

WHAT TO DO ABOUT ISLAMOPHOBIA: WHY THE ELECTION COUNTS¹

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INTRODUCTION

President Obama is a Christian. The persistent belief that he is a Muslim highlights the significance of Islamophobia in the United States today. The implication, of course, is that a Muslim should not be President. Remarkably, this false belief remained widespread even after former Joint Chiefs of Staff Chairman Colin Powell endorsed Obama during his 2008 presidential bid. General Powell emphatically insisted that even if Obama was a Muslim, that was no reason to disqualify him.² Yet even this bold show of support from one of the country's most decorated military officials could not make this belief disappear. A July 2012 poll of registered voters found that 17% believed it, up from 12% in October 2008.³ That Obama won the 2008 presidential election signifies that there is still hope for overcoming Islamophobia. Indeed, elections can prove essential in defeating it.

Islamophobia is a problematic term that has become a popular way of referring to bigotry, hate crimes, discrimination, policies, and practices directed against a range of communities including Muslims. Despite the appearance of *Islam* in *Islamophobia*, neither Islam nor Muslims are its exclusive targets, for Arabs, South Asians, and other ethnic communities—whether Muslim or not—are also confronted with it. The consistent discrimination and hate crimes suffered by Sikhs who are “mistaken for Muslims” serve as stark reminders

that religion alone cannot explain why this phenomenon persists. Islamophobia, in the form of rhetoric and concrete policies issuing from this mistaken belief, remains one of the most pressing issues in the 2012 elections and will remain relevant in both the 2013 and 2014 “off-year” elections.

Islamophobia is a complex—but not an intractable—issue. While changing culture and attitudes will take time, many of this phenomenon's aspects can be effectively addressed by changes in policy. Local and state elections enable voters to elect officials who can make such policy changes.

The importance of local elections in the Islamophobia phenomenon is all too easy to see. Some public officials elected at the local level during the “off-year” elections constitute Islamophobia's most prominent promoters. One of them, Representative Michelle Bachmann (R-MN), who was first elected in 2006 and actively sought the 2012 presidential nomination, has been a leading promoter of Islamophobia nationwide. In 2012, she initiated a McCarthy-esque witch hunt, accusing Muslims employed by the federal government of representing “serious security concerns” due to their “deep penetration in the halls of our United States government.”⁴ Similarly, Representative Peter King (R-NY) has held congressional hearings about the supposed “radicalization” of American Muslims.⁵ At a 2012 town hall meeting, Representative Joe Walsh (R-

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IL) stated that there is a “real threat” because Muslims are “trying to kill Americans every week.”⁶ All three of these public officials were elected or reelected during the so-called midterm elections held two years after a presidential election. During these midterm and “off-year” elections (the latter being held during odd-numbered years), American voters make major decisions that have the power to impact Islamophobic policies.

Locally elected officials (e.g., mayors, city council and school board members, judges, and sheriffs) hold key policy-making positions that can either promote or eliminate this form of xenophobia. For example, city councils have frequently debated the right to build mosques and community centers.⁷ Holding elected officials accountable for opposing bigoted policies makes participating in local and state elections crucial.

Realistically, Islamophobia will remain a serious national problem even after two or three election cycles, because many Islamophobic policies, including those discussed below, enjoy wide public support. Various factors are

responsible for this, among them widespread bigotry and the unquestioned need for innovative and tough counterterrorism policies. This latter reason represents a significant political hurdle for those elected officials who seek to challenge any counterterrorism policy, no matter how discriminatory. In short, the current political climate needs to be changed so that those who ask reasonable questions about current or envisaged counterterrorism policies will not be accused of “being soft on terrorism.” Such change often begins at the local level. As regards changing the American public’s opinion about Muslims and Islam, the road ahead is quite long.

Public opinion polls show that large numbers of Americans have a negative view of Muslims and Islam. A 2003 poll found that 47% viewed Muslims favorably and that 32% did not. By 2010, however, 55% held an unfavorable view and only 35% held a favorable view. The numbers had evened out by 2012: 41% unfavorable and 40% favorable.⁸ Given these stark numbers, a common strategy employed by politicians at all levels is an “anti-Muslim strategy,” as discussed by political scientist Farid Senzai.⁹ Senzai noted that many of the eighty-five Republican members of Congress swept into office in the 2010 midterm election “found the political virtues of anti-Muslim rhetoric an easy way to prove their mettle to the surging conservative base.”¹⁰ The lesson here is clear: Many public officials believe that Islamophobia pays off. Changing the dynamic so that the phenomenon is seen for what it is—bigotry—is necessary.

There is a clear need to elect and support candidates who will seek to change and prevent Islamophobic policies. This brief discusses three specific areas in which local- and state-level policy changes can have an immediate impact:

1. Counter-terrorism officials mistakenly focus on religiosity as a signal of potential terrorist activity.
2. Sharia is falsely promoted as a dire threat to the Constitution and the American way of life.
3. American jurisprudence employs preemptive terrorism prosecutions almost exclusively against Muslims.

After describing recent research in these areas, the brief presents policy recommendations that center on the crucial importance of American Muslims and their allies working together to bring about the implementation of policy solutions. The 2012, 2013, and 2014 elections will be instrumental in this undertaking, because any realistic solution requires the cooperation and support of local and state-level public officials elected during these “off-year” and midterm elections.

ISLAMOPHOBIA IN COUNTERTERRORISM EFFORTS

The goal of preventing terrorism necessarily remains a top priority of law enforcement. While some terrorist attacks have taken place in recent years, despite the best efforts of law enforcement, the lack of another attack on the scale of 9/11 suggests that some of the difficult intelligence gathering and police work has prevented and disrupted terrorism. Unfortunately, policies and practices deployed as part of a terrorism prevention strategy have sometimes resulted in needless and counterproductive Islamophobic discrimination.

Counterterrorism research has shown that discrimination against Muslims is not only objectionable on legal and ethical grounds, but it also undermines efforts to prevent terrorism. Several studies support the conclusion that Muslims should not be the sole or primary focus of counterterrorism efforts. First, the extensive focus on finding “radicalized” American Muslims is unwarranted given that Islamic terrorists have so much trouble finding willing participants in the United States.¹¹ Moreover, sociologists have found that devout Muslims are less likely to become terrorists than a member of the general public.¹² The Muslim community has an effective set of safeguards in place, through mosques and community centers, to prevent radicalization and increase civic engagement.¹³ Legal research supports this conclusion as well. One prominent legal scholar

wrote that there is no “theoretical reason why [profiling Muslims] would be effective.”¹⁴ Another report described three specific reasons why ethnic and religious profiling was “counterproductive”: it results in “increasing the ratio of informational ‘noise’ to terrorist ‘signal,’ undermining the state’s legitimacy among civilian informants, and legitimizing terrorists’ preferred status as ‘warriors.’”¹⁵ Finally, one study that counted the number of attempted terrorist attacks carried out by Muslims and non-Muslims since 9/11 reveals that those committed by American Muslims represent a “minuscule threat to public safety.”¹⁶ The rate of such terrorist attacks has actually decreased: twenty-six American Muslims were charged in terrorism cases in 2010, but only twenty were implicated in terrorist activity in 2011, resulting in no deaths among the 14,000 documented murders that year.¹⁷ In short, a wide array of research has concluded that profiling Muslims is unnecessary and will not help lower the threat of terrorism.

But despite such clear research results, some security agencies have adopted policies and practices that reflect

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a mistaken and bigoted belief that a high level of Islamic religious devotion signals an inclination toward becoming a terrorist.

For instance, the nation’s largest police force, the New York Police Department (NYPD), used blatant Islamophobic discrimination in its counterterrorism program. The Associated Press (AP) revealed that since 2002 the NYPD has run a clandestine program that systematically targeted Muslims for surveillance solely on the basis of religion.¹⁸ Known as the “Demographic Unit,” a secret counterterrorism task force sent teams

of undercover police officers into neighborhoods with large numbers of Muslim inhabitants. These undercover “rakers” kept records of mundane daily life at those cafes, restaurants, and bookstores where Muslims congregated.¹⁹ The dragnet conducted background checks on people who had legally changed their names to (or away from) Muslim- or Arabic-sounding ones.²⁰ Undercover counterterrorism officers spied on the NYPD’s own counterterrorism allies from the Muslim community, going so far as to assign agents to monitor Shaykh Reda Shata, a leading supporter of FBI and police counterterrorism efforts.²¹ The NYPD even extended its surveillance activities to Muslim student organizations at Yale University, the University of Pennsylvania, and Rutgers University, none of which is located in New York.²²

The NYPD began this far-reaching, secretive program based upon the mistaken and bigoted belief that Muslims are more likely than others to become terrorists. According to hundreds of internal documents reviewed by the AP, devout Muslims were specifically targeted.²³ The AP noted that one Bangladeshi restaurant “was identified as a hot spot for having a ‘devout crowd’...[and] was noted for being a ‘popular meeting location for political activities.’”²⁴ This maleficent discrimination by the police obviously contravenes the First Amendment’s protections for religious freedom.

By its own admission, the NYPD’s “Demographic Unit” activities resulted in no leads and no arrests in a terrorism-related case.²⁵ Many civil rights organizations have called upon the federal Department of Justice (DoJ) to investigate this program, while others have called for additional oversight of the NYPD. To date, however, nothing has been done to set up an independent oversight commission.

The NYPD, the nation’s largest police force, is not the only large law enforcement agency to discriminate against Muslims in its counterterrorism efforts. The Federal Bureau of Investigation (FBI) also had an agent training program that included patently offensive materials and instructors who falsely asserted that

devout Muslims are likely to become terrorists.²⁶ One image from an FBI PowerPoint slideshow used during counterterrorism training is reproduced below (Fig. 1).

Shortly after these internal FBI documents were published, the bureau began a “comprehensive review” of all of its reference material related to religion and culture.²⁷ A few months later, it asked the Army’s Combating Terrorism Center at West Point to send its experts to conduct a wide-ranging purge of any inappropriate training material.²⁸

Soon after the FBI scandal calmed down, another report revealed internal United States Army documents showing that it also taught military officers and other national security leaders profoundly Islamophobic lessons.²⁹ One Army instructor even spoke of the need for “total war” against Islam, including the use of “Hiroshima” tactics.³⁰ The Pentagon ordered a top-level review of all military training material to remove any anti-Islamic content, which resulted in a complete overhaul of these training materials.³¹

The NYPD’s discriminatory “Demographic Unit,” as well as the practice of teaching FBI and Army officers clearly bigoted lessons that have no basis in fact, have

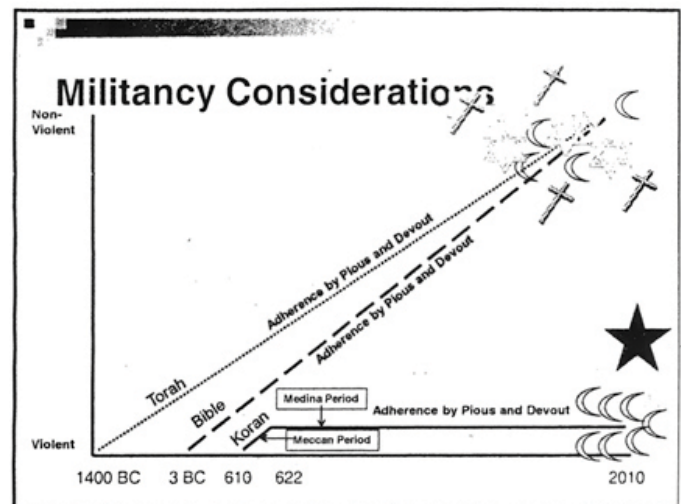


Figure 1: Sample of bigoted PowerPoint slide from FBI counterterrorism training materials³¹



Figure 2: Image from Shireen Burki's Joint Staff Forces College lesson on "Jihad: Defined and Operationalized."³³

delayed and impeded the important mission of preventing terrorism.

THE MANUFACTURED SHARIA CONTROVERSY

In recent years, a small network of well-funded right-wing political activists have manufactured a great deal of hysteria that Sharia (Islamic religious law) would somehow rapidly expand its influence and eventually supplant the Constitution as this country's fundamental legal framework. This fear-mongering has resulted in political campaigns designed to produce increased turnout in elections and to force wedge issues into local legislative debates nationwide.

A 2011 report documented a network of pro-Islamophobia funding sources that has managed to create a \$42 million Islamophobia cottage industry over the past several years.³⁴ The report, "Fear, Inc.," describes how this network of hate groups is able to "manufacture and exaggerate threats of 'creeping Sharia,' Islamic domination of the West, and purported obligatory calls

to violence against all non-Muslims by the Quran."³⁵ The report continues:

This network of hate is not a new presence in the United States. Indeed, its ability to organize, coordinate, and disseminate its ideology through grassroots organizations [has] increased dramatically over the past 10 years. Furthermore, its ability to influence politicians' talking points and wedge issues for the upcoming 2012 elections has mainstreamed what was once considered fringe, extremist rhetoric.³⁶

Sharia, Islam's moral and religious law, is based upon theological and sacred texts that contain rules and guidelines dealing with economics, marriage and divorce, how to worship, inheritance, and life in general. American courts do not rely upon any religious legal systems, because they adjudicate laws as enacted by legislatures. Therefore, it should be obvious that Sharia poses no danger to the United States. One study confirmed that, indeed, any purported threat is illusory because American courts have "built-in safeguards" to prevent the imposition of any religious law. Nevertheless, efforts in twenty-three states have sought to legally "ban" its application.³⁷

Oklahoma's 2010 "Save Our State Amendment"³⁸ ballot initiative, which sought to forbid state courts from considering both international law and Sharia law,³⁹ won the support of 70% of the state's voters. Of the twenty-three attempted Sharia bans, this initiative remains the only one to face a court challenge. Interestingly, a federal court issued an injunction against implementing the initiative,⁴⁰ based on the First Amendment's protections for the practice of religion:

The legislative history and the actual text of the [Save Our State] Amendment make clear that its purpose is to treat Muslims differently than members of other faiths—it seeks to outlaw use of Sharia principles but does not mention principles of any other

faith. It also places numerous burdens on Muslims' religious exercise. For example, if the Amendment were to become law, it would be impossible to enforce a will that is based on Sharia principles or to engage in Sharia-based arbitration. This unequal treatment of Muslims and burdens on their free exercise contradict core Religion Clause principles.⁴¹

Although the Oklahoma ban was overruled, similar bans in Louisiana, Tennessee, and Arizona have been enacted. Louisiana, the first state to consider a bill that would ban "international law," justified its decision to do so on the grounds that it needed to inoculate the state against the influence of Sharia.⁴² The Tennessee ban, passed in 2011, as originally drafted would have empowered the state's attorney general to designate and outlaw any organization as a "Sharia organization."⁴³ This provision was removed before the bill was passed, and all specific language mentioning "Sharia" and "Islam" was dropped in order to decrease the likelihood that the bill will be struck down on First Amendment grounds.⁴⁴ Apart from the First Amendment concerns, another criticism of the anti-Sharia effort is that preventing courts from considering international law would impact contract

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enforcement and tort dispute resolution. The Arizona Sharia ban, which passed in 2011, attempted to head off this criticism by specifically exempting corporations from the ban's impact.⁴⁵

In many ways, the impact of such legislation goes far beyond the actual implementation of a Sharia ban. One

of the most prominent anti-Sharia activists, New York-based attorney David Yerushalmi, admitted that actually passing anti-Sharia bills was not his primary objective. In an interview with the *New York Times*, he said: "If this thing passed in every state without any friction, it would have not served its purpose.... The purpose was heuristic—to get people asking this question, 'What is Shariah?'"⁴⁶ In this way, he and his collaborators intended to keep the issue of Islam and Muslims relevant as a political wedge, to use the fear of Muslims to drive support for a wide variety of other political issues.

This manufactured controversy has rapidly become a significant factor in the Islamophobia discussion. The political engagement of Muslims, interfaith and civil liberties groups, minority and immigration rights groups, as well as all of their allies, particularly at the state and local levels, is critical to defeating this anti-Sharia hysteria.

THE PREEMPTIVE PROSECUTION OF MUSLIMS

Preemptive prosecution is based on the idea that preventing terrorism requires imprisoning certain suspects due to their associations and/or beliefs. However, regular American jurisprudence cannot bring a conviction unless a crime has been committed. To preemptively convict a terrorist suspect, two techniques are frequently employed. The first one, showing that a suspect is associated with an organization that Washington has officially designated as "supporting terrorism," is often applied to immigrants who may have second- or even third-degree connections to such organizations.⁴⁷

In cases where such a connection cannot be made, a "sting operation" is often used. Here, an undercover informant working with law enforcement "discovers" a suspect discussing a terrorist plot. The informant offers to help develop this plot and eventually supplies a fake weapon. When the "suspected terrorist" attempts to use the weapon, this shows an intent to commit a criminal

act, which then serves as the basis for a criminal case. A report from the New York University School of Law's Center for Human Rights and Global Justice (CHRGJ) found that this particular technique has been used to prosecute some 200 individuals in terrorism cases since 2001.⁴⁸ The CHRGJ and other critics have questioned this practice as discriminatory and perhaps rising to the level of police entrapment, defined as the police creating their own crimes and therefore imprisoning individuals who would otherwise not be guilty. In October 2012, a former NYPD confidential informant seemed to corroborate these worries when he told reporters that he was paid to "bait Muslims" into saying that they would take part in fake terrorist attacks.⁴⁹

This sort of operation has been used with alarming frequency against Muslims, which only reinforces the already existing Islamophobic association of "Muslim" with "terrorism." The CHRGJ found that such events have coincided with the "conflation of Muslims with terrorism and terrorists" and the false assumption that American Muslims are somehow predisposed to commit terrorist acts.⁵⁰

Another report described the significant detrimental impact engendered by the widespread and growing use of preemptive prosecution:

Preemptive prosecution involves not only convicting innocent defendants of contrived or fake crimes, but also twisting and breaking procedural rules in order to convince a jury, the media, and the American public that the innocent defendants are really guilty and dangerous. It is a cynical grand opera. The drama often begins when the FBI sends dozens of agents to arrest the defendants, search the mosque, and interview hundreds of frightened friends and neighbors in a manner designed to intimidate the community. The defendants are often held under Special Administrative Measures (SAMs) in solitary confinement, sometimes for years.... At the

trial, the government often makes an absurd display of security in order to intimidate the jury and media into believing the defendants are really dangerous.... When the defendant claims as a defense to have been entrapped in a crime manufactured by the government, the government counters with the claim that the defendant was "predisposed" to commit the crime, which would negate the entrapment defense. To prove predisposition, the government claims that routine, normal behavior of the defendants—dress, religious observances, Islamic financial transactions, literature, etc.—indicate a "predisposition" to commit terrorism, based on the false stereotype that all Muslims are predisposed to commit terrorism.⁵¹

According to the CHRGJ, no defendant involved in any post-9/11 terrorism prosecution has successfully used the entrapment defense.⁵²

The use of preemptive prosecution in ways that single out Muslims only reinforces the stereotypical and mistaken conclusion that they are uniquely predisposed to terrorism. For this reason, the policy contributes to Islamophobia.

POLICY RECOMMENDATIONS

Many Islamophobic policies are enacted or supervised at the state and local levels, including anti-Sharia initiatives and the counterterrorism policies of various police departments. State and local leaders must be held accountable for these actions through elections not only in 2012, but also in the "off-year" (2013) and midterm (2014) elections. The electoral process must be leveraged by American Muslims and their allies to support public officials who oppose these policies and will protect basic values of religious freedom and civil rights. Islamophobia cannot be ended all at once, given

its widespread presence and connection with so many issues; however, history teaches us that even a small number of dedicated activists can rapidly turn the tide against even deeply entrenched discrimination.

The recommendations presented below focus on three sets of stakeholders: public leaders and officials; mosque leaders, American Muslim community leaders, and other anti-Islamophobia advocates; and voters who participate in state and local elections.

Public Leaders and Officials

Local, state, and federal officials must immediately discontinue all religious, racial, and ethnic profiling and preemptive prosecution in their counterterrorism programs. All FBI and Army training programs must be subjected to continual review in order to remove and prevent the reintroduction of Islamophobic material. In addition, the New York City Council's current proposal to create an independent inspector general for the NYPD is long overdue and should be replicated across the country.⁵³

After the 9/11 attacks, the DoJ's Civil Rights Division provided grants and support for cultural sensitivity programs to train police officers, healthcare workers,

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and others about Muslim traditions and cultures. These programs, which allowed community-based advocacy organizations to hire staff and produce materials for training sessions, should be expanded. Moving beyond cultural sensitivity, government agencies should also fund efforts to disseminate and expand upon research proving

that devout Muslims are less likely to become terrorists. This simple fact should be known by every American law enforcement and counterterrorism officer.

Given that Muslims are not predisposed to terrorism, the FBI, the NYPD, and other agencies should stop singling them out via sting operations and preemptive prosecution. Laws and legal procedures designed to prevent police entrapment need to be reevaluated and strengthened. Protections for ethnic, religious, and racial minority groups should be added to those policies that seek to prevent entrapment in order to help prevent abuses by sting operations, which only reinforce social exclusion.

Finally, state attorneys general should join with the DoJ to file lawsuits and amicus briefs that challenge existing and future proposed Sharia bans. No attorney general or other official should accept or promote the bigoted hysteria around Sharia, and they must make every effort to stand up for such basic American principles as religious freedom and civil rights.

Community Leaders, Mosque Leaders, and Anti-Islamophobia Advocates

American Muslim community leaders and advocates need to find ways to impact state and local elections by building upon recent gains due to political participation. Voter registration and "get out the vote" drives, especially in off-year elections, must take on added importance in the coming years.

Community leaders must also seek to forge meaningful coalitions with, and provide support for, like-minded communities by partnering with antiwar advocates, interfaith organizations, civil rights activists, labor groups, free speech and privacy rights activists, and others. Creating a durable, viable, and powerful coalition is not easy, for this involves sacrifice and reprioritizing goals to achieve certain long-term goals. Building a coalition-based infrastructure in a given local area can engender a rapid political victory and profound policy changes. The effort is worth it, because of the enormous rewards

that come along with building coalitions. Building an infrastructure based on coalitions forged in each local area can very quickly result in lasting election victories and profound policy changes.⁵⁴

Voters and Residents

Voters and residents also need to be in touch with their local and state leaders. Writing letters and making phone calls to local leaders can make a real difference. Beyond this, voters should not only vote in every election, but also urge their friends and colleagues to get involved as well.

One way to become active is to join county-level Democratic, Republican, and other political party committees, as these represent the grassroots from which state representatives, senators, and members of Congress emerge. In addition, county parties can have a profound impact upon police departments, zoning, judges, and other areas where Islamophobia appears all too often. County political party committees meet regularly and hold elections for leadership councils and other offices.

Turning the tide against Islamophobia has proved to be a long and challenging task—and, there is still much to do.

ENDNOTES

1 This policy brief was adapted from an ISPU panel at the 49th Annual ISNA Convention. Some of the content came from participating panelists including ISPU Fellows Asma Uddin, Engy Abdelkader, and Dr. Ihsan Bagby, as well as Steve Downs. For a video and more information on the panel please go to <http://www.ispu.org/GetEvent/50/43/EventCenter.aspx>

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