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[75] Ibid., no. 3371.
[76] Sahih Bukhari 4.54.460, https://sunnah.com/bukhari:3237. Accessed March 20, 2025.
[77] Ibn Majah 1853, https://sunnah.com/ibnmajah:1853. Accessed March 20, 2025.

[78] Muhammad Aashiq Ilahi Bulandshahri, *Illuminating Discourses on the Noble Qur'an* (*Tafsir Anwarul Bayan*), Afzal Hussain Elias and Muhammad Arshad Fakhri, trans. (Karachi: Darul Ishaat, 2005), I, 501.

disbelievers (kuffar) whereby they cannot enslave anyone in the event of a war. Muslims have been denied a great boon whereby every home could have had a slave. May Allah grant the Muslims the ability to escape the tentacles of the enemy, remain steadfast upon the Din (religion) and engage in Jihad (religion war) according to the injunctions of Shari'ah. Amen!"[79]

The Qur'an returns to the theme of the captives of the right hand later, stating: "O prophet, indeed, we have made lawful to you your wives to whom you have paid their dowries, and those whom your right hand possesses of those whom Allah has given you as spoils of war," and on through the list of women with whom sexual relations are permitted (33:50). From this passage we learn that "those whom your right hands possess" are "the spoils of war," just as a Pakistani Christian had stated about how the Muslims in his country viewed non-Muslim women.

Another Qur'anic passage makes it absolutely clear that Muslim men may use those whom their right hands possess in a sexual manner: "The believers are successful indeed, who are humble in their prayers, and who shun vain conversation, and who give alms, and who guard their private parts, except from their wives or those that their right hands possess, for then they are not blameworthy." (23:1-6)

Another influential commentary on the Qur'an, the Tafsir al-Jalalayn, explains this verse in a straightforward manner: one must guard one's private parts "except from their wives or those they own as slaves, in which case they are not blameworthy in approaching them."[80] A twentieth-century Islamic scholar of international renown, Syed Abul Ala Maududi, agrees, saying that in this Qur'an verse, "it is made clear that one need not guard one's private parts from two kinds of women – one's wives and slave-girls."[81]

One other Qur'an passage reiterates the major points of all this: "Indeed, the torment of their Lord is before which no one can feel secure and those who preserve their chastity except with their wives and those whom their right hands possess, for thus they are not blameworthy." (70:28-30)

Islam Question & Answer contains this question: "In Ar-Raheeo Al Makhtum (The Sealed Nectar)," a popular biography of Muhammad, "the author says in the section called 'The Prophet Household' that the Prophet (S.A.W.) had four concubines. 1. Why is it that having concubines is not haram? 2. Can other muslims have concubines?"[82]

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[79] Ibid., I, 502.
[80] Jalalu'd-Din al-Mahalli and Jalalu'd-Din as-Suyuti, *Tafsir al-Jalalayn*, translated by Aisha Bewley (London: Dar Al Taqwa Ltd., 2007), 730.
[81] Sayyid Abul A'la Mawdudi, *Towards Understanding the Qur'an* (*Tafhim al-Qur'an*), Zafar Ishaq Ansari, trans. (Leicester, England: The Islamic Foundation, 1995), VI, 81.
[82] "What is the Ruling on Intimacy with Slave Women?," Islam Question & Answer, March 18, 2004, https://islamqa.info/en/answers/13737/what-is-the-ruling-on-intimacy-with-slave-women. Accessed March 4, 2025.

The answer begins: “With regard to your question about it being permissible for a master to be intimate with his slave woman, the answer is that that is because Allaah has permitted it.”[83] The author of the fatwa then quotes the Qur’an passage (23:6) about guarding one’s private parts except from his wives and those whom his right hand possesses. He offers one caveat, that the slave woman must not have been sold to someone else: “That is subject to the condition that he has acquired her in a proper manner, and that this slave woman has not been given by her master in marriage to another man to whom she is still married. The reason why this is permitted is that this slave woman belongs to him, either because he has paid money to buy her or he has fought for the sake of Allaah (and acquired her among the war booty).”[84]

The fact that the slave woman must have been taken as the spoils of war was all-important. The site quotes a Shaykh al-Shanqeeti saying: “The reason for which people may be taken as slaves is if they are kaafirs [unbelievers] who are waging war against Allaah and His Messenger. If Allaah grants victory to the mujaahid [jihadist] Muslims, who are offering their souls, their wealth and all their resources and everything that Allaah has given them so that the word of Allaah might prevail over the kuffaar [unbelievers], then these kuffaar may become slaves, unless the imam chooses to let them go or to ransom them if that serves the interests of the Muslims.”[85]

So Islam forbids rape, but it is clear from the Qur’an, the words of Muhammad according to Islamic tradition, and Islamic scholars that using captive women sexually is not considered rape. Infidel women can be taken as spoils of war, and what happens to them after that is entirely at the discretion of their Muslim captors.

Islam is unique even in comparison to the acceptance of rape as a weapon of warfare in other cultures, for it combines all of these motivations. Infidel women are taken as the spoils of war, but the goal is ultimately the expansion of the Islamic community and the diminishment of the infidel community. And so rape of infidel women is also useful as a means to humiliate the defeated infidel force, as well as a means of social control and to aid in the redrawing of ethnic boundaries. On top of all that is the divine sanction given to it all. Rape of infidel women in a jihad war is not just something the commanders permit, as a means to humiliate the infidels. It is a holy act.

Many would insist, however, that none of this illuminates the question of whether Islam condones the rape of infidel women, for in our own day, such rapes do not take place in the context of a war, as no war currently exists between the Islamic world and non-Muslims. However, this is to take a Western and modern view of what constitutes warfare.

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[83] Ibid.
[84] Ibid.
[85] Ibid.

Islamic law regarding the obligation to jihad establishes a situation in which, at least in modern times, a state of perpetual war exists between the Islamic world and non-Muslims. Classic Sunni law stipulates that jihad is *fard kifaya*, that is, a general obligation upon the entire Muslim community. If some of the Muslims are discharging the responsibility of waging jihad, others need not do so. A manual of Islamic law explains that "jihad is a communal obligation….When enough people perform it to successfully accomplish it, it is no longer obligatory upon others."[86]

However, there is a significant caveat. If infidels attack a Muslim land, the obligation to jihad becomes *fard ayn,* that is, required from each individual in the entire Muslim community worldwide. Once infidels attack, jihad is "obligatory for everyone" when "the enemy has surrounded the Muslims…on every side, having entered our territory, even if the land consists of ruins, wilderness, or mountains, for non-Muslim forces entering Muslim lands is a weighty matter that cannot be ignored, but must be met with effort and struggle to repel them by every possible means." [87] In such cases, "every able bodied man who has reached puberty and is sane" must wage jihad.[88]

Nowadays, numerous Islamic authorities have pointed to the American incursions in Iraq and Afghanistan, as well as to the very existence of the state of Israel, to declare that the infidels are at war with Islam, and thus jihad is obligatory upon every Muslim. In this scenario, a Muslim who travels to Britain or France or Germany and rapes a woman may consider that he is entirely justified in doing so, in light of the Qur'an's permission to use the "captives of the right hand" in this way. They are, after all, the spoils of war.

The Qur'an itself also provides justification for the idea that perpetual war exists between Muslims and non-Muslims when it says: "And fight them until persecution is no more, and religion is all for Allah." (8:39). If Muslims are to fight non-Muslims until there is no more persecution, then the fighting has an end point. If, on the other hand, Muslims must fight on until "religion is all for Allah," then they must continue fighting even against those who are minding their own business, but whose religion is not "for Allah." This establishes endless warfare between Muslims who take this command to heart and the non-Muslim world, and allows for non-Muslim women to be violated as the spoils of war in virtually any circumstance.

Non-Muslim women also bring all this upon themselves by not obeying Islam's modesty laws, as Islam Question & Answer argued. The Qur'an says: "O prophet, tell your wives and your daughters and the women of the believers to draw their veils close around them. That will be better, so that they may be recognized and not molested. Allah is always forgiving, merciful." (33:59) The implication of this is clear: women who cover themselves are not to

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[86] *Reliance of the Traveller,* o9.1-2, op. cit.
[87] Ibid.
[88] Ibid.

be molested, but those who do not are fair game, as the veil is protection against molestation.

There is no shortage of contemporary authorities who have advocated for this practice, which is understandable, given its widely recognized Qur'anic foundation. In February 2004, a Muslim in Britain asked the South African Mufti Ebrahim Desai was asked on his own fatwa site, Islam Q & A Online, a series of questions on this topic. The questioner began by explaining: "Recently I saw a question on the status of women taken as prisoners during Jihad."[89] His questions included one that had in mind the well-being of the captive woman, as well as the apparent transgression of the Islamic marriage vow that would be involved in having sex with slave women: "Don't you think sex without marriage is a disgrace to that particular woman? Please give a detailed reply to this point as to why sex is allowed without marriage."[90]

The questioner also asked: "To what sort of women does this rule apply. I mean can they be ordinary citizens (mothers/sisters/wives of men) of any city Muslims capture or they must have taken part in the battle against Muslims so that this rule may apply to them."[91]

The mufti began his answer by exonerating Islam of any role in originating slavery, although this had nothing to do with anything the questioner had asked about: "Firstly, it should be borne in mind that slavery was not something that was introduced by Islam; on the contrary, it was something that had its roots planted long before the advent of Islam. It would not be an exaggeration to state that slavery is probably as old as war itself, because it is one of the consequences of war."[92]

After a lengthy justification of the practice of enslaving prisoners of war, Desai said: "In the 'Jihads' (Islamic wars) that took place, women were also, at times, taken as prisoners of war by the Muslim warriors. These women captives used to be distributed as part of the booty among the soldiers, after their return to Islamic territory. Each soldier was then entitled to have relations ONLY with the slave girl over whom he was given the RIGHT OF OWNERSHIP and NOT with those slave girls that were not in his possession. This RIGHT OF OWNERSHIP was given to him by the 'Ameerul-Mu'mineen' (Head of the Islamic state.) Due to this right of ownership, it became lawful for the owner of a slave girl to have intercourse with her."[93]

"It may, superficially, appear distasteful," Desai continued, "to copulate with a woman who is not a man's legal wife, but once Shariah makes something lawful, we have to accept it as

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[89] "Recently I saw a question on the status of women taken as prisoners during Jihad." Islam Q & A Online with Mufti Ebrahim Desai, February 24, 2004, https://www.webcitation.org/mainframe.php. Accessed March 6, 2025.
[90] Ibid.
[91] Ibid.
[92] Ibid.
[93] Ibid.

lawful, whether it appeals to our taste, or not; and whether we know its underlying wisdom or not."[94] He nonetheless went on to explain that wisdom, saying that "the LEGAL possession that a Muslim receives over a slave woman from the 'Ameerul-Mu'mineen' (the Islamic Head of State) gives him legal credence to have coition with the slave woman in his possession, just as the marriage ceremony gives him legal credence to have coition with his wife. In other words, this LEGAL POSSESSION is, in effect, a SUBSTITUTE of the MARRIAGE CEREMONY."[95] Since "a slave girl can be possessed and even bought and sold, thus, this right of possession, substituting as a marriage ceremony, entitles the owner to copulate with her."[96]

As a result, "permission to have intercourse with a slave woman was not something barbaric or uncivilised; on the contrary, it was almost as good as a marriage ceremony."[97] What if she was already married? The mufti has a ready answer: "if a slave woman was married previously in enemy territory to a non-Muslim, and is then captured alone, i.e. without her husband, it is not permissible for any Muslim to have relations with her until her previous marriage is nullified, and that is done by bringing her to an Islamic country and making her the legal possession of a Muslim."[98]

Desai explains that it is not only not necessary to marry a slave woman, or even possible to do so. This is because Islamic law requires that the groom give his bride a dowry; as a slave doesn't own anything, but everything she has is the property of her owner, it is not possible to give her anything that would become her own. And so no dowry, and hence no marriage, is even possible.

Mufti Desai argued that "it would be difficult to implement" this system today, "because of the stringent conditions attached to it. Firstly, the prisoners have to be captured in 'Jihaad' in the true sense of the word. Then again, If true 'Jihaad' did break out somewhere, there are still a number of other laws and conditions to abide by which are far too stringent for any Islamic country in the world to abide by in this time and age when people's personal gains and whims and desire are being given preference to [sic] over Islamic Law."[99]

This would appear to rule out the abuse of infidel women in this way today, but that actually depends on the point of view of individual Muslims as to whether jihad is being waged against unbelievers today. The mufti did maintain that if jihad is being waged, taking slave women as spoils of war was an integral part of that struggle: "According to Islamic Law, captive female prisoners are also part and parcel of the booty…The Ameerul-Mu'mineen (Head of the Islamic State) remains the guardian of the female prisoners until he allocates

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[94] Ibid.
[95] Ibid.
[96] Ibid.
[97] Ibid.
[98] Ibid.
[99] Ibid.

them to the soldiers. Only after a soldier has been allotted a slave girl, and made the owner of her, will she become his lawful possession."[100]

Another online fatwa site, IslamQA.com, gave the same view: "Islam allows a man to have intercourse with his slave woman, whether he has a wife or wives or he is not married."[101] This teaching "is indicated by the Qur'aan and Sunnah, and this was done by the Prophets. Ibraaheem (peace be upon him) took Haajar as a concubine and she bore him Ismaa'eel (may peace be upon them all). Our Prophet (peace and blessings of Allaah be upon him) also did that, as did the Sahaabah, the righteous and the scholars. The scholars are unanimously agreed on that and it is not permissible for anyone to regard it as haraam or to forbid it. Whoever regards that as haraam is a sinner who is going against the consensus of the scholars."[102]

The site states that "the scholars are unanimously agreed that it is permissible," and quotes one such scholar, Ibn Qudaamah, saying: "There is no dispute (among the scholars) that it is permissible to take concubines and to have intercourse with one's slave woman, because Allaah says..." Then the site quotes Qur'an 70:28-30: "Indeed, the torment of their Lord is before which no one can feel secure and those who preserve their chastity except with their wives and those whom their right hands possess, for thus they are not blameworthy." (70:28-30)

As a result, the fatwa says, "the wife has no right to object to her husband owning female slaves or to his having intercourse with them."[103] Another fatwa on the IslamQA site answers the question of whether a married Muslim man commits adultery by having sex with his slave: "Allaah has permitted intimacy with a slave woman if the man owns her. This is not regarded as adultery as suggested in the question."[104]

In May 2011, an Egyptian sheikh, Abu-Ishaq al-Huwayni, began a justification of the sexual enslavement of infidel women by situating it within Islam's doctrine of jihad. Al-Huwayni began by noting that the modern era was one of war between Muslims and non-Muslims, and that Muslims should regard this as a positive development: "We are in the era of jihad. The era of jihad has come over us, and jihad in the path of Allah is a pleasure. It is a real pleasure. The companions (of the Prophet) used to compete to (perform jihad)."[105] Al-

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[100] Ibid.
[101] "Ruling on having intercourse with a slave woman when one has a wife," IslamQA.com, June 12, 2011, https://www.webcitation.org/query?url=http://www.islamqa.com/en/ref/10382&date=2011-06-13. Accessed March 6, 2025.
[102] Ibid.
[103] Ibid.
[104] "Intercourse with a slave woman is not regarded as zina (adultery)," IslamQA.com, December 26, 2002, https://islamqa.info/en/answers/20802/intercourse-with-a-slave-woman-is-not-regarded-as-zina-adultery. Accessed March 6, 2025.
[105] "Egyptian Shaykh: Jihad Is Solution to Muslims' Financial Problems," *Translating Jihad*, May 31, 2011, in Billy Hallowell, "Egyptian Cleric: Poverty Can be Solved by Selling Humans 'Like Groceries,'" Blaze Media,

Huwayni stated, in accord with the Qur'an's guarantee to the righteous of prosperity in this world as well as the next (24:55), that the Muslim community was not doing so well because of its failure to obey Allah's commands to wage jihad: "The poverty that we're in—is it not due to our abandonment of jihad? But if we could conduct one, two, or three jihadist operations every year, many people throughout the earth would become Muslims."[106]

If Muslims returned to waging jihad, they would be able to take captives, and profit from doing so. *Da'wa* is the call to unbelievers to accept Islam, which in Islamic theology should precede jihad, with jihad being waged against those who decline the invitation to convert to Islam:

> And whoever rejected this *da'wa*, or stood in our way, we would fight against him and take him prisoner, and confiscate his wealth, his children, and his women—all of this means money. Every *mujahid* who returned from jihad, his pockets would be full. He would return with three or four slaves, three or four women, and three or four children. Multiply each head by 300 *dirhams*, or 300 *dinar*, and you have a good amount of profit. If he were to go to the West and work on a commercial deal, he would not make that much money. Whenever things became difficult (financially), he could take the head (i.e. the prisoner) and sell it, and ease his (financial) crisis. He would sell it like groceries.[107]

After his remarks sparked a controversy, al-Huwayni appeared on an Islamic television channel, al-Hikma TV, on May 22, 2011 in order to clarify his remarks. The chief cause of the controversy, however, was not that al-Huwayni had spoken about buying and owning slaves, but that he had given some of his hearers the impression that he was saying that Muslims could be enslaved. He thus hastened to assure his television audience that he had meant to speak only of the enslavement of non-Muslims. First, he outlined Islamic doctrine regarding waging war against infidels, including the right of the victorious jihad warriors to seize the spoils of war from their vanquished enemies:

> It is clear that offensive jihad, which I was talking about in that interview, that its purpose is to call people to Islam, and it is not permissible for anyone to hide the divine guidance from the people, under any name. They rejected Islam and the jizya, that's it. The Prophet (PBUH) said: "If they refuse, then seek Allah's aid and fight them." If fighting occurs, there is going to be a winner and a loser. If the army of the Muslims is victorious, it will take spoils. Taking spoils is a fixed ruling in the Qur'an. Allah permitted it at the day of the Battle of Badr, as it is (recorded) in Surat al-Anfal. Allah Almighty said: "And know that out of all the booty that ye may acquire (in war),

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June 1, 2011, https://www.theblaze.com/news/2011/06/01/egyptian-muslim-cleric-poverty-can-be-solved-by-selling-humans-like-groceries. Accessed March 6, 2025.
[106] Ibid.
[107] Ibid.

> a fifth share is assigned to Allah, and to the Messenger, and to near relatives, orphans, the needy, and the wayfarer, if ye do believe in Allah and in the revelation We sent down to Our servant on the Day of Testing, the Day of the meeting of the two forces. For Allah hath power over all things" [Qur'an 8:41].[108]

Al-Huwayni emphasized that his position was firmly rooted in Islamic tradition, based on the teachings of the two collections of hadiths, traditions of Muhammad's words and deeds, that Muslims considered most reliable, Sahih Bukhari and Sahih Muslim. The taking of the spoils of war, he said, was a special privilege that Allah gave to the followers of Muhammad, although he had not given any similar privilege to any of the followers of earlier prophets:

> This (position) on spoils is clear. There is also the saying in the two Sahihs [Sahih Bukhari and Sahih Muslim] from Abi-Hurayra, the first of which is, "One among the prophets (PBUH) raided…" In the other hadith from Yusha bin Nun, the Prophet (PBUH) said, "When Allah saw our weakness, he made it permissible for us," meaning spoils. The Prophet (PBUH) said, "Spoils were not permitted for any masters besides you." Allah Almighty forbade (the taking of) spoils for all nations before us. He permitted it on the day of the Battle of Badr, as agreed to by all scholars. Not a single Muslim scholar has a problem with this.[109]

Al-Huwayni emphasized that these spoils of war included not just the belongings of defeated enemy warriors, but prisoners as well, provided that they were not Muslims:

> "Spoils" refers to what? It refers to people and wealth. The people are those who are taken prisoner. I want to say that it is not at all permissible to take prisoners from among Muslims, even if they are heretics, because the rule for Muslims is that they are free, and not prisoners. Jihad, as I stated in the beginning, is between Muslims and non-Muslims, from among the infidels. But if two Muslims fought each other, like from Iraq and Iran for example; if Iraq invaded Iran to occupy it, it would not be permissible for an Iraqi man to take a Shi'ite woman captive, because she is Muslim, even though she's a heretic. Likewise if Iran invaded Iraq, it would not be permissible for one of their men to take a Muslim woman captive, because she is free.[110]

Non-Muslims, however, could not expect the same protections:

> Therefore jihad is only between Muslims and infidels. That between Muslims and Muslims is called oppression, or fighting: "If two parties among the believers fall into

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[108] Shaykh Abu-Ishaq al-Huwayni, "When I want a sex slave, I just go to the market and choose the woman I like and purchase her," al-Hikma TV, May 22, 2011, https://wikiislam.net/wiki/Qur%27an,_Hadith_and_Scholars:Rape_of_Slaves,_Prisoners,_and_Wives. Accessed March 6, 2025.
[109] Ibid.
[110] Ibid.

> a quarrel…" [Qur'an 49:9]. They are called "believers," and this name is not taken from them, even though they are fighting. "If one of them transgresses beyond bounds against the other, then fight ye (all) against the one that transgresses…" Here they are called transgressors, but the name of believers is still not taken away from them. In the verse directly following this one, Allah Almighty says: "The believers are but a single brotherhood…" They were brothers, even though a party of them transgressed against the other, and some of them fought each other. But the name of believers was not taken from them.

Al-Huwayni concluded that this meant that Muslim warriors could legitimately seize non-Muslim women as sex slaves:

> Do you understand what I'm saying? Spoils, slaves, and prisoners are only to be taken in war between Muslims and infidels. Muslims in the past conquered, invaded, and took over countries. This is agreed to by all scholars — there is no disagreement on this from any of them, from the smallest to the largest, on the issue of taking spoils and prisoners. The prisoners and spoils are distributed among the fighters, which includes men, women, children, wealth, and so on.[111]

Al-Huwayni invoked Qur'an passages on "those whom your right hands possess" to justify this teaching:

> When a slave market is erected, which is a market in which are sold slaves and sex-slaves, which are called in the Qur'an by the name milk al-yamin, "that which your right hands possess" [Qur'an 4:24]. This is a verse from the Qur'an which is still in force, and has not been abrogated. The milk al-yamin are the sex-slaves. You go to the market, look at the sex-slave, and buy her. She becomes like your wife, (but) she doesn't need a (marriage) contract or a divorce like a free woman, nor does she need a wali [guardian or protector]. All scholars agree on this point — there is no disagreement from any of them.

These slaves could still enter paradise if they converted to Islam. Their slavery would thus lead to their salvation:

> These are called slaves. The Prophet (PBUH) talked about them in the hadith narrated by al-Bukhari in his Book of Jihad: "Allah is delighted at a people who enter the Garden in chains." Also as narrated by Abu-Dawud: "They are led to the Garden in chains." Naturally, many people might not understand someone being jerked along in chains in order to enter the Garden. This is because all people, even the worst of the unbelievers, say the garden is for them and no others. They run to the Garden without anybody pulling them in chains.

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[111] Ibid.

> The meaning of the hadith is this: these slaves were in a religion other than Islam. However, when they were conquered, and defeated, and taken prisoner, they came to live in the land of Islam. Then when they witnessed the justice, compassion, and mercy of Islam, they became Muslims. These did not convert to Islam except in the chains of war. If they had not been chained, bound, and had their freedom taken from them, they would not have converted to Islam. Therefore this hadith is referring to these slaves.[112]

The possibility that a slave could turn to Allah and ultimately enter paradise, as well as Qur'anic commands to free individual slaves under certain prescribed circumstances, amounted for al-Huwayni to the idea that Islam actually forbids slavery:

> I am very shocked and surprised at those who say that we permit slavery. We don't call people to become slaves. In fact, there are vows to free the necks (i.e. slaves). The same Islam which permits us to take slaves, also urges us to free their necks....[113]

However, just as forcing a slave to engage in sexual intercourse was not rape, so also the sex slavery as allowed in the Qur'an and sanctified by the example of Muhammad was perfectly acceptable as far as al-Huwayni was concerned, and he didn't appear to see any contradiction between approving of this practice and insisting that Islam did not permit slavery. He continued:

> When I want a sex slave, I just go to the market and choose the woman I like and purchase her. I choose the man I like, one with strong muscles, or if I want a boy to work in the house, and so forth. I choose one, and pay him a wage. I employ him in a variety of different tasks, then I sell him afterwards. Now, the country that I entered and took captive its men and women — does it not also have money, gold, and silver? Is that not money? When I say that jihad — offensive jihad — with the well-known conditions that I already mentioned from the hadith of the Prophet (PBUH), from the hadith of Burayda in Sahih Muslim, the coffers of the Muslims were full. Would someone who is pious and intelligent — would he say that this is a type of poverty? Or that it is a type of wealth? No — this will fill the coffers of the Muslims with riches and wealth, but as we said, with the recognized conditions.[114]

Another voice justifying the seizure and enslavement of infidel women was a female Kuwaiti politician, Salwa al-Mutairi, who in a May 2011 video unhesitatingly recommended the practice:

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[112] Ibid.
[113] Ibid.
[114] Ibid.

Peace, mercy, and blessings of Allah be upon you. My name is Salwa al-Mutairi. I received a message that was a little strange. A merchant told me that he would like to have a sex slave. He said he would not be negligent with her, and that Islam permitted this sort of thing. He was speaking the truth. The topic that he brought up is an old topic. I have been working on it for two years now.

I was working with this man, a young man, who (liked) women a lot. I was sympathetic to his situation, and also dedicated to my work. I was given the opportunity to visit Mecca, and when I did so, I brought up (this man's) situation to the muftis in Mecca. I told them that I had a question, since they were men who specialized in what was *halal*, and what was good, and who loved women. I said, "What is the law of sex slaves?"

The mufti said, "With the law of sex slaves, there must be a Muslim nation at war with a Christian nation, or a nation which is not of the religion, not of the religion of Islam. And there must be prisoners of war."

"Is this forbidden by Islam?" I asked.

"Absolutely not. Sex slaves are not forbidden by Islam. On the contrary, sex slaves are under a different law than the free woman. The free woman must be completely covered except for her face and hands. But the sex slave can be naked from the waist up. She differs a lot from the free woman. While the free woman requires a marriage contract, the sex slave does not—she only needs to be purchased by her husband, and that's it. Therefore the sex slave is different than the free woman."

Of course, I also asked religious experts in Kuwait (about this issue), and they told me about the problem with the passionate man, or even the man who is committed to his religion. For every good man in our religion, the only solution for him—when forbidden women come around, if he's tempted to sin, then the solution to this issue is for him to purchase sex slaves. I hope that Kuwait will enact the law for this category, this category of people—the sex slaves....

I hope that a law will be enacted for this category, and they will open the door for this, just as they have opened the door for servants (to come into the country). They should open the door for sex slaves, by enacting a sound law, so that our children don't waste away in the abyss of adultery and moral depravity. Allah-willing, this will work out. I believe, look, the (sex slaves could come from) a country like Chechnya, where there is a war between an (Islamic) state and another state. Certainly there are prisoners. These prisoners could be purchased. They could be purchased and sold to the merchants in Kuwait. This is better than (the merchants) committing that which is forbidden. There is nothing wrong with this.

> Harun al-Rashid [the Abbasid caliph from 786 to 809] had many more sex slaves than this. When he died he had 2,000 sex slaves. But he only had one wife. This was not forbidden. Our *shari'a* permits such a thing as this. Praise be to Allah, here in Kuwait there are many merchants who are committed (to Islam). I hope the best for Kuwait, Allah-willing.[115]

> A Muslim state must [first] attack a Christian state—sorry, I mean any non-Muslim state—and they [the women, the future sex-slaves] must be captives of the raid. Is this forbidden? Not at all; according to Islam, sex slaves are not at all forbidden. Quite the contrary, the rules regulating sex-slaves differ from those for free women [i.e., Muslim women]: the latter's body must be covered entirely, except for her face and hands, whereas the sex-slave is kept naked from the bellybutton on up—she is different from the free woman; the free woman has to be married properly to her husband, but the sex-slave—he just buys her and that's that.[116]

The popular Saudi preacher Muhammed al-Arifi echoed all this in a fatwa that granted jihad warriors in Syria permission to engage in "intercourse marriage" with captive women.[117] He warned them, however, that this "intercourse marriage" should be of a brief duration, "in order to give each fighter a turn." He said that women who complied with this would gain a place in paradise, as the practice "boosts the determination of the Mujahideen in Syria." These women did, however, have to be at least fourteen years old, and divorced or widowed.

Another Saudi Islamic scholar, Sheikh Saleh Al-Fawzan, agreed. In a February 2018 lecture, he noted:

> The Muslims captured women in the [630] Battle of Awtas....They took from the [infidels] money and women as booty. The Companions of the Prophet Muhammad became confused. It was customary for the owners of women captured at war to take them as concubines. They have the right to take them as concubines and have sex with them, by virtue of possessing them. The possession of a captured woman outweighs her marriage contract. It allows the master to have sex with the woman he owns. This is called concubinage.
>
> But the Prophet's Companions were confused, because Allah has made married women haram, and these women had infidel husbands. So Allah sent down the

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[115] "Islamic Sex Slaves!!!," Skeptical Science, June 26, 2011, https://www.skeptical-science.com/religion/islamic-sex-slaves/. Accessed March 6, 2025.
[116] Raymond Ibrahim, "Muslim Woman Seeks to Revive Institution of Sex-Slavery," FrontPage Magazine.com, June 6, 2011, https://www.meforum.org/muslim-woman-seeks-to-revive-institution-of-sex. Accessed March 6, 2025.
[117] Steve Emerson, "Fatwa Permits Rape of Syrian Women," Newsmax, January 10, 2013, https://www.newsmax.com/Emerson/fatwa-rape-Syrian-women/2013/01/10/id/470865/. Accessed March 6, 2025.

> verse 'married women except those you possess.' When a woman is taken captive, her marriage contract to her [infidel] husband is annulled. If she is taken captive, she becomes property of the Muslims, and the infidel's marriage contract with her is annulled. She becomes the property of the Muslim, and he can take her as a concubine."[118]

These teachings were issued as other Muslims were applying them in large numbers, not in Muslim countries, but in Britain and on continental Europe.

As Sharia is considered divine law, those Muslims who adhere to it consider it always to take precedence over the laws of the land. We will almost certainly be seeing similar incidents in the near future in the U.S., as the Muslim population grows, and with it, the influence of Sharia.

The growing influence of Sharia will also increase anti-Semitism. Most analysts ascribe the presence of anti-Semitism among Muslims to anger over Israel's supposed mistreatment of the Palestinians. They ignore, however, the fact that the Qur'an itself contains a great deal of anti-Semitic material. The Muslim holy book depicts the Jews as inveterately evil and bent on destroying the wellbeing of the Muslims. Official Palestinian Authority television once featured two girls reciting a poem that included this stanza:

> You who murdered Allah's pious prophets
> Oh, you who were brought up on spilling blood
> You have been condemned to humiliation and hardship
> Oh Sons of Zion, oh most evil among creations
> Oh barbaric monkeys, wretched pigs.[119]

This was a specifically Qur'anic imprecation. The verses about killing the prophets and spilling blood, as well as the idea that the Jews have been condemned to humiliation, echoed Qur'an 3:112; and the monkeys and pigs came from Qur'an 2:62-65; 5:59-60, and 7:166.

Meanwhile, the Qur'an also says that not only have they disbelieved in revelations from Allah and killed the prophets, but they even dare to mock Allah himself: "And the Jews say, 'The hand of Allah is chained.' Chained are their hands, and cursed are they for what they say." They "strive throughout the land corruption, and Allah does not like corrupters." (5:64).

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[118] "Senior Saudi Islamic Scholar Sheikh Saleh Al-Fawzan In 2018: According To Islamic Law, Muslims Have The Right To Take Captive Women As Concubines And Have Sex With Them Even If They Are Married To An Infidel – Archival," Middle East Media Research Institute (MEMRI), February 22, 2018, https://www.memri.org/tv/snr-saudi-islamic-scholar-sheikh-saleh-fawzan-right-captive-women-concubines-married-infidel-archive. Accessed March 20, 2025.

[119] Itamar Marcus and Nan Jacques Zilberdik, "Little girls on PA TV: Jews are the 'most evil among creations, barbaric monkeys, wretched pigs,' condemned to 'humiliation and hardship,'" *Palestinian Media Watch*, July 7, 2013.

Allah gave food laws to the Jews because of their "wrongdoing," and for "... their averting many from the way of Allah" (4:160), and by doing so, "repaid them for their injustice" (6:146). Some Jews are "avid listeners to falsehood" who "distort words beyond their usages." These are "the ones for whom Allah does not intend to purify their hearts," and they will be punished not just in hellfire but in this life as well: "For them in this world is disgrace, and for them in the Hereafter is a great punishment" (5:41).

Jews dare to deny divine revelation, claiming that "Allah did not reveal to a human being anything," to which Muhammad is told to respond, "Who revealed the Scripture that Moses brought as light and guidance to the people? You [Jews] make it into pages, disclosing some of it and concealing much" (6:91).

In light of all this, it is understandable that Muslims should not get close to such people: "O you who have believed, do not take the Jews and the Christians as allies. They are allies of one another. And whoever is an ally to them among you - then indeed, he is of them. Indeed, Allah guides not the wrongdoing people" (5:51).

What's more, the Jews are "the most intense of the people in animosity toward the believers" (5:82). This, too, resonates in the contemporary Islamic consciousness. In the United States, the Muslim presence is not large enough as yet to require Jews to conceal outward signs of their identity, or to consider emigrating in large numbers. However, there is ample evidence that just such a situation is coming, if Muslim immigration is not reduced. Because Muslims believe that the Qur'an is the perfect guidebook for living in all times and places, it is nothing short of inconceivable that Muslims in the U.S. will give up or reform Qur'anic anti-Semitism. Not only will that fact have consequences; it already has.

Moreover, emigration to a new land to bring Sharia to it is also an Islamic imperative. The Qur'an promises a reward from Allah to those who "emigrate for the sake of Allah," (4:100) which means for the purpose of bringing Sharia to a non-Muslim land. Thus the conflict between Sharia and the U.S. Constitution will only grow as the Muslim population in the U.S. grows, for among that population will always be some Muslims who take these imperatives with the utmost seriousness.

Mr. ROY. Thank you, Mr. Spencer. Appreciate your testimony. Ms. Schild, again, I remind you to turn your microphone on, and you have five minutes.

STATEMENT OF KRISTA SCHILD

Ms. SCHILD. Thank you, Mr. Chair, distinguished Members of Congress. I'm Krista Schild, the Texas State Director for RAIR Foundation USA.

I stand before you from deep love for America, our Constitution, and the religious liberties it guarantees every citizen. As a Christian who cherishes this Nation, I fiercely defend its founding principles of freedom, equality, and self-governance.

On September 11, 2001, as an American Airlines flight attendant, I watched the second plane slam into the tower. My heart sank. The world changed in that moment. Freedom itself was under siege.

After 9/11, we believed the war was far away. Our brave military went overseas to fight. We thought we were safe, but we were tragically wrong.

A planned invasion took root, concealed and deliberate. Foreign and Islamic terror-tied networks quietly infiltrated every layer of Texas life while we looked away.

I travel across Texas listening to communities. Residents tell me their neighborhoods are becoming unrecognizable. Streets once familiar, now echo with foreign calls to prayer that drown out church bells. Sons who fought these very forces abroad return to find their hometown starting to resemble the Middle East that they risked their lives to defend us against.

Texas is Ground Zero for the Islamic conquest of America. We are deep into a 1,400-year Islamic immigration conquest pattern, a patient, relentless strategy of settlement, infiltration, and eventual dominance.

The Muslim Brotherhood's 1991 explanatory memorandum entered in Federal court calls it a, quote, "civilization jihadist process to destroy the West from within."

That plan has been capturing Texas for over 35 years. We now have over 330 mosques. CAIR calls them, quote, "our infrastructure." Erdogan calls them, quote, "our barracks."

At least 650 Islamic nonprofits channeling influence. Dozens of Islamic scholars and banks promoting Sharia compliance finance. More than $4 billion in taxpayer funds routed to Islamic entities since 2017. Our own money fueling our demise.

Islamic leaders telling us they want to implement Sharia. They glorify chopping off hands, killing homosexuals, wife beating, and child marriage without apology.

Aggressive conversion campaigns, including terror-tied groups, enter public schools without parental consent, to distribute Korans, Sharia pamphlets, and hijabs to students.

The East Plano Islamic Center, EPIC, rebranded, quote, "The Meadows," an enclave led by imam Yasir Qadhi, who calls Jews and Christians, quote, "the most evil of all evils" and demands Islamic theocracy over democracy. These are emerging no-go zones.

Active Sharia courts. In the last legislative session, two Pakistani-born representatives introduced over 20 bills advancing

Sharia, mandating Hallah in Texas schools, Muslim Heritage Month, quote, "Islamophobia censorship laws" to silence critics.

We already see Sharia enforcement in Texas, patrols pressuring Houston Muslim businesses to conform, imams berating Muslims for speaking to Christians, and families imposing deadly punishments on those who refuse to submit.

My own family was connected to two young Texas girls who chose to date non-Muslims. They were murdered by their own father for not conforming to Islam.

That pain drives me every day. These examples are not isolated. This is not assimilation. It is strategic infiltration and conquest. It is patient, multigenerational, and often funded by taxpayers. If we do not act, Sharia will dominate.

We're here today to bring you legislative evidence and have submitted that to prove to you that wherever Islam grows freedom dies. We must choose freedom under the Constitution or submission to Islam.

Thank you.

[The prepared statement of Mr. Schild follows:]

Testimony: Sharia-Free America: Why Political Islam & Sharia Law are Incompatible with the U.S. Constitution

Witness: Krista Shields, Texas State Director, RAIR Foundation USA

I am Krista Shield, a proud Texan, a devoted Christian, and the Texas State Director for RAIR Foundation USA.

I stand before you today from a place of deep love - for America, for our Constitution, and for the religious liberties it guarantees every citizen. As a Christian who cherishes this nation, I fiercely defend its founding principles of freedom, equality, and self-governance. But I come with grave concern: Texans are witnessing an invasion - not just of our borders, but of our laws, institutions, and way of life.

On September 11, 2001, I was an American Airlines flight attendant. That morning, my husband called and told me to turn on the news. I watched the second plane hit the Tower. The blood drained from my face. I knew instantly it was no accident. Freedom itself was under attack. I wasn't flying that day, but the threat never left me.

I've been face-to-face with this Islamic threat too many times. I know too much to sit idly by. Coming here today puts my life in danger - because Political Islam does not believe in freedom of speech, conscience, or dissent. But I speak out because young girls in our state - our supposedly free state - are being captured, controlled, and punished for daring to live freely. Non-Muslims are targeted. This is an existential showdown: Islam's totalizing claim over every facet of life versus the American Constitution's fierce defense of individual liberty and self-governance.

Two pivotal documents detail the Muslim Brotherhood strategy to infiltrate and dismantle the West. It is vitally important to understand the tactics outlined to counter them.

First, a document titled “Towards a Global Strategy for Islamic Policy”, largely known as “The Project”[1], was a 12-point master plan detailing the "westward expansion" of the Muslim Brotherhood. The document was seized by Swiss authorities shortly after 9/11 as the “formalized output” of a 1977 meeting of exiled Muslim Brotherhood leaders. The document details a strategy of “institutional action” designed to “penetrate” social services and “control” local centers of power, explicitly rejecting assimilation in favor of a “parallel” existence governed by an “Islamic Constitution” and “Islamic laws.”

[1] Nal, Renee. “FLORIDA ALERT: Newly Uncovered Muslim Brotherhood Origins of Magda Elkadi Saleh's Family - and the Civilization Jihad Unfolding in Tampa”, RAIR Foundation USA, January 27, 2026. Link: https://rairfoundation.com/florida-alert-newly-uncovered-muslim-brotherhood-origins-magda/ Also see Appendix A.

Second, the Muslim Brotherhood's infamous 1991 Explanatory Memorandum,[2] entered evidence in U.S. federal courts, declares their mission in America:

> *"The process of settlement is a 'Civilization-Jihadist Proecess'... The Ikhwan [Muslim Brotherhood] must understand that their work in America is a kind of grand Jihad in eliminating and destroying the Western civilization from within and 'sabotaging' its miserable house by their hands and the hands of the believers so that it is eliminated and God's religion is made victorious over all other religions."*

Groups like ISIS, Al-Qaeda, and their many proxies - including those operating in America - aim to impose Sharia worldwide and establish a global Caliphate.

For over 35 years we have failed to confront this threat - allowing their sabotage to advance. The ground they and their proxies have already captured in Texas is staggering:

- Over 330 mosques[3]
- Over 650 Islamic nonprofits[4]
- Over 30 Islamic schools[5]
- More than $4 billion in taxpayer funds routed to Islamic mosques, schools, trusts, and associations between 2017 and 2026[6]
- Over a dozen Islamic banks[7]

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[2] *United States v. Holy Land Found. for Relief & Dev.*, No. 3:04-CR-240-G, Govt. Ex. 003-0085 (N.D. Tex. 1991) (Explanatory Memorandum on the General Strategic Goal for the Group in North America). Link: https://www.investigativeproject.org/documents/20/an-explanatory-memorandum-on-the-general.pdf Also see Appendix B.

[3] Tex. H.C.R. 18, 89th Leg., R.S. (2025). Link: https://trackbill.com/bill/texas-house-concurrent-resolution-18-designating-may-as-muslim-heritage-month-for-a-10-year-period-ending-in-2035/2570671/

[4] Middle East Forum, "Islamism in Texas".

[5] Private School Review. "Best Texas Islamic Private Schools (2026)". Link: https://www.privateschoolreview.com/texas/islamic-religious-affiliation Archive Link: https://archive.vn/jgELC

[6] Figures come from the Texas Comptroller's Website. Details available upon request. Link: https://comptroller.texas.gov/

[7] The Banks are as follows: UIF (University Islamic Financial) - Plano, TX, MANZIL (Manzil Invest) - Dallas, TX, LARIBA (American Finance House Lariba) - No physical branch in Texas (nationwide operations, including Texas), JAFARI (Jafari No-Interest Credit Union) - Houston, TX, DEVON (Devon Islamic Finance) - Dallas, TX; Houston, TX; Austin, TX (and serves statewide), Pioneer (Pioneer Mutual Federal Credit Union) - Austin, TX, Guidance (Guidance Residential) - Richardson, TX (Northern Texas); Houston, TX (Southern Texas / Katy area), STEARNS (Stearns Bank Salaam Banking) (nationwide Sharia-compliant services), NIZARI (Nizari Progressive Federal Credit Union) - Sugar Land, TX; Dallas, TX; Austin, TX (and other areas), ijaraCDC (Ijara Community Development Corp.) (nationwide, partners in Texas for financing), Mubarak (Mubarak Mortgage) (operates in various states including Texas), Champions Mortgage - Sugar Land, TX (near Houston); serves statewide, CMG Financial (CMG Home Loans) - Nationwide operations, licensed in Texas, Bank of Whittier N.A. - Physical branch in Richardson, TX (Dallas area), Platinum Federal Credit Union - Nationwide services, Maun Federal Credit Union - (via online/remote access)

Sharia is entrenched and operating across the state as a complete legal code controlling every private and public act.

Texas is now the active theater for this civilization jihad—a ruthless two-front war: an internal front building isolated Sharia enclaves, and an external front infiltrating society to force submission.

A prominent example of the "Internal Strategy" is referred to as The Meadows – formerly known as EPIC City. This self-contained, 400-acre Sharia-compliant enclave is a deliberate effort to carve out an Islamic-controlled district.[8] EPIC's imam, Yasir Qadhi, has publicly described[9] Jews and Christians as "the most evil of all evils." Qadhi's mosque has hosted events advocating for the release of Aafia Siddiqui,[10] an al-Qaeda operative convicted of attempting to murder U.S. troops – imprisoned right here in Texas.[11] He is a member[12] of the notorious Muslim Brotherhood front group "International Union of Muslim Scholars," which is allied to Hamas, a U.S. designated foreign terrorist organization.[13] This organization issued a fatwa on March 28, 2025, calling for "armed jihad" against Israel.[14]

At the center of every enclave is the mosque. The Council on American-Islamic Relations' own leadership calls mosques "our infrastructure."[15] Turkish President Recep Tayyip Erdoğan refers to mosques as "our barracks."[16]

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[8] Mek, Amy. "VICTORY FOR TEXAS: Attorney General Paxton Moves to Shut Down 'EPIC City' After RAIR Exposed the Controversial Islamic Development and Public Demanded Accountability", RAIR Foundation USA, December 5, 2025. Link: https://rairfoundation.com/victory-texas-attorney-general-paxton-moves-shut-down/

[9] YouTube, Yasir Qadhi on "Shirk", Apr 3, 2009. Link: https://www.youtube.com/watch?v=l1jC0y8hIs8

[10] Mek, Amy. "Yasir Qadhi: The Radical Cleric Engineering America's Islamization—Using Texas as the Blueprint for Sharia Domination (Video)", Link: https://rairfoundation.com/yasir-qadhi-radical-cleric-engineering-americas-islamization-using/

[11] Ibid.

[12] Nal, Renee. "Texas Terror Pipeline: EPIC Imam Yasir Qadhi Admits Membership in Hamas-Tied Muslim Brotherhood Network", RAIR Foundation USA, July 3, 2025. Link: https://rairfoundation.com/texas-terror-pipeline-epic-imam-yasir-qadhi-admits/

[13] U.S. Department of State. "Designated Foreign Terrorist Organizations", October 8, 1997. Link: https://www.state.gov/foreign-terrorist-organizations

[14] MEMRI. "Fatwa By International Union Of Muslim Scholars (IUMS), Based In And Funded By Qatar, Declares 'Armed Jihad' Against Israel Obligatory For All Muslims, Calls To Urgently Form 'Islamic Military Alliance' Against Israel March 31, 2025", March 31, 2025. Link: https://www.memri.org/reports/fatwa-international-union-muslim-scholars-iums-based-and-funded-qatar-declares-armed-jihad

[15] Mek, Amy. "'We Need Muslims in the FBI & CIA': Yasir Qadhi's Speech Matches CAIR's 2050 Plan to Islamize America (Video)", February 1, 2026. Link: https://rairfoundation.com/we-need-muslims-fbi-cia-yasir-qadhis-speech/

[16] MEMRI TV: "Turkish President Recep Tayyip Erdogan In 2015: The Minarets Are The Bayonets, The Mosques Are Our Barracks, The Believers Are The Soldiers! From The Battle Of Manzikert To Gallipoli - Unity Of Belief Leads To Victory [Archival], May 4, 2015. Link: https://www.memri.org/tv/turkish-president-erdogan-speech-minarets-bayonets-mosques-barracks-believers-soldiers

RAIR has deeply studied these spaces and captures the imams in their own words, often translating from Arabic.

Here are some examples:

- "Islam is not a religion. Islam is a system of governance."[17]
- "Democracy is silly. Human beings should not make laws."[18]
- "Sharia is the legal framework for laws across America."[19]
- "Any Muslim who does not want to live under Sharia is not a Muslim."[20]

These Imams defend stoning adulterers,[21] chopping off hands,[22] killing homosexuals,[23] wife-beating,[24] child marriage,[25] and call Jews "filth."[26]

These enclaves[27],[28],[29] run internal Sharia tribunals governing disputes, family, and compliance - outside American law.

Egypt sent a Sharia-trained cleric into Texas who sits on Islamic tribunals, issues fatwas, and applies Islamic law[30] - while Texas's Governor has formally warned officials of "possible criminal violations by Sharia tribunals masquerading as legal courts and to call for investigations into these entities purporting to enforce Sharia law."[31]

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[17] Compilation. RAIR Foundation Exclusive Video, Rumble, February 7, 2026. Link: https://rumble.com/v75g2zk-islamic-preachers-compilation-v3.html
[18] Ibid.
[19] Ibid.
[20] Ibid.
[21] Ibid.
[22] Ibid.
[23] Ibid.
[24] Ibid.
[25] Ibid.
[26] Westrop, Sam. "The Islamist Schools Industry in Texas", Middle East Forum, January 23, 2026. https://www.meforum.org/fwi/fwi-research/the-islamist-schools-industry-in-texas
[27] Mek, Amy. "ACTION ALERT: Massive Islamic Enclave Planned in Blue Ridge—Led by Hamas-Supporting Anti-Western Developer, Texans Must Rise Today", RAIR Foundation USA, April 1, 2025. Link: https://rairfoundation.com/action-alert-massive-islamic-enclave-planned-blue-ridge/
[28] Mek, Amy. "Texas Red Alert: North Austin Islamic School Secures 19 Acres, Raises Millions, and Plans Mosque-Centered Campus With NAIT Waqf Transfer for Long-Term Institutional Control", RAIR Foundation USA. Link: https://rairfoundation.com/texas-red-alert-north-austin-islamic-school-secures/
[29] Mek, Amy. "Texas as the Test Case: $25M+ Muslim Brotherhood-Linked Islamic Fortress Rises At UT Austin—Model For Sharia Campuses Within U.S. Universities", December 22, 2025. Link: https://rairfoundation.com/texas-as-test-case-25m-muslim-brotherhood-linked/
[30] McKinney Islamic Association, "Imam Mohamed AlGebaly". Archive link: https://archive.vn/Ze5gQ
[31] Press Release. "Governor Abbott Calls For Investigations Into Sharia Courts", The State of Texas, Governor, News, November 19, 2025. Link: https://gov.texas.gov/news/post/governor-abbott-calls-for-investigations-into-sharia-courts Also see: https://gov.texas.gov/uploads/files/press/Sharia_Courts_Letter.pdf

This is the construction of a parallel Islamic society on Texas soil. We have seen Sharia patrols monitoring Muslim businesses in Houston,[32] an imam who publicly berated a Muslim for interacting with a Christian,[33] and a Muslim man who killed his daughters simply for dating.[34]

My own family was connected to two young Texas girls - Amina and Sarah Said - who were trying to live freely, dating non-Muslims and building their own lives. But their father demanded they remain confined to Islam. They were murdered in a so-called "honor killing" for not conforming.

That pain drives me. These enclaves shield residents from Western influence, running cradle-to-grave under Sharia.

The "*Internal Society*" shields citizens from the non-Islamic world. Here, Muslims live from cradle to grave under full Sharia rule: Sharia banking, Sharia schools, Sharia healthcare, Sharia rulings and courts, and even Sharia burials. Once these parallel societies are developed, it becomes very difficult for the citizens within to be influenced by the Western societies in which they live. Conversely, it is difficult for Western officials to enter and operate freely in many of these areas.[35]

The "*External Society*" is the second prong in this strategy. These networks deploy what RAIR refers to as "radicals with a smile" - front-facing organizations, Islamic leaders, and legislators who use the language of inclusion to exploit America's constitutional system.

Just last week, the Islamic Circle of North America (ICNA)'s da'wah arm "Why Islam"[36] infiltrated a taxpayer-funded public school distributing Qurans, Sharia pamphlets, and

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[32] Mek, Amy. "Unearthed Video: Texas Imam Now Leading 'Sharia Patrols' Testified Against Anti-Sharia Bills in 2015 — Politicians Caved (Exclusive)", RAIR Foundation USA, September 17, 2025. Link: https://rairfoundation.com/unearthed-video-texas-imam-now-leading-sharia-patrols/

[33] Van der Veen, Mark. "In Dallas, Texas, an Islamic Imam Got Very Angry When He Saw a Fellow Muslim Talking to a Christian Preacher –What He Did Next is Beyond Insane! (Video)", Right Journalism, November 14, 2025. Link: https://www.rightjournalism.com/in-dallas-texas-an-islamic-imam-got-very-angry-when-he-saw-a-fellow-muslim-talking-to-a-christian-preacher-what-he-did-next-is-beyond-insane-video/

[34] Fox 4 staff, "'Honor Killings' Trial: Yaser Said found guilty of killing his two daughters, sentenced to life in prison", Fox 4 KDFW, August 9, 2022. Link: https://www.fox4news.com/news/honor-killings-trial-closing-arguments-begin-on-tuesday

[35] Meotti, Giulio, "Europe Is Turning Into One Big No-Go Zone", Middle East Forum, November 22, 2024. Link: https://www.meforum.org/mef-online/europe-is-turning-into-one-big-no-go-zone

[36] The Investigative Project on Terrorism, "An IPT Investigative Report on Jamaat-e-Islami Network's Support for Jihad and Islamism", June 2019. Link: https://www.investigativeproject.org/documents/misc/1058.pdf

hijabs to Texas school children without parental consent.[37] ICNA called for a global Caliphate and Sharia supremacy over America in its 2010 handbook.[38]

Texas state representatives Suleman Lalani and Salman Bhojani, both Pakistani-born Democrats, are aggressively pushing a package of bills and resolutions to import Pakistan's Islamic ideological framework into Texas law - honoring Pakistan Day, elevating Ramadan and Eid to official state holidays, forcing halal food options in public schools, creating a "Day to Combat Islamophobia" designed to enable blasphemy-style censorship, and advancing other measures that promote foreign loyalty, Sharia-adjacent practices in schools and marriage, and indoctrination tied to Islamic organizations - all amounting to a deliberate, incremental Islamization of Texas under the pretext of diversity and inclusion.[39] These policies mirror the Islamic framework of Pakistan, where Christians are jailed, beaten, and murdered under blasphemy laws.[40],[41]

In both Austin in Houston, legislators have pushed resolutions to honor state-designated foreign terrorist group CAIR.[42],[43] Houston's adhan drowns church bells, declaring "Allah is greater."[44] Hostile Islamic flags rise,[45] Prophet Muhammad parades claim streets.[46] This is not the Texas we know.

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[37] Wood, Austin. "School District Under Fire After Muslim Group Hands Out the Quran During Lunch Period", Dallas Observer, February 6, 2026. Link: https://www.dallasobserver.com/news/wylie-isd-criticized-after-muslim-group-hands-out-qurans-on-campus-40641462/

[38] IPT News. "Hand Book Shows ICNA's True Goals", Investigative Project on Terrorism, December 6, 2010. Link: https://www.investigativeproject.org/2373/hand-book-shows-icna-true-goals

[39] Mek, Amy. "Texas Alert: Two Islamic Lawmakers Are Leading the Pakistanification of the Lone Star State (Video)", RAIR Foundation USA, April 10, 2025. Link: https://rairfoundation.com/texas-alert-two-islamic-lawmakers-are-leading-pakistanification/

[40] U.S. Commission on International Religious Freedom. "Pakistan Sees Increasing Attacks Targeting Religious Minorities." Press release, September 18, 2025. Link: https://www.uscirf.gov/news-room/releases-statements/pakistan-sees-increasing-attacks-targeting-religious-minorities.

[41] Human Rights Watch, Pakistan: Events of 2024. Link: https://www.hrw.org/world-report/2025/country-chapters/pakistan

[42] RAIR Foundation USA. "Islamized Texas: Austin's Far-Left City Council Installs 'Muslim Heritage Month' & Honors CAIR—Defying Abbott's Terror Designation (Video)", January 23, 2026. Link: https://rairfoundation.com/islamized-texas-austins-far-left-city-council-installs/

[43] RAIR Foundation USA. "SHAME ON TEXAS: City Council Advances Fabricated 'Muslim American Heritage Month' to Elevate CAIR—Despite State Terror Designations", January 10, 2026. Link: https://rairfoundation.com/shame-texas-city-council-advances-fabricated-muslim-american/

[44] Mek, Amy. "Mecca Comes to Texas: Sugar Land Officials Handed the Town Square to a Pakistani Propagandist—Blacklisted in India—to Broadcast Islamic Supremacy (Video)", RAIR Foundation USA, April 7, 2025. Link: https://rairfoundation.com/mecca-comes-texas-sugar-land-officials-handed-town/

[45] Mek, Amy. X Post dated August 20, 2025. Link: https://x.com/AmyMek/status/1958079172003393605

[46] Mek, Amy. "Islamization of Texas: Terror-Linked Pakistani Group Seizes Houston Streets for Prophet Muhammad Parade (Video)", RAIR Foundation USA. September 19, 2025. Link: https://rairfoundation.com/islamization-texas-terror-linked-pakistani-group-seizes-houston/

Dallas Fort Worth[47] and George Bush Intercontinental[48] airports now feature Sharia-compliant prayer accommodations, while Texans would have no religious freedom whatsoever in the countries where these practices originate.

As discussed, there are hundreds of mosques, which have mostly been built within the last 20 years. Some of these mosques are attached to Islamic schools, which are operating with little to no scrutiny and can be eligible for taxpayer-funded vouchers. Some of these Islamic schools use curriculums developed by U.S. Muslim Brotherhood leader Hamed Ghazali, who is currently the principal of the Houston Quran Academy in Texas.[49]

Ghazali was explicitly named in the 1991 Explanatory Memorandum[50] for his work in advancing Jihad. At the time, he ran the largest American Jihadi recruiting platform in America, referred to as "Ghazali Islamic Video", or GIV. During this period, he interviewed Al-Qaeda co-founder Abdullah Azzam's second-in-command "calling for weapons support."[51]

Ghazali's Houston Quran Academy is "affiliated" to the Muslim American Society (MAS) Katy Center, also known as Masjid Ar-Rahman.[52] Government filings in the Holy Land Foundation case described MAS the "overt arm" of the Muslim Brotherhood in the United States.[53]

In 2008, the Holy Land Foundation was convicted of providing material support to Hamas by funneling over $12 million to the terrorist organization through sham charitable donations.[54] The original name for the Holy Land Foundation was the "Occupied Land

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[47] Airport Prayer Room Directory Link: https://www.skypray.org/prayer-room-directory
[48] Houston Airports, "Houston Airports refines international passenger experience with new Ritual Washing and Prayer spaces at Bush Airport", Press Release, February 21, 2024. Link: https://fly2houston.com/airport-business/newsroom/press-releases/item/houston-airports-refines-international-passenger-experience-with-new-ritual-washing-and-prayer-spaces-at-bush-airport/
[49] Nal, Renee. "BOMBSHELL: Texas School Choice Dollars Poised to Fund Muslim Brotherhood Kingpin, Who Helped Build U.S. Recruitment and Fundraising Networks for Hamas and Al-Qaeda", RAIR Foundation USA, December 4, 2025. Link: https://rairfoundation.com/bombshell-texas-school-choice-dollars-are-funding-muslim/
[50] See Appendix B.
[51] Ibid.
[52] Houston Quran Academy, "Accreditation and Affiliations". Link: https://hquranacademy.org/school-accreditation-affiliations/ Archive link: https://web.archive.org/web/20260208194536/https://hquranacademy.org/school-accreditation-affiliations/
[53] IPT News. "IPT Exclusive: Under Oath, Alamoudi Ties MAS To Brotherhood", Investigative Project on Terrorism, March 14, 2012. Link: https://www.investigativeproject.org/3486/under-oath-alamoudi-ties-mas-to-brotherhood
[54] U.S. Department of Justice, Press Release. "Federal Judge Hands Downs Sentences in Holy Land Foundation Case", May 27, 2009. Link: https://www.justice.gov/archives/opa/pr/federal-judge-hands-downs-sentences-holy-land-foundation-case

Fund". On GIV, Hamed Ghazali solicited funds for the Occupied Land Fund. He stated[55] in part:

> *"We have seen people standing in front of soldiers without nothing except a few stones, ready to get martyred for the sake of Allah. So it's our duty to help them. And it's our duty to help the Islamic Association for Palestine [Hamas Support organization in America]*[56]*.... So please send your money to the Occupied Land Fund. We have the address written right now. It's the Occupied Land Fund – send it to the Muslims. Give as much as you can. It's our duty to help, and it's our duty to remember that Allah asks us to – ordered us to help those who are fighting for his sake. May Allah give us his victory."*

Hamed Ghazali sat on the Muslim Brotherhood "Board of Directors" in 1992 with, among others, Ahmed Elkadi.[57] In the mid-1990s, Hamed Ghazali served as Vice President of the Islamic Society of North America (ISNA), which was an unindicted co-conspirator in the Holy Land Foundation trial. Ghazali's fellow Board member Elkadi was the General Mas'ul, or national leader, of the U.S. Muslim Brotherhood during the 1980s.[58]

Like Hamed Ghazali, Ahmed Elkadi's daughter Magda Elkadi Saleh also served in the early 2020s as VP of ISNA. It is worth mentioning because although she is based in Florida, Elkadi Saleh's grandparents – both maternal and paternal – were deeply involved in the Muslim Brotherhood in Egypt. In fact, her maternal grandfather, Mahmoud Abu-Saud, was close to the Muslim Brotherhood founder Hassan al-Banna in Egypt and "helped expand the movement in its earliest years."[59] Today, Magda Elkadi Saleh is heavily involved in education in Florida, like Hamed Ghazali is in Texas. She has served as Principal of the American Youth Academy, which was formerly named the "Islamic Academy of Florida", founded by operatives of Palestinian Islamic Jihad (PIJ) including the notorious Sami Al-Arian, who was eventually deported.[60] She currently serves as the principal at Florida's Bayaan Academy, co-founded the Universal Academy of Florida (UAF) and oversees

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[55] Ibid.
[56] Vidino, Lorenzo, "The Hamas Networks in America: A Short History" Program on Extremism at George Washington University, October 2023. Link: https://www.congress.gov/118/meeting/house/117305/documents/HHRG-118-JU10-20240515-SD001.pdf
[57] Merley, Steven. "The Muslim Brotherhood in the United States", Hudson Institute, April 2009. Link: https://www.globalmbresearch.com/wp-content/uploads/2015/03/20090411_merley.usbrotherhood.pdf
[58] Ibid.
[59] Nal, Renee, "FLORIDA ALERT: Newly Uncovered Muslim Brotherhood Origins of Magda Elkadi Saleh's Family - and the Civilization Jihad Unfolding in Tampa", January 27, 2026. Link: https://rairfoundation.com/florida-alert-newly-uncovered-muslim-brotherhood-origins-magda/
[60] Nal, Renee. "Taxpayer-Funded Jihad: How Florida's Voucher Program Is Bankrolling an Islamic School Founded by Convicted Terror Supporters", RAIR Foundation USA, November 10, 2025. Link: https://rairfoundation.com/taxpayer-funded-jihad-how-floridas-voucher-program-is/

“refugee resettlement” through her organization “Radiant Hands”. The current principal of UAF is Eman Elkholy, who trained under EPIC’s Yasir Qadhi, among others.[61] With Islam in America, many roads lead back to Texas.

Today, Hamed Ghazali develops curricula for Islamic schools in North America and runs the Houston Quran Academy.[62] Both Hamed Ghazali and Magda Elkadi Saleh have deep Muslim Brotherhood ties, are deeply involved in education, and benefit from taxpayer-funded private school vouchers in their states.

For 1400 years, Islam has pursued one unchanging goal: global domination under Sharia. It is not a religion like Christianity or Judaism, which guide personal faith without mandating conquest. Islam is a totalitarian political ideology cloaked in religious garb - a "cloaking device" that exploits America's "religion barrier."[63] We reflexively grant it the same respect we give other faiths, blinding us to its true nature: a death cult and machinery of conquest that has spread through violence and deception for centuries. Muhammad invented it as a tool for power, plunder, and terror, using narrated divine revelation. but it is a fabricated ideology justifying genocide, slavery, and total control.

We have seen beautiful nations crying out for help. Germany, France, Sweden and other Western countries have opened their doors to the Islamic threat. America must learn from their mistakes. If we do not fight back now, Sharia will eventually dominate this culture, and the America that millions fought and died for will cease to exist. You work for the citizens, and the citizens are telling you: Ban Sharia, defend our sovereignty, and save Western civilization.

We must choose: freedom under the Constitution, or submission to Islam.

I urge you - defend Texas, defend America.

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[61] Ibid.
[62] Ibid.
[63] RAIR Foundation USA. “Deadly Mistake: Stop Equating Islam to Other Religions”, August 26, 2021. Link: https://rairfoundation.com/deadly-mistake-stop-equating-islam-to-other-religions/

Appendix A: “Towards a Global Strategy for Islamic Policy” aka “The Project”

Appendix B: “Explanatory Memorandum on the General Strategic Goal for the Group in North America”

Mr. ROY. Thank you, Ms. Schild. I will now recognize Professor Somin. Again, a reminder to turn your microphone on, and you have five minutes.

STATEMENT OF ILYA SOMIN

Mr. SOMIN. I thank the Subcommittee for the opportunity to address these important issues.

George Washington wrote that, "America was founded in part to create an asylum for the poor and oppressed of all nations and religions." Thomas Jefferson, among others, made clear that American religious freedom is supposed to extend to Muslims, no less than to Christians, Jews, and others.

George Washington and Jefferson, they were right, whereas the proposed Preserving a Sharia-Free America Act is wrong.

If enacted and upheld by the courts, it would expel tens of thousands of people from the United States just because of their religion by virtue of making any noncitizen adherent of Sharia law subject to exclusion or deportation.

That violates the First Amendment, and it would do nothing to improve American national security. Indeed, the only real winners would be radical Islamist terrorists who would benefit from this by getting a free propaganda victory.

The Constitution in the First Amendment states that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." That clearly protects freedom of religion against discrimination, and it applies to Muslims no less than to any other religious group.

Almost all Muslims to some degree or another are Sharia law adherents, because Sharia law is simply religious precepts of Islam. Muslims disagree a lot among themselves about what exactly those precepts mean and how they should be applied.

Nonetheless, a law targeting Sharia law adherents targets Muslims in much the same way as a law targeting adherents of Talmudic law would target Jews or a law targeting adherents of Canon Law targets Catholics.

The Supreme Court has also ruled that the Free Speech Clause protects religious freedom and expression, and thus this law, if enacted, would violate the Free Speech Clause as well.

It does not matter that this law addresses noncitizen immigrants, because there is no immigration exception to the First Amendment. When it says that Congress shall make no law restricting freedom of speech or the free exercise of religion, that means no law, no exceptions.

It also does not matter that noncitizens don't have a constitutional right to be in the United States. The Supreme Court, including in decisions by conservative Justices, has repeatedly made clear that discrimination against religious believers with respect to government benefits that are not constitutional rights still violates the Free Exercise Clause and also, in some cases, the Free Speech Clause.

For example, there's no constitutional right to Social Security benefits, but if Congress were to pass a law saying only Christians are entitled to such benefits, that would obviously be a violation of the First Amendment.

If enacted and wrongly upheld by the courts, this law would set a dangerous precedent, because it could easily be used to target any religious believers of any kind who run afoul of the views of the majority, including conservative Christians, among others.

This law also would cause great harm to innocent people. It would expel hundreds of thousands of people from the United States who have done no wrong and pose no threat.

Survey data shows the vast majority of Muslims in the United States do not support terrorism, do not support the creation of some kind of Islamic theocracy or anything of the kind.

Indeed, many of the Muslims in the United States are actually immigrants who fled oppression at the hands of radical Islamist regimes, like those of Iran and the Taliban in Afghanistan. Many of the latter are actually people who aided U.S. forces in the war on terror. They do not deserve to be excluded and deported.

In addition, if this were to pass and, again, be upheld wrongly, it would actually help radical Islamist terrorists waging war against the United States.

When President Trump in his first term enacted his much more limited anti-Muslim travel ban, the Islamic terrorist group ISIS hailed it as, quote, "the blessed ban," because they knew it would help their terrorist recruitment by feeding their propaganda to the effect that the United States, and the West generally, are enemies of all Muslims.

We should not give a gift to the terrorists, and we should not damage ourselves by expelling hundreds of thousands of people who are productively contributing to our economy and society and have done no wrong other than perhaps have religious beliefs that some people do not like.

It is true that some Muslims, like some Christians, Jews, and others, may have awful views on various issues, but mass expulsion and discrimination is not the answer to any problems that might pose. We should instead simply enforce the religious freedom provision of our Constitution and other relevant laws banning terrorism or violence or the like.

In sum, this law is unconstitutional. If enacted, it would cause great harm. Therefore, this Subcommittee would do well to reject it out of hand. Thank you.

[The prepared statement of Mr. Somin follows:]

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Professor of Law

HEARING ON "SHARIA-FREE AMERICA: WHY POLITICAL ISLAM AND SHARIA LAW ARE INCOMPATIBLE WITH THE U.S. CONSTITUTION"

TESTIMONY BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT

February 10, 2026

INTRODUCTION

I am grateful for the opportunity to address some of the important issues raised by the proposed "Preserving a Sharia-Free America Act." My conclusions about this bill are clear and unequivocal: It is manifestly unconstitutional, in violation of the First Amendment. In addition, the vast majority of immigrant adherents of Sharia law – a category that includes all or most Muslims – pose no threat and there is no good reason to bar them from the United States.

The proposed legislation states that "Any alien in the United States found to be an adherent of Sharia law by the Secretary of State, Secretary of Homeland Security, or Attorney General shall have any immigration benefit, immigration relief, or visa revoked, be considered inadmissible or deportable, and shall be removed from the United States."[1] This provision amounts to blatant discrimination on the basis of religious belief. As such, it violates both the Free Speech Clause and the Free Exercise Clause of the First Amendment.

In addition, expelling virtually all Muslim immigrants would needlessly harm many thousands of people and is not necessary to combat terrorism or any other threat to the United States. Far from seeking to undermine America's liberal democratic values, most Muslim immigrants – like those of other faiths – have come precisely because of those values. If enacted, the legislation would harm national security by playing into the hands of radical Islamists and terrorists.

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[1] H.R. 5722 §2(b).

I. THE PROPOSED "PRESERVING A SHARIA-FREE AMERICA ACT" VIOLATES THE FIRST AMENDMENT

In his General Orders to the Continental Army, issued on the occasion of the end of the Revolutionary War in 1783, George Washington stated that one of the reasons the United States was founded was to create "an Asylum for the poor and oppressed of all nations and religions."[2] Later, in his famous 1790 letter to the congregation of the Touro Synagogue, he avowed that the United States has "an enlarged and liberal policy," under which "All possess alike liberty of conscience," and that the U.S. government "gives to bigotry no sanction, to persecution no assistance."[3]

Thomas Jefferson similarly wrote, in 1781, that "[i]t [has] been the wise policy of these states to extend the protection of their laws to all those who should settle among them of whatever nation or religion they might be and to admit them to a participation of the benefits of civil and religious freedom."[4] Jefferson later stated that the 1786 Virginia Statute for Religious Liberty (which he had drafted) protected "the Jew and the Gentile, the Christian and Mahometan, the Hindoo, and Infidel of every denomination,"[5] belying notions that the religious liberty of the Founding era was intended to protect only Christians. For present purposes, it is particularly noteworthy that Jefferson indicated that "Mahometans" were among those protected. The Virginia Statute was a key precursor for the First Amendment.[6]

Washington, Jefferson, and other Founders intended that the United States, unlike most other governments of the day, would not discriminate on the basis of religion, and would be open to immigrants of all different faiths. These principles were embodied in the First Amendment, which states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."[7] As the Supreme Court noted in *Carson v. Makin* (2022), the Court has "repeatedly" held that the government "violates the Free Exercise Clause when it excludes religious observers from otherwise available public benefits" and that such discrimination is unconstitutional when it targets individuals "*because of their faith, or lack of it*."[8] All six conservative justices joined the ruling in *Carson* correctly holding that the government cannot bar religious private schools from a voucher program open to other schools.[9]

The proposed legislation is exactly the kind of discrimination on the basis of religion that the

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[2] George Washington, General Orders, Apr. 17, 1783, available at https://founders.archives.gov/documents/Washington/99-01-02-11097

[3] George Washington to the Hebrew Congregation in Newport, Rhode Island, Aug. 18, 1790, available at https://founders.archives.gov/documents/Washington/05-06-02-0135

[4] *The Papers of Thomas Jefferson*, vol. 4, (Princeton: Princeton University Press, Julian P. Boyd., ed. 1951), 505–506.

[5] Thomas Jefferson, *Autobiography* [1821], in *The Works of Thomas Jefferson*, vol. 1, (New York : G. P. Putnam's Sons, Paul Leicester Ford, ed. 1904-5), 71.

[6] For an overview of the significance of the Virginia Statute for Religious Liberty as a precursor to the First Amendment, see John A. Ragosta, *Wellspring of Liberty: How Virginia's Religious Dissenters Helped Win the American Revolution and Secured Religious Liberty* (New York: Oxford University Press, 2010).

[7] U.S. Const., Amend. I.

[8] *Carson v. Makin*, 596 U.S. 767, 778 (2022) (quoting *Everson v. Board of Ed. of Ewing*, 330 U.S. 1, 16 (1947).

[9] *Carson*, 596 U.S. at 777-85.

Free Exercise Clause bans. It would bar and deport from the United States all non-citizens who are adherents of "Sharia law." Sharia law is simply a standard term for the religious precepts of the Muslim faith.[10] All or most Muslims accept Sharia law at least to some degree, though they differ greatly among themselves about its meaning and significance. Thus, discrimination against adherents of Sharia law discriminates against Muslims in much the same way as a bill targeting adherents of Talmudic law discriminates against Orthodox Jews, or a bill targeting adherents of Catholic Canon Law discriminates against Catholics.

Freedom of religious belief is also protected by the Free Speech Clause of the First Amendment. As the Supreme Court held in 1944, "[f]reedom of thought, which includes freedom of religious belief, is basic in a society of free men," and that freedom is protected by the Free Speech Clause.[11] In 1981, the Court held that "religious worship and discussion… are forms of speech and association protected by the First Amendment" and discrimination against them in the provision of public services violates the Free Speech Clause.[12] The Supreme Court, in a 2022 decision written by Justice Neil Gorsuch and joined by all six conservative justices, recently reaffirmed that "personal religious observance [is] doubly protected by the Free Exercise and Free Speech Clauses of the First Amendment," and that the government may not discriminate against such observance, thereby barring a school district from firing a football coach for engaging in a religious prayer.[13]

Being an adherent of Sharia law is undeniably an example of "freedom of religious belief" and following its dictates in one's personal life, is an undeniably a form of "personal religious observance." Conservatives and others would readily recognize such discrimination as an infringement on religious freedom when directed against any other religion. Islam is no different.

The fact that this bill concerns non-citizen immigrants in no way changes the situation. There is no immigration exception to the First Amendment. Like most constitutional rights, it is phrased as a generalized limitation on government power, not a privilege limited to a specific group, such as citizens. A few constitutional rights *are* explicitly confined to citizens (such as the Privileges or Immunities Clause of the Fourteenth Amendment) or to "the people" (such as the Second Amendment right to bear arms), which may be a euphemism for citizens.[14] But that makes it all the more clear that rights *not* explicitly limited to citizens apply to all persons, without exception. During the Founding era, it was generally understood that the Bill of Rights applies even to suspected pirates captured by US vessels in international waters.[15] Its applicability to non-citizen immigrants in the United States - and those seeking to peacefully enter - is much more obvious.

In *Bridges v. Wixon* (1945), the Supreme Court ruled that "[f]reedom of speech and of press

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[10] See, e.g., Wael B. Hallaq, *Sharī'a: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009) (tracing the history and significance of Sharia law).
[11] *United States v. Ballard*, 322 U.S. 78, 86 (1944).
[12] *Widmar v. Vincent*, 454 U.S. 263, 269 (1981).
[13] *Kennedy v. Bremerton School Dist*., 597 U.S. 507, 543 (2022).
[14] U.S. Const. Amend. XIV, §1 (protecting the "privileges or immunities of citizens of the United States); U.S. Const. Amend. II (protecting the right of "the people" to "keep and bear arms").
[15] See Nathan Chapman, "Due Process Abroad," 112 *Northwestern University Law Review* 377 (2017).

is accorded aliens residing in this country."[16] Multiple courts have recently applied that principle in ruling against the Trump administration's policy of speech-based deportation of non-citizen students who express views the administration deems somehow detrimental to US foreign policy.[17] The same logic applies to the Free Exercise Clause, though there is not a Supreme Court case directly on point.

A standard response to the view that non-citizens are protected against deportation because of their speech or religion is the idea that, even if they have a right to free speech and freedom of religion, they do not have a constitutional right to remain in the US. Thus, under this logic, deporting them for their speech or religious beliefs would not violate the Constitution. But, in virtually every other context, it is clear that depriving people of a right in retaliation for their speech or religion violates the First Amendment, even if the right they lose does not itself have constitutional status.

For example, there is no constitutional right to get Social Security benefits. But a law that barred Jews, Mormons, or critics of the President from getting those benefits would obviously violate the First Amendment. Similarly, the Supreme Court ruled in *Carson v. Makin* that a state government cannot exclude religious schools from a voucher program open to other types of private schools,[18] even though there is no constitutional right to a voucher program, and the state could potentially eliminate that program entirely. Along the same lines, the fact that there is no constitutional right to be a public school football coach does not change the reality that firing one for his religious observances violates the First Amendment, because "[r]espect for religious expressions is indispensable to life in a free and diverse Republic."[19] The same logic applies in the immigration context.

The Supreme Court's badly flawed ruling in *Trump v. Hawaii* upholding President Trump's first-term anti-Muslim "travel ban" does not undermine any of these points.[20] In that case, the Court upheld the constitutionality of the president's Proclamation barring entry by residents of several Muslim-majority nations in large part because the proclamation was "facially neutral toward religion" and had a "facially legitimate and bona fide reason."[21] By contrast, the proposed bill explicitly targets adherents of Muslim religious law, thereby openly discriminating on the basis of religion.

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[16] *Bridges v. Wixon*, 326 U.S. 135, 148 (1945).
[17] See, e.g., *AAUP v. Rubio,* 802 F.Supp. 3d 120, 139-71, 181-91 (D. Mass. 2025) (providing extensive overview of the issues, and summarizing previous litigation in other cases); Ilya Somin, "How Speech-Based Immigration Restrictions Threaten Academic Freedom," in *Academic Freedom in the Era of Trump*, Lee Bollinger and Geoffrey Stone, eds. (New York: Oxford University Press, forthcoming), available at eds. (Oxford University Press, forthcoming), pp. 3-7 available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5604330 (discussing this litigation and the issues it raises).
[18] *Carson*, 597 U.S. at 777-85.
[19] *Kennedy*, 597 U.S. at 543.
[20] *Trump v. Hawaii*, 585 U.S. 667 (2018). For my critiques of this ruling, see Ilya Somin "Donald Trump's 'Travel Ban' is Still a 'Muslim Ban' No Matter What the Supreme Court Ruled," *USA Today*, June 26, 2018; and Ilya Somin, "The Supreme Court's Indefensible Double Standard in the Travel-Ban Case and *Masterpiece Cakeshop*," *Vox*, June 27, 2018.
[21] *Trump v. Hawaii*, 585 U.S. at 702-03.

Moreover, the Proclamation upheld in *Trump v. Hawaii* applied only to non-citizens outside the United States seeking the right to enter.[22] The "Preserving a Sharia-Free America Act" would require deportation of numerous non-citizen Muslims already within the United States, including many thousands who have legal permanent resident status.[23] Even if, as some wrongly contend, the First Amendment does not apply to exclusion of non-citizens seeking admission from outside the United States,[24] it surely does apply to deportation of those legally present on US territory.

If the proposed law were to be enacted and (mistakenly) upheld against legal challenge, it would set a dangerous precedent for deporting virtually any non-citizens whose religious beliefs offend the dominant political majority at any given time. For example, a left-wing president and Congress could enact a law deporting immigrants who are socially conservative Christians, or those who fled to the United States because their religious beliefs require homeschooling banned in their country of origin.[25]

Americans rightly do not trust the government to decide what speech or religious beliefs should be permitted in this country, and that rejection of censorship is enshrined in the Constitution. Immigration must not be an exception to this crucial principle. The government cannot restrict immigrants' speech or religious beliefs any more than it can that of native-born citizens. As Justice Oliver Wendell Holmes famously put it:

> [I]f there is any principle of the Constitution that more imperatively calls for attachment than any other, it is the principle of free thought -- not free thought for those who agree with us, but freedom for the thought that we hate. I think that we should adhere to that principle with regard to admission into, as well as to life within, this country.[26]

II. BARRING AND DEPORTING MUSLIM IMMIGRANTS WOULD NOT PROTECT AMERICA

In addition to being a violation of the First Amendment, the proposed bill's plan to bar and deport virtually all non-citizen Muslim immigrants would needlessly harm many thousands of innocent people, and would not counter any threat to America. Indeed it would actually undermine national security.

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[22] See ibid., at 702 (stressing this point).
[23] See Office of Homeland Security Statistics, "LPR by State, County, Country of Birth, and Major Class of Admission," U.S. Dept. of Homeland Security, available at https://ohss.dhs.gov/topics/immigration/lawful-permanent-residents/lpr-state-county-country-birth-and-major-class (providing data on LPRs by country of birth, and documenting hundreds of thousands from Muslim-majority nations).
[24] Cf. *AAUP*, 802 F.Supp. 3d at 182-84 (summarizing precedent that may support drawing a distinction between deportation and exclusion in this context).
[25] See J.D. Tuccille, "German Homeschooling Refugees Can Stay in U.S. for Another Year," *Reason*, Oct. 30, 2024, available at https://reason.com/2024/10/30/german-homeschooling-refugees-can-stay-in-u-s-for-another-year/ (describing one such case).
[26] *United States v. Schwimmer*, 279 U.S. 644, 654-55 (1929) (Holmes, J., dissenting), overruled by *Girouard v. United States*, 328 U.S. 61 (1946).

The vast majority of immigrant adherents of Sharia law pose no danger to our security or to America's liberal democratic values. Yet the proposed bill would exclude virtually all Muslim believers, regardless of whether they seek to impose their religious views on others, and regardless of whether those views actually have any illiberal attributes. Moreover, the bill is not even limited to those who actually are adherents of Sharia law, but covers even those merely "found to be" such adherents "by the Secretary of State, Secretary of Homeland Security, or Attorney General."[27] This could potentially open the door to deportation of any non-citizen whom the executive branch labels an "adherent of Sharia law," regardless of their actual views.

Like adherents of Christianity, Judaism, and other religions, Muslims have extensive internal disagreements about what the precepts of their religion require. Thus, there is widespread debate about the meaning of Sharia law, whether it should be applied to non-Muslims, and its relationship to the state.[28] For example, most Muslim-majority nations do not actually incorporate Sharia precepts into their criminal law, even though some extremists favor doing so.[29]

Many aspects of Sharia law govern such issues as prayer, fasting, and dietary restrictions that apply to religious believers.[30] The fact that many Muslims personally "adhere" to these practices does not mean they wish to impose Sharia on others. Muslim who peacefully follow these practices pose no more threat to American values than do adherents of similar worship and dietary rules required by other religions, such as Catholicism or Judaism. Yet a person who follows Muslim prayer and dietary rules is an "adherent of Sharia law" and therefore would be subject to deportation under the proposed bill.

Survey data indicates that the vast majority of Muslims in the United States (a large majority of whom are immigrants or children of immigrants)[31] reject religiously motivated violence against civilians and coercive state imposition of religion.[32] No major Muslim organization in

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[27] H.R. 5722 §2(b).

[28] For overviews of these disagreements among Muslims, see, e.g., Kali Robinson, "Understanding Sharia: The Intersection of Islam and the Law," Council on Foreign Relations, Apr. 25, 2025, available at https://www.cfr.org/backgrounders/understanding-sharia-intersection-islam-and-law#chapter-how-do-governments-in-the-muslim-world-interpret-and-enforce-sharia; Pew Research Center, *The World's Muslims: Religion, Politics and Society* (2013), ch .1, available at https://www.pewresearch.org/religion/wp-content/uploads/sites/7/2013/04/worlds-muslims-religion-politics-society-full-report.pdf (providing extensive survey data on these disagreements).

[29] Robinson, "Understanding Sharia."

[30] For a brief overview, see Wajahat Ali and Matthew Duss, "Understanding Sharia Law," Center for American Progress, Mar. 2011, available at https://cdn.americanprogress.org/wpcontent/uploads/issues/2011/03/pdf/sharia_law.pdf.

[31] Some 59% of US Muslims are foreign-born. See Besheer Mohammed, "How U.S. Muslims compare with other Americans Religiously and Demographically, Pew Research Center, June 18, 2025, available at https://www.pewresearch.org/short-reads/2025/06/18/how-us-muslims-compare-with-other-americans-religiously-and-demographically/.

[32] See, e.g., Nicole Naurath, "Most Muslim Americans See No Justification for Violence," Gallup (2011), available at https://news.gallup.com/poll/148763/muslim-americans-no-justification-violence.aspx; Pew Research Center, *U.S. Muslims Concerned About Their Place in Society, but Continue to Believe in the American Dream* (2017), chs. 4-5 available at https://www.pewresearch.org/wp-content/uploads/sites/20/2017/07/U.S.-MUSLIMS-FULL-REPORT-with-population-update-v2.pdf.

the United States advocates the establishment of an Islamic theocracy in this country or the imposition of Sharia Law on non-Muslims. Even as immigrants became a larger proportion of the Muslim population in the United States, between 2007 and 2015, that population became more socially liberal and tolerant, indicating that most US Muslims reject the kind of religious oppression found in some Muslim-majority countries, such as Iran and Saudi Arabia.[33]

In this context, it is important to emphasize that many Muslim immigrants are actually refugees from oppression by radical Islamist dictatorships, such as those of Iran and Afghanistan under the Taliban. Far from seeking to spread that oppression, they have come to this country precisely for the purpose of escaping it. Some are here because they actively aided the United States during the War on Terror, including many Afghans who fought alongside US forces against the Taliban and al Qaeda, and now fear deportation at the hands of the Trump Administration.[34] Similarly, most immigrants who came to the US from communist states, such as Cuba and the Soviet Union (my parents and I were among the latter), are not adherents of communist ideology, but rather seekers of freedom from its rule.

Obviously, some Muslims – like some adherents of other faiths – do have awful views on various issues. But censorship and indiscriminate mass deportation is not the proper solution for that problem. Rather, we should enforce constitutional rules that bar religious persecution and oppression, regardless of the religious affiliation of those undertaking such actions.

Mass deportation and exclusion of Muslim immigrants also is not necessary to protect Americans against the threat of terrorism. The incidence of terrorism by immigrants is already extremely low. From 1975 to 2024, the average American had an annualized 1 in 4.6 million chance of being killed by a foreign-born terrorist on US soil, whether Muslim or otherwise.[35] This risk is actually smaller than that of being struck and injured by lightning in a given year (about 1 in 1.2 million per year during the thirty years from 1989 to 2018).[36]

Obviously, the federal government should work to reduce this already small risk further. But that objective cannot justify mass deportation of Muslim immigrants, the vast majority of whom reject terrorism and have never engaged in any violence.[37]

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[33] For an overview, see David Bier, "U.S. Muslims Become More Socially Liberal As Muslim Immigration Rises," Cato Institute, Oct. 17, 2016, available at https://www.cato.org/blog/us-muslims-become-more-socially-liberal-muslim-immigration-rises.

[34] See Ilya Somin, "Trump Seeks to Deport Afghans Who Fled the Taliban," *Reason*, May 26, 2025, available at https://reason.com/volokh/2025/05/26/trump-seeks-to-deport-afghans-who-fled-the-taliban/

[35] Alex Nowrasteh, "Terrorism and Immigration: 50 Years of Foreign-Born Terrorism on US Soil, 1975–2024," Cato Institute Policy Analysis No. 991, Mar. 10, 2025, available at https://www.cato.org/policy-analysis/terrorism-immigration-50-years-foreign-born-terrorism-us-soil-1975-2024. 68% of the foreign-born terrorists during this period were radical Islamists. Ibid. The vast majority of the fatalities caused by foreign-born terrorists on US soil during this period (some 98%) were inflicted by the "dramatic statistical outlier" event of the 9/11 attacks, which has had no parallel either before or since. Ibid.

[36] See National Weather Service," How Dangerous is Lightning?," National Oceanic and Atmospheric Administration, available at https://www.weather.gov/safety/lightning-odds.

[37] For more detailed discussion of the reasons why terrorism risk does not justify large-scale immigration restrictions, see Ilya Somin, *Free to Move: Foot Voting, Migration, and Political Freedom* (Oxford University Press, rev. ed. 2022), 141-44; Ilya Somin, "Does the Threat of Terrorism Justify Migration Restrictions?" *Verfassungsblog,* Mar. 30, 2022, available at https://verfassungsblog.de/os5-migration-restrictions/.

In addition to being unjust and unconstitutional, such a policy would predictably play into the hands of Muslim extremists who depict the United States and the West as enemies of all Muslims. In part for this reason, the radical Islamist terrorist group ISIS praised President Trump's first-term travel ban targeting residents of several Muslim-majority nations as a "blessed ban."[38] A much more extensive exclusion and mass expulsion of Muslims would play into the hands of terrorists to a far greater extent, boosting their anti-American propaganda worldwide. The resources devoted to implementing and enforcing such exclusion and mass deportation could be better used to target actual terrorist groups,[39] not give those groups a major propaganda victory by harming many thousands of innocent people, and thereby needlessly alienating Muslims all over the world.

[38] "Isis Hails Donald Trump's Muslim Immigration Restrictions as a 'Blessed Ban,'" *Independent*, Jan. 30, 2017, available at https://www.independent.co.uk/news/world/middle-east/isis-donald-trump-muslim-ban-immigration-iraq-iran-restrictions-travel-islamic-state-us-visa-a7552856.html.

[39] For more on how resources expended on mass deportation can be better used to combat crime and terrorism in other ways, see Somin, *Free to Move,* 143-44.

Mr. ROY. Thank you, Professor Somin. We will now proceed under the five-minute rule with questions.

Without objection, Mr. Biggs, a Member of the Judiciary Committee, will be permitted to participate in today's hearing for the purpose of questioning the witnesses if a Member yields him time for that purpose.

With that, the Chair recognizes the gentleman from Missouri, Mr. Onder, for five minutes.

Mr. ONDER. Thank you, Mr. Chair. I yield my time to Representative Biggs.

Mr. ROY. I thank the gentleman.

Mr. BIGGS. Thank you, Mr. Chair. Thank you, Mr. Onder, for yielding time.

I'm curious, Professor, are you familiar with a case called *Reynolds* v. *United States*, 1879 case?

Mr. SOMIN. I am, yes.

Mr. BIGGS. You must be, because part of your rationale on page 6 of your statement seems to go right along with the rationale of the original *Reynolds* case, which was that belief versus practice—belief OK, practice not necessarily OK, right?

You would agree with that, right? I'm looking at page 6, your line that says,

> Many aspects of Sharia law govern such issues as prayer, fasting, and dietary restrictions that apply to religious believers.

You would say that stuff is OK, protected even under Reynolds, right?

Mr. SOMIN. Certainly free exercise of religion includes—

Mr. BIGGS. You would agree that praying, fasting, dietary restrictions, that's A-OK under *Reynolds*, right?

Mr. SOMIN. I do not think *Reynolds* gives the government a general power to ban prayer, fasting, and so on. No, it does not.

Mr. BIGGS. That's right. I agree with that. In that particular case, the Court said "polygamy is domy (ph)," it is bad, you cannot practice polygamy anymore. Do you remember that?

Mr. SOMIN. I do.

Mr. BIGGS. Yes. Now, I want to go to you, Mr. Gelé. Let's just talk about some of the practices that seem to be broad in this idea of Sharia, because Sharia is an expansive term here.

I'm looking, and it says here that where Sharia is—on page 1, of your statement,

> The enforcement of foreign child custody judgments, that's coming into America and we're relying on Sharia interpretations from other places.

Is that accurate?

Mr. GELÉ. Yes. There's been numerous cases in which child custody judgments from either Islamic countries or even non-Islamic countries that have Sharia courts—

Mr. BIGGS. How does that square with *Reynolds*, where you have a distinction between religious practices and behavior? Here we have Sharia determining actual child custody issues totally irrespective of religious practices.

How does that square with *Reynolds*?

Mr. GELÉ. Well, clearly, *Reynolds* would allow the government to regulate child custody, whether or not the child custody rules were favored or disfavored by a religion.

However, there is a lack in our law of addressing comity of foreign judgments in the constitutionality of the process for which those foreign courts reach their judgments. There's even a Ninth Circuit case, the *Naoko* case, where the Ninth Circuit explicitly said that you can't do a constitutional analysis on a foreign judgment.

Under current law, it appears as though foreign courts can do things that our courts would never imagine doing, would clearly violate constitutional rights, and those judgments are being brought here, and the judgments are being, on many occasions, enforced.

Mr. BIGGS. Yes. They would be inconsistent with American jurisprudence, but somehow, we're incorporating some foreign jurisprudence into ours.

Now, I'll go to you, Mr. Spencer, for just a sec here. On page 2, of your statement, you point out that the Koran states a man should "beat" a woman from whom "he fears disobedience."

Domestic violence. Domestic violence is a behavior as opposed to a belief, but in the Sharia system it seems to be a belief.

Mr. SPENCER. Yes, it's certainly a belief. You can't have something in the Koran and have Muslims say that they're against it if they are going to be believing, observant Muslims.

The problem becomes when they act on it in a Sharia context, then you have the precedent of Britain that I was explaining, that instead of referring it to the criminal courts as they had agreed to do, they tried it under Sharia and told the wife to go back and try to please her husband instead of prosecuting the man who is committing the domestic abuse.

Mr. BIGGS. Sharia actually became an institution or a third rail that replaced the British judicial system, at least in that particular case.

Mr. SPENCER. Exactly.

Mr. BIGGS. Ms. Schild, ultimately this really is the nub of why we're here today. We see Sharia. We see its expansive nature. Some people want to frame it in a certain way, it's just how we pray, it's how we call to prayer, those types of religious practices. It actually has massive institutional ramifications.

Has it grown in Texas? What did this start out with? How has it been impacted in Texas? I'm almost out of time. Mr. Chair, if she can answer that question.

Mr. ROY. You may answer.

Ms. SCHILD. Yes. Mr. Chair, Members of Congress, Texas is under assault from Islamic groups and foreign powers, Qatar, Turkiye, Pakistan, and Saudi Arabia, waging a stealth war on our soil, planting flags via mosques, schools, and enclaves.

They follow the Muslim Brotherhood's, quote, "Civilization jihad" plan from the 1991 explanatory memorandum: Destroy America from within by imposing Sharia and achieving global dominance. This has been built for over 35 years and is now deeply entrenched. Reversal requires urgent action. Texas is Ground Zero. Sharia doctrine demands subjugation of non-Muslims.

Mr. ROY. Ms. Schild, you've got to wrap your answer, because we're overtime. Go ahead and wrap.

Ms. SCHILD. Yes. As RAIR Foundation's USA Texas Director, I travel across the State constantly. What I'm hearing from people in their communities who message me all the time what's happening in their own backyard is that they are very afraid of the Islamic Sharia expansion they see happening in our State and what that means, because they see it happening in other places in America.

Mr. ROY. Thank you, Ms. Schild. With that, I'll now recognize the Ranking Member, Mr. Raskin.

Mr. RASKIN. Mr. Roy, thank you very much. I find something to agree with what all the witnesses said. Let me start with Ms. Schild and Mr. Spencer.

You basically have said that there are fanatics within the Islamic faith who use the religion for their own purposes, and I have no quarrel with you there, except I would extend the point to say that's true of fanatics in every religious tradition, in every religious community. In fact, any particular crime or violent act that you would attribute to Sharia fanatics you could also find taking place in other communities too. Now, Mr. Gelé, am I pronouncing your name right?

Mr. GELÉ. Yes, you are. Thank you.

Mr. RASKIN. Mr. Gelé. You make a very interesting point to me, but I want to try to break it down if we can. Let me start with this.

If there is a couple that are faithful Muslims who say that they are governed by Islamic law, but they get a divorce and it's a custody arrangement, and they go to a regular family court in any State in the country, do you agree with me that the standard that must govern by a judge is what's in the best interest of the child, even if, say, the husband is saying, no, under Sharia law—and I'm making this up, because I don't know if it's true—but under Sharia law, if the husband wants custody, he gets custody.

That would be not just wrong, but it would be outside of the law for a judge to say, "I'm not going to use the law of the State of Colorado or Tennessee or Maryland; I'm just going to use Sharia law because both of you are Muslims."

Mr. GELÉ. Every State in the United States applies the best interest of the child standard to some extent. Every State in the United States applies the law of that State. However, under the laws of arbitration and the laws of comity of foreign judgments, they will sometimes apply—

Mr. RASKIN. OK, that's where I'm going now. Just to be clear, it would be a violation of the law and clearly reversible error if any District court in the land said we're going to use Orthodox Jewish law or Islamic law or Seventh-day Adventist law to decide a custody dispute or a marriage dispute. We can only use the secular law, and it is reversible error if it doesn't.

Now, you raise a really interesting point, though, which is what happens if there is a society which actually has a theocracy, like Saudi Arabia, for example, which I believe uses Islamic law and Sharia law.

OK. Let's say they are the husband—again, hypothetically, because I don't know the theological particulars, but let's say the hus-

band gets custody because he wants custody. Then, they come over to America, and the wife argues, "I should have custody under the best interest of the child standard."

Are you saying that under the comity of laws or respect for foreign judgments that an American court is bound to accept the judgment that took place in another society?

Mr. GELÉ. I'm not saying that. The Maryland courts have said that—

Mr. RASKIN. Yes.

Mr. GELÉ. —in the case of *Hussain* v. *Malik*, and it's happened in other instances.

Mr. RASKIN. Yes.

Mr. GELÉ. The problem, Congressman, is that although the law of the States is clear, the Uniform Child Custody Jurisdiction Enforcement Act has overruled traditional concepts of comity, and it does not have a high threshold for enforcing those foreign judgments.

Mr. RASKIN. OK. Let me just stop you there, because I have limited time. You've raised an interesting point. I don't think it's addressed at all by the good Chair's legislation. I don't think there's anything in the legislation that deals with your point.

That's something I'm open to, because I like American law. I don't think anybody here should be subject to laws of authoritarian theocratic societies like Saudi Arabia.

Professor Somin, to you. What about the Chair's legislation? Have you looked at that from a constitutional perspective?

Mr. SOMIN. Yes, I have, and for the reasons I stated before, it would be unconstitutional if enacted.

Mr. RASKIN. You say that because you believe that—well, you believe the language and the text—you're an originalist. You're a textualist. You're the Cato Institute. You believe the language in the First Amendment says Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof. Therefore, if we said we're not going to allow Sharia followers in the country; we're not going to allow fundamentalists or Mormons in the country because they believe in plural marriage, too; we're not going to believe anybody who believes in something that's at odds with our beliefs in the country—you're saying that this would violate the First Amendment?

Mr. SOMIN. Yes, it would. The Supreme Court, including in decisions by conservative justices, has repeatedly stated that discrimination on the basis of religion with respect to government benefits is unconstitutional.

Mr. RASKIN. Yes, all right. Let me ask you one final thing. OK.

Within Orthodox Judaism, there's a process called the "get," which is that the couple may get a secular divorce, but if the husband doesn't dispense this religious document called a "get," the woman can never get remarried again within Orthodox Judaism. There was an effort when I was in the Maryland Legislature to say, well, we are going to say that you can't get a secular divorce if you're not going to grant the woman this religious certificate or "get."

I just had to oppose it because it was conditioning a secular good on a religious act, and I wonder if you think I did the right thing

there. These guys are schmucks. They are not giving the women the "get," but the women can get remarried in secular court if they want to. They just can't do it within the religious courts.

Mr. SOMIN. Yes, I agree with you. Orthodox Jews can recognize or not recognize these divorces as they choose within their religious community, but as far as secular law in the United States is concerned, the law that matters are the law of the State of Maryland in that case or whatever State they happen to be in.

Mr. RASKIN. Thank you for your patience, Mr. Chair. I yield back.

Mr. ROY. I thank the Ranking Member. I now recognize the gentleman from California, Mr. McClintock, for five minutes.

Mr. MCCLINTOCK. Well, my thoughts are along a similar line. We are talking about two very different things: Compulsory and voluntary. The Democrats are correct that Jefferson believed in religious liberty, which is the voluntary adoption by an individual of religious beliefs and religious expression and religious practice, and that is protected under our First Amendment. That's something fundamentally different from the compulsory imposition of religious practice on those who are not accepting those beliefs.

Jefferson made the point in one of his letters that every religion proclaims itself as the one true religion. How is anybody going to able to sort through all that and find out the one true religion for themselves if we don't allow the airing of all those differences and allow people the freedom to discuss and to debate them?

Our Constitution protects not only religious liberty. It protects civil liberty as well. You've got the right to your religion. You don't have the right to impose it on others. You've got the right to extol or criticize religion for its teachings or beliefs. Do any of our panelists disagree with that?

OK. If somebody wants to adopt the Muslim religion and abide by its practices in their personal lives, they have the right to do so. Does anybody disagree with that?

OK. If somebody wants to enter into a contract with someone who also adopts these practices, as long as those terms don't violate the civil law, they have a right to do so. Does anybody disagree with that one?

Mr. GELÉ. Representative, I would not agree with that in the case of child custody—of arbitration of child custody.

Mr. MCCLINTOCK. OK. Could you explain that a little bit further?

Mr. GELÉ. Sure. Some States allow—particularly, Texas allows the arbitration of child custody. Other States have just banned it like New York. When there's a child involved, just because the parents agree to have child custody arbitrated, it does not mean the State should automatically enforce that child custody judgment. States would have the option of either banning the arbitration of child custody or there's a model law or a governing.

Those States could pass governing the arbitration of child custody, but I do not believe it's a good policy to allow arbitrators to determine child custody without some basis of court review.

Mr. MCCLINTOCK. Well, if both the parents agree this would be a contractual relationship. If both parents agree, what's the beef? Again, it's both parents agree and it's in compliance with the civil law.

Mr. GELÉ. Well, if in compliance with the civil law means a judge reviewed it and found it was the best interest of the child then I would certainly agree with that.

Mr. MCCLINTOCK. Right. OK. We're in agreement on all those things. My question is: Are there instances where Sharia law is being imposed on people against their will in this country today?

Mr. GELÉ. In the case of child custody, the arbitration panels can be doing that.

Mr. MCCLINTOCK. You just discussed—right. You just discussed that, OK.

Mr. GELÉ. That could both be through foreign judgments or through arbitration.

Mr. MCCLINTOCK. OK. Are you aware of any proposals to enact laws that would assist in imposing Sharia law on others or giving it precedence over our own civil law? Anyone? OK. Well, good.

Ms. SCHILD. There was actually a case in Collin County, Texas, with actually a Republican female judge who looked at a case of a divorce, and she sent the woman to a Sharia court, and it was overturned by the Texas Supreme Court.

Mr. MCCLINTOCK. Yes. Again, that's the remedy we have for erroneous judicial decisions, and that is the appellate process, and what you're saying is it worked in that case.

I've got about a minute left. I'll yield to the Chair since I see Mr. Biggs has left.

Mr. ROY. I thank the gentleman from California. I would just ask Mr. Spencer. Do you have anything to add to what Mr. McClintock from California was just adding about any of those concerns? You seem to want to. I just want to make sure.

Mr. SPENCER. Yes. The aspects of Sharia that are really controversial are political and not religious. The whole hearing here is turning on the idea that it would be terrible to restrict religious practice and in violation of the First Amendment, but the difficulty here is that Sharia in all its forms and wherever it has been implemented has been political and not just religious—

Mr. MCCLINTOCK. Oh, agreed.

Mr. SPENCER. —and has been supremacist and not just egalitarian. There is no Sharia state—

Mr. MCCLINTOCK. If I could reclaim my time.

Mr. ROY. I yield back to the gentleman from California.

Mr. MCCLINTOCK. If I could reclaim my time, I agree with you. There is a political aspect of it, but that is protected by our freedom of speech, our freedom to criticize, our freedom to debate it, and our freedom to vote it down. Isn't that the way the system works?

Mr. SPENCER. Well, I don't think that the freedom of speech is in play when you're talking about active efforts to subvert constitutional order in the place of another one.

Mr. MCCLINTOCK. When you're debating any political issue, that's the essence of it. We all talk among ourselves.

Mr. SPENCER. Obviously, you cannot the classic thing of crying fire in a crowded theater. It's the same thing here. There are laws against subversion. There are laws against working against the constitutional order, and that's what's at issue here. Sharia is not really open to debate. Everywhere it's been implemented—in Saudi

Arabia, Iran, Afghanistan, Pakistan, and Somalia—it's pretty much the same.

Mr. ROY. Thank you, Mr. Spencer. I thank the gentleman from California. I now recognize the gentleman from Tennessee, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chair. I'm a little confused about this hearing. I think we all probably agree—I haven't been here to hear everybody's agreement—but I think we all agreed Sharia law is not something that anybody would want to have to live under. It's oppressive, and it's a religion that's forced on other people.

We've got a Constitution already that's under attack. The emoluments clause is being shredded. The pardons power is being abused in such a way that is—people question whether we should have a pardon power because it is not being used for the reasons by which it was put in the Constitution—for unusual cases where justice wasn't served, et cetera—and it's being used as a transaction event. We're talking about Sharia law?

We've got so much to deal with, Mr. Chair, with our Constitution and protecting it, the First Amendment, the Fourth Amendment, what's going on in Minnesota, the murdering of citizens, fear on the streets, murdering and shooting people in the back 10 times, shooting a woman in the face, not giving or rendering aid to either one of them, not allowing doctors to render aid to them, watching them die. Those are constitutional problems. We're talking about Sharia law?

This is not really relevant to this Committee and to what's going on in America today. There is so much we could be dealing with concerning the Constitution and protecting America. The White Christian nationalist ideology has been put forward.

One of the gentlemen here said something about—was it the certain—it might have been you, Mr. Spencer—something that a group put forward as their plan for the future, some publication or some ideology. Did you mention that?

Mr. SPENCER. I don't know. You might be referring to the Explanatory Memorandum, which is—I didn't mention, but it's a captured internal document of the Muslim Brotherhood detailing its program for the United States, where it says the brothers must understand that their work in America is a kind of grand jihad in eliminating and destroying Western civilization from within and sabotaging its miserable house by their own hands and the hands of the believers, so that the law's religion is victorious over other religions.

Mr. COHEN. Right. That's pretty much what—

Mr. SPENCER. I would suggest that just saying that we've got other problems doesn't make that one go away.

Mr. COHEN. Sir, I've got the floor. Sir, I've got the floor. You're not Pam Bondi.

Mr. SPENCER. Sorry?

Mr. COHEN. I said I've got the floor. You're not Pam Bondi. That's what I was getting at. What you're talking about sounds like a Middle Eastern version of Project 2025, another type of manifesto to take over and do all these things and to control our government and to turn it around on its head.

We should be looking at Project 2025 and what they plan to do to this country and what they're doing to this country. This is not the country that Jefferson would have known. It's not the country I've known. It's not the country that I think our Constitution foresaw. None of this seems relevant. It seems like—

Mr. RASKIN. Will the gentleman kindly yield?

Mr. COHEN. Yes, sir, please.

Mr. RASKIN. Thank you to the distinguished gentleman from Tennessee.

There was a mass murderer in Norway who went on an anti-Muslim rampage and killed 69 people. You'll recall his name was Anders Breivik. He denounced Norwegian politicians as failing to defend the country against the Muslim takeover.

I raise it because I want to introduce this article from *The New York Times*. He invoked your work, Mr. Spencer. You are probably aware of that. You probably know about this article from *The New York Times* that he frequently quoted Robert Spencer who operates the Jihad Watch website.

All which goes to demonstrate the point I was making before that fanatics can take up any ideology, religious or secular, and use it to commit horrific crimes, all which to me would suggest that all of us should be careful about whether we're speaking up for general principles like the separation of church and State and against religious fanaticism of every kind, or whether we're trying to demonize and vilify a particular group. I don't know if you have any response.

Mr. SPENCER. Well, yes. In terms of demonizing and vilifying, obviously, this would be an example of it because Anders Breivik quoted me, yes. He actually quoted a documentary that I was in. Every time my name was mentioned as speaking, it's listed as one of the times he mentioned, and then they say, oh, he mentioned him 100 times or something.

Mr. RASKIN. Anything about the massacre itself?

Mr. SPENCER. The fact is that he also quoted Barack Obama.

Mr. RASKIN. Anything about the massacre of all the innocent people?

Mr. SPENCER. He quoted John F. Kennedy. He quoted many, many people.

Mr. RASKIN. OK. Leaving aside the quotations, do you have any thoughts on the massacre of the people?

Mr. SPENCER. He actually took issue with me for not counseling violence. To bring this up really is tantamount to saying that Elizabeth Warren is responsible for the Dayton mass murders because the mass murderer invoked her name.

Mr. RASKIN. OK. OK. Mr. Chair, I think Mr. Cohen's time is up. I would like to enter this from *The New York Times* article into the record, "Killings in Norway Spotlight Anti-Muslim Thought in the U.S."

Mr. COHEN. I yield back the balance of my time.

Mr. ROY. Without objection. Thanks. Thank you, Mr. Cohen. I now recognize my friend from North Carolina, Mr. Harris.

Mr. HARRIS. Thank you, Mr. Chair, and I thank all of you on the panel for what you have shared today.

While there has been a lot of talk about what we don't know and we don't know this world or we don't know that world, let me tell you what happened in my world, in the Eighth District of North Carolina. This past year, in late 2025, the FBI in coordination with local law enforcement arrested an 18-year-old in Mint Hill, North Carolina, who was plotting to carry out a deadly New Year's Eve attack in support of ISIS. According to the DOJ, this 18-year-old—Christian Sturdivant is his name—sought to become a martyr for ISIS.

Mr. Spencer, I just want to give you a chance to share. Can you help me understand how a kid growing up in a suburb of Charlotte, a rural area in North Carolina, can be radicalized by the Islamic State.

Mr. SPENCER. Mr. Harris, this is a very important issue that law enforcement and intelligence agencies in the U.S. have been entirely remiss and have ignored altogether. The fact is that a young man like that in Mint Hill could easily go to numerous sites on the internet, and quite possibly to people within his own community, who would tell him that the Islamic State, ISIS, represents authentic Islam and that violence against unbelievers is a duty that he needed to carry out.

This is something that ISIS recruiters say all over the world. They were able to attract thousands of Muslims from 100 different countries when they had their caliphate in Iraq and Syria, and this is because their claim to Islamic authenticity rang true among all too many Muslims, and nobody is countering that.

Mr. HARRIS. I know this happened in Mint Hill, as I mentioned. Can you tell me where else in the United States that such radicalization is happening?

Mr. SPENCER. This has happened all over the country. We had the Boston marathon murders that were two young Muslims, once again, who were thought to be moderate at one time. We had the Fort Hood massacre, San Bernardino, Chattanooga. The list goes on. Orlando, Florida. The list goes on and on and on.

These are young Muslims in the United States who come to believe by—for reasons that nobody has ever investigated fully—that this is the authentic expression of their faith.

Mr. HARRIS. What role is the internet playing, you believe, in the radicalization of American-born youth?

Mr. SPENCER. Well, the Islamic State group has frequently called on Muslims in the United States specifically to carry out lone-wolf jihad terror attacks by just starting to murder people at random when they get the opportunity. Because they have this claim of Islamic authenticity, it's all too easy for a young man to go online and see that and think that he will be receiving a reward from Allah for carrying it out.

Mr. HARRIS. Well, as a pastor myself, I believe, obviously, that religious liberty is critically important and something we've got to be willing to do what we must to protect. However, I also recognize that a person's religious liberty doesn't mean they can impose their religious liberty on others.

Let me ask you this, Mr. Spencer. How do we balance our respect for religious liberty with the threat you see posed by Sharia law?

Mr. SPENCER. It seems to me we have to be able to say to the Muslim community that they are perfectly free to practice their religion except where, in particular, it contravenes other existing American laws.

For example, there were a couple doctors in Detroit a few years back who were put on trial for practicing female genital mutilation, and their defense was that this was part of their Islamic faith and that they were carrying out as part of their religious practice.

A judge ultimately threw the case out saying, yes, indeed, this contravenes religious freedom, and we have to understand that it would be unconstitutional to ban female genital mutilation because it's part of Islam. The rights of those girls whose lives are destroyed, they don't matter at all. That's Sharia.

Mr. HARRIS. Well, and one thing—in just the last 40 seconds—that concerns me is the creation of these Islamic tribunals that seek to mediate disputes between Muslims and bind Muslims in the United States to Sharia law. We've seen them popping up in cities like Dallas, which led Governor Abbott to request law enforcement officials to investigate these entities.

Mr. Gelé, in just the last 15 seconds, would Sharia law-based institutions such as these potentially violate Federal law, and if so, how so?

Mr. GELÉ. They would probably not violate Federal law that is particularly a statute, but what they would do is in some of their rulings that their rulings were enforced by civil courts—such as, of course, in Texas, as Texas law would currently suggest—then that would violate certainly American constitutional liberties, including due process, equal protection, freedom of speech, and freedom of religion.

Mr. HARRIS. OK. Thank you, sir. I'm out of time. I yield back, Mr. Chair.

Mr. ROY. I thank the gentleman from North Carolina. I now recognize the Ranking Member, Ms. Scanlon, for her five minutes of questions.

Ms. SCANLON. Thank you. It's been an interesting discussion of one religious minority attempting to impose its beliefs on the general population, which, of course, would violate the First Amendment.

That our colleague, Mr. Cohen, did raise an interesting point about the greatest danger perhaps lying not with Sharia law but with White Christian nationalism—which is very different than patriotic Americans who happen to be Christian—but the White Christian nationalist movement, which is embodied in the *Heritage Foundation*'s Project 2025 manifesto. Which we have seen over the last year the Trump Administration has embraced both by putting people who drafted that document into the administration but also by implementing its plans.

I will just run through a few of them. The plan calls for a total abortion ban—which is not something that people of all faiths believe in—including the overturning of FDA approval for mifepristone and restricting access to contraception. These beliefs seek to reverse LGBTQ+ equality, including same-sex marriage, and making it very difficult for people to access gender-affirming care.

The policy promotes a very narrow definition of family as a married mother and father, often portraying single motherhood as an aspect or a cause of social decay. It proposes and the Trump Administration has moved to abolish the Department of Education, promoting school privatization through vouchers and trying to fund private religious schools.

With respect to civil service, we've seen the moves to reclassify tens of thousands of nonpartisan Federal civil servants and replace them with political appointees willing to swear allegiance to this particular ideology. Impacts on the environment, et cetera. There's a whole host of ways here in which this particular ideology has been embedded in our government in recent times, despite the fact that it does pose a threat to underlying constitutional values and other people's religious beliefs.

That keeps coming to mind as we have this conversation about having the respect for religious liberty and people being free to practice their own religion, but they're not supposed to be imposing their own religion on others.

Professor Somin, can you speak—for the benefit of my Republican colleagues, can you explain how the First Amendment's Free Exercise Clause and the Free Establishment Clause work together to prohibit the government from imposing one group of Americans' religious views on another?

Mr. SOMIN. Sure, absolutely. Certainly, the Free Exercise Clause prevents direct coercion of religion of any kind, forcing people to engage in religious practices that they don't want to engage in. The Establishment Clause prevents the establishment of any kind of official religion, including the kind of theocracy we see in Iran or in Saudi Arabia.

Also, relevant to this case and to the legislation we're talking about today, the Free Exercise Clause in decisions by Supreme Court justices—including by conservative ones in the case of *Carson* v. *Makin* dealing with, yes, school vouchers—they have ruled that it violates the Free Exercise Clause to exclude people or organizations based on their religious beliefs from benefits that are available to other people, even though the State did not have an obligation to create school vouchers under the Constitution in Maine.

When Maine did so, in Carson, the Supreme Court in the decision joined by all six conservative justices correctly ruled that excluding religious schools simply because they're religious violates the First Amendment, and the same thing would be true for an effort to exclude Muslim immigrants in the United States simply because their adherence of Sharia law. This jurisprudence, which conservatives accept almost everywhere else, applies here as well.

Ms. SCANLON. We've recently seen some examples where this administration has tried to exclude immigrants and deport immigrants based on their First Amendment speech, for example, publishing an op-ed. Can you talk about why, under the First Amendment, the government can't deport noncitizens simply because of their religious views?

Mr. SOMIN. Sure. I described this in my written testimony, but the basic idea is that there is no immigration exception to the First Amendment and that the rights protected by the First Amendment

apply to noncitizens on our territory no less than the citizens, and does courts several times over the last year have ruled against the Trump Administration's campaign of speech-based deportations and rightly so.

Ms. SCANLON. I would just yield 25 seconds to Mr. Raskin.

Mr. RASKIN. I actually have a UC request, Mr. Chair, if that's OK.

Mr. ROY. Sure.

Mr. RASKIN. This is 18 U.S.C. 116, Section C, and this is banning female genital mutilation in America. It says it shall not be a defense to a prosecution under the section that female genital mutilation is required as a matter of religion, custom, or tradition.

I don't know the judge that Mr. Spencer is referring to, but that's why we have Appellate courts if somebody actually allowed it in plain contravention of the statute.

Mr. ROY. Without objection. I will now recognize my colleague and friend, the gentleman from Texas, Mr. Gill.

Mr. GILL. Thank you, Mr. Chair. Thank you for holding this hearing and for very boldly and clearly speaking about this. This is an issue that I hear all the time from my constituents in North Texas who are concerned about the rise of radical Islam in Texas, and I want to thank the witnesses for being here as well.

I have a few questions, and I want to start with you, Mr. Somin. Can you tell me what percentage of U.S. Muslims believe that Sharia law should be implemented in the United States?

Mr. SOMIN. I am not aware of survey data on that specific question. However,—

Mr. GILL. I can tell you it's 39 percent. Thirty-nine percent of Muslims in the United States want Sharia law implemented in the next 20 years. Do you know what percentage of Muslims in the United States support the formation of a Muslim political party?

Mr. SOMIN. Again, I'm not familiar with survey data on that particular question, but—

Mr. GILL. The number is 46 percent. I'll do a couple more. Do you know what percentage of Muslims in the United States support making it illegal to show a picture of the cartoon—or a cartoon of the prophet Muhammad?

Mr. SOMIN. As with the other questions, a lot depends on the wording and the sample, and I would want to see the methodology here.

Mr. GILL. Fifty percent. That's a lot.

Let's do one more. Do you know what percentage of Muslims in the United States believe that Islam should be declared as our national religion?

Mr. SOMIN. Once again, I would want to look at the methodology of the survey to question—

Mr. GILL. Thirty-three percent. This is from a survey conducted by the *Heritage Foundation* in September 2024. It was published on October 6, 2024.

I've got two more for you. Do you know what percentage of American Muslims believe that Israel does not have a right to exist as a Jewish homeland?

Mr. SOMIN. I don't know that one either, but if it's from a survey by the *Heritage Foundation*, they are known for their bad methodology.

Mr. GILL. It's 43 percent. You are happy—you can declare that statistics you don't like aren't true, but that's not how I'm going to operate here.

We got one more. Do you know what percentage of Muslims in the United States say that Jewish people have too much power in government policy?

Mr. SOMIN. Once again, I would refer you back to my previous answer.

Mr. GILL. Fifty-seven percent. Do those facts concern you?

Mr. SOMIN. Again, I would want to see the nature of the survey, and I would also know the—

Mr. GILL. No, I'm just asking if those statistics concern you.

Mr. SOMIN. If they were accurate, they would be a matter of concern, but I would want to see—

Mr. GILL. They are accurate, that they are a matter of concern, and most Americans agree with me there.

Mr. Spencer, I'm going to move on to you. Let me ask you. Is Islam as a political ideology, in your opinion, compatible with America's constitutional governing framework?

Mr. SPENCER. Oh, no, certainly not. It denies the freedom of speech. It denies the equality of rights of non-Muslims with Muslims, the equality of rights of women with men, and contradicts U.S. law and numerous other particulars.

Mr. GILL. Can you tell me what is the goal of political Islam?

Mr. SPENCER. Well, Muhammad, the prophet of Islam, said Islam must dominate and not be dominated. In every Sharia State that is on Earth today and has ever been on Earth, non-Muslims have not had equality of rights with Muslims in the society. The idea is to enforce a subservient position for them so that they know the pain in this world as well as the next of having rejected Muhammad, which the Koran says that they will suffer.

Mr. GILL. Under Islamic law as it's commonly practiced, are men and women treated with equal dignity?

Mr. SPENCER. No, certainly not. I quoted before the passage about women—beating women from whom you fear disobedience. The Koran contains nothing about beating disobedient men.

Mr. GILL. Ms. Schild, I've got a few questions for you. Can you explain to us very, very briefly what is EPIC City? Do you mind turning your microphone on?

Mr. ROY. Your microphone.

Ms. SCHILD. Yes. To understand how Sharia relates to EPIC City, you don't have to look any further than Imam Yasir Qadhi of EPIC. He is the Chair of the Fiqh Council on North America, the group that tells Muslims in the U.S. how to apply Sharia.

Mr. GILL. Do you know who is funding EPIC City?

Ms. SCHILD. Yes. Just one moment. I have some information on funding.

When you ask where the money and infrastructure for EPIC City are coming from, when EPIC City was first marketed, they actively solicited investors, including foreign investors. That fundraising model is now under serious legal scrutiny with Texas Attorney

General Ken Paxton. He sued East Plano Islamic Center, its development arm, community capital partners, alleging violations of Texas security laws in how funds were raised and managed. This isn't isolated.

Mr. GILL. Thank you. My time is up, so I yield back. Thank you, Mr. Chair.

Mr. ROY. The Ranking Member.

Ms. SCANLON. Thank you. I seek unanimous consent to enter into the record an article published by the *Cato Institute* on October 26, 2025, written by Mustafa Akyol, titled "No 'Sharia Law' is Coming to Texas."

I ask unanimous consent to enter into the record an article published by *Politico* on January 26, 2026, written by Liz Crampton and Jessica Piper, titled "Republicans go all-in on Sharia law attacks ahead of Texas primary."

I ask unanimous consent to enter into the record an article written by J. David Goodman published in *The New York Times* on February 10, 2026, "Without a 'Border Invasion,' Texas GOP Turns to an Old Enemy, Islam."

Mr. ROY. Without objection.

Ms. SCANLON. Thank you.

Mr. RASKIN. Mr. Chair, I've got one too.

Mr. ROY. The Ranking Member.

Mr. RASKIN. This is from the *Pew Research Center*, "45 percent of Americans say the United States should be a Christian Nation."

Mr. ROY. Without objection.

Mr. ROY. I will now recognize myself for such time as I shall consume.

Ms. Schild, let me ask you a quick question. Just try to go through these pretty quickly, all right? Just a few things with respect to Texas that my friend, Mr. Gill, was just talking about. Is it true that—not just EPIC City—that there are other similar-type compounds being built across the State of Texas?

Ms. SCHILD. Yes.

Mr. ROY. Including North of Austin and including—there's a big center in the West campus in the University of Texas.

Ms. SCHILD. Right.

Mr. ROY. Including other places and others. It's not just located—just EPIC City. Is that correct?

Ms. SCHILD. That's correct. All over the State.

Mr. ROY. I also talk to a number of people, particularly in the Dallas—Fort Worth metroplex—women in particular—who will tell me that there are enclaves in areas throughout the Dallas—Fort Worth metroplex where they do not go. Where there are women, Texans, who say that because they are in areas that have a high concentration of Muslim men, and because of the nature of what's going on in those areas, that there are now, quote, "no-go zones" in the Dallas–Fort Worth metroplex. Is that correct?

Ms. SCHILD. That's correct.

Mr. ROY. I have heard that from multiple people and multiple places throughout that area, correct?

Ms. SCHILD. Correct.

Mr. ROY. Mr. Spencer—and I look to you on this question here. I heard my colleagues on the other side of the aisle who were rais-

ing objection to legislation that—and a number of bills that some of us introduced, particularly one that I introduced—that was raising the issue of vetting individuals as we're bringing them into the United States for their adherence to Sharia law. That was the idea.

The idea is that Sharia law is inconsistent with our values in Western civilization, so we should know if we're bringing people into the country that may want to advance a system of law or systems that are contrary to our laws.

Here's my question. In doing so, my colleagues acknowledged and said that this would mean that Muslims generally would be in fear of deportation or inability to be brought into the country. Does that not suggest that there's a recognition that Sharia law is central to most of the Muslim population throughout the world and those that come to the United States?

Mr. SPENCER. It would seem as if they're aware of that, yes.

Mr. ROY. Is that true?

Mr. SPENCER. Yes.

Mr. ROY. Is Sharia law central to most Muslims throughout the world?

Mr. SPENCER. Absolutely. Sharia is considered divine law, and thus it takes precedence over all other legal systems. In areas of the Muslim world where it is not fully implemented, such as Egypt or Syria or other countries, it still has a tremendous cultural influence such that elements of it are often enforced by individuals or groups where the government doesn't do so.

Mr. ROY. Is it not true also that there are some 50-plus countries throughout the world, in which, Sharia is either entirely the law or central to the law in a mixture of its religious implementation but also its civil?

Mr. SPENCER. Yes, that's right. There are 57 members of the Organization of Islamic Cooperation: Fifty-six nations and the Palestinian Authority.

Mr. ROY. Is it also not true that when we're talking about the advance of the Islam population or the population of Muslims that adhere to Islam in this country—that it is not also true that there is significant funding by groups and organizations to push that, including Sharia, into the United States?

Mr. SPENCER. Oh, there's no doubt whatsoever. For example, Prince al-Waleed bin Talal from Saudi Arabia who has spent millions and millions of dollars in funding universities, such as Georgetown, where they have now the Prince Al-Waleed Center for Muslim–Christian Understanding that is designed essentially to whitewash Islam, jihad, and Sharia and present a version of these things designed to foster complacency. You also have the Government of Qatar doing the same thing on an even larger—

Mr. ROY. In addition to these countries, in addition to foreign funding, there are organizations such as CAIR and other organizations that are designed to implement and advance the existence of Sharia and the advance of Islam and Islamism in the United States. Is that true?

Mr. SPENCER. Oh, certainly. Omar Ahmad, the cofounder of CAIR, has been on record saying, "the Koran should be the only law of the land." He has denied saying this, but the original reporter stuck by her story. Ibrahim Hooper of CAIR, the famous

spokesperson for the organization, said that he, "wanted to see the Government of the United States become Islamic sometime in the future." This is something that is clear from all of CAIR's actions.

Mr. ROY. Would it be safe to say that the goal of those organizations and the Muslim Brotherhood, as my friend Mr. Gill said—also from Texas—that the goal of those organizations in advancing Islam and Islamist movement in the United States—that the goal is for the Western Hemisphere and for the Western civilization, the United States, and Texas as ground zero to become Islamic?

Mr. SPENCER. Oh, there's no doubt about it. That's very clear from the Explanatory Memorandum of the Muslim Brotherhood saying that the goal is that a law's religion is victorious over other religions, and they're working toward eliminating and destroying Western civilization from within. All the non-Muslim apologists for Sharia that we see are indications of how successful that effort has been.

Mr. ROY. One last question—and I'm over my time—and then I will recognize the gentlelady from Wyoming.

Is that not inherently political and not just missional? In other words, it's not just saying, hey, we would like people to know Allah and to know the teachings of Muhammad and Islam as much as a Christian might want to advance the mission of Christ, but that it is political in ideology and in effect.

Mr. SPENCER. There is no doubt whatsoever. This is all about political power. Nihad Awad, the Executive Director of CAIR, has made that quite clear in repeated statements speaking about increasing the number of Muslim Congressman, getting Muslim Senators, and increasing Muslim political power on that basis.

Mr. ROY. I thank the gentleman. I will now recognize the gentlelady from Wyoming.

Ms. HAGEMAN. Thank you and thank you all for being here today.

In August 2025, an Austrian court issued a ruling confirming an arbitration award based explicitly on Islamic Sharia law. In the specific case, a contract was signed by two men that mandated that an arbitration tribunal would resolve conflicts based on Sharia law. The arbitration tribunal, after a conflict arose, later decided against one of the two men and forced him to pay $320,000, and the decision was upheld by the Vienna regional court for civil matters.

The European Center for Law and Justice highlights examples in Europe where Sharia law has been legally applied, including in Greece, where under the 1923 Treaty of Lausanne, citizens who are Muslims and residents in Western Thrace have used Sharia law as a parallel legal system for private law. We know that it has also happened here in America.

Mr. Gelé, I would like to turn to you. Across parts of Europe and more limited context in the United States, we have learned that there are a number of so-called Sharia-based tribunals that purport to resolve family and other civil disputes using Sharia-centric principles. To your knowledge, how far back have some of these tribunals been permitted to operate in the United States and across Europe?

Mr. GELÉ. Across Europe, I can't speak to as well. Across the United States, they have existed for at least several decades. Certainly, the number of cases that they have been handling appears to be increasing, and that increasing appears to be accelerating. One of the difficulties in monitoring this is that, typically, only Appellate court decisions are reported.

Ms. HAGEMAN. Right.

Mr. GELÉ. You would only truly find out about it if there was an arbitration. If the arbitration award was then challenged in a District court, sometimes those are reported. Normally, it would only be reported if the appeal then went up to an Appellate court. It's very hard to get good data.

Ms. HAGEMAN. Well, could you explain the process by which a family dispute, for example, may be resolved in a Sharia law-applied setting in contrast to what we would expect to see in an American family court proceeding?

Mr. GELÉ. Sure. Typically, it would begin with an Islamic mahr, which is an Islamic marriage contract. That contract would be signed normally before the marriage. Then, during the marriage, if a dispute arose between the couple, they would then—one of them would approach the Sharia tribunal. Typically, an imam—sometimes an attorney, sometimes not, sometimes not an imam—but, commonly, imams would then essentially adjudge it.

There would typically not be most of the formalities within American law. You wouldn't have, for example, a court reporter recording everything down. You wouldn't always have formal pleadings. Sometimes it would be as simple as basically a meeting. Then, there would be a ruling. Those rulings aren't always necessarily placed in clear judgments. A lot of the formalities that we as lawyers do in American courts simply do not exist in those systems.

Ms. HAGEMAN. Well, that's very important because due process and equal protection are foundational tenets guaranteed under the United States Constitution and most State constitutions, and they are available to every American citizen who engages with the judiciary or seeks legal relief.

Mr. Gelé, based on what knowledge there is of how Sharia tribunals operate within Europe and to a more limited extent in America, are there risks of participants—notably women and minors—losing due process protections and equal treatment in a Sharia-based system?

Mr. GELÉ. Yes. Those risks are quite significant. They have manifested themselves in the few Appellate cases we've been able to see. The remedies for those are not that difficult. States can either ban the arbitration of family law matters, particularly custody. Some States have done that for decades, often blue States more than red States.

Additionally, there is a model act that's been put out that would create some thresholds that the reviewing court would then be able to look at the basis of the decision of the court. In the case of custody, they would look at other children's matters for visitation and look at the best interest of the child. Currently, in many States—Texas particularly being one—those safeguards do not exist.

Ms. HAGEMAN. Why are women and minors more at risk in a Sharia-based tribunal system?

Mr. GELÉ. Primarily for two reasons.

First, Sharia law tends to be discriminatory against women, particularly compared to modern American law.

Second, Sharia law does not require any analysis of the best interest of the child.

Normally, custody is based depending on what exact school of Sharia is being applied. Custody is normally based on the age of the child and based on the age the child will be given to one of the two parents.

Ms. HAGEMAN. In a Sharia-based system, there is a real risk that people engaged in that would be losing due process and equal protection rights. Is that fair?

Mr. GELÉ. Yes. It's almost guaranteed, particularly on the equal protection side.

Ms. HAGEMAN. Thank you, and I yield back.

Mr. ROY. Thank you, Mr. Gelé. I thank the gentlelady from Wyoming, and I'll now recognize the gentleman from Wisconsin for five minutes.

Mr. GROTHMAN. Thank you. First, I want to respond to something that was said earlier. Every weekend, I get home and I meet different people around my district. Maybe I attend Republican Party events, maybe church groups and their fundraisers, American Legions, Lions Clubs, Rotary Clubs, and just random people when I sometimes just go door to door. I have yet to find one person who is a self-avowed or even unself-avowed Christian nationalist. I just never met that person. Nevertheless, for whatever motivation to be divisive and to run down this country in the eyes of our immigrants—I think that's what their motivation is—the Democrats keep talking about these mystery people.

I would think that if they existed, sooner or later, I would at least run into one of those people, but I have yet to run into any. I just want to make that point in case we may have new arrivals in this country who might think—when President Biden and various Democrats talk about this huge movement in this country, they know that at least I have yet to find one person who fits the bill.

OK. Now, Mr. Spencer, you were cutoff before, and I'm going to give you just a few minutes. Is there anything you wanted to say that weren't able to say when you were cutoff?

Mr. SPENCER. To be honest with you, I don't remember when the last time I was cutoff was, so—

Mr. GROTHMAN. OK. I'm from Wisconsin, and in Wisconsin, we have a military base called Fort McCoy. There was a huge number of people who, on very short notice, inundated Fort McCoy. Eventually, Federal prosecutors charged a couple of the Afghans who were there with serious crimes, sexual assault of a minor, committing domestic violence. I felt, in any event, that these incidents underscored how inadequate vetting happened before all these people were put in Wisconsin.

In any event, do you know about how many Afghans did the Biden Administration bring to the U.S.?

Mr. SPENCER. Oh, I believe it was about 85,000.

Mr. GROTHMAN. I'll help you. My cheat sheet here says 200,000.

Mr. SPENCER. OK. I'm sure that's much more accurate. In any case, vetting was essentially nonexistent. These were people who were, for the most part, not people who helped us in Afghanistan, but that was—by the acknowledgment of Alejandro Mayorkas, that they were people who didn't have the Special Immigrant Visas that were given to people who hated us there.

What's noteworthy about the people who were arrested at Fort McCoy is that they said they didn't know that they were violating American law when they molested these young people because what they did was legal in Afghanistan. That is an indication and microcosm of the dangers of bringing over Sharia-adherent Muslims. They are adherent of a legal system and cultural mores that are radically different from American law and strip—if we allow this, they will strip protections from all kinds of people who will be their victims.

Mr. GROTHMAN. OK. This did have serious and tragic consequences, didn't it, by not vetting these folks?

Mr. SPENCER. I'm sorry? I didn't catch that.

Mr. GROTHMAN. This did have serious consequences, not vetting these folks?

Mr. SPENCER. Absolutely. Well, one example is the Afghans who were arrested at Fort McCoy, but there's also the fact that ISIS as well as the Taliban and al-Qaida are quite active in Afghanistan. You bring over a lot of Afghans without any vetting. You're bringing over almost certainly ISIS, al-Qaida, and Taliban operatives who believe that they have a responsibility before Allah to wage jihad in the infidel land. That's going to be something we're going to be seeing the consequences of for years to come.

Mr. GROTHMAN. OK. What can Congress do to strengthen laws to prevent this type of mass importation of unvetted aliens?

Mr. SPENCER. Well, for one thing, vetting would be in order. That needs to be intelligent and thorough, comprehensive vetting that is not just are you a member of a terrorist group, which is what it's been for years, but something—questions that are much more specific that will tease out attitudes and then make it a deportable offense to lie when you are answering these questions.

Mr. GROTHMAN. OK. Any one of the three of you on the right side of me, are we right now actively tracking instances of Sharia law and the patterns in places where it's most prevalent? Like Google is coming on to find something on that?

Mr. GELÉ. To my knowledge, the U.S. Government is not doing that whatsoever. The Center for Security Policy attempted that a couple decades ago, basically looking through Louisiana Appellate cases. They were able to find dozens on dozens. I've been trying to monitor it. It is very difficult to monitor because most cases—first, arbitration tribunals are not reported. Most District court cases are not reported at the State level, and properly using the search engines that tease out the cases at the State appellate level is tricky.

Mr. ROY. The gentleman is over his time. Did the other two want to quickly answer that question since he addressed all three of you? Just quickly, do you know anything additional to add?

Mr. SPENCER. That's exactly what I was going to say.

Mr. ROY. OK.

Mr. SPENCER. The U.S. Government is not doing this.

Mr. ROY. I thank the gentleman from Wisconsin.

Mr. GROTHMAN. Thanks. They might wind up getting results they don't want.

Mr. SPENCER. Exactly.

Mr. ROY. Well, I thank the gentleman from Wisconsin for his question. I thank the witnesses. Thank you for your participation. This concludes today's hearing, and we thank you.

Without objection, all Members will have five legislative days to submit additional written questions or for the witnesses or additional materials for the record.

Without objection, this hearing is adjourned.

[Whereupon, at 3:56 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on the Constitution and Limited Government can be found at: *https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=118945*.

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