



Written Testimony of

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Protecting the Civil Rights of American Muslims**

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Subcommittee on the Constitution, Civil Rights and Human Rights**

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I. Introduction

On behalf of Muslim Advocates, I welcome the opportunity to testify and submit this testimony on protecting the civil rights of American Muslims to the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights.

Muslim Advocates (www.muslimadvocates.org) is a national legal advocacy and educational organization dedicated to promoting and protecting freedom, justice and equality for all, regardless of faith, using the tools of legal advocacy, policy engagement and education and by serving as a legal resource to promote the full participation of Muslims in American civic life. Founded in 2005, Muslim Advocates is a sister entity to the National Association of Muslim Lawyers, a network of Muslim American legal professionals.

Our nation has a unique, long-cherished commitment to freedom, particularly religious freedom. It was founded by those fleeing religious persecution. As a result, the free exercise of religion, regardless of one's religious beliefs, as well as the right to express oneself, to associate and to assemble, became fundamental rights guaranteed to all Americans and embodied in the First Amendment to our Constitution. Indeed, according to the Manuscript Division of the Library of Congress, far from fearing Islam, ". . . it is clear that the Founding Fathers thought about the relationship of Islam to the new nation and were prepared to make a place for it in the republic."¹

¹ James H. Hutson, "The Founding Fathers & Islam: Library Papers Find Early Tolerance for Muslim Faith," *Library of Congress*, May 2002, available at <http://www.loc.gov/loc/lcib/0205/tolerance.html>

Muslims have been an integral part of America since the first slave ships arrived on its shores. Today, American Muslims reflect every race and ethnicity that comprise our nation's rich heritage. Muslims serve our nation as teachers, business owners, factory workers, cab drivers, doctors, lawyers, law enforcement, firefighters, members of Congress, and members of the armed forces. They contribute to every aspect of our nation's economy and society. The essence of our country is *e pluribus unum*: out of many, practicing their faith freely and contributing each in their own way, comes a strong, unified one.

In recent months, however, this unity and the understanding that our nation's strength is rooted in its diverse racial, ethnic and religious communities coming together as one people, one nation, have been increasingly threatened. There has been a disturbing, growing trend of anti-Muslim rhetoric, including irresponsible and dangerous statements by government officials, and a rampant increase in anti-Muslim harassment, discrimination, opposition to mosques, and hate crimes targeting Muslim, Arab, Sikh and South Asian Americans. This increased anti-Muslim rhetoric and hate comes on the heels of increased suspicion by law enforcement since September 11, 2001, where laws and policies have unfairly targeted these communities for increased questioning, searches, seizures, surveillance and other intelligence gathering and law enforcement activities. Yet, Muslim, Arab, Sikh and South Asian Americans are entitled to the same fundamental rights and protections guaranteed by the Constitution to all Americans. As a result, today American Muslims are anxious about their future in a society that increasingly looks upon them with hatred and suspicion and that is moving away from our shared values of freedom, truth and fairness.

This testimony will describe the anti-Muslim climate, provide examples of American Muslims and institutions that have been unfairly targeted, and offer recommendations for how Congress and the U.S. Department of Justice can protect the rights of American Muslims and in turn preserve the fundamental values of our nation.²

II. Rising Anti-Muslim Sentiment

In 2010, our country experienced a marked uptick in anti-Muslim rhetoric, attitudes and incidents. During the summer 2010, media outlets were obsessed with growing opposition to the construction of a Muslim community center in lower Manhattan, conveying to American Muslims that the entire community was being collectively blamed for the acts of a criminal few and demonstrating how a hate group

² Since 9/11, American Muslims, Arabs, and South Asians have been subjected to discriminatory targeting by law enforcement. This includes FBI "voluntary" interviews conducted extensively and disproportionately in these communities; the NSEERS registration program requiring men from primarily Muslim and Arab nations to comply with special registration requirements; and the improper targeting, questioning, searches, surveillance, and data gathering by the FBI and Customs & Border Protection based on the First Amendment protected associations, speech, and religious practices of the American Muslim community. While American Muslims have been the target of numerous government policies that unfairly single them out on the basis of religion, ethnicity, and national origin or First Amendment protected activities, this testimony will focus on rising anti-Muslim sentiment, discrimination, and hate crimes facing the community.

could command the public's and media's attention for months.³ Then, with anti-Muslim vitriol already in high gear, Florida Pastor Terry Jones announced plans to conduct Quran burnings on the anniversary of 9/11, which he called "International Burn a [Qu]ran Day."⁴ While that Quran burning did not take place, another eight apparently copycat incidents of planned and actual Quran burnings were recorded across the country.⁵ By summer's end, a Muslim cab driver in New York City had been stabbed repeatedly after answering affirmatively when his passenger inquired if he was Muslim.⁶ These anti-Muslim activities and incidents continue unabated in 2011.

Recent studies show that anti-Muslim sentiment is increasing amongst the American public. A survey on American values recently conducted by the Public Religion Research Institute found that 45 percent of Americans believe that the values of Islam are at odds with the American way of life.⁷ An analysis of public opinion polls from 2003 to 2010 found that since 2005, the percentage of Democrats, Independents, and Republicans who held favorable views of Islam has declined rapidly. By 2010, 41 percent of Democrats and only 28 percent of Independents and 21 percent of Republicans held favorable views of Islam, compared to 50 percent Democrats, 41 percent of Independents and 34 percent Republicans in 2005.⁸ Another study reports that a majority of Americans (53%) say their opinion of Islam is either "not too favorable" (22%) or "not favorable at all" (31%).⁹ More than 4 in 10 Americans (43%) admit to feeling at least "a little" prejudice toward Muslims, which is more than twice the number who say the same about Christians, Jews, and Buddhists.¹⁰

The Southern Poverty Law Center (SPLC) reports that there has been a dramatic resurgence of hate groups in the U.S.¹¹ For the first time ever, SPLC has designated Pam Geller's recently formed "Stop Islamization of America ("SIOA") as an active anti-

³ "Does America Have a Muslim Problem?" *Time*, Aug. 19, 2010, available at <http://www.time.com/time/nation/article/0,8599,2011798-2,00.html>

⁴ "Pastor Terry Jones says Jesus Christ Would Burn Qurans, Will Go Ahead with Controversial 9/11 Event," *New York Daily News*, Sept. 8, 2010, available at http://www.nydailynews.com/news/national/2010/09/08/2010-09-08_pastor_terry_jones_says_jesus_christ_would_burn_korans_will_go_ahead_with_contro.html

⁵ "Anti-Muslim Bigotry Intensifies in the U.S.," American Defamation League, Aug. 27, 2010, available at http://www.adl.org/main/Extremism/muslim_bigotry.htm?Multi_page_sections=sHeading_4

⁶ "Rider Asks if Cabby is Muslim, Then Stabs Him," *New York Times*, Aug. 25, 2010, available at <http://www.nytimes.com/2010/08/26/nyregion/26cabby.html>

⁷ "Old Alignment, Emerging Fault Lines: Religion in the 2010 Election and Beyond," Public Religion Research Institute, slide 19, 2010, available at <http://www.publicreligion.org/research/?id=294>

⁸ "Fear, Fairness, and Fox News: The Forces Shaping How We Think About American Muslims," Robert Jones. *The Huffington Post*, March 2, 2011, available at http://www.huffingtonpost.com/robert-p-jones-phd/fear-fairness-and-fox-new_b_830350.html

⁹ "Religious Perceptions in America: With an In-Depth Analysis of U.S. Attitudes Toward Muslims and Islam," *Gallup Center for Muslim Studies*, at 7, available at <http://www.abudhabigallupcenter.com/144335/Religious-Perceptions-America.aspx>

¹⁰ *Id.*

¹¹ "U.S. Hate Groups Top 1,000," Southern Poverty Law Center, Feb. 23, 2011, available at <http://www.splcenter.org/get-informed/news/us-hate-groups-top-1000>

Muslim hate group.”¹² It has also designated at least four other groups as anti-Muslim hate groups: Right Wing Extreme in Georgia; Christian Phalange in North Carolina; 9/11 Christian Center at Ground Zero in New York; and Casa D’Ice Signs in Pennsylvania.¹³ It describes anti-Muslim hate groups as typically holding “conspiratorial views regarding the inherent danger to America posed by its Muslim-American community.¹⁴” Disturbingly, SOIA has won much recognition and support from white supremacist groups such as Stormfront, Council of Conservative Citizens, and American Renaissance, a group that publicly stated that black people are incapable of sustaining civilization.¹⁵

Another anti-Muslim organization, ACT! For America, which recently promoted a vicious hate rally in Southern California, now has a staff of eight that includes a full-time federal lobbyist, a detailed legislative agenda, and a television program, all of which are apparently dedicated to spreading fear, bigotry and misinformation about Islam and Muslims.¹⁶ The ACT! For America founder and CEO Brigitte Gabriel has said that she may be creating a PAC or a 527 organization to get directly involved in campaigns and elections.¹⁷

These hate groups and movements include prominent religious and military leaders who feed the misinformation and fear-mongering campaign. For example, the Rev. Franklin Graham has repeatedly called Islam “evil and wicked,”¹⁸ and U.S. Army Lieutenant General (ret.) and former senior Defense Department official William Boykin has stated, “We need to remember that Islam is not a religion, but a totalitarian way of life with a religious component. Yet we protect the entire thing under the [F]irst [A]mendment. . . . Islam’s objective in America is to replace our Constitution with Sharia law.”¹⁹

Perhaps most frightening is that the extremist and once fringe ideology of these hate groups has now infiltrated the mainstream and government agencies. For example, for some years after 9/11, their hate agenda was primarily relegated to the remote reaches of the blogosphere or media, but in the last year, they have begun to emerge in mainstream media, appearing in such outlets as CNN and *The New York Times*.²⁰ Just

¹² “White Supremacists Find Common Cause with Pam Geller’s Anti-Islam Campaign,” Southern Poverty Law Center’s Hatewatch, Aug. 25, 2010, available at <http://www.splcenter.org/blog/2010/08/25/white-supremacists-find-common-cause-with-pam-gellers-anti-islam-campaign/>

¹³ “Active Anti-Muslim Groups,” Southern Poverty Law Center Intelligence Files, available at <http://www.splcenter.org/node/3502/activegroups>

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ “Brigitte Gabriel Tries to go Mainstream,” Politico, March 7, 2011 available at http://www.politico.com/blogs/bensmith/0311/Brigitte_Gabriel_tries_to_go_mainstream.html

¹⁷ *Id.*

¹⁸ “Rev. Franklin Graham: Islam ‘evil,’” Politico, Oct. 3, 2010, available at http://www.politico.com/blogs/politicolive/1010/Rev_Franklin_Graham_Islam_evil.html

¹⁹ “Boykin: Islam’s Primary Object is Conquest,” Family Security Matters, Aug. 6, 2010, available at http://www.familysecuritymatters.org/publications/id.6966/pub_detail.asp

²⁰ See, e.g., “Pam Geller: In Her Own Words,” *N.Y. Times*, Oct. 8 2010, available at <http://www.nytimes.com/2010/10/10/nyregion/10gellerb.html>; “Drawing U.S. Crowds with Anti-Islam Message,” *N.Y. Times*, March 7, 2011, available at <http://www.nytimes.com/2011/03/08/us/08gabriel.html>.

recently, New York Police Department officers being trained in counterterrorism measures were required to watch an inflammatory, grossly misleading film about Muslims and Islam with footage of bombings and American flags and churches being burned.²¹ The narrator of the film informs the audience, "Americans are being told that most of the mainstream Muslim groups are moderate . . . when in fact if you look a little closer you'll see a very different reality. One of their primary tactics is deception."²² After public outcry, the NYPD acknowledged that the film was "wacky" and "inappropriate," and Commissioner Ray Kelly stated that the film is no longer being used.²³

Suspicion and hostility towards American Muslims manifests themselves in many ways with serious consequences for our society and public safety. Discrimination, harassment, bullying of children, acts of bias-driven violence, and vandalism of or opposition to mosques and community centers have become a haunting reality in the lives of many American Muslims.

III. Divisive Rhetoric & Fear-Mongering by Public Officials

Public officials have an important responsibility to promote freedom, justice, and equality. This is not about "political correctness" or free speech; it is about the responsibilities that elected officials have, particularly at the federal level, when they swear to uphold and defend the Constitution. It is a responsibility to uphold our nation's values and to speak to the American people honestly, fairly and in a way that does not divide us as Americans. Public officials should lead by their actions and words and ensure that "we are talking with each other in a way that heals, not a way that wounds," as President Obama said at the memorial service for the victims of the Tucson shooting.²⁴ All too often, however, public officials do not heed this call, particularly when the topic is American Muslims and Islam.

Public officials regardless of political party should be able to come together and recognize that it is wrong and not who we are as Americans to spread falsehoods, fear and hate of any religious, ethnic or racial group. In 2008, former Secretary of State Colin Powell courageously spoke out against members of his own political party because of their anti-Muslim rhetoric. He poignantly asked, "Is there something wrong with being a

²¹ "NYPD Cops' Training Included an Anti-Muslim Horror Flick," The Village Voice, Jan. 19, 2011, available at <http://www.villagevoice.com/2011-01-19/columns/nypd-cops-training-included-an-anti-muslim-horror-flick/>

²² *Id.*

²³ "NYPD gins up cops with Anti-Muslim video," Salon, Jan. 19, 2011, available at http://www.salon.com/news/politics/war_room/2011/01/19/nypd_third_jihad. See also "Muslim New Yorkers Seek Dignity, Respect from NYPD," March 22, 2011, available at <http://www.theepochtimes.com/n2/united-states/muslim-new-yorkers-seek-dignity-respect-from-nypd-53403.html>

²⁴ "Obama Asks for Words that Heal, Not Wound," USA Today, Jan. 13, 2011, available at http://www.usatoday.com/news/washington/2011-01-13-1Amemorial13_ST_N.htm

Muslim in this country? The answer's no, that's not America."²⁵ And as President Obama recently noted, "American Muslims are part of our American family."²⁶

Nearly ten years after the tragic events of 9/11, however, public officials appear to be increasing their offensive and dangerously misinformed statements about Muslims. To cite just a few recent examples:

- In August 2010, during the controversy over the Muslim community center in lower Manhattan, former U.S. Representative and aspiring presidential candidate Newt Gingrich said that the proposed mosque would be a symbol of Muslim "triumphalism" and compared the building of a Muslim community center two blocks from the site of the 9/11 attacks to "putting a Nazi sign next to the Holocaust Museum . . . [i]t's profoundly and terribly wrong."²⁷
- In January 2011, U.S. Representative Allen West (R-FL) appeared on the South Florida-based program *The Shalom Show* where he was asked how he would manage working with U.S. Representative Keith Ellison (D-MN), a Muslim. He responded that Ellison represents the "antithesis of the principles upon which this country was established."²⁸
- In February 2011, at a House Homeland Security Committee Hearing, U.S. Representative Paul Broun (R-GA) encouraged the use of ethnic and racial profiling to target Muslim, Arab, and South Asian travelers by airport security personnel: "I went through security at TSA . . . [there] was a guy who followed me, very obviously was of Arabian (sic) or Middle Eastern descent. Both of us were not patted down. There was a grandma who followed me, and she was patted down . . . I have yet to see a grandma try to bomb any U.S. facility . . . [s]o I think we need to focus on those who want to do us harm . . ."²⁹
- In February 2011, former Arkansas governor, potential 2012 presidential hopeful, and ordained minister Mike Huckabee exhibited his woeful lack of knowledge about Islam and maligned Muslims, as he criticized two Protestant churches that allowed local Muslims to worship in their facilities on occasion:

²⁵ "Transcript: Colin Powell on Meet the Press Endorses Barack Obama." Clips & Comment, Oct. 19, 2008, available at <http://www.clipsandcomment.com/2008/10/19/transcript-colin-powell-on-meet-the-press-endorses-barack-obama-october-19/>

²⁶ *President Obama's State of the Union Address*, 2011, available at <http://www.chicagotribune.com/news/politics/sns-state-of-the-union-text.0.4239662.full.story>

²⁷ "Three Republicans Criticize Obama's Endorsement of Mosque," Edward Wyatt, *New York Times*, Aug. 14, 2010, available at <http://www.nytimes.com/2010/08/15/us/politics/15reaction.html>

²⁸ "Allen West: Muslim Rep. Keith Ellison Represents the "antithesis of the principles upon which this country was established," *The Washington Independent*, Jan. 24, 2011, available at <http://washingtonindependent.com/105125/allen-west-muslim-rep-keith-ellison-represents-the-antithesis-of-the-principles-upon-which-this-country-was-established>

²⁹ "Understanding the Homeland Threat Landscape: Considerations for the 112th Congress," House Homeland Security Committee Hearing, Feb. 9, 2011, available at www.nctc.gov/.../Transcript-HHSC_Understanding-the-Homeland-Threat.pdf

“As much as I respect the autonomy of each local church, you just wonder, what are they thinking? If the purpose of a church is to push forward the gospel of Jesus Christ, and then you have a Muslim group that says that Jesus Christ and all the people that follow him are a bunch of infidels who should be essentially obliterated, I have a hard time understanding that.”³⁰

- In February 2011, U.S. Representatives Gary Miller (R-CA) and Ed Royce (R-CA) attended and spoke at an anti-Muslim rally in Orange County, California where protesters shouted hateful comments at American Muslim families attending a fundraiser to support women's shelters and charitable efforts to curb hunger and homelessness.³¹ At the rally, protesters yelled, “You are stupid terrorists! Go home! Go home! Go home!”³² Villa Park Councilwoman Deborah Pauly went so far as to make a death threat, speaking from the stage, “I know quite a few Marines who will be very happy to help these terrorists to an early meeting in paradise.”³³
- While the House Homeland Security Committee hearing held earlier this month on the “radicalization” of the American Muslim community is not the subject of the hearing today before the U.S. Senate Judiciary Subcommittee, we would be remiss not to mention the divisive and irresponsible framing and execution of that hearing. It was the wrongful conflation of religion and violence that formed the basis for Representative Peter King’s decision to focus on the “radicalization” of the American Muslim community. In 2007, he stated, “we have too many mosques in this country. There are too many people who are sympathetic to radical Islam . . . [a]nd it’s a real threat here in this country.”³⁴ Leading up to the hearing earlier this year, Representative King also insinuated that American Muslims are not American.³⁵ The hearing singled out the American Muslim community as uniquely susceptible to violence, a notion that is unfair, unconstitutional, and ignores the range of grave threats to our nation’s security. As the tragic shooting in Tucson, AZ, on January 11, 2011, painfully reminds us, those who engage in extremist violence reflect a range of race, ethnicity, religious affiliation, or political leanings.

³⁰ “Huckabee Draws Heat for Anti-Islam Remarks,” *The Christian Century*, Feb. 21, 2011, available at <http://www.christiancentury.org/article/2011-02/huckabee-draws-heat-anti-islam-remarks>

³¹ “Congressman Ed Royce on defense following anti-Muslim rally uproar,” Rachel Rose Hartman, *The Ticket*, March 4, 2010, available at http://news.yahoo.com/s/yblog_theticket/20110304/pl_yblog_theticket/congressman-ed-royce-on-defense-following-anti-muslim-rally-uproar

³² *Id.*

³³ *Id.*

³⁴ Rep. Peter King: There are “too many mosques in this country,” *Politico*, Sept. 19, 2007, available at http://www.politico.com/blogs/thecrypt/0907/Rep_King_There_are_too_many_mosques_in_this_country_.html

³⁵ *Secure Freedom Radio With Frank Gaffney*, Jan. 6, 2011 (stating, “When a war begins, we’re all Americans. But in this case, this is not the situation. And whether it’s pressure, whether it’s cultural tradition, whatever, the fact is the Muslim community does not cooperate anywhere near to the extent that it should. The irony is that we’re living in two different worlds.”)

These examples demonstrate a breakdown in the norms of civility and respect that Americans expect from our elected officials. There should be no place in political discourse for vitriol and open displays of bias and hatred. Furthermore, the American public is deeply influenced by its public officials. Therefore, taken together, these statements promote a troubling message to Americans: that it is acceptable to engage in bigotry and hatred against a group of Americans based on their faith. Such rhetoric is inappropriate from public officials, and goes against our American values of freedom, truth, and fairness.

IV. Violations of American Muslim Rights & Freedoms

Increasingly, America's promise of life, liberty and the pursuit of happiness is not enjoyed by all American Muslims. As they go about their everyday lives, American Muslims face threats to the rights and freedoms guaranteed to all Americans. These threats and violations include hate crimes, bullying and harassment in schools, discrimination in the workplace, increased levels of vandalism against mosques and community centers, and concerted community opposition against mosque construction proposals. As Attorney General Eric Holder, the nation's top law enforcement official, stated just a few months ago, anti-Muslim bigotry is "the civil rights issue of our time."³⁶ To meet this challenge, it requires a renewed commitment by Congress, government officials, and all Americans to uphold our commitment to freedom, justice and equality for all, regardless of faith.

A. Hate Crimes

The threat of being harassed, assaulted or worse, even killed, because of one's faith, race or ethnicity has become an increasing concern for Muslim, Arab, Sikh and South Asian Americans. For example, between January 2010 and today, there have been numerous cases of alleged hate-motivated physical violence or threats of physical violence, including:

- A Muslim cab driver in NYC was stabbed after telling his passenger that he was Muslim;³⁷
- A Sikh store clerk in Seattle was punched in the head and told "You're not even American, you're (al Qaida). Go back to your country";³⁸
- A Muslim Navy reservist in Southern California was punched in the face while

³⁶ Attorney General Eric Holder's Remarks During Meeting with Muslim Advocates and Faith Leaders, Sept. 7, 2010.

³⁷ "Film Student Accused of Stabbing Muslim Cabbie Charged with Hate Crime," DNAInfo, Aug. 26, 2010, *available at* <http://www.dnainfo.com/20100825/murray-hill-gramercy/muslim-cab-driver-stabbed-hate-crime>

³⁸ "Sikh Store Clerk Attacked, Called Al-Qaida," UPI, Aug. 31, 2010, *available at* http://www.upi.com/Top_News/US/2010/08/31/Sikh-store-clerk-attacked-called-al-Qaida/UPI-83121283303910/

- staffing a booth to answer questions about Islam and Muslims;³⁹
- A Muslim teenager in Iowa was called a "raghead" and a "sand nigger," and had his jaw broken;⁴⁰
 - A Muslim high school student in Staten Island was punched, spat on and harassed at school for approximately one year before coming forward;⁴¹
 - Two Muslim women in Seattle were called "terrorists" and "suicide bombers" before being physically assaulted at a gas station;⁴²
 - A Muslim woman in North Carolina was yelled at and spat on in a store;⁴³
 - A Muslim woman in Ohio was followed by a man to a local Islamic Center, where he threatened to kill her and pepper-sprayed her;⁴⁴
 - A Muslim woman in Portland was threatened by a neighbor that he would shoot her dog and rape her while she was praying;⁴⁵
 - A Muslim woman in Idaho was screamed at in a grocery store by a man who said he had a concealed weapon and had killed Muslims and would kill more.⁴⁶

Earlier this month, an Arab American filmmaker in Chicago was allegedly beaten by four men at a party and kicked in the face repeatedly while being told, "How dare you come in here, you sand nigger. Fucking Usama Bin Laden, you sand nigger."⁴⁷ Also this month in Elk Grove, California, two elderly Sikh men in traditional garb were out walking near their homes one afternoon when a truck drove by and shot at them both, killing one and critically injuring the other.⁴⁸ With no apparent motive, and the Sikh appearance of the men, law enforcement officials stated the circumstances increasingly raise the possibility that the attack was a hate crime.⁴⁹

These are just some recent tragic examples of the very real life and death

³⁹ "California Muslim Assaulted by July 4th Revelers," Research and Information Network, July 7, 2010, available at <http://rain.org.za/california-muslim-assaulted-by-july-4th-revelers/>

⁴⁰ "Iraqi Teen, Muslim Group Say Assault was Racially Motivated," Eastern Iowa News Now, June 28, 2010, available at <http://easterniowanewsnow.com/2010/06/28/iraqi-teen-muslim-group-say-assault-was-racially-motivated/>

⁴¹ "Staten Island Teens Charged with Hate Crime for Attacking Muslim Classmate over Faith," New York Daily News, Oct. 11, 2010, available at http://www.nydailynews.com/news/ny_crime/2010/10/11/2010-10-11_staten_island_teen_charged_with_hate_crime_for_attacking_muslim_classmate_over_.html

⁴² "Hate Crime Charges Filed in Attack on Muslim Women," Komo News, Oct. 21, 2010, available at <http://tukwila.komonews.com/content/hate-crime-charges-filed-attack-muslim-women>

⁴³ "Muslim Woman Says Man Cursed, Spat at her in Walmart," WRAL, Oct. 29, 2010, available at <http://www.wral.com/news/local/story/8535518/>

⁴⁴ "Anti-Muslim Hate Crime? Woman Says She Was Followed by Car, Pepper-Sprayed Near Ohio Mosque," CBS News, Dec. 21, 2010, available at http://www.cbsnews.com/8301-504083_162-20026330-504083.html

⁴⁵ "Hate Crime Suspect Arrested, Placed on Immigration Hold," Portland Tribune, Jan. 11, 2011, available at http://www.portlandtribune.com/news/print_story.php?story_id=129479726798952900

⁴⁶ "Man Arrested After Threatening Muslim Woman at Walmart," KTVB, Dec.,24, 2010, available at <http://www.ktvb.com/home/Man-arrested-after-threatening-Muslim-woman-at-Walmart-112435824.html>

⁴⁷ "Filmmaker says 1st Name 'Usama' Led to Beating," *The Chicago Tribune*, March 6, 2011, available at http://www.chicagotribune.com/news/local/breaking/chibrknews-filmmaker-says-1st-name-usama-led-to-beating-20110307_0,1334947.story

⁴⁸ "Cops Seek Pickup in Sikh Shooting," Fox40, March, 5, 2011, available at http://www.fox40.com/news/headlines/ktxl-news-sikhshootingfolo.0.6656491_story

⁴⁹ *Id.*

consequences of the increasing climate of anti-Muslim hate. Pursuant to the Hate Crimes Statistics Act, the FBI attempts to track hate crimes incidents, which includes a sub-category of religion bias based crimes segregated for “anti-Islamic” hate crimes. The FBI has reported during the period from 2001 to 2009, 1,552 incidents of hate crimes based on “anti-Islamic” bias, resulting in 1,785 offenses.⁵⁰ The number of reported incidents remains substantially above pre-2001 levels.⁵¹ The data for 2010, a year when anti-Muslim bigotry spiked in other areas, has not yet been released.

As stark as these numbers are, however, they do not paint the full scope of the problem. No government agency collects accurate, comprehensive data on hate crimes motivated by anti-Muslim hate targeting Muslim, Arab, Sikh, and South Asian Americans. The FBI does not separately track victims who may be subjected to racial, ethnic or national origin bias motivated crimes based on their Arab, Middle Eastern, South Asian or other ethnic background.

Moreover, the FBI’s hate crimes tracking system, which relies on voluntary reporting by local police departments, is deeply flawed. The Justice Department’s Bureau of Justice Statistics (BJS) has found that the FBI hate crime statistics are inaccurate and woefully undercount the full number of hate crimes.⁵² The study also found that only 44% of hate crimes are reported to the police.⁵³ There are other reasons hate crimes may not be recorded by the FBI: police may fail to record crimes as hate crimes, police departments may fail to report hate crimes to their state reporting agencies, and those agencies in turn may not report the full data to the FBI.⁵⁴ The real number of hate crimes may be *fifteen times higher* than the FBI’s statistics, according to the Southern Poverty Law Center.⁵⁵ In fact, Attorney General Holder has pointed out the gaps in relying solely on current FBI hate crime statistics:

“Many police agencies throughout the country, including in major cities, do not participate in the FBI’s reporting system, and many victims do not report the hate crimes perpetrated against them. In fact, the Bureau of Justice Statistics puts the actual annual number of hate crimes in the tens of thousands. This fact is enough to make one’s blood run cold.”⁵⁶

Furthermore, Muslim, Arab, Sikh, and South Asian communities do not always know where to turn and how to report hate-motivated violence and threats of violence.

⁵⁰ FBI Hate Crimes Statistics for 2001-2009, available at <http://www.fbi.gov/about-us/cjis/ucr/ucr>.

⁵¹ “Confronting the New Faces of Hate: Hate Crimes in America 2009,” *The Leadership Conference on Civil and Human Rights*, at 30, available at: <http://www.civilrights.org/publications/hatecrimes/>

⁵² Harlow, C.W., *Hate Crime Reported by Victims and Police*, Special Report, U.S. Department of Justice, Bureau of Justice Statistics, Nov. 2005 (NCJ 209911), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/hcrvp.pdf>

⁵³ *Id.* at 4.

⁵⁴ Southern Poverty Law Center, “Report: FBI Hate Crime Statics Vastly Understate Problem,” *Intelligence Report*, Winter 2005, available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2005/winter/hate-crime>.

⁵⁵ *Id.*

⁵⁶ U.S. Attorney General Eric Holder, Remarks to the Anti-Defamation League, October 17, 2009, available at http://www.adl.org/Civil_Rights/speech_Eric_Holder.asp.

Regrettably, trust between law enforcement and these affected communities, which is needed to encourage the reporting of crimes, has eroded since 9/11. These communities may fear bringing themselves to law enforcement's attention, which could result in unrelated investigations or surveillance. Affected communities also fear public retaliation, experience language barriers, or believe the police can do nothing.⁵⁷

The U.S. Department of Justice, under both Republican and Democratic administrations, has made an effort to investigate and prosecute crimes motivated by anti-Muslim hate, but more needs to be done. That is why Muslim Advocates supported passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009. This law has given the federal government increased authority to engage in hate crimes investigations and prosecutions that local authorities do not or cannot pursue and to assist state and local agencies that take the lead in investigating and prosecuting hate crimes. Significantly, the law has eliminated the requirement that the victim be engaged in one of six enumerated federally protected activities at the time of the crime.⁵⁸ This requirement had greatly narrowed the circumstances under which the federal government could intervene. Now, the Justice Department and FBI can do more to tackle hate crimes. According to Attorney General Holder, the Justice Department has convicted more hate crime defendants in 2010 than in any other year since 2000.⁵⁹ These activities underscore the federal government's stepped-up commitment to protecting all Americans from hate-motivated violence and discrimination. Still, there is more work to be done to ensure the safety of all Americans.

B. Opposition to mosques

The controversy over the Muslim community center in New York City in 2010 was just one example of increasing hostility towards mosques and Islamic centers. Existing and proposed mosque sites across the country have been targeted for vandalism and other criminal acts.⁶⁰ Anti-Muslim graffiti on mosques and protests include statements such as "wake up America, the enemy is here,"⁶¹ "U.S. military is going to kill you all,"⁶² "murderers,"⁶³ and "Jesus hates Muslims."⁶⁴

⁵⁷ Beverly McPhail, "Hating Hate: Policy Implications of Hate Crime Legislation," *The Social Service Review*, Vol. 74, No. 4 (December 2000), p. 641.

⁵⁸ 18 U.S.C. § 245 (2010).

⁵⁹ U.S. Attorney General Eric Holder, Remarks at Muslim Advocates' Annual Banquet, December 10, 2010, available at <http://www.justice.gov/iso/opa/ag/speeches/2010/ag-speech-1012101.html>.

⁶⁰ Pew Forum on Religion & Public Life, "Controversies Over Mosques and Islamic Centers Across the U.S.," September 24, 2010, available at <http://features.pewforum.org/muslim/controversies-over-mosque-and-islamic-centers-across-the-us.html>.

⁶¹ Diana Marcum, "Authorities Investigate Acts of Vandalism at Mosque as Potential Hate Crime," *Los Angeles Times*, September 8, 2010, available at <http://articles.latimes.com/2010/sep/08/local/la-me-0908-madera-mosque-20100908>.

⁶² "Racial Slurs Painted on Cypress Mosque," *NBC LA*, June 4, 2009, available at <http://www.nbclosangeles.com/news/local/Racial-Slurs-Painted-on-Cypress-Mosque.html>.

⁶³ Daniel Tepfer, "Angry Protestors Descend on Mosque," *Connecticut Post*, August 6, 2010, available at <http://www.ctpost.com/news/article/Angry-protesters-descend-on-mosque-606515.php>.

⁶⁴ *Id.*

There have also been efforts to block necessary zoning permits for the construction and expansion of mosques and Muslim community centers. In some cases, the opposition takes the guise of neighbors' concerns about traffic, noise, parking and property values.⁶⁵ In others, however, opponents of mosques and community spaces also cited unfounded and, frankly, hysterical fears about Islam, Sharia law, and terrorism.⁶⁶

With this heightened level of opposition to American Muslim institutions, we are reminded of Congress' historical commitment to religious freedom. On at least two separate occasions in recent years, after the Supreme Court sought to limit the free exercise of religion, Congress enacted legislation to protect religious liberty, particularly religious institutions in zoning disputes. In 2000, Congress enacted the Religious Land Use and Institutionalized Persons Act ("RLUIPA") to prevent local governments from enacting land use regulations that impose substantial burdens on the free exercise of religion, including religious institutions. It did so, in part, because it found that zoning authorities were frequently placing excessive or unreasonable burdens on the ability of congregations to exercise their faith with little to no justification and in violation of the Constitution.

American Muslims today face exactly this kind of subtle and overt discrimination, and it threatens the right to practice their religion guaranteed to them by the Constitution. A particularly egregious example of such opposition involves a proposed mosque in Murfreesboro, Tennessee, where opponents went to court not only to seek an injunction against construction, but to argue that Islam is not a religion and therefore not deserving of First Amendment protections. After the Islamic Center of Murfreesboro announced plans to build a new mosque to accommodate its growing congregation, local Muslims were stunned at the outpouring of anti-Muslim sentiment. Both signs the Center erected at the construction site were vandalized – the first had "not welcome" spray-painted across it; the second was smashed in two.⁶⁷ Even after the Center gained official County approval, there were aggressive protests. Underscoring the level of fear-mongering and ignorance, Ron Ramsey, Tennessee's lieutenant governor and a gubernatorial candidate, wondered publicly, "[W]hether being a Muslim is actually a religion, or is it a nationality, a way of life or cult, whatever you want to call it?"⁶⁸ Congressional candidate Lou Ann Zelenik declared that the Center was "a political movement designed to fracture the moral and political foundation of Middle Tennessee."⁶⁹

Opponents of the mosque asked Frank Gaffney, another leading Muslim-basher, to testify on their behalf. Feeding the fear and hysteria, he argued that, without any basis, Sharia is a threat to the Constitution and that most mosque leaders preach Sharia.⁷⁰ In

⁶⁵ American Civil Liberties Union, "Map - Nationwide Anti-Mosque Activity," *available at* <http://www.aclu.org/map-nationwide-anti-mosque-activity>.

⁶⁶ *Id.*

⁶⁷ Elisabeth Kauffman, "In Murfreesboro, Tenn.: Church 'Yes,' Mosque 'No:'" *Time*, August 19, 2010, *available at* <http://www.time.com/time/nation/article/0,8599,2011847,00.html>.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Rachel Slajda, "TN Mosque Opponents Bring in Sharia 'Expert' Frank Gaffney," TPM, September 8, 2010, *available at*

October, the U.S. Department of Justice filed an amicus brief enforcing RLUIPA and supporting the community's right to construct a mosque, making clear that Islam is a religion entitled to protection under the First Amendment.⁷¹ In fact, U.S. Attorney Jerry E. Martin publicly stated, "To suggest that Islam is not a religion is quite simply ridiculous."⁷² The court denied the plaintiffs' request for temporary injunctive relief halting the mosque's construction,⁷³ and the lawsuit will be heard in April this year.⁷⁴ The Muslim community was heartened by the Justice Department's intervention.

The Murfreesboro case is just one example. Public protests against the construction or expansion of community spaces and mosques continue unabated. The American Civil Liberties Union ("ACLU") has tracked over 60 incidents of anti-mosque activity throughout the country in the past five years.⁷⁵ The Pew Forum on Religious and Public Life has indicated that in the past two years alone, there have been at least 35 proposed mosques and Islamic centers that have encountered community resistance.⁷⁶ One recent example of this emerges in Chicago's DuPage County, where the Muslim Educational and Cultural Center is likely to finally win the County Board's approval after numerous rejections.⁷⁷ This proposal was one of four mosque-related plans to come before the Board, at least two of which were rejected.⁷⁸

C. Employment Discrimination

Amid the growing anti-Muslim sentiment, American Muslims are also facing increased discrimination in the workplace, with complaints ranging from co-workers hurling epithets such as "camel jockey," "terrorist" or "Osama," to not being able to wear headscarves or take prayer breaks.⁷⁹ For example, in August 2010, the Equal Employment Opportunity Commission ("EEOC") sued a meatpacking company on behalf of 160 Somali workers, "saying supervisors and workers had cursed them for

http://tpmmuckraker.talkingpointsmemo.com/2010/09/tn_mosque_opponents_bring_in_national_sharia_ex_per.php.

⁷¹ "Justice Department Files Brief in Support of Continued Construction of Murfreesboro, Tenn., Mosque," Department of Justice, Office of Public Affairs, October, 18, 2010, *available at* <http://www.justice.gov/opa/pr/2010/October/10-crt-1162.html>.

⁷² *Id.*

⁷³ Christian Grantham, "Judge Denied Mosque Injunction," Murfreesboro Post, November 17, 2010, *available at* <http://www.murfreesboropost.com/judge-denies-mosque-injunction-cms-25105>.

⁷⁴ Elizabeth Emmons, "Mosque Lawsuit will be Heard in April," Nashville News, February 15, 2011, *available at* <http://www.wsmv.com/news/26869438/detail.html>.

⁷⁵ American Civil Liberties Union, "Map - Nationwide Anti-Mosque Activity," *available at* <http://www.aclu.org/map-nationwide-anti-mosque-activity>.

⁷⁶ Pew Forum on Religion & Public Life, "Controversies Over Mosques and Islamic Centers Across the U.S.," September 24, 2010, *available at* <http://features.pewforum.org/muslim/controversies-over-mosque-and-islamic-centers-across-the-us.html>.

⁷⁷ David Lipeska, "Muslim Cultural Center Appears Near Approval," *New York Times*, March 17, 2011, *available at* <http://www.nytimes.com/2011/03/18/us/18cnmosque.html>.

⁷⁸ *Id.*

⁷⁹ Steven Greenhouse, "Muslims Report Rising Discrimination at Work," *New York Times*, September 23, 2010, *available at* <http://www.nytimes.com/2010/09/24/business/24muslim.html>.

being Muslim; thrown blood, meat and bones at them; and interrupted their prayer breaks.”⁸⁰

Title VII of the Civil Rights Act of 1964 prohibits employers from engaging in discrimination, including harassment and retaliation, on the basis of race, sex, color, religion, and national origin.⁸¹ Since 2001, the EEOC has been tracking the number of charges received under Title VII alleging employment discrimination specifically based on race, religion and national origin due to 9/11. Between 9/11/2001 and 9/11/2010, 1,026 charges were filed under Title VII alleging post-9/11 backlash employment discrimination.⁸² In addition, during this same period, the EEOC received 5,750 charges of discrimination based on the complainant’s Muslim faith. For a comparable period of time prior to 9/11/2001 (9/11/1992 to 9/10/2001 (nine years)), the EEOC received 2,186 charges of discrimination based on the complainant’s Muslim faith. Between September 2008 and September 2009, the EEOC had received a record 803 complaints alleging anti-Muslim bias, which was a twenty percent increase from the previous year.⁸³ *Muslims are approximately two percent of the American population, yet, according to this most recent data, their bias complaints accounted for twenty-five percent of the total number.*⁸⁴ Mary Jo O’Neill, regional attorney of the EEOC’s Phoenix office, expressed shock at the level of discrimination: “I’ve been doing this for 31 years, and I’ve never seen such antipathy toward Muslim workers.”⁸⁵

At the same time, gaps in federal law are emerging. Two courts have recently ruled that an employer can segregate and keep out of public view Sikh and Muslim workers who wear turbans or headscarves, respectively.⁸⁶ In response, Sikh Coalition, Muslim Advocates, and a diverse range of faith and civil rights groups have asked the EEOC to issue guidance to employers clarifying that, in the opinion of the nation’s preeminent Title VII enforcement agency, segregating employees on the basis of corporate image constitutes an adverse employment action and can never be deemed “reasonable” under Title VII.⁸⁷

D. Harassment and Bullying of Children

In the post-9/11 world, Muslim, Arab, Sikh and South Asian American children

⁸⁰ *Id.*

⁸¹ Title VII of the Civil Rights Act of 1964, as amended, at 42 U.S.C. § 2000e, *et seq.*

⁸² Charges related to the events of 9/11/01, by an individual who is-or is perceived to be-Muslim, Arab, Afghani, Middle Eastern or South Asian or individuals alleging retaliation related to the events of 9/11/01. See U.S. Equal Employment Opportunity Commission, Fact Sheet: Backlash Employment Discrimination Charges related to the events of 9/11/2001, against individuals who are, or are perceived to be, Muslim, Arab, Afghani, Middle Eastern or South Asian, September 11, 2010.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Steven Greenhouse, “Muslims Report Rising Discrimination at Work,” *New York Times*, September 23, 2010, available at <http://www.nytimes.com/2010/09/24/business/24muslim.html>.

⁸⁶ *Ali v. Alamo Rent-a-Car, et al.*, No. 00-1041 (4th Cir. 2001); *Birdi v. United Airlines, Corp.*, No. 99 C 5576, 2002 WL 471999, 2002 U.S. Dist. LEXIS 9864 (N.D. Ill. 2002).

⁸⁷ Letter from Agudath Israel of America, et al., to EEOC Commissioners, March 25, 2011 (copy available from Muslim Advocates).

have also been vulnerable to discrimination, harassment, and bullying. According to one education advocate, children from these communities face “ongoing harassment and bullying in classrooms, hallways, the lunch room, recess and on the bus which can make the life of a child or youth miserable, with little recourse.”⁸⁸ Community and civil rights groups have complained that school administrators and teachers either downplay such abuse and perhaps even share the prejudice, or do not know the appropriate response.⁸⁹

No federal agency collects data on harassment and discrimination experienced by children based on their religion. Muslim and Sikh community groups, however, are increasingly documenting cases of harassment and bullying. In one such egregious instance, a Muslim high school student in Staten Island was subjected to a harrowing ordeal in which he was frequently labeled a “terrorist,” punched in the groin, and spat on by fellow teenagers.⁹⁰ He was beaten so severely that there was blood in his urine, and he suffered from headaches and memory loss afterwards.⁹¹ There have also been a series of incidents in Minnesota, where, for example, Muslim students of Somali origin have been targeted by another high school student who created a Facebook group called “I hate the Somalians at Tech High.”⁹² Two Somali students expressed no surprise at this, and said that white students making disparaging remarks about Muslim classmates was entirely common: “They always make fun of us and they say, ‘Go back to your countries,’ and, ‘You guys stink,’ and, ‘This is our country, and we don't need black people,’ so it's every single day . . . [i]t's not several times, it's all the time.”

In March 2010, Muslim Mothers Against Violence, a community organization, surveyed 78 Muslim male and female youth between 12 and 17 years of age in Northern Virginia about their experiences in school.⁹³ Eighty percent (80%) responded that they had been subjected to bigoted taunts and epithets and harassment, with three-quarters indicating the epithets had occurred more than once. Fifty (50%) report being called names in front of teachers and school administrators. The harassment includes being called “terrorist,” “raghead,” “tower takers,” “bomber,” and “pirate” (referring to Somali children). One youth said, “other minorities are protected but not us,” while another said, “well, it's hard to avoid; yahoo.com home page covers these conflicts.” One student reported the following experience at school: “My principal saw me wearing a kufi and asked what kind of a Muslim I was. I told him I was regular, and he said if I wore it

⁸⁸ Letter from Maha Elgenaidi, Islamic Networks Group (ING) to Education Secretary Arne Duncan, September 6, 2010, available at <http://www.ing.org/downloads/ING-Letter-to-Arne-Duncan-September-2010.pdf>.

⁸⁹ *Id.*; Sikh Coalition, et al., “Comments on Department of Education Agency Plan for White House Initiative on Asian Americans and Pacific Islanders,” submitted Feb. 17, 2011; Teaching Tolerance, “Combating Anti-Muslim Hate,” available at <http://www.tolerance.org/magazine/number-39-spring-2011/combating-anti-muslim-bias>.

⁹⁰ John Del Signore, “Four Staten Island Teens Arrested for Anti-Muslim Hate Crime,” *Gothamist*, October 10, 2010, available at http://gothamist.com/2010/10/11/four_staten_island_teen_arrested_f.php.

⁹¹ Amy Padnani, “Staten Island student endures the torment of violence and ‘terrorist’ taunts,” *Staten Island Advance*, October 10, 2010, available at http://www.silive.com/news/index.ssf/2010/10/young_student_endures_the_torm.html.

⁹² Ambar Espinoza, “Somali Population, Cultural Tension Rising in St. Cloud,” *MPR News*, March 15, 2010, available at <http://minnesota.publicradio.org/display/web/2010/03/15/st-cloud-tensions>.

⁹³ Copy on file with author at Muslim Mothers Against Violence.

again, I would get in school suspension. My dad told me not to wear it to school again, we don't need trouble." That is a snapshot of the new reality of growing up Muslim in America today, where one's classmates and teachers wield anti-Muslim attitudes and messages that they learn at school, at home and from the media.

Anti-Muslim hate also deeply affects Sikh children. The Sikh Coalition has issued five reports in the last four years documenting ugly and persistent abuse and bullying experienced by Sikh children particularly in New York City and the San Francisco Bay area.⁹⁴ Sikhs are called names such as "Arab" and "terrorists," which is clearly rooted in the climate of anti-Muslim bigotry. Sikh children, who cannot cut their hair for religious reasons, are often threatened with hair-cutting or with having their turbans pulled off, and in certain cases have had their hair forcibly cut and turban lit on fire.

Under federal laws enforced by the U.S. Department of Justice and U.S. Department of Education, schools must protect students from harassment and discrimination on the basis of race, color, or national origin.⁹⁵ While Title VI does not prohibit discrimination based solely on religion, the Education Department has found that "groups that face discrimination on the basis of actual or perceived shared ancestry or ethnic characteristics may not be denied protection under Title VI on the ground that they also share a common faith."⁹⁶ During the last year, the Obama administration has begun to recognize the urgent need to address harassment and bullying of children and has taken steps to encourage efforts to prevent harassment and bullying, including launching a designated website with resources for children, parents and educators, and providing guidance to educators and communities about the legal obligations of schools to prevent and address bullying.⁹⁷ The White House also held a conference earlier this month on bullying in schools and communities and how to prevent it. Valerie Jarrett, President Obama's senior advisor said, "What could be more important than our children? There is a perception that bullying is a rite of passage. And it's not . . . it's just not acceptable."⁹⁸

While these are significant steps forward, given that these issues have risen to a crisis point in the Muslim, Arab, Sikh and South Asian communities, the federal government needs to increase and tailor its prevention and enforcement activities and

⁹⁴ See Sikh Coalition, New York Civil Liberties Union, and Asian American Legal Defense and Education Fund, "Bullying in NYC: Educators Speak Out," February 24, 2011, *available at* http://www.sikhcoalition.org/documents/DOE_Report.2.24.2011.pdf; Sikh Coalition, "2010 Bay Area Civil Rights Report," 2010; Sikh Coalition, New York Civil Liberties Union, and Asian American Legal Defense and Education Fund, "2009 Report Card on NYC Public Schools Anti-Bullying Work," 2009; Sikh Coalition, "2009 Civil Rights Agenda for NYC," 2008; Sikh Coalition, "Hatred in the Hallways," 2007.

⁹⁵ Title VI of the Civil Rights Act of 1964 at 42 U.S.C. § 2000d, *et seq.*

⁹⁶ Dear Colleague Letter on Bullying & Harassment, U.S. Dept. of Education, Oct. 26, 2010, *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

⁹⁷ Secretary of Education Bullying Law and Policy Memo, Dec. 16, 2010, *available at* http://www.stopbullying.gov/references/white_house_conference/white_house_conference_materials.pdf.

⁹⁸ Jonathan Capehart, "Bullying is Not a Right of Passage," *Washington Post*, PostPartisan Blog, March 10, 2011, *available at* http://www.washingtonpost.com/blogs/post-partisan/post/bullying-is-not-a-rite-of-passage/2011/03/04/ABBPtRQ_blog.html.

resources to address specifically the harassment and bullying experienced by Muslim, Arab, Sikh and South Asian children and youth. It is important that the administration and Congress work tirelessly to ensure that our children feel safe in their schools and communities. As a nation, we should not allow our children, America's future, to be subject to hatred and discrimination.

E. Anti-Sharia Movement

In the past few months, we have witnessed an especially absurd new movement to spread fear and misinformation about Muslims, this time focusing on Islamic religious law called Sharia. These efforts have gone so far as to introduce bills or ballot initiatives in at least a dozen states, including Oklahoma and Tennessee, to ban the use of Sharia law.

Muslims have been a part of America for centuries and have fought for and died defending our country and its ideals. There has not been a single, credible example of an attempt to use Sharia to usurp our Constitution and political system. Moreover, the Supremacy Clause ensures that the Constitution, not any religious or foreign law, is the law of the land.

In November 2010, the people of Oklahoma adopted a ballot initiative prohibiting state and federal courts from using international law or Sharia when making rulings. The author of the proposal, Representative Rex Duncan, declared the necessity of preventing against the "hideous invasion" of Sharia.⁹⁹ A Muslim in Oklahoma successfully challenged the ban on First Amendment grounds, arguing that the law would prevent him from executing a will pursuant to his Islamic beliefs, and won a Temporary Restraining Order and a Permanent Injunction. The U.S. District Court for the Western District of Oklahoma found that the plaintiff made a strong showing of substantial likelihood that the language of the Amendment singled out Sharia and was not therefore facially neutral; that the defendants failed to present evidence that the amendment was justified by any compelling interest or was narrowly tailored;¹⁰⁰ and that there was a substantial likelihood of success on the merits of the claim asserting a violation of the Establishment Clause of the First Amendment.¹⁰¹

The Free Exercise Clause and Establishment Clause of the First Amendment allow a wide array of religious practice in America.¹⁰² If enacted and allowed to stand, anti-Sharia bills like those introduced in Oklahoma and Tennessee would affect the ability of American Muslims to practice their faith. Marriages under religious law would not be recognized, and Muslims would not be allowed to congregate and pray (as the

⁹⁹ Kelly Holt, "Judge Draws Ire in Suspending Oklahoma Sharia Ban," *New American*, November 9, 2010, available at <http://www.thenewamerican.com/index.php/usnews/constitution/5146-judge-draws-ire-in-suspending-oklahoma-sharia-ban>.

¹⁰⁰ *Awad v. Prince, Ziriya et. al.*, W.D. Ok. Case No. 5:10-cv-01186-M, at 13 (Nov. 29, 2010).

¹⁰¹ *Id.* at 10.

¹⁰² Sally Steenland, "Setting the Record Straight on Sharia: An Interview with Intisar Rabb," Center For American Progress, March 8, 2011, available at http://www.americanprogress.org/issues/2011/03/rabb_interview.html.

proposed Tennessee bill envisions), rights enjoyed by every other faith community in America.¹⁰³ These bills are surely unconstitutional, as one federal court has already ruled, since they would abridge the free exercise of religion and suggest a preference by government of one religion over another. Yet, the fear-mongering continues, preying on the ignorance of the American people to level suspicion and hate against their fellow Americans.

V. Conclusion & Recommendations

Anti-Muslim fear-mongering and bigotry is on the rise in America. Even some public officials have lent their support, abandoning their responsibility to promote freedom, truth and fairness. As a result, today, it is becoming increasingly acceptable to demonize Muslims, vandalize mosques, bully and harass children, threaten Muslims with acts of violence, and discriminate against them in the workplace. This is disturbingly reminiscent of an earlier chapter in our nation's history, when, in the midst of a national crisis, our nation persecuted Americans based on their national origin and ethnicity. During World War II, tens of thousands of Japanese Americans were deemed suspicious, arrested and detained in internment camps. Congress, public officials, and all Americans have a solemn responsibility to not allow history to repeat itself. In Attorney General Holder's words, "regardless of color or creed, we are all Americans . . . There can be no 'us' or 'them' among Americans."¹⁰⁴

To combat rising anti-Muslim rhetoric, discrimination, harassment and hate crimes, Muslim Advocates makes the following recommendations:

- 1) Muslim Advocates urges members of Congress and all public officials to refrain from making hateful statements about Islam and the American Muslim community, as well as to condemn those public officials who engage in hateful rhetoric or actions. Anti-Muslim bigotry only serves to divide us as a nation when we should be coming together as one nation to address the many challenges we face.
- 2) Muslim Advocates urges Congress to explore amending Title VI of the Civil Rights Act of 1964 to include religion as a protected class to ensure that religious communities with diverse racial and ethnic compositions, such as Muslim and Sikh communities, can be fully protected from discrimination and harassment in schools.

¹⁰³ TN State Sen. Bill Ketron, who introduced the bill, recently stated that he would amend the bill to remove its offensive and discriminatory provisions; however, we have been unable to locate a copy of the purported amendment to verify the claim. See Tennessee State Senate, Press Release, March 22, 2011, available at <http://www.capitol.tn.gov/senate/members/Ketron/032211.pdf>.

¹⁰⁴ U.S. Attorney General Eric Holder, Remarks at Muslim Advocates' Annual Dinner, December 10, 2010, available at <http://www.justice.gov/iso/opa/ag/speeches/2010/ag-speech-1012101.html>.

- 3) Muslim Advocates urges the administration, particularly the Education Department, to increase and tailor its bullying prevention resources and enforcement to the needs of Muslim, Arab, Sikh and South Asian youth, by:
 - a. Developing tools and mechanisms to educate parents about their rights and the process for filing complaints;
 - b. Conducting civil rights compliance reviews of schools with vulnerable Muslim, Arab, Sikh and South Asian student populations;
 - c. Promoting programs that educate children on the world's religions, as well as on tolerance and respect for those who are different; and
 - d. Collecting data, especially separate data for race, national origin and religion, to fully understand the depth and scope of the problem experienced by Muslim, Arab, Sikh and South Asian American youth.¹⁰⁵
- 4) Muslim Advocates urges the Justice Department to pursue a high profile investigation and prosecution of an anti-Muslim hate crime case to send a clear, strong message that hate crimes will not be tolerated.
- 5) Muslim Advocates urges the Justice Department and U.S. Attorneys to increase and enhance their engagement with state and local law enforcement to ensure that all bias-motivated crimes are prevented, detected, investigated and prosecuted.
- 6) Muslim Advocates urges the Justice Department to encourage state and local law enforcement agencies to report all bias-motivated crimes to the FBI in order to facilitate federal investigations and prosecutions when local authorities are unable to do so and to ensure comprehensive tracking of all hate crimes incidents.
- 7) Muslim Advocates urges Congress to require the Justice Department to collect and track complaints received alleging a violation of RLUIPA, including the basis for the complaint, whether an investigation was opened and its outcome, and to report this data in six months and annually thereafter to Congress and the public. (The first report should include a report to Congress and the public on all RLUIPA complaints received by the Justice Department since the law was enacted in 2010.)
- 8) Last fall, Muslim Advocates urged the Justice Department Civil Rights Division to play a leadership role with other DOJ components and federal agencies, including the Community Relations Service (CRS), HUD, EEOC, and Dept of Education, to create a coordinated federal response to the rise in anti-Muslim hate activities. Muslim Advocates also urged the Attorney General to direct CRS offices to act immediately to defuse tensions where incidents have already occurred and in areas where incitement activities are expected to take place. There has been important progress since last fall. Muslim Advocates urges the

¹⁰⁵ See Sikh Coalition, et al., "Comments on Department of Education Agency Plan for White House Initiative on Asian Americans and Pacific Islanders," submitted Feb. 17, 2011. (Copy available from Sikh Coalition or Muslim Advocates.)

Attorney General and Justice Department to give continued priority attention to these issues.

- 9) Muslim Advocates urges the Justice Department to create a Civil Rights Division hotline and centralized system of tracking complaints and to report this data to Congress: The current system of filing a complaint with the Division lacks a centralized place for receipt and tracking of all complaints of civil rights violations. The current system is also confusing because it instructs members of the public to file complaints with individual sections or other federal agencies. The Civil Rights Division should create one centralized hotline and portal for the receipt, referral and tracking of *all* civil rights complaints to the Division. This data collection and tracking mechanism should include race, ethnicity, national origin and religion categories and sub-categories to ensure that complaints by Muslim, Arab, Sikh and South Asian Americans can be tracked. The Justice Department should report this comprehensive data on civil rights complaints to Congress and the public annually.
- 10) Muslim Advocates urges Congress to require the Justice Department to report in six months and then annually thereafter on the above steps and all other actions it has taken to stem civil rights violations rooted in anti-Muslim hate.
- 11) Muslim Advocates urges Congress to make the following crucial changes to the Hate Crimes Statistics Act to promote comprehensive and more accurate reporting of hate crimes:
 - a. Mandate state and local authorities to report the occurrence of hate crimes to the FBI.
 - b. Specify additional ethnic groups in the Bias Motivation section, under Ethnicity/National Origin. Currently, the statistics only track “Anti-Hispanic” and “Anti-Other Ethnicity.” This does not take into account ethnicities at high risk of being targeted for hate crimes because they are perceived to be Muslims. There should be a section tracking “anti-Arab” crimes and “anti-South Asian” crimes.
 - c. Provide additional specificity in the Bias Motivation section under the “Religion” section. Sikh Americans, for instance, are frequent targets of hate crimes because they are perceived to be Muslim.