

WRITTEN STATEMENT SUBMITTED TO SENATE JUDICIARY SUBCOMMITTEE ON THE
CONSTITUTION, CIVIL SOCIETY AND HUMAN RIGHTS

“The Threat of Islamophobia to American Muslim Civil Rights”

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“The overwhelming majority of Muslim Americans are outstanding Americans and make enormous contributions to our country” – Rep. Peter King, Republican from NY.

I want to preface my comments with an expression of gratitude to Senator Richard Durban from Illinois for raising national awareness about the precarious condition of American Muslims’ civil rights. At a time when Muslim bashing has become the country’s favorite past time, it is indeed lionhearted of Senator Durban to recognize that Muslims too are Americans and therefore entitled to the same human rights that all other Americans enjoy. More importantly this hearing sends the message that not all Americans are Islamophobic and that America does take its responsibility to safeguard Muslims and their civil rights seriously. I also want to express my thanks for giving me this opportunity to contribute a written statement on the issue at hand. It is indeed a great honor.

For the past few months, American Muslims have been forced to suffer an incredibly hostile civic environment in which, prominent politicians, religious leaders, and political commentators have expressed egregiously hateful sentiments towards Muslims and their beliefs. Some prominent mainstream leaders have launched sustained campaigns to marginalize American Muslims and deprive them of protections guaranteed by the Bill of Rights enshrined in our constitution. State after state has embarked on legislative endeavors to make the practice of Islam illegal in the world’s oldest democracy.

Using disingenuous and mendacious distinctions between Islam and Islamic Shariah, between Muslims and radical Muslims; a coalition of individuals and groups associated with the far right and conservative perspective are using law as cover for prejudice and are seeking to make the very practice of Islam unacceptable in America. An emerging anti-Muslim ideology is using hateful symbolism such as ‘Quran burning’, falsely claiming that ‘80% of American Muslims are extremists’, and political gamesmanship like ‘banning the shariah’ to create and sustain an atmosphere and culture of extreme hostility, suspicion, and hate towards Islam and Muslims. It is this hateful ethos that is putting Muslim rights at risk. It encourages people to ill-treat Muslims and allows law enforcement to act without regard for the constitutional rights of Muslims.

Admittedly there have been several instances of terrorism related instances involving American Muslims in the past 10 years and they have caused 40 deaths. The most prominent generator of anti-American hate on the Internet, which now enjoys monopoly as the dominant source of radicalization of American Muslims, is Anwar Awlaki, an American born Muslim. The threat of terrorism remains a vital concern and American Muslims more than anyone else are acutely aware of it for terrorism presents a double threat to American Muslims. American Muslims are as likely to be victims of terrorism as anyone else, but unlike everyone else they also have to suffer the consequence of the inevitable backlash.

Usually in democracies, laws, leaders and law enforcement agencies protect minority rights, and hate groups and fringe elements become threats, but unfortunately in the U.S. these very same guardians have become fountainheads of discrimination. This, in my opinion is the biggest danger since this trend is mainstreaming Islamophobia. In the rest of my statement, I will highlight the two main trends through which Islamophobia is becoming a national phenomenon that then leads to a rights compromising culture.

Law as Cover for Islamophobia

A prominent segment of the American political right, associated with the emerging conservative social movement the Tea Party, has deployed a two-prong strategy to demonize Islam and Muslim beliefs. Their strategy seeks to argue that (a) the U.S. constitutional guarantees with regards to freedom of speech do not apply to Islam and (b) they seek to in fact ban the very practice of Islam in the U.S. by moving state legislatures to “ban the Sharia”. This subversive strategy that uses both the US Constitution and law in the service of intolerance reflects either a misunderstanding of the idea of religious liberty or a deliberate disregard for the very principle of religious freedom.

Islam and the First Amendment

Bryan Fischer, of the American Family Association is one of the many conservatives advocating the idea that the first amendment in the U.S. constitution does not protect non-Christians. He argues that the First Amendment was written to protect Christianity and does not protect Islam because Islam requires Muslims to rob, kill and pillage Christians. Similar statements arguing that

the First Amendment does not or should not be allowed to protect Islam have been made by General William Boykin , a U.S. army veteran turned preacher of hate, Lynne Torgerson a Republican Congressional Candidate from Minnesota in the general elections of 2010 , and Martin Peretz a prominent conservative and a longtime Editor-in-Chief of The New Republic.

This idea that the US Constitution does not protect Islam is a declaration of war on the civil rights and human rights of American Muslims. It is also an assault on the US Constitution. In order to make discrimination against Muslims legally and politically acceptable, these hate mongering Islamophobes, have to first maul and diminish the US constitution. Discrediting their view does not only serve to protect American Muslims’ civil rights but also the dignity and sanctity of the US. Constitution. If a handful of extremists and fringe elements were airing these sentiments, then they can be ignored as cost of free speech in a free society; but if it is a concerted effort by a prominent section of the society and geared towards to impacting national policy, then it should be recognized for what it is, a threat to the most precious of American values – freedom of religion.

James Iredell, one of the first justices of the U.S. Supreme Court and a devout Anglican Christian who knew the founding fathers and the framers of the constitution personally, maintained that:

“I consider the clause under consideration as one of the strongest proofs that could be adduced, that it was the intention of those who formed this system to establish a general religious liberty in America.”

He also emphasized explicitly that the First Amendment protects Muslims (he used the term Mohematans a term often used in the past to identify Muslims as followers of Prophet Muhammed), and excluding them would undermine the very principle of religious liberty and open the door for persecution.

“But it is objected that the people of America may, perhaps, choose representatives who have no religion at all, and that pagans and Mahometans may be admitted into offices. But how is it possible to exclude any set of men, without taking away that principle of religious freedom which we ourselves so warmly contend for? This is the foundation on which persecution has been raised in every part of the world. The people in power were always right, and everybody else wrong. If you admit the least difference, the door to persecution is opened.”

The views of Justice Iredell, I submit, are representative of the fact that the original intent of the First Amendment did not exclude Muslims from its purview. Indeed it protects Muslims from precisely the kind of exclusionary politics advanced by the likes of Martin Peretz and Bryan Fischer.

Making Shariah Illegal

For the past one-year, Republican State legislators have been attempting to pass bills that will ban the practice of Islamic Sharia in the U.S. and in U.S. courts. This is allegedly a preemptive strategy to prevent the imposition of Sharia in America. The endeavor has manifested itself in different avatars in Tennessee, Missouri and Florida. A referendum to the same effect was stayed in Oklahoma. It is apparent that unless the US Constitution is amended, such laws, even if passed by bigoted legislators, will not pass muster at the courts. But I suspect that the media attention that such initiatives garner have become a source of political capital for some members of the Republican party who are determined to traffic in prejudice for political gain. But the damage these pernicious legal shenanigans bring to the social fabric of our country is immeasurable. The discourse that is necessary in order to pass anti-Sharia bills is making hatred part of the daily diet of Americans.

The anti-Sharia advocates try to make the distinction between peaceful practice of Islam and the hateful rhetoric of terrorists when they are questioned, but their discourse includes false propaganda that Islam preaches the killing of Christians and that the Sharia is a narrow legal doctrine limited to hateful things. The Sharia in fact encompasses both Islamic belief and Islamic practice. Banning the Sharia entails prohibiting Muslims from believing that there is one God, from giving alms to the poor, from fasting, from pilgrimage, and from prayer; since all these pillars of Islam are the cardinal elements of the Sharia. The Sharia also teaches Muslims that Christians are not infidels but people of the book who belong with Jews and Muslims to the Abrahamic tradition of monotheism.

This whole premise that America will be Islamized if preemptive steps are not taken is laughable. According to a religious identification survey, 76% of Americans identify themselves as Christians. In spite of this majority and after decades of activism by conservative politicians and concerned Christians, they have failed to impose on America, one principle of the Christian Sharia -- prohibition of abortion. How can Muslims who according to the same survey constitute less than 1% of the population, living in an America infested with Islamophobia, impose the Sharia on the rest of America? In fact even in countries where Muslims are in overwhelming majority they have managed to implement the Sharia often in only symbolic ways. The anti-Sharia advocates are needlessly undermining our social and cultural harmony by fighting a fight that is absolutely unnecessary.

The principle purpose of the Bill of Rights in the US constitution is twofold; to ensure equality and justice. The protection of religious liberty requires that all Americans be treated equally when it comes to the practice of religion. No legal differentiation is acceptable. And all enjoy the opportunity to not only practice their religious beliefs but to defend and express them. The various legal strategies that Islamophobes are employing against Islam and Muslims are an affront to the very idea of liberty. I conclude by quoting the doyen of religious liberty in America, Thomas Jefferson who settled this issue long before the U.S. Constitution was even crafted. Writing about the rejection of the effort by some in the State of Virginia to limit religious freedoms enshrined in the Virginia Statute of Religious Freedom in 1786, which guarantees the religious liberty of all people, Jefferson wrote:

“was rejected by the great majority, in proof that they meant to comprehend within the mantle of its protection, the Jew and the Gentile, the Christian and Mahometan, the Hindoo, the infidel of every denomination.”

The issue of whether Muslims' religious liberty is protected in America was settled ages ago. It is a shame that we need to remind ourselves of it again.

Islamophobia as a Spectacle

Islamophobia has become a public spectacle. Religious leaders, politicians and members of the new emerging news-cum-celebrity profession of radio and television hosts, are all resorting to Muslim bashing as an easy way to attract media attention, raise funds, and increase their public profile and in some circles popularity. Wearing bigotry on one's sleeve as a badge of honor has become a performative style in American political culture.

Two recent events, a congressional hearing hosted by Rep. Peter King the Chair of the House Committee on Homeland Security on Muslim Radicalization on March 10, 2011, and the burning of the Quran on March 21, 2011 by Pastor Terry Jones and his congregation in Florida after holding a “trial of the Quran”, show how Islamophobia has become a spectator sport. The Peter King hearing was designed to use the august institution of the Congress to propagate two beliefs held by Congressman Peter King; (a) that Muslims are not cooperating with US law enforcement in the struggle against terrorists and (b) that a vast majority of Muslims, over 80% of them, are radicalized. Peter King's struggle to find reliable sources who would corroborate his prejudicial fancies are well recorded in the media. There is overwhelming evidence that proves that most American Muslims are law abiding and moderate in their outlook, and many of the terror plots exposed in the past have been due to cooperation from the Muslim community. To his credit, Peter King did recognize this. See his comment quoted at the beginning of this statement.

Peter King's hearings did not make America safer. They made American Muslim civil rights unsafe, demonized an entire community and may actually contribute to radicalizing and alienating some Muslims and reducing their cooperation with the government. But the hearings did generate a spectacle of prejudice and definitely raised Peter King's profile among

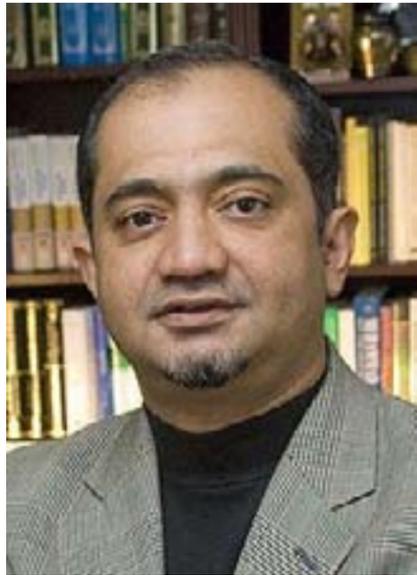
those with whom intolerance and hatred sits comfortably. It also confirmed the view of many in the Muslim World that America's war against Islam is not over yet. These hearings were such a bonanza for radical groups efforts at recruitment that surely Al Qaeda would have been happy to sponsor them.

The mock trial of the Quran that Pastor Terry Jones oversaw and the punishment that he meted out to the Holy Quran ironically shows that it is not the Quran but Christian pastors like Jones who are guilty of propagating and preaching hate. The act was clearly designed to insult millions of devout Muslims who revere the Quran. But sadly it was also an attempt to win a bigger share of the market of prejudice that now thrives in the U.S.

Final Thoughts

Islamophobia is witnessing a spectacular growth in the American public sphere. It creates an environment that casts suspicion on all Muslims, demonizes their faith and makes their lives difficult in small and big ways. There are increasing incidents of discrimination while travelling, in the job market, and while reentering the country after foreign trips. Every time Muslims try to construct a place of worship it is being used as an opportunity for Islam bashing and to garner political capital at the expense of Muslims. Law enforcement agencies, even though they enjoy a great deal of cooperation from the community, continue to use religious profiling as a tool. The systematic and steady erosion of Muslim civil rights is also a slow and systematic corrosion of our constitution and our democracy.

Dear members of the Senate Judiciary Subcommittee on the Constitution, as members of the United States Senate, you all have sworn to uphold and defend the US constitution. The biggest threat to the constitution today manifests as Islamophobia. Protect the constitution by rejecting Islamophobia.



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