

THE PROTECTION OF CIVIL RIGHTS OF MUSLIMS IN AMERICA

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Abstract

The Protection of Civil Rights of Muslims in the United States of America is a topic of great importance and concern in today's society. With the increasing prevalence of Islamophobia and discrimination against Muslims, it is crucial to examine the ways in which the civil rights of this marginalized group are being protected. The protection of civil rights for Muslims in the United States of America is a critical issue that has gained increasing attention in recent years. Muslims in the United States have faced significant challenges and discrimination, including being targeted by hate crimes and being unfairly targeted by national security policies. The paper finds that the protection of Muslim rights is a vital issue that has gained increased attention in recent years. With the proliferation of Islamophobia and anti-Muslim sentiment in many parts of the world, it is important for countries to adopt and implement global best practices for the protection of these rights. Protecting the rights of Muslim minorities is a vital issue that requires the efforts of governments, institutions, and individuals around the world. One effective way is through the implementation of anti-discrimination laws and policies. Culture and cultural sensitivity are also important aspects of protecting Muslim rights.

Keywords: Islam, United States of America, Muslim Rights, Human Rights

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Introduction

The most significant relationship between America and the Muslim world is about economics— ‘Arab oil’ to support its existence. It should be emphasized that American relationship with most Muslim states, especially the Gulf region stems from the economic lifeline—the constant flow of oil, especially from Saudi Arabia. Particularly, it gets 9.6 million barrels of daily oil supply from Saudi Arabia. However, the relationship is mutually beneficial as America provides security for Saudis’ oil. America depends on 60% of oil from foreign sources. About 16% of oil is supplied by the Gulf States. However, this silent and harmonious relationship took a swift turn in the 1970s. Events such as the June War, 1967 Arab–Israeli War; 1973 Yom Kippur War also known as the 1973 Arab–Israeli War; the 1973-1974, Oil Embargo against America for supplying oil to Israeli armed forces during the Yom Kippur War; the Iranian Revolution of 1979, which ousted the American stooge—Mohammad Reza Shah Pahlavi, and the subsequent Iran hostage crisis from November 4, 1979, to January 20, 1981—where 52 Americans were held hostage for 444 days, thus setting the tone for rivalry between America and parts of the Muslim world. The rhetoric became stronger when the late Ayatollah Khomeini coined the metaphoric the ‘Great Satan’ to refer to America. Furthermore, the deeds of distrust were sown in 1986 when the United States bombed Libya, and the February 1993 World Trade bombing incident. The World Trade bombing was unique in many ways, given the fact that America was not prone to terrorists’ attacks, unlike Europe. Europe had encountered terrorist activity after the 2nd World War, from such groups as the Irish Republican Army; the Euskadi Ta Askatasuna (ETA) separatist movement and Abu Nidal Organization (ANO).

These historical events have in many ways helped to form the process, perception, and representation of Islam in American politics. This occurred due to the growth of Muslims in population and the migration of Muslims, especially from the Middle East and Asia. Aside from America’s relationship with the Middle East, Islam is not new to America. It has evolved with its history, but as a minority status within identity politics in America. However, Islam in America remains alienated from American culture and lifestyle. This seeming estrangement became increasingly amplified after the 9/11 gruesome

attacks, whereby fear and prejudice have been emitted towards Muslims.

Religious Liberty

Religious liberty is a fundamental characteristic of America's Constitution. It is protected by the First Amendment, which states that "*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.*"¹ This clause, known as the Establishment Clause and the Free Exercise Clause, respectively, guarantees that the government will not endorse or support a particular religion, and that individuals are free to practice their religion as they see fit, subject to certain limitations.²

The importance of religious liberty in America's founding is evident in the country's history.³ Many of the early settlers came to the colonies to escape religious persecution in Europe, and they sought to establish a society in which they could freely practice their religion. The Founders of the United States recognized the value of religious diversity and believed that it was essential to the health and vitality of the nation.⁴ They therefore included the Establishment Clause and the Free Exercise Clause in the Constitution to ensure that the government would not interfere with the free practice of religion.

Over time, the courts have interpreted the Establishment Clause and the Free Exercise Clause in different ways. In the case of *Engel v. Vitale*⁵,

¹ Constitution Annotated, 'U.S. Constitution - First Amendment | Resources | Constitution Annotated | Congress.gov | Library of Congress' (*constitution.congress.gov*2022)

<<https://constitution.congress.gov/constitution/amendment-1/#:~:text=Congress%20shall%20make%20no%20law>> accessed 5 January 2023.

² 'The Free Exercise Clause vs. the Establishment Clause: Religious Favoritism at the Supreme Court' (*www.americanbar.org*) <https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/intersection-of-lgbtq-rights-and-religious-freedom/the-free-exercise-clause-vs-the-establishment-clause/#:~:text=The%20Free%20Exercise%20Clause%20recognizes> accessed 5 January 2023.

³ Mark David Hall, 'Did America Have a Christian Founding?' (*The Heritage Foundation* 7 June 2011) <<https://www.heritage.org/political-process/report/did-america-have-christian-founding>> accessed 5 January 2023.

⁴ Arlin M Adams and Charles J Emmerich, 'A Heritage of Religious Liberty' (1989) 137 *University of Pennsylvania Law Review* 1559.

⁵ 370 U.S. 421 (1962)

the Supreme Court held that it is unconstitutional for the government to require students to recite a prayer in public schools. This decision was based on the Establishment Clause, which prohibits the government from promoting a particular religion.

However, the Court has also held that the government may regulate certain aspects of religious practice, provided that it does so in a neutral manner that does not discriminate against any particular religion. For example, in the case of *Employment Division v. Smith*⁶, the Court ruled that the government could deny unemployment benefits to individuals who were fired for using peyote, a controlled substance, in a Native American religious ceremony. The Court held that the government's action was not motivated by a desire to discriminate against the Native American religion, but rather by a legitimate interest in regulating the use of controlled substances.⁷

Despite these limitations, the right to free exercise of religion remains a fundamental right in the United States.⁸ The government must have a compelling interest in regulating religious practices, and must do so in a narrowly tailored manner that does not unduly burden the free exercise of religion.⁹

In recent years, the issue of religious liberty has come to the forefront of public debate in the United States.¹⁰ Some individuals and groups have argued that the government should be able to restrict certain religious practices, particularly those that are seen as oppressive or discriminatory towards women and lesbian, gay, bisexual and transgender (LGBTQ) individuals.¹¹ It may be argued that these restrictions would violate the Free Exercise Clause and the principle of religious liberty.

⁶ 494 U.S. 872 (1990)

⁷ *ibid*

⁸ Ahmed Salisu Garba, 'Permissible Limitations to Freedom of Religion and Belief in Nigeria' (2020) 15 Religion & Human Rights 57.

⁹ *ibid*

¹⁰ Helen Piper and Brian Palmer, 'Constitution Of Religious Liberty: God, Politics And The First Amendment In Trump's America' (2018) <<http://uu.diva-portal.org/smash/get/diva2:1260489/FULLTEXT01.pdf>> accessed 5 January 2023.

¹¹ Pew Research Center, 'A Closer Look at How Religious Restrictions Have Risen around the World' (*Pew Research Center's Religion & Public Life Project* 15 July 2019) <<https://www.pewresearch.org/religion/2019/07/15/a-closer-look-at-how-religious-restrictions-have-risen-around-the-world/>> accessed 5 January 2023.

It may therefore be convincing to state that, religious liberty is a fundamental characteristic of America's Constitution, and it is protected by the Establishment Clause and the Free Exercise Clause.¹² The courts have recognized that the government has the authority to regulate certain aspects of religious practice, but have also held that the government must do so in a neutral and nondiscriminatory manner that does not unduly burden the free exercise of religion. As such, religious liberty remains a central and vital aspect of American society.

Secular Nature of the United States of America

Secularism is the separation of government and politics from religious institutions and beliefs. It is a concept that has been hotly debated in the United States, with some arguing that it is essential for the preservation of individual freedoms and the separation of powers, while others believe that it is a threat to traditional values and the fabric of American society.¹³

The First Amendment to the United States Constitution, which is part of the Bill of Rights, guarantees the freedom of religion and prohibits the establishment of any state religion. This is often cited as a key aspect of the country's commitment to secularism. The Establishment Clause of the First Amendment states that "*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.*"¹⁴ This implies that the government cannot endorse any particular religion, nor can it interfere with an individual's right to practice their religion of choice.¹⁵

¹² Gary J Simson and Jesse H Choper, 'Endangering Religious Liberty' (1996) 84 California Law Review 441.

¹³ Terry Baker, Mentor and Barry Hankins, 'Christianity, Secularism, and America: An Exploration and Critique of the Historical, Legal, Social, and Philosophical Implications of Secularism from an American Perspective' (2008) <https://www.socialtheology.com/docs/Christianity_secularism_and_America_an_e.pdf> accessed 5 January 2023.

¹⁴ Constitution Annotated, 'U.S. Constitution - First Amendment | Resources | Constitution Annotated | Congress.gov | Library of Congress' (<https://constitution.congress.gov/constitution/amendment-1/#:~:text=Congress%20shall%20make%20no%20law>) accessed 5 January 2023.

¹⁵ Tad Stahnke and Robert Blitt, 'United States Commission on International Religious Freedom the Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of

However, the concept of secularism in the United States is not without controversy.¹⁶ Some argue that the government has become too secular and that it has eroded the influence of religion in public life.¹⁷ This is particularly true for those who believe that the United States was founded as a Christian nation and that the country's laws and values should reflect this.

There are also those who argue that secularism has been used to discriminate against religious minorities and suppress religious expression.¹⁸ For example, some have argued that the ban on school prayer and the removal of Ten Commandments monuments from public spaces is a form of discrimination against Christians.

Despite these criticisms, the vast majority of legal scholars and the courts have consistently upheld the principle of secularism in the United States. In the landmark case of *Everson v. Board of Education*,¹⁹ the Supreme Court ruled that the Establishment Clause applies not just to the federal government, but also to state and local governments. This decision effectively established the principle of separation of church and state in the United States.

In more recent cases, the Supreme Court has continued to uphold the principle of secularism. For example, in *Lemon v. Kurtzman*²⁰ the Court established the "Lemon Test," which is used to determine whether a government action violates the Establishment Clause. According to the Lemon Test, a government action must have a secular purpose, must not have the primary effect of advancing or inhibiting religion, and must not excessively entangle the government with religion.

Despite these legal protections, the issue of secularism in the United States remains a controversial and divisive topic. Some argue that the

Predominantly Muslim Countries' (2005)

<https://www.uscifr.gov/sites/default/files/resources/stories/pdf/Comparative_Constitutions/Study0305.pdf> accessed 5 January 2023.

¹⁶ Nikki R Keddle, 'Secularism & Its Discontents' (2003) 132 *Journal of the American Academy of Arts & Sciences* 14.

¹⁷ Momoh Lawani Yesufu, 'The Impact of Religion on a Secular State' (2016) 42 *Studia Historiae Ecclesiasticae* (SHE).

¹⁸ Haldun Güllalp, 'Secularism as a Project of Free and Equal Citizenship: Reflections on the Turkish Case' (2022) 7 *Frontiers in Sociology*.

¹⁹ 330 U.S. 1 (1947)

²⁰ 403 U.S. 602 (1971)

government has gone too far in its efforts to separate church and state, while others believe that it has not gone far enough.²¹

One of the main arguments against secularism is that it is a threat to traditional values and the fabric of American society.²² Some believe that the removal of religious symbols and expressions from the public sphere has led to a decline in moral values and a breakdown of the family unit.²³ Others argue that the government's attempts to be neutral on matters of religion has led to a lack of guidance on moral issues, which has contributed to social problems such as abortion and same-sex marriage.²⁴

Another argument against secularism is that it has been used to discriminate against religious minorities and suppress religious expression.²⁵ Some argue that the ban on school prayer and the removal of Ten Commandments monuments from public spaces is a form of discrimination against Christians.²⁶ Others believe that the government's attempts to be neutral on matters of religion have led to a lack of accommodation for the beliefs and practices of minority religions.²⁷

²¹ Christian Joppke, 'Beyond the Wall of Separation: Religion and the American State in Comparative Perspective' (2016) 14 International Journal of Constitutional Law 984.

²² Saba Mahmood, 'Religious Reason and Secular Affect: An Incommensurable Divide?' (2009) 35 Critical Inquiry 836.

²³ Christopher Kutz, Heddy Riss and Olivier Roy, 'RELIGIOUS NORMS in the PUBLIC SPHERE'

<<https://cadmus.eui.eu/bitstream/handle/1814/35643/ReligioWest2015.pdf?sequence=3>> accessed 5 January 2023.

²⁴ Human Rights Watch, "'All We Want Is Equality' | Religious Exemptions and Discrimination against LGBT People in the United States' (*Human Rights Watch* 8 March 2018) <<https://www.hrw.org/report/2018/02/19/all-we-want-equality/religious-exemptions-and-discrimination-against-lgbt-people>> accessed 5 January 2023., Eric Batalla and Rito Baring, 'Church-State Separation and Challenging Issues Concerning Religion' (2019) 10 Religions 197.

²⁵ Jonathan Fox, Roger Finke and Dane R Mataic, 'The Causes of Societal Discrimination against Religious Minorities in Christian-Majority Countries' (2021) 12 Religions 611.

²⁶ *Stone v. Graham*, 449 U.S. 39 (1980)

²⁷ Madia Coleman, 'Religious Liberty Should Do No Harm' (*Center for American Progress* 2019) <<https://www.americanprogress.org/article/religious-liberty-no-harm/>> accessed 5 January 2023.

Despite these criticisms, the vast majority of legal scholars and the courts have consistently upheld the principle of secularism in the United States. The Establishment Clause of the First Amendment and the principles established in cases like *Everson v. Board of Education*²⁸ and *Lemon v. Kurtzman*²⁹ have helped to protect the rights of individuals to practice their own religion freely and have prevented the government from promoting or supporting any particular religion.

While it is true that secularism has sometimes been used to limit the expression of religion in public spaces, this is not necessarily a negative aspect of secularism.³⁰ The purpose of separating church and state is to protect the freedom of religion and to ensure that the government does not favor one religion over others.³¹ This can also protect the rights of religious minorities, who may be disadvantaged if the government were to promote a dominant religion as already discussed earlier.

It is important to note that the separation of church and state does not prevent individuals from expressing their religious beliefs or practicing their religion. It simply means that the government cannot endorse or support any particular religion. Individuals and private organizations are still free to express and practice their religion as they see fit.

Muslim Rights in the United States of America before 9/11 terror attack

Muslim rights in the United States of America have been a controversial and complex issue, particularly since the 9/11 terror attack. Prior to 9/11, there were varying perspectives on the rights of Muslims in the U.S., with some advocating for greater protections and others arguing that Muslims should not be given special treatment.

²⁸ 330 U.S. 1 (1947)

²⁹ U.S. 602 (1971)

³⁰ Brendan Sweetman, 'Secularism and Religion in Modern Democracies' (*E-International Relations* 4 August 2010) <<https://www.e-ir.info/2010/08/04/secularism-and-religion-in-modern-democracies/>> accessed 5 January 2023.

³¹ Erik Owens, 'Separation of Church and State' (2007) <https://www.bc.edu/content/dam/files/centers/boisi/pdf/bc_papers/BCP-ChurchState.pdf> accessed 5 January 2023.

The history of Muslim rights in the U.S. is closely intertwined with the history of immigration to the country.³² Muslims have been present in the U.S. since the time of the founding of the nation, with the first recorded Muslim being brought to the colonies as a slave in 1619.³³ However, it was not until the late 19th and early 20th centuries that significant numbers of Muslims began to immigrate to the U.S., largely due to economic and political instability in their home countries.³⁴

Initially, Muslim immigrants were treated relatively well in the U.S., and they were able to establish communities and build mosques in various parts of the country. However, this period of relative tolerance was short-lived, as anti-immigrant sentiment began to grow in the U.S. during the early 20th century.³⁵ This was particularly true for Muslims, who were often depicted as being backward, unassimilable, and a threat to American society.

As a result, Muslims in the U.S. faced significant discrimination and marginalization, particularly during times of conflict or tension with Muslim-majority countries. For example, during World War I, Muslims in the U.S. were subjected to widespread harassment and discrimination due to their perceived loyalty to the enemy (i.e., Germany and the Ottoman Empire).³⁶ Similarly, during the 1950s and 60s, many Muslims in the U.S. were targeted by the government as part of the Red Scare, and were accused of being communist sympathizers or agents.³⁷

³² Jennifer Williams, 'A Brief History of Islam in America' (*Vox* 29 January 2017) <<https://www.vox.com/2015/12/22/10645956/islam-in-america>> accessed 5 January 2023.

³³ Saeed Ahmed Khan, 'Muslims Arrived in America 400 Years Ago as Part of the Slave Trade and Today Are Vastly Diverse' (*The Conversation* 11 April 2019) <<https://theconversation.com/muslims-arrived-in-america-400-years-ago-as-part-of-the-slave-trade-and-today-are-vastly-diverse-113168>> accessed 5 January 2023.

³⁴ *ibid*

³⁵ Michael Lipka, 'Muslims and Islam: Key Findings in the U.S. And around the World' (*Pew Research Center* 9 August 2017) <<https://www.pewresearch.org/fact-tank/2017/08/09/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world/>> accessed 5 January 2023.

³⁶ *ibid*

³⁷ History.com, 'Red Scare' (*HISTORY* 1 June 2010) <<https://www.history.com/topics/cold-war/red-scare>> accessed 5 January 2023.

Muslim Rights in the United States of America after the 9/11 terror attack

The 9/11 terror attacks in the United States of America marked a turning point in the country's history, leading to significant changes in national security policies and legislation that have had a profound impact on the rights of Muslims living in the country.³⁸ In the aftermath of the attacks, Muslims have faced increased scrutiny, discrimination, and violence, leading to a polarizing debate about the place of Muslims in American society.³⁹

One of the most significant challenges for Muslims in the United States in the post-9/11 era has been the rise of Islamophobia.⁴⁰ The attacks were carried out by a group of terrorists who claimed to be acting in the name of Islam, leading to a widespread perception that Muslims were a threat to national security and the safety of Americans. This has fueled a surge in anti-Muslim sentiment, including hate crimes and discrimination against Muslims in employment, housing, and other areas of life.⁴¹

Many Muslims in the United States have argued that they have been unfairly targeted and that the government's response to the 9/11 attacks has disproportionately affected their community. For example, the Bush administration's implementation of the USA Patriot Act⁴² and other national security measures, such as the National Security Entry-Exit Registration System (NSEERS), has been criticized for disproportionately targeting Muslims and for infringing upon their civil

³⁸ Office of the United Nations High Commissioner for Human Rights, 'Human Rights, Terrorism and Counter-Terrorism' (2008) <<https://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>> accessed 5 January 2023.

³⁹ Angel Rabasa and others, 'The Muslim World after 9/11' (*RAND Corporation*2004) <https://www.rand.org/content/dam/rand/pubs/monographs/2004/RAND_MG246.pdf> accessed 5 January 2023.

⁴⁰ Meesam Javaid and others, 'Islamophobia in the West: A Critical Discourse Analysis of Imran Khan's UNGA Speech' (2022) 13 Religions 284.

⁴¹ OSCE, 'Preventing Terrorism and Countering Violent Extremism and Radicalization That Lead to Terrorism: A Community-Policing Approach' (2014) <<https://www.osce.org/files/f/documents/1/d/111438.pdf>> accessed 5 January 2023.

⁴² 2011

liberties.⁴³ Similarly, the government's use of drone strikes and targeted killings in countries with significant Muslim populations had led to widespread concern about the impact on civilians and the lack of accountability for such actions.⁴⁴

Muslim rights in the United States in the post-9/11 era has created the idea that the attacks and the subsequent response have represented an opportunity for Muslims to become more fully integrated into American society.⁴⁵ Some have argued that the attacks and the resulting backlash against Muslims have created a sense of solidarity among Muslims and have brought attention to the issues facing the community. This has led to increased activism and advocacy on the part of Muslims, as well as efforts by non-Muslims to support and stand in solidarity with the Muslim community.⁴⁶

For example, in the wake of the 9/11 attacks, there was a significant increase in the number of Muslims running for political office, and there have been efforts by non-Muslim organizations to support Muslim candidates and promote their participation in the political process.⁴⁷ Additionally, there have been efforts by both Muslims and non-Muslims to build bridges between different communities and promote understanding and dialogue.⁴⁸

Another perspective on Muslim rights in the United States in the post-9/11 era is that the attacks and the response to them have revealed deep-

⁴³ Huma Ahmed-Ghosh, 'COMMENTARY: The USA Patriot Act and Anthropology' (2003) 44 *Anthropology News* 10.

⁴⁴ Sarah Steege, 'Confronting Discrimination in the Post-9/11 Era: Challenges and Opportunities Ten Years Later' (2012) <https://www.justice.gov/sites/default/files/crt/legacy/2012/04/16/post911summit_report_2012-04.pdf> accessed 5 January 2023.

⁴⁵ 'Protecting the Civil Rights of American Muslims' (www.govinfo.gov2011) <<https://www.govinfo.gov/content/pkg/CHRG-112shrg20265/html/CHRG-112shrg20265.htm>> accessed 5 January 2023.

⁴⁶ OHCHR, 'AMAN' <<https://www.ohchr.org/sites/default/files/Documents/Issues/Religion/Islamophobia-AntiMuslim/Civil%20Society%20or%20Individuals/AMAN-2.pdf>> accessed 5 January 2023.

⁴⁷ D Schanzer, 'Anti-Terror Lessons of Muslim-Americans | Office of Justice Programs' (www.ojp.gov2010) <<https://www.ojp.gov/ncjrs/virtual-library/abstracts/anti-terror-lessons-muslim-americans>> accessed 5 January 2023.

⁴⁸ *ibid*

seated biases and prejudices within American society.⁴⁹ Many Muslims have argued that the attacks and the backlash against Muslims have exposed longstanding discrimination and racism within the country and have highlighted the need for greater efforts to promote justice and equality. This perspective suggests that the challenges faced by Muslims in the United States are not unique to this community, but rather reflect broader issues of inequality and injustice that affect many marginalized groups in the country.⁵⁰

There are also those who argue that the challenges faced by Muslims in the United States in the post-9/11 era are not unique to this community and are simply part of the larger struggles faced by immigrant communities in the country. This perspective suggests that the issues faced by Muslims in the United States are part of a broader pattern of discrimination and marginalization that affects many immigrant groups, and that the attacks and the response to them should be understood in this context.⁵¹

In essence, the perspectives on Muslim rights in the United States in the post-9/11 era are complex and varied, reflecting a range of experiences and viewpoints within the Muslim community and beyond.⁵² Some Muslims in the United States have faced discrimination, profiling, and other forms of mistreatment in the aftermath of the 9/11 attacks, leading to feelings of fear, vulnerability, and isolation.⁵³ Others argue that these challenges are not unique to Muslims and are part of a larger pattern of discrimination and marginalization faced by immigrant communities in the country.

Regardless of the specific perspective, it is clear that the post-9/11 era has brought about significant challenges and changes for Muslims in

⁴⁹ Caroline Corbin, 'Race Theory and Propaganda' (2017) 86 Fordham L. Rev 455.

⁵⁰ *ibid*

⁵¹ Sarah Steege, 'Confronting Discrimination in the Post-9/11 Era: Challenges and Opportunities Ten Years Later' (2012) <https://www.justice.gov/sites/default/files/crt/legacy/2012/04/16/post911summit_report_2012-04.pdf> accessed 5 January 2023.

⁵² Luke Herrington, 'Globalization and Religion in Historical Perspective: A Paradoxical Relationship' (2013) 4 Religions 145.

⁵³ Sarah Steege, 'Confronting Discrimination in the Post-9/11 Era: Challenges and Opportunities Ten Years Later' (2012) <https://www.justice.gov/sites/default/files/crt/legacy/2012/04/16/post911summit_report_2012-04.pdf>. accessed 5 January 2023.

the United States. These challenges include issues related to civil rights and civil liberties, as well as concerns about national security and foreign policy. Many Muslims in the United States have worked to address these issues through activism, education, and engagement with government and other institutions.⁵⁴ It is important for the country to continue to address and work to overcome these challenges in order to ensure the rights and well-being of all its citizens and residents.

Legal Protection of Muslims in the United States of America

Muslim Americans have faced significant challenges in the protection of their civil rights in the United States. Despite being a minority group that has contributed greatly to the cultural and economic fabric of the country, Muslims have often been the target of discrimination, prejudice, and mistreatment.

One of the most significant legal protections for the civil rights of Muslims in America is the First Amendment to the United States Constitution, which guarantees the freedom of religion.⁵⁵ This protection applies to all Americans, regardless of their faith, and includes the right to practice one's religion freely, to express one's beliefs publicly, and to participate in religious activities without interference from the government.⁵⁶

However, despite these protections, Muslims have frequently faced discrimination and persecution based on their religion. For example, Muslims have been denied employment, housing, and other opportunities due to their faith, and have faced violence and hate crimes motivated by anti-Muslim prejudice. In response to these challenges, various federal and state laws have been passed to provide additional protections for the civil rights of Muslims.

⁵⁴ OSCE, 'Preventing Terrorism and Countering Violent Extremism and Radicalization That Lead to Terrorism: A Community-Policing Approach' (2014) <<https://www.osce.org/files/f/documents/1/d/111438.pdf>> accessed 5 January 2023.

⁵⁵ Constitution Annotated, 'U.S. Constitution - First Amendment | Resources | Constitution Annotated | Congress.gov | Library of Congress' (<https://constitution.congress.gov/constitution/amendment-1/#:~:text=Congress%20shall%20make%20no%20law>) accessed 5 January 2023.

⁵⁶ *ibid*

One important example of such legislation is the Civil Rights Act,⁵⁷ which prohibits discrimination on the basis of race, color, religion, sex, or national origin. This law applies to a wide range of areas, including employment, housing, public accommodations, and education, and has been used to challenge discrimination against Muslims in these areas.

Another important legal protection for Muslim civil rights is the Religious Freedom Restoration Act (RFR).⁵⁸ This law requires the government to demonstrate a compelling interest in any action that substantially burdens the exercise of religion, and to use the least restrictive means possible to achieve its goals. The RFRA has been used by Muslims to challenge government actions that infringe upon their religious freedom, such as the denial of religious accommodations in the workplace or the restriction of religious practices in prisons. In *Burwell v. Hobby Lobby Stores, Inc*⁵⁹, this case dealt with the issue of whether the Religious Freedom Restoration Act (RFRA) required the government to provide an exemption from the Affordable Care Act's contraception mandate for certain closely held corporations whose owners had religious objections to contraception. The Supreme Court held that the RFRA did require such an exemption.

Despite these legal protections, Muslims in America have continued to face significant challenges in the protection of their civil rights. For example, many Muslims have reported experiencing discrimination and profiling by law enforcement agencies, including being targeted for suspicion of terrorist activities and being subjected to invasive searches and interrogations. In *Ashcroft v. al-Kidd*⁶⁰ which was decided by the Supreme Court of the United States in 2011. In this case, a former U.S. Attorney General named John Ashcroft and an FBI official named Robert Mueller were sued by an individual named Abdullah al-Kidd, who had been detained and arrested as a material witness in a terrorism investigation. Al-Kidd argued that Ashcroft and Mueller had violated his Fourth Amendment⁶¹ rights by detaining him without

⁵⁷ 1964

⁵⁸ 1993

⁵⁹ 573 U.S. 682 (2014)

⁶⁰ 563 U.S. 731 (2011)

⁶¹ Congress.gov, 'U.S. Constitution - Fourth Amendment | Resources | Constitution Annotated | Congress.gov | Library of Congress' (*constitution.congress.gov*) <<https://constitution.congress.gov/constitution/amendment-4/#:~:text=The%20right%20of%20the%20people>> accessed 5 January 2023.

probable cause. The Supreme Court ultimately ruled in favor of Ashcroft and Mueller, holding that they were entitled to qualified immunity because they did not clearly violate al-Kidd's constitutional rights. The Court also held that the material witness statute, which allows the government to detain individuals as material witnesses in criminal proceedings, was constitutional.

Furthermore, Muslims have faced challenges in the political sphere, with some politicians and public figures making statements that demonize and stereotype Muslims, and with efforts to enact laws and policies that disproportionately affect Muslims, such as the so-called "travel ban" implemented by the Trump administration. This ban seemed to have been supported by the US Supreme court in many cases, one of which is the case of *Trump v. Hawaii*.⁶² In this case, the US Supreme Court upheld President Donald Trump's third executive order, commonly referred to as the "Travel Ban," which restricted travel to the United States by citizens of several Muslim-majority countries. The case was argued on October 10, 2017 and decided on June 26, 2018. The executive order, which was issued in September 2017, imposed a temporary ban on the issuance of visas to citizens of Chad, Iran, Libya, North Korea, Somalia, Syria, and Yemen, and also suspended the U.S. Refugee Admissions Program.⁶³ The order was challenged by the state of Hawaii and several individuals, who argued that it was motivated by religious discrimination and violated the Establishment Clause of the First Amendment to the United States Constitution. In a 5-4 decision, the Court upheld the executive order, finding that it was within the President's authority to regulate the entry of aliens into the United States and that it was not motivated by religious discrimination. Chief Justice John Roberts wrote the majority opinion, which was joined by Justices Anthony Kennedy, Clarence Thomas, Samuel Alito, and Neil Gorsuch. Justices Stephen Breyer, Ruth Bader Ginsburg, Sonia Sotomayor, and Elena Kagan dissented.⁶⁴

⁶² No. 17-965, 585 U.S. ____ (2018),

⁶³ see US Department of State, 'Refugee Admissions - United States Department of State' (*United States Department of State*2019) <<https://www.state.gov/refugee-admissions/>> accessed 5 January 2023.

⁶⁴ 'Trump v. Hawaii' (*Harvardlawreview.org*2018) <<https://harvardlawreview.org/2018/11/trump-v-hawaii/>> accessed 5 January 2023.

The US Supreme court however seems to have prior taken a mitigated approach in the case of *Zadvydas v. Davis*⁶⁵ where the US Supreme Court held that the government cannot indefinitely detain non-citizens who have been ordered removed from the United States if they cannot be removed due to no fault of their own. The case arose when two non-citizens, Kestutis Zadvydas and Kim Ho Ma, who had been ordered removed from the United States, challenged their detention after the government was unable to remove them due to their countries of origin refusing to accept them. The Court held that the detention of these non-citizens was unconstitutional under the Due Process Clause of the Fifth Amendment, as it was not reasonably related to the government's interest in carrying out the removal orders. The Court also held that the government could detain these non-citizens for a reasonable period of time, not to exceed six months, in order to try to remove them from the country. After that time, the government must either release the non-citizen or demonstrate that the non-citizen's removal is likely in the reasonably foreseeable future. Although, a notable condition seemed to have been introduced later in the case of *Hirsi Jamaa v. Trump*⁶⁶ where the District Court for the District of Columbia held that such detention or ban must be reviewed periodically to determine whether it was justified. In extreme cases, especially evidenced in the case of *Islamic Society of North America v. Trump*, where executive order banning immigrants from certain countries, were blocked by the Court for the District of Columbia through a preliminary injunction.⁶⁷

There have also been efforts to limit the construction of mosques and other Islamic places of worship, with opponents often claiming that such facilities pose a threat to public safety or that they are inappropriate in certain neighborhoods. One notable case is the zoning dispute involving the proposed construction of an Islamic center in Murfreesboro, Tennessee. The center faced opposition from some members of the local community, and the case was ultimately litigated in the courts. In 2013, the United States Court of Appeals for the Sixth

⁶⁵ 185 F. 3d 279 (1999)

⁶⁶ 'Refugee & Asylum Seeker Rights — Human Rights Case Summaries' (*Human Rights Law Centre*) <<https://www.hrlc.org.au/human-rights-case-summaries/tag/Refugee+%26+Asylum+Seeker+Rights>> accessed 5 January 2023.

⁶⁷ George Hawley, 'Ambivalent Nativism: Trump Supporters' Attitudes toward Islam and Muslim Immigration' (*Brookings* 24 July 2019) <<https://www.brookings.edu/research/ambivalent-nativism-trump-supporters-attitudes-toward-islam-and-muslim-immigration/>> accessed 5 January 2023.

Circuit ruled in favor of the Islamic center, finding that the local government had not treated it unfairly and had not violated the First Amendment's protection of freedom of religion.⁶⁸ These efforts have been met with legal challenges, with many courts ruling that such opposition is based on prejudice and constitutes a violation of the First Amendment's protections for religious freedom. There have also been cases where schools have prohibited the wearing of head coverings, citing safety or dress code concerns. In these cases, it may be necessary to balance the right to freely exercise religion with other important considerations, such as the need to maintain a safe and orderly learning environment.⁶⁹ Ultimately, the appropriate resolution to these types of situations will depend on the specific circumstances involved.⁷⁰

The legal framework for the protection of Muslim civil rights in America includes a range of federal and state laws, as well as constitutional protections. While these protections have been important in challenging and combating discrimination against Muslims, significant challenges and limitations have persisted in ensuring the effective implementation and enforcement of these protections. It is important for all Americans to work towards a society that fully respects the civil rights of Muslims and all minority groups, and to challenge discrimination and prejudice whenever and wherever it occurs.

Overall, the United States has a long history of protecting the freedom of religion for all its citizens, including Muslims, and these protections are codified in the Constitution and various federal and state laws.

⁶⁸ Abby Ohlheiser, 'A Fight over a Tennessee Mosque Has Cost One County \$343,276 (so Far)' (*The Atlantic* 13 February 2014)

<<https://www.theatlantic.com/national/archive/2014/02/fight-over-tennessee-mosque-has-cost-one-county-343276-so-far/358054/>> accessed 5 January 2023.

⁶⁹ PEW Research Center, 'Religion in the Public Schools' (*Pew Research Center's Religion & Public Life Project* 3 October 2019)

<<https://www.pewresearch.org/religion/2019/10/03/religion-in-the-public-schools-2019-update/>> accessed 5 January 2023.

⁷⁰ *ibid*

The United States of America and the Respect of International Bills of Rights on Muslim Rights Protection

The protection of religious freedom in the United States extends beyond the borders of the country, as the United States has ratified several international human rights treaties that contain provisions on the freedom of religion. These treaties include the International Covenant on Civil and Political Rights (ICCPR)⁷¹ and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).⁷² Article 18 of the ICCPR protects the right to freedom of religion, including the freedom to have or adopt a religion or belief of one's choice, the freedom to manifest one's religion or belief in worship, observance, practice, and teaching, and the freedom to change one's religion or belief. The ICCPR also prohibits discrimination on the grounds of religion or belief⁷³ while Article 5 of the ICERD prohibits discrimination on the grounds of race, color, descent, or national or ethnic origin, including in the enjoyment of the rights to freedom of religion and belief.⁷⁴

In addition to these international human rights treaties, the United States has also signed and ratified the Convention on the Rights of the Child (CRC), which contains provisions on the freedom of religion for children. Article 14 of the CRC provides that states parties shall respect

⁷¹ UNITED NATIONS, 'International Covenant on Civil and Political Rights' (OHCHR16 December 1966) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>> accessed 5 January 2023.

⁷² 'OHCHR | International Convention on the Elimination of All Forms of Racial Discrimination: 50 Years of Fighting Racism' (OHCHR) <<https://www.ohchr.org/en/treaty-bodies/cerd/international-convention-elimination-all-forms-racial-discrimination-50-years-fighting-racism#:~:text=On%2021%20December%201965%2C%20the>> accessed 5 January 2023.

⁷³ UNITED NATIONS, 'International Covenant on Civil and Political Rights' (OHCHR16 December 1966) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>> accessed 5 January 2023.

⁷⁴ OHCHR | International Convention on the Elimination of All Forms of Racial Discrimination: 50 Years of Fighting Racism' (OHCHR) <<https://www.ohchr.org/en/treaty-bodies/cerd/international-convention-elimination-all-forms-racial-discrimination-50-years-fighting-racism#:~:text=On%2021%20December%201965%2C%20the>> accessed 5 January 2023.

the rights of the child to freedom of thought, conscience, and religion, and that states parties shall ensure that the child is protected from coercion or pressure to change his or her religion or belief.⁷⁵

Global Best Practices on the Protection of Muslim Civil Rights

The protection of Muslim rights is a vital issue that has gained increased attention in recent years. With the proliferation of Islamophobia and anti-Muslim sentiment in many parts of the world, it is important for countries to adopt and implement global best practices for the protection of these rights.⁷⁶

One of the key elements of protecting Muslim rights is the promotion of religious freedom and tolerance.⁷⁷ This involves ensuring that Muslims are able to freely practice their religion, including through the establishment of mosques, the wearing of religious garb, and the observance of religious holidays. It also means that Muslims should not be discriminated against on the basis of their religion, and that they should be free from persecution or violence based on their faith.⁷⁸

Another important aspect of protecting Muslim rights is the promotion of education and awareness about Islam. This involves providing accurate and unbiased information about the religion, and combating negative stereotypes and misinformation. It also means promoting educational programs that teach about the diversity and richness of the Islamic faith, and the contributions of Muslims to various fields such as science, art, and literature.

⁷⁵ Save the Children, 'UN Convention on the Rights of the Child | Save the Children UK' (www.savethechildren.org.uk2021) <<https://www.savethechildren.org.uk/what-we-do/childrens-rights/united-nations-convention-of-the-rights-of-the-child#:~:text=The%20United%20Nations%20Convention%20on>> accessed 5 January 2023.

⁷⁶ Turan Kayaoğlu A, 'A Rights Agenda For The Muslim World?' (2013) <<https://www.brookings.edu/wp-content/uploads/2016/06/Turan-Kayaoglu-English.pdf>> accessed 5 January 2023.

⁷⁷ Javaid Rehman, 'THE SHARIA: FREEDOM of RELIGION and EUROPEAN HUMAN-RIGHTS LAW' (2011) 22 Irish Studies in International Affairs 37.

⁷⁸ UN, 'Special Rapporteur Digest on Freedom of Religion or Belief Excerpts of the Reports from 1986 to 2011 by the Special Rapporteur on Freedom of Religion or Belief Arranged by Topics of the Framework for Communications' <<https://www.ohchr.org/Documents/Issues/Religion/RapporteursDigestFreedomReligionBelief.pdf>> accessed 5 January 2023.

Asides from promoting religious freedom and education, it is also important to protect the rights of Muslim minorities.⁷⁹ This involves ensuring that they are not subjected to discrimination or persecution, and that they have equal access to education, employment, and other opportunities. It also means taking steps to address the specific challenges faced by Muslim minorities, such as Islamophobia and hate crimes.⁸⁰

One effective way to protect the rights of Muslim minorities is through the implementation of anti-discrimination laws and policies. This includes laws that prohibit discrimination on the basis of religion in areas such as employment, housing, and education.⁸¹ It also means creating systems for addressing and addressing complaints of discrimination, and providing resources and support for those who have experienced discrimination.⁸²

Another important aspect of protecting Muslim rights is the promotion of cultural and religious sensitivity.⁸³ This involves training and educating individuals and institutions on the importance of respecting the cultural and religious practices of Muslims, and taking steps to accommodate these practices where possible.⁸⁴ For example, this may involve providing separate areas for prayer in schools and public buildings, or allowing for the observance of religious holidays.

Finally, it is important to involve and engage with the Muslim community in efforts to protect their rights. This includes working with community leaders and organizations to identify and address specific challenges and concerns, and seeking out the input and feedback of Muslims on initiatives and policies that affect them.⁸⁵ It also means

⁷⁹ 'Respect for Religious Minorities in Islam' (*The Sultan and The Saint*)
<<https://www.sultanandthesaintfilm.com/respect-religious-minorities-islam/>>
accessed 5 January 2023.

⁸⁰ Craig Considine, 'The Racialization of Islam in the United States: Islamophobia, Hate Crimes, and "Flying While Brown"' (2017) 8 Religions 165.

⁸¹ *ibid*

⁸² *ibid*

⁸³ 'Promoting and Protecting Minority Rights a Guide for Advocates'
<https://www.ohchr.org/Documents/Publications/HR-PUB-12-07_en.pdf> accessed
5 January 2023.

⁸⁴ *ibid*

⁸⁵ OSCE, 'Preventing Terrorism and Countering Violent Extremism and Radicalization That Lead to Terrorism: A Community-Policing Approach' (2014)
<<https://www.osce.org/files/f/documents/1/d/111438.pdf>> accessed 5 January 2023.

building relationships of trust and mutual understanding with the Muslim community, and working together to create a more inclusive and welcoming society for all.

Overall, the protection of Muslim rights is a vital issue that requires the efforts of governments, institutions, and individuals around the world. By promoting religious freedom and tolerance, education and awareness, the rights of Muslim minorities, cultural and religious sensitivity, and engagement with the Muslim community, we can create a world where all Muslims are able to fully exercise their rights and live their lives with dignity and respect.

CONCLUSION AND RECOMMENDATIONS

It is clear that the protection of civil rights for Muslims in the United States is a complex and ongoing issue. While there have been some improvements in recent years, there is still a significant amount of discrimination and hate crimes targeting Muslims. It is essential that the government and society as a whole take steps to ensure that Muslims are treated with respect and fairness and that their civil rights are protected.

Recommendations:

1. Increase funding for civil rights organizations that advocate for the rights of Muslims and other marginalized groups.
2. Implement anti-discrimination policies in the workplace to protect Muslims and other minority groups.
3. Educating others about the beliefs and practices of Islam, and challenging misinformation and stereotypes about Muslims.
4. Provide more resources for education and outreach programs that promote understanding and acceptance of Muslims in the community.
5. Develop more comprehensive hate crime laws that specifically address crimes targeting Muslims and other minority groups.
6. Establish a task force to monitor and address incidents of discrimination against Muslims in schools and universities.

7. Increase representation of Muslims in government, media, and other influential institutions.
8. Promote dialogue and understanding between Muslims and other religious and cultural groups.
9. Provide more resources for mental health support for Muslims who have experienced discrimination or hate crimes.
10. Work to change societal attitudes and behaviors that contribute to the marginalization and discrimination of Muslims.
11. Increase funding for law enforcement agencies to investigate and prosecute hate crimes against Muslims.