

Notes

Torn Between the Two: Practicing Law or Religion

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United States courts have long struggled to define the intersection of public institutions and religious practices. Though higher education institutions aim to enrich their campuses with diverse communities, they often fail to cultivate an inclusive culture for them. One minority community that has long faced experiences of exclusion is Muslim law students.

According to the Pew Research Center, Islam is the fastest-growing religion worldwide. Despite their growing presence, Muslims remain a minority and face exorbitant levels of Islamophobia. Due to these issues, law schools lack familiarity with Muslim practices and are hesitant to learn, making it challenging for Muslim students to obtain religious accommodations. Requesting religious accommodations or other support is more multifaceted than it may seem. Balancing individual religious practices with avoiding government entanglement in religion is delicate. The First Amendment's Free Exercise and Establishment Clauses, along with federal and state regulations, outline that public law schools are required to provide religious accommodations when it would fail to protect a student's Free Exercise rights. Additionally, law schools should offer these accommodations to further campus inclusivity and student performance.

This Note is divided into three Parts. Part I highlights the historical background of Islamophobia and its impact on students in higher education, as well as the legal obligations and limitations for law schools in providing religious accommodations. Part II examines the obstacles Muslim law students encounter, which hinder their ability to practice their faith whilst being a student. These

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obstacles could be limited if certain religious accommodations are in place. Part III presents recommendations to law schools, based on the various problems described in Part II, on how to provide a constitutionally accommodating space on campus.

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INTRODUCTION: “BE CAREFUL”

The University of California, College of the Law, San Francisco (“UCLSF”) declares that the school is “committed to ensuring that our values of diversity, equity, and inclusion are infused into every aspect of the College’s operations.”¹ Additionally, Chancellor and Dean David Faigman states in his Welcome Letter that “[UCLSF’s] primary obligation is to ensure that our graduates are fully prepared to practice law in the traditional manner, which includes ensuring their success on the bar exam.”² A combination of these goals would ensure students are well prepared and equipped for the real world, while also embracing and empowering students to celebrate diversity for a robust and positive campus climate. These goals also support accommodating students with adversity in their law school experience.

Despite the enrollment and engagement of Muslim law students at UCLSF, the inclusivity of this group hung by a thread. In 2019, with the help of Professor Betsy Candler, the Muslim Law Students Association (“MLSA”) was reinstated as a campus affinity organization after over five years of inexistence. Though there is no clear answer as to why it took so long for the MLSA to exist formally, it is well-known that Muslim students across the nation struggled to find a voice in an atmosphere of heightened Islamophobia. Perhaps for that reason, the Muslim law students at UCLSF did not feel comfortable keeping the organization from withering away, embracing their identity, or celebrating their diversity. Regardless of the reasoning, it was apparent that this school and this organization struggled to coexist confidently.

That same year, in 2019, MLSA President Nashra Anwar requested the first prayer area on campus for Muslim students, and that Muslim students be granted Ramadan accommodations. Shortly after, the pandemic and remote learning limited the scope of what students could request from the administration. In 2020, as students returned to campus, so did the anxiety around the lack of proper accommodations and the hope for inclusivity. As 2022-2023 MLSA President, my goal was to advocate, propose, and enforce long-term solutions to be set in place for the sake of uniformity and infrastructure. This way, future MLSA Boards and Muslim students would never be in the position of choosing between practicing their faith or learning how to practice the law. The 2022-2023 MLSA Board advocated for proper and considerate accommodations and for the administration to take concrete steps in educating and informing faculty of the appropriate policies, thus relieving Muslim law students of the burden of implementing equity and inclusion on campus.

The first glaring issue was regarding prayer spaces on campus. Prayer spaces included a “Wellness Room” and a “Meditation Room.” However, these

1. *Diversity, Equity, and Inclusion: Our Mission and Commitment*, U.C. COLL. OF THE L., S.F., <https://www.uclawsf.edu/diversity/> (last visited May 1, 2024).

2. David Faigman, *Dean’s Welcome*, U.C. COLL. OF THE L., S.F., <https://www.uclawsf.edu/chancellordean/deans-welcome/> (last visited Feb. 14, 2024).

spaces had multiple issues. For example, these spaces were incredibly small as they accommodated only one to two persons. Not only was this problematic on its face, given the number of practicing Muslims on campus, but it created a hurdle for male and female members to pray collectively due to constrained spacing since they must be separated while praying.

Moreover, time and time again, because these rooms contained a large desk and chairs, they would be taken up by law students as a study room. This preoccupation led Muslim students to wait until someone left the room, uncomfortably share the small space with other students, or miss their prayer entirely. One student waited over an hour and a half to pray because the Wellness Room was already occupied, as were classrooms close by. Additionally, because prayer times are limited, and this individual had spent a long time trying to find space, the timing cut close to overlapping with other prayers. Another student also saw the area already occupied with students studying in it and felt uncomfortable in making them leave, which led the student to miss their prayer. It was clear that the rooms were not “designated” spaces if they were constantly being used for undesignated purposes.

Muslim students were not the only ones facing this issue. Though UCLSF does not have any Muslim faculty, it does have multiple Muslim security and janitor personnel. Without designated prayer space, they had to find other spaces to pray around school, including a janitor’s room, break rooms around campus, or corners of empty classrooms. One security guard told me that he and other janitors prayed in the fire escape stairwell area.

The second issue arose regarding Ramadan accommodations. Though the administration was receptive and understood the necessity of accommodations, nothing was formalized or uniform. This led to faculty members adopting independent understandings of what was or was not allowed or simply resisting accommodation. A 1L student voiced to me that her Legal Research and Writing professor initially refused to allow her to leave class to break her fast because it did not align with the professor’s break time. Other students struggled with understanding attendance policies if they joined classes via Zoom, struggled with fatigue during class, and worried about the impact of fasting during exams.

By the beginning of March 2023, after persistent meetings with the Dean of Students and the Academic Dean, and after drafting proposals with the help of MLSAs across the nation, UCLSF MLSA secured a proper, spacious, and clean meditation and prayer space and published Ramadan accommodation policies on the law school’s platform. These accomplishments allowed the Muslim community on campus to become more active and gave community members a means of coming together often. Posted school policies and recommendations also allowed more Muslim students to comfortably request accommodations as needed and allowed faculty to grow a better understanding of ways to accommodate such requests. All in all, it helped the Muslim students to embrace practicing their religion while excelling in their school performance.

While these were significant achievements, it did come at the expense of my and my Board's mental and emotional energy of educating and advocating to an institution that had accepted Muslim law students for years, but never took the time to acknowledge its shortcomings when it came to their inclusivity. What struck me more was when I informed my family of this achievement, my older brother did not match my ecstatic energy or grinning smile. His first response was, "Be careful with that." My brother's response encapsulates the Muslim American experience, perspective, and inclination regarding something as simple as religious accommodations on law school campuses. Though proud, he feared the potential pushback I would receive because this could draw controversy and negative attention. He also feared for the safety of Muslim law students while using the prayer room and asked if the room was close to security. When I responded that the room was a safe space, and that the campus is closed to those who are not students, faculty, or security (unless and individual is provided a visitor pass), he repeated, "Just be careful."

This fear is rooted in the realities of being a Muslim in this country and a target of institutionalized Islamophobia. Drawing attention, even for the right reasons, drew fear in him because of the Islamophobia he witnessed as a Muslim student, especially as a Muslim man, growing up in small town in America. However, if these fears get internalized, they prevent Muslims from advocating for the low-hanging fruit that will help them thrive in educational spaces. To combat this fear, law schools must work to understand these concerns and should openly embrace accommodations for Muslim law students, leading to a safer and more inclusive space and allowing them to flourish as students. In Part I of this Note, I highlight the historical background of Islamophobia and its impact on students in higher education and the legal obligations and limitations for law schools in providing religious accommodations. Part II of this Note addresses the various challenges and barriers Muslim law students may face, for which an accommodation may be appropriate. Finally, Part III of this Note presents recommendations and ideal measures law schools may take.

I. HISTORICAL AND LEGAL CONTEXT

A. ISLAMOPHOBIA IN AMERICA AND HIGHER EDUCATION

Though Islam is the fastest-growing religion in the world³ and is estimated to be the largest religion in the world by the end of the century,⁴ the status of

3. Michael Lipka, *Muslims and Islam: Key Findings in the U.S. And Around the World*, PEW RSCH. CTR. (Aug. 9, 2017), <https://www.pewresearch.org/short-reads/2017/08/09/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world>. See generally SAHAR AZIZ, *THE RACIAL MUSLIM: WHEN RACISM QUASHES RELIGIOUS FREEDOM* (2022).

4. Lipka, *supra* note 3.

Islam and Muslims in the United States is a foreign, racialized minority.⁵ As of 2020, Muslims comprised around 1 percent of the U.S. population, starkly contrasting with the 70 percent Christian population.⁶ These percentages signify the inevitable unfamiliarity of Islam,⁷ its practices, and its observances because of its minority status.⁸

Additionally, Islamophobia continues to perpetuate ignorance around Islam, its practices, and its observances within various institutional spaces, including educational institutions.⁹ Islamophobia is “widely understood as the cognizable form of animus toward Muslims and perceived Muslims, but it remains hotly debated and disparately defined.”¹⁰ This term’s anatomy has long indicated its meaning and the upsurge in its usage indicates its increasing significance in American history.

For decades before the September 11 (“9/11”) attacks, anti-Islamic sentiments pervaded in America and Europe because Islam clashed with Western civilization, politics, and demographics.¹¹ These sentiments exponentially and overtly rose following the 9/11 attack on the World Trade Center.¹² The attack led to the death of 2977 innocent Americans¹³ and the criminalization and discrimination of innocent Muslims and perceived Muslim Americans after.¹⁴ In 2001, the Federal Bureau of Investigation (“FBI”) reported

5. CYRA AKILA CHOUDHURY & KHALED A. BEYDOUN, *ISLAMOPHOBIA AND THE LAW* 122 (2020) (“The positioning of Islam as alien, and Muslims as foreigners, facilitates the *seeing* of Muslims as national security threats and the *unseeing* of Muslim Americans as bona fide citizens.”).

6. *The 2020 PRRI Census of American Religion*, PRRI (July 8, 2021), <https://www.prii.org/research/2020-census-of-american-religion>.

7. Jollee Patterson & Mike Porter, *From Eid Al-Fitr to Hijabs: Applying Religious Freedom, Nondiscrimination, and Accommodation Standards for Muslim Students and Staff*, NAT’L SCH. BDS. ASS’N 1 (Oct. 10, 2020), <https://cdn-files.nsba.org/s3fs-public/14.Patterson-Porter-From-Eid-al-Fitr-to-Hijabs-Religious-Accommodation.pdf>.

8. *Id.*

9. *Id.*

10. CHOUDHURY & BEYDOUN, *supra* note 5, at 2.

11. AZIZ, *supra* note 3, at 12–13; EDWARD W. SAID, *COVERING ISLAM* 136 (1981) (“For the general public in America and Europe today, Islam is ‘news’ of a particularly unpleasant sort. The media, the government, the geopolitical strategists, and—although they are marginal to the culture at large—the academic experts on Islam are all in concert: Islam is a threat to Western civilization. Now this is by no means the same as saying that only derogatory or racist caricatures of Islam are to be found in the West. . . . What I am saying is that negative images of Islam are very much more prevalent than any others, and that such images correspond, not to what Islam ‘is’ . . . but to what prominent sectors of a particular society take it to be.”).

12. AZIZ, *supra* note 3, at 12; CHOUDHURY & BEYDOUN, *supra* note 5, at 2.

13. *Module 1: Events of the Day*, NAT’L SEPT. 11 MEM’L & MUSEUM, <https://www.911memorial.org/learn/resources/911-primer/module-1-events-day> (last visited May 1, 2024).

14. See HUM. RTS. WATCH, UNITED STATES: “WE ARE NOT THE ENEMY” HATE CRIMES AGAINST ARABS, MUSLIMS, AND THOSE PERCEIVED TO BE ARAB OR MUSLIM AFTER SEPTEMBER 11 3 (2002), <https://www.hrw.org/reports/2002/usahate/usa1102.pdf>; FED. BUREAU OF INVESTIGATIONS, U.S. DEP’T OF JUST., HATE CRIME 2001, <https://ucr.fbi.gov/hate-crime/2001>; *The Condition of Arab Americans Post 9/11*, ADC (Nov. 2002), <https://adc.org/the-condition-of-arab-americans-post-9-11>; Press Release, Council on American-Islamic Relations, Anti-Muslim Incidents Jump 70 Percent in 2003 (May 3, 2004).

that from 2000 to 2001, hate crimes against Muslims rose by 1617 percent.¹⁵ Biased targeting by the hands of FBI is also included in the aftermath of 9/11.¹⁶ Though the following several years saw a decline,¹⁷ the numbers drove up again following Donald Trump's candidacy and presidency.¹⁸ In 2016, the FBI reported that from 2015 to 2016, hate crimes against Muslims exceeded the numbers following the 9/11 attacks.¹⁹ Trump's public, Islamophobic rhetoric like, "I think Islam hates us,"²⁰ coupled with actual anti-Muslim foreign policies, such as the Muslim travel ban,²¹ continued to taint the Muslim American experience.²²

15. Kiara Alfonseca, *20 Years After 9/11, Islamophobia Continues to Haunt Muslims*, ABC NEWS (Sept. 11, 2021, 9:52 AM), <https://abcnews.go.com/US/20-years-911-islamophobia-continues-haunt-muslims/story?id=79732049>. See Katayoun Kishi, *Assaults Against Muslims in U.S. Surpass 2001 Level*, PEW RSCH. CTR. (Nov. 15, 2017), <https://www.pewresearch.org/short-reads/2017/11/15/assaults-against-muslims-in-u-s-surpass-2001-level>.

16. Glenn Greenwald, *The FBI's Anticipatory Prosecution of Muslims to Criminalize Speech*, GUARDIAN (Mar. 19, 2013, 12:10 AM), <https://www.theguardian.com/commentisfree/2013/mar/19/preemptive-prosecution-muslims-cointelpro>.

17. Kishi, *supra* note 15.

18. *Id.*

19. *Id.*

20. Theodore Schleifer, *Donald Trump: 'I Think Islam Hates Us'*, CNN (Mar. 10, 2016, 5:56 PM), <https://www.cnn.com/2016/03/09/politics/donald-trump-islam-hates-us>; Jenna Johnson & Abigail Hauslohner, *'I Think Islam Hates Us': A Timeline of Trump's Comments About Islam and Muslims*, WASH. POST (May 20, 2017, 3:16 PM), <https://www.washingtonpost.com/news/post-politics/wp/2017/05/20/i-think-islam-hates-us-a-timeline-of-trumps-comments-about-islam-and-muslims/> ("I think Islam hates us. There's something there that—there's a tremendous hatred there. There's a tremendous hatred. We have to get to the bottom of it. There's an unbelievable hatred of us.").

21. Alfonseca, *supra* note 15.

22. See, e.g., Alisha Rahaman Sarkar, *Trump Recommits to Banning Muslims from Entering US if He Is Re-Elected*, INDEP. (Apr. 28, 2023, 11:04 AM), <https://www.independent.co.uk/news/world/americas/us-politics/trump-election-muslim-travel-ban-b2328574.html>. On April 27, 2023, Trump, at a political rally in New Hampshire, stated that if re-elected, he would restore the Muslim ban because "[w]e don't want our buildings blown up." *Id.*

In 2023, another spike²³ in Islamophobia and surveillance resulted from the humanitarian crisis²⁴ and genocide²⁵ in Palestine.²⁶ The Council on American-Islamic Relations (“CAIR”) reported that “it received 774 requests for help and reports of bias incidents from Muslims across the U.S. from Oct. 7 to Oct. 24, a 182% jump from any given 16-day stretch last year.”²⁷ Corey Saylor, CAIR’s Research and Advocacy Director, stated, “I’ve only ever seen that twice in my career: right after 9/11 and in December 2015 after that announcement by Trump of his plan to ban Muslims from the country.”²⁸ This spike includes hate crimes like the brutal stabbing of six-year-old Wadea Al-Fayoume,²⁹ increased reports of FBI surveillance of Muslims and Arabs,³⁰ doxing Muslim and Arab college students “by a digital truck in New England and, in mass, on a Google Sheet,”³¹

23. See CAIR, *Fatal: The Resurgence of Anti-Muslim Hate*, ISLAMOPHOBIA (Apr. 4, 2024) https://islamophobia.org/wp-content/uploads/2024/04/2024_Fatal_The_Resurgence_of_Anti-Muslim_Hate-1.pdf (“In 2023, CAIR received 8,061 complaints nationwide, the highest number of complaints ever recorded in its 30-year history.”).

24. Third Comm., With Hate Speech and Xenophobia Rising Worldwide, Third Committee Calls for End to Systemic Racism, Racial Discrimination, Implementation of Durban Declaration, U.N. Doc. GA/SHC/4393 (Oct. 27, 2023).

25. Resignation Letter from Craig Mokhiber, to the High Commissioner for Human Rights, United Nations (Oct. 28, 2023), (available at https://www.documentcloud.org/documents/24103463-craig-mokhiber-resignation-letter?fbclid=PAAaZJihwnl6vTXD7BXJPOQZKy0Af_genmdu1Xnk9qxe9utalhkZIIIMegQXw_aem_AXA1obsfS8PsV9RKT47nS38wd4LMGJycfxAK5wsiFJP7uRMJzSk7n8g2ekTiXE2Yr4E); Israel’s Unfolding Crime of Genocide of the Palestinian People & U.S. Failure to Prevent and Complicity in Genocide; CTR. FOR CONST. RTS., (Oct. 18, 2023), https://ccrjustice.org/sites/default/files/attach/2023/10/Israels-Unfolding-Crime_ww.pdf; Ellie Quinlan Houghtaling, *He Went There: Top U.N. Official Resigns, Citing “Genocide” in Gaza*, NEW REPUBLIC (Oct. 31, 2023, 2:33 PM), <https://newrepublic.com/post/176538/top-un-official-resigns-citing-genocide-gaza>.

26. Shahamat Uddin, *Muslim Americans Are Facing a Brutal Wave of Islamophobia*, NATION (Nov. 22, 2023), <https://www.thenation.com/article/society/islamophobia-surges-united-states>.

27. Sakshi Venkatraman & Mirna Alsharif, *For Muslim Americans, A Spike in Hate Incidents Feels Reminiscent of Post 9/11 Islamophobia*, NBC NEWS (Oct. 31, 2023, 4:36 PM), <https://www.nbcnews.com/news/asian-america/muslim-americans-spike-hate-incidents-feels-reminiscent-post-911-islam-rcna122570>. See Press Release, Ismail Allison, Council on American-Islamic Relations, CAIR Reports Sharp Increase in Complaints, Reported Bias Incidents Since 10/7 (Oct. 25, 2023), https://www.cair.com/press_releases/cair-reports-sharp-increase-in-complaints-reported-bias-incidents-since-107.

28. Venkatraman & Alsharif, *supra* note 27.

29. Aaron Katersky, Josh Margolin & Bill Hutchinson, *US Hate Crimes Expected To Soar as Middle East War Intensifies: DHS*, ABC NEWS (Oct. 22, 2023, 5:17 PM), <https://abcnews.go.com/US/departments-homeland-security-warns-spike-hate-crimes-israel/story?id=104208227>; Erum Salam, *US Muslim Groups Warn Over Rise in Violence After Boy, Six, Killed in Illinois*, GUARDIAN (Oct. 17, 2023, 9:29 AM), <https://www.theguardian.com/us-news/2023/oct/17/cair-civil-rights-rising-violence-us-muslims-palestinians>.

30. Eric Bazail-Eimil, *FBI, DHS Warn of U.S. Hate Crimes Increase Amid Israel-Hamas War*, POLITICO (Oct. 25, 2023, 10:58 PM), <https://www.politico.com/news/2023/10/25/hate-crimes-israel-hamas-war-00123684>.

31. Press Release, Ismail Allison, Council on American-Islamic Relations, CAIR Reports Sharp Increase in Complaints, Reported Bias Incidents Since 10/7 (Oct. 25, 2023), https://www.cair.com/press_releases/cair-reports-sharp-increase-in-complaints-reported-bias-incidents-since-107; see also J. Sellers Hill & Nia L. Orakwue, *As Students Face Retaliation for Israel Statement, a ‘Doxing Truck’ Displaying Students’ Faces Comes to Harvard’s Campus*, HARV. CRIMSON (Oct. 12, 2023, 4:01 AM), <https://www.thecrimson.com/article/2023/10/12/doxing-truck-students-israel-statement>; Brian Bushard, *‘Doxing Truck’ Takes Columbia—Here’s What to Know about the Tricks That Post Names of Students*, FORBES

hijabs being forcibly removed in public spaces,³² a Stanford University Arab Muslim student being hit and run while the assailant screamed “f*** your people,”³³ and other various verbal assaults including one from President Barack Obama’s former advisor, Stuart Seldowitz, towards a twenty-four-year-old Egyptian food vendor.³⁴ Though President Biden stated that hate does not belong in America, it seems little national strategy is in place to ensure Islamophobic hate crimes will desist.³⁵

In 2019, the updated FBI data showed 176 *reported* hate crimes against Muslims,³⁶ though a majority of hate crimes go unreported.³⁷ In 2021, UC Berkeley’s Othering and Belonging Institute (“OBI”) developed and administered a national survey of over one thousand Muslims regarding Islamophobia.³⁸ The OBI reported that 67.5 percent of the participants expressed that they had experienced Islamophobia in their lifetimes, and among these participants, 76 percent experienced Islamophobia between October 2019 and October 2020.³⁹ Though two decades have passed since 9/11, and the Muslim

(Oct. 26, 2023, 6:17 PM), <https://www.forbes.com/sites/brianbushard/2023/10/26/doxxing-truck-takes-columbia-heres-what-to-know-about-the-truck-that-posts-names-of-students/?sh=7096e0d71f41>. It is important to note that doxxing is not a new concept that emerged in 2023. Students for Justice of Palestine, particularly chapters at UC Berkeley and UC Berkeley Law have been subject to public forms of doxxing from digital trucks to isolated websites that collect and publicize student’s personal information. The consequences of this exacerbate Islamophobia and paranoia simultaneously. See Erwin Chemerinsky, *Dean’s Statement*, BERKELEY L. (Oct. 26, 2022), <https://www.law.berkeley.edu/article/deans-statement-10-26-2022>.

32. Jewish Voice for Peace and Students for Justice in Palestine, *Columbia, You Are Failing Your Palestinian, Muslim, Arab, Black, Brown, and Jewish Student Activists*, COLUM. SPECTATOR (Oct. 24, 2023, 9:42 PM), <https://www.columbiaspectator.com/opinion/2023/10/17/columbia-you-are-failing-your-palestinian-muslim-arab-black-brown-and-jewish-student-activists>.

33. Raja Razek, Keith Allen, & Ashley R. Williams, *Arab Muslim Student Struck in Hit-And-Run at Stanford University Investigates Spate of Hate Crime Incidents*, CNN (Nov. 4, 2023, 10:00 PM), <https://edition.cnn.com/2023/11/04/us/stanford-university-hate-crime-investigations/index.html>.

34. Manisha Krishnan, *Ex-White House Adviser Charged with Hate Crime After Islamophobic Rants*, VICE (Nov. 23, 2023, 5:00 AM), <https://www.vice.com/en/article/g5yk8b/stuart-seldowitz-charged>.

35. Eric Bazail-Eimil, *supra* note 30; Aamer Madhani, Seung Min Kim & Zeke Miller, *The White House Is Working on a Strategy to Combat Islamophobia. Many Muslim Americans Are Skeptical*, ASSOC. PRESS (NOV. 1, 2023, 3:32 PM), <https://apnews.com/article/islamophobia-gaza-muslim-biden-israel-antisemitism-a0b26f1e11ef5a1b80c2b6a05c3a63bb>.

36. *2019 Hate Crime Statistics: Incidents, Offenses, Victims, and Known Offenders by Bias Motivation*, FED. BUREAU OF INVESTIGATION, U.S. DEP’T OF JUST., <https://ucr.fbi.gov/hate-crime/2019/tables/table-1.xls>; Alfonseca, *supra* note 15.

37. *Does Islamophobia Impact the Underreporting of FBI Hate Crime Data?*, BRIDGE (Dec. 14, 2017), <https://bridge.georgetown.edu/research/does-islamophobia-impact-the-underreporting-of-fbi-hate-crime-data> (“Complicating these data, however, is the fact that reported incidents of hate crimes are severely *underreported*. According to the Lawyers’ Committee for Civil Rights Under Law, ‘the public record of hate crimes is notoriously low compared to the on the ground reality.’”).

38. ELSADIG ELSHEIKH & BASIMA SISEMORE, ISLAMOPHOBIA THROUGH THE EYES OF MUSLIMS: ASSESSING PERCEPTIONS, EXPERIENCES, AND IMPACTS, OTHERING & BELONGING INSTITUTE AT UC BERKELEY 4 (2021).

39. *Id.* at 5; see *U.S. Muslims Concerned About Their Place in Society, but Continue to Believe in the American Dream*, PEW RSCH. CTR. (July 26, 2017), <https://www.pewresearch.org/religion/2017/07/26/findings-from-pew-research-centers-2017-survey-of-us-muslims> (“In total, nearly half of Muslims (48%) say they have experienced at least one of these types of discrimination over the past year, which is up slightly from 2011 (43%)”).

population has grown, criminalization and discrimination against Muslims have not dissipated or returned to the pre-9/11 levels.⁴⁰

Importantly, post-9/11 Islamophobic criminalization and discrimination impacted higher education institutions.⁴¹ In 2006, an undergraduate at the University of California, Los Angeles (“UCLA”), Mostafa Tabtabainejad, was in the library when a community service officer stopped and asked him to show his student ID card.⁴² The service officer asked no one else to show their ID that evening.⁴³ When Tabtabainejad refused to show his ID after feeling singled out, UCLA campus police arrived.⁴⁴ He was immediately physically restrained, handcuffed, and tasered at least five times.⁴⁵ In the video footage of the abuse of power, Tabtabainejad is heard screaming, “I’m not fighting you! I said I would

and 2007 (40%). In addition, nearly one-in-five U.S. Muslims (18%) say they have seen anti-Muslim graffiti in their local community in the last 12 months.”)

40. Dr. Rania Awaad, *The Devastating Mental Health Effects of Islamophobia*, TIME (Nov. 16, 2023, 7:00 AM), <https://time.com/6335453/islamophobia-mental-health-effects-essay>; Alfonseca, *supra* note 15; ELSHEIKH & SISEMORE, *supra* note 38, at 5; Shibley Telhami, *What Americans Really Think About Muslims and Islam*, BROOKINGS INST. (Dec. 9, 2015), <https://www.brookings.edu/blog/markaz/2015/12/09/what-americans-really-think-about-muslims-and-islam> (“The contrasting American attitudes on Islam and Muslims have been around for some time, though views of Islam in particular worsened in the months after 9/11. They never recovered, even during the early days of the Arab uprisings, which generated much sympathy among Americans.”). See, e.g., *More Than Two-Thirds of US Muslims Experienced Islamophobia, Poll Finds*, NEW ARAB (Oct. 1, 2021), <https://www.newarab.com/news/two-thirds-us-muslims-experienced-islamophobia-survey> (“The report released earlier this week found that 67.5 percent of respondents said they had experienced anti-Muslim . . . hatred, with women reporting having experienced it at a significantly higher rate.”); Isabel Keane, *Florida Teacher Fired After Accusing Praying Muslim Students of Doing ‘Magic’*, N.Y. POST (Dec. 11, 2022), <https://nypost.com/2022/12/11/florida-teacher-fired-after-interrupting-muslim-student-prayer/>; Margaret Stafford, *Lawsuit: Muslims Praying at Missouri Prison Pepper-Sprayed*, AP NEWS (Mar. 3, 2023, 3:45 PM), <https://apnews.com/article/muslim-pepper-spray-lawsuit-76f525a6071c9e2b9f21c1f2133d5cd4>; Emily Shapiro, *Man Caught on Camera Vandalizing Philadelphia Mosque*, ABC NEWS (Feb. 27, 2023, 9:21 AM), <https://abcnews.go.com/US/man-caught-camera-vandalizing-philadelphia-mosque/story?id=97491889>; Yasmine Jumaa, *Muslim Advocates, Family Raise Alarm After Classmate Removed Teen’s Hijab at a Ky. School*, WKMS (Mar. 1, 2023, 3:19 PM), <https://www.wkms.org/education/2023-03-01/muslim-advocates-family-raise-alarm-after-classmate-removed-teens-hijab-at-a-ky-school>; Rick Rickman, *Feces Smearred on NJ School Sign, Group Demands Hate Crime Probe*, NEW JERSEY 101.5 (Apr. 11, 2023), <https://nj1015.com/feces-smearred-on-nj-school-sign-group-demands-hate-crime-probe/>; Ali Bauman, *New York City Councilwoman Inna Vernikov Arrested for Bringing Gun to Pro-Palestinian Rally at Brooklyn College*, CBS NEWS (Oct. 13, 2023, 10:56 PM), <https://www.cbsnews.com/newyork/news/new-york-city-council-member-inna-vernikov-arrested-for-bringing-gun-to-pro-palestinian-rally-at-brooklyn-college/>; Salam, *supra* note 29; Bazail-Eimil, *supra* note 30; Krishnan, *supra* note 34.

41. See generally SHAFIQA AHMADI & DARNELL COLE, *ISLAMOPHOBIA IN HIGHER EDUCATION: COMBATTING DISCRIMINATION AND CREATING UNDERSTANDING* (2020). In their book *Islamophobia and Higher Education*, Darnell Cole and Shafiqah Ahmadi illustrate the criminalization of and discrimination against Muslim students in various higher education settings following 9/11 and the anti-Muslim rhetoric. *Id.* The following few stories are from this book.

42. *Id.* at 69.

43. *Id.*

44. *Id.*

45. *Id.*

leave!”⁴⁶ and trying to tell campus police about his medical condition and then being shocked by the taser.⁴⁷

In 2010, eleven Muslim students, eight from the University of California, Irvine (“UC Irvine”) and three from the University of California, Riverside (“UC Riverside”),⁴⁸ organized a nonviolent, disruption protest⁴⁹ during a UC Irvine event against then-Israeli Ambassador Michael Oren.⁵⁰ “One by one, the students rose and interrupted Oren’s talk, reciting lines from international laws that Israel [had] violated...[including] a 22-day military assault Israel conducted against the Gaza Strip”⁵¹ The students were detained, and ten were charged and prosecuted with “one misdemeanor count of conspiracy to disturb a meeting and one misdemeanor count of disturbing a meeting,”⁵² after intense push from some organizations.⁵³ They became known as the “Irvine 11.”⁵⁴

Other organizations, like CAIR, American Civil Liberties Union (“ACLU”),⁵⁵ and Jewish Voice for Peace (“JVP”), and faculty members from the colleges petitioned and requested “the Orange County district attorney to drop the criminal charges” against the students.⁵⁶ Rachel Roberts, one of the signatories of the JVP petition, emphasized that a few months prior to the Irvine 11 protest, JVP had similarly “disrupted a speech by Israeli Prime Minister Benjamin Netanyahu in New Orleans, but no one was arrested.”⁵⁷ In a supporting statement signed by UC faculty and graduate students, Dylan Rodriguez, chair of UC Riverside’s ethnic studies department, voiced the statement took “issue with the tendency, since at least 2001, to affiliate Muslim men with terrorism within popular discourse, as well as to challenge what he

46. Amy Goodman, *UCLA Police Repeatedly Taser Handcuffed Student for Refusal to Show ID*, *University Orders Outside Probe*, DEMOCRACY NOW (Nov. 20, 2006), https://www.democracynow.org/2006/11/20/ucla_police_repeatedly_taser_handcuffed_student.

47. AHMADI & COLE, *supra* note 41, at 70–71.

48. *The Irvine 11: An Example of UCI’s Islamophobia Towards Campus Activism*, NEW UNIV. (Apr. 24, 2023) [hereinafter *The Irvine 11: An Example*], <https://newuniversity.org/2023/04/24/the-irvine-11-an-example-of-ucis-islamophobia-towards-campus-activism>.

49. AlternateFocus, *The Irvine 11*, YOUTUBE (Aug. 27, 2012), <https://www.youtube.com/watch?v=niwT4dMEddc> (4:04-7:15).

50. *The Irvine 11: An Example*, *supra* note 48.

51. *Id.*

52. Jonathan Lloyd & Vikki Vargas, *Students Convicted in Irvine 11 Case*, NBC L.A. (Sept. 23, 2011, 5:59 PM), <https://www.nbclangeles.com/news/local/verdicts-in-irvine-11-case/2104992>.

53. AHMADI & COLE, *supra* note 41, at 71 (“[T]he chief executive of the Jewish Federation of Orange County, Shalom Elcott, put UCI on notice, stating the Jewish community would intensely monitor the response of the university. . . . In addition to prosecuting the students ‘to the fullest extent of the law,’ Elcott said he expected future activities of the Muslim Students Union to be closely scrutinized and would like to see their programming stripped of public funding.”).

54. *The Irvine 11: An Example*, *supra* note 48.

55. Jennifer Medina, *Charges Against Muslim Students Prompt Debate over Free Speech*, N.Y. TIMES (Feb. 10, 2011), <https://www.nytimes.com/2011/02/10/education/10irvine.html>.

56. AHMADI & COLE, *supra* note 41, at 42–43.

57. *Id.*

sees as selective enforcement of codes of conduct by university administrators.”⁵⁸

Osama Shabaik, one of the Irvine 11, explained in a documentary that their protest strategy was inspired by protests at the University of Chicago (“U. Chicago”), where a similar, yet larger, disruption protest took place.⁵⁹ It was also not the first time UC Irvine had seen a disruption protest.⁶⁰ In the previous year, students exhibited the same kind of protest against tuition hikes during classroom lectures.⁶¹ However, in the tuition hike protest,

The UC Irvine Police Department, along with the senior [UC Irvine] administrators who are in charge of student conduct on campus, [were] all present at the protest and all following along with the protest. Nobody [was] academically disciplined [and] nobody [was] arrested for any of these disruptions [both at UC Irvine and U. Chicago].⁶²

Not only were the Irvine 11 academically disciplined, but were also subpoenaed by a grand jury.⁶³ In September 2011, ten of the students proceeded to a two week long trial, “continuing through the 10-year anniversary of 9/11.”⁶⁴ All ten were found guilty and sentenced⁶⁵ to three years of criminal probation,⁶⁶ and fifty-six hours of community service.⁶⁷ The Muslim Student Union (“MSU”) on campus was also suspended.⁶⁸ This outcome led to further reluctance and silencing of Muslim students to express their opinions, even in their activism.⁶⁹ Hamza Siddique, a MSU member, stated that Muslim students became “afraid to wear their Muslim Student Union shirts” and “associate themselves with [MSU].”⁷⁰ In 2023, the university’s newspaper published an article that highlighted the striking story and emphasized that while “the Irvine 11 protest may have occurred over a decade ago, [the] Islamophobic, racist treatment of peacefully protesting students at UC [Irvine] bleeds into the

58. *Id.* at 43.

59. AlternateFocus, *supra* note 49 (4:04-7:15); Jonathan Alexander & Susan C. Jarratt, *Rhetorical Education and Student Activism*, 76 COLL. ENGL. 525, 534-35 (2014).

60. AlternateFocus, *supra* note 49 (4:04-7:15); Alexander & Jarratt, *supra* note 59, at 534-35.

61. AlternateFocus, *supra* note 49 (4:04-7:15); Alexander & Jarratt, *supra* note 59, at 534-35.

62. AlternateFocus, *supra* note 49 (4:04-7:15).

63. *Id.* (17:00-27:00).

64. AHMADI & COLE, *supra* note 41, at 43.

65. *Id.* During sentencing, District Attorney Tony Rackauckas pushed for the students to serve jail time, however, the judge reasoned that since the students had acted on their beliefs and had clean records, probation and community service was sufficient. *Id.*

66. *Id.* at 44.

67. Lloyd & Vargas, *supra* note 52.

68. Carrie Kahn, ‘Irvine 11’ Disrupt Ambassador’s Speech, Face Jail, NPR (Mar. 10, 2011, 4:00 AM), <https://www.npr.org/2011/03/10/134414417/Irvine-11-Face-Charges-For-Disrupting-Ambassadors-Speech>.

69. AHMADI & COLE, *supra* note 41, at 75 (“Muslim students who support Palestinian rights as a human rights issue do so in an atmosphere fraught with fear of negative repercussions to their educational and work opportunities, as well as criminalization of their activism.”); *Id.* at 42 (“According to Armony (2010), ‘When people get selectively subjugated to enforcement of codes of conduct, it has a chilling effect on political discussion and freedom.’”).

70. Kahn, *supra* note 68.

current campus climate.”⁷¹ Islamophobia inherently prevents Muslim students on campuses “to feel valued and included.”⁷²

In 2013, the ACLU released a report that revealed that the New York Police Department (“NYPD”) initiated and engaged in a surveillance and infiltration operation against Muslims.⁷³ This included undercover surveillance at multiple college campuses, including Yale, University of Pennsylvania, Rutgers, and Princeton.⁷⁴ These operations placed undercover officers in MSUs within college campuses with the help of the Central Intelligence Agency (“CIA”)⁷⁵ to track and record student names, whereabouts, conversations, and religious practices.⁷⁶ For example, the NYPD “talked with local authorities about professors [300 miles (480 kilometers)] away in Buffalo and even sent an undercover agent on a whitewater rafting trip, where he recorded students’ names and noted in police intelligence files how many times they prayed.”⁷⁷ The FBI and NYPD were “notorious” for their joint efforts to watch over Muslim communities at large, with no exception to the microclimate of colleges.⁷⁸ The NYPD used “rakers” or plainclothes officers who would “blend in” with the community.⁷⁹ A young Muslim student, Asad Dandia, had innocently befriended an NYPD informant after the informant disguised himself as a young man wanting to become “a better Muslim.”⁸⁰ Dandia welcomed the informant into the Muslim community, introduced him to friends, and even invited the informant to Dandia’s house to spend the night.⁸¹ After a few months, Dandia learned that the friend was a NYPD informant.⁸² In February 2020, Dandia wrote

71. *The Irvine 11: An Example*, *supra* note 48.

72. *Id.*

73. See generally ACLU, FACTSHEET: THE NYPD MUSLIM SURVEILLANCE PROGRAM (June 17, 2013), <https://www.aclu.org/other/factsheet-nypd-muslim-surveillance-program>.

74. AHMADI & COLE, *supra* note 41, at 17; Chris Hawley, *NYPD Monitored Muslim Students All over Northeast*, ASSOC. PRESS (Feb. 20, 2012) (“The universities included Yale; Columbia; the University of Pennsylvania; Syracuse; New York University; Clarkson University; the Newark and New Brunswick campuses of Rutgers; and the State University of New York campuses in Buffalo, Albany, Stony Brook and Potsdam; Queens College, Baruch College, Brooklyn College and La Guardia Community College.”).

75. Hawley, *supra* note 74.

76. *Id.*

77. *Id.*

78. AHMADI & COLE, *supra* note 41, at 37 (“The NYPD was notorious for using plainclothes officers—called ‘rakers’—and deploying them to Muslim communities where they could blend in ‘consistent with their ethnicity and/or language.’ . . . [They] aimed to compile information on the community, listen in on conversations at Muslim restaurants and businesses, and identify Muslim ‘hotspots’—hence the term rakers, as in ‘raking the coals’ With the recruitment of the previously mentioned mosque crawlers to act as inside observers, the NYPD also used a method termed create and capture, which ‘instructed informants to [create] conversations about jihad or terrorism to [capture] and report the responses to the police. Informants are often selected from a pool of arrestees, prisoners, or suspects who are pressured into becoming informants”).

79. *Id.*

80. Asad Dandia, *Bloomberg’s NYPD Spied on Me for Being Muslim. He Has Never Apologized*, WASH. POST (Feb. 20, 2020), <https://www.washingtonpost.com/outlook/2020/02/20/bloombergs-nypd-spied-me-being-muslim-he-has-never-apologized>.

81. *Id.*

82. *Id.*

in the Washington Post that he “didn’t know who to trust, or where we could turn for help.”⁸³ While reactions to Big Brother’s behavior varied, Muslim students’ paranoia reached new levels.⁸⁴ This lack of trust creates communication barriers for Muslim students on campuses.⁸⁵

In 2012, the University of California’s President’s Advisory Council on Campus Climate, Culture, & Inclusion launched a Campus Climate project to understand the sentiments of Arabs and Muslims on campus in response to the Irvine 11.⁸⁶ The committee found that “almost every Muslim or Arab student the Team encountered shared frustration and even pain with prejudicial experiences on a UC campus, which they believed were due to their Muslim or Arab identity or the expression of their identity.”⁸⁷ Additionally, the students felt they existed “within a climate of suspicion and mistrust on UC campuses and felt selectively scrutinized and harassed.”⁸⁸

In 2015, as safety, inclusivity, and trust hung thinly for Muslim students, three college Muslim students (coincidentally also family) were shot and killed in their home in Chapel Hill, North Carolina.⁸⁹ Two of the victims, Deah Barakat and Yusor Abu-Salha, were newlyweds.⁹⁰ They were having dinner with Deah’s sister, the third victim, Razan Abu-Salha, when the perpetrator rang the doorbell.⁹¹ Upon opening the door and entering the home, the perpetrator started threatening Deah and “almost immediately start[ed] shooting.”⁹² All three were shot in the head and reported dead on the scene.⁹³

The father of the sisters told news reporters that the perpetrator “had picked on [his] daughter and her husband a couple of times before, and he talked with them with his gun in his belt.”⁹⁴ The perpetrator had also told the student’s mother upon her moving in, “I don’t like the look of you people,” where both of them were wearing *hijab*.⁹⁵ All three of the students were active in the Muslim community and had been long-standing volunteers with United Muslim Relief,

83. *Id.*

84. Hawley, *supra* note 74 (“Jawad Rasul, one of the students on the trip, said he was stunned that his name was included in the police report. ‘It forces me to look around wherever I am now,’ Rasul said.”).

85. *Id.*

86. AHMADI & COLE, *supra* note 41, at 50; JIHAD TURK, NAN SENZAKI, TYRONE HOWARD & ARMAAN ROWTHER, MUSLIM & ARAB STUDENT CAMPUS CLIMATE AT THE UNIVERSITY OF CALIFORNIA FACT-FINDING TEAM REPORT & RECOMMENDATIONS I (2019), <https://cascholars4academicfreedom.files.wordpress.com/2012/07/muslim-arab-student-climate-report-final.pdf>.

87. TURK ET AL., *supra* note 86, at 5.

88. *Id.* at 6.

89. Emily Kassie, *The Killer Was Driven by Rage, but Was the Murder of 3 College Students a Hate Crime?*, TIME (Feb. 18, 2020, 7:00 AM), <https://time.com/5784617/hate-crimes-muslims-chapel-hill>.

90. *Id.*

91. Bill Chappell, *N.C. Man Pleads Guilty to Killing 3 Muslim College Students; Video Is Played in Court*, NPR (June 12, 2019, 10:38 AM), <https://www.npr.org/2019/06/12/731981858/n-c-man-pleads-guilty-to-murdering-3-muslim-college-students>.

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

while one of the victims was also an organizer of a Syrian Dental Relief project.⁹⁶ This shooting also aligned with “a surge in reports of bias-motivated attacks against Muslims in America, which spiked 67 percent in 2015, according to FBI data.”⁹⁷ “Although the latest data shows fewer attacks against Muslims and Arab-Americans than in 2015, civil rights groups say there are likely many more anti-Muslim incidents, including bullying and discrimination, that do not appear in FBI data.”⁹⁸ However, the Chapel Hill Police Department did not classify the murder as a hate crime.⁹⁹ Deah’s brother emphasized in a documentary that the murder being “classified as a parking dispute, . . . [is] just another example of how aggression[,] even microaggressions against the Muslim community will continue to be underreported[,] will continue to be . . . swept under the rug[,] because we prefer a more romanticized[,] a more whitewashed version of where we are.”¹⁰⁰

This discrimination, mistrust, and scrutiny only compounded after Trump’s presidency.¹⁰¹ In 2017, an alt-right group, Freedom Center, organized mass defamatory poster projects across college campuses vilifying Arabs and Muslims following the second Muslim travel ban.¹⁰² The posters resembled propaganda posters used by Nazis to antagonize Jews and posters used by America to antagonize Japanese Americans during World War II.¹⁰³ This Islamophobic postering project was striking on its own, but even more striking was the lack of condemnation by campus administrators.¹⁰⁴

96. WNCN Staff, *Massive Crowd Attends Vigil for Chapel Hill Shooting Victims*, WNCN (Feb. 11, 2015, 4:34 UTC), <https://web.archive.org/web/20150212024531/http://www.wncn.com/story/28083366/victims-in-chapel-hill-shooting-were-promising-students>; WBTV Web Staff, *Parking Dispute May Have Led to Deadly Chapel Hill Shooting*, WBTV (Mar. 12, 2015), <https://www.wbvtv.com/story/28075924/report-multiple-people-shot-in-chapel-hill>.

97. Kassie, *supra* note 89. See *Hate Crime Statistics, 2015*, FBI (2016), https://ucr.fbi.gov/hate-crime/2015/topic-pages/incidentsandoffenses_final.pdf; Nolan D. McCaskill, *FBI: Hate Crimes Against Muslims in U.S. Jump 67 Percent in 2015*, POLITICO (Nov. 14, 2016, 11:02 AM), <https://www.politico.com/story/2016/11/fbi-hate-crimes-statistics-2016-report-231330>.

98. Kassie, *supra* note 89.

99. David A. Graham, *The Killing of Three Young Muslims in Chapel Hill*, ATLANTIC (Feb. 11, 2015), <https://www.theatlantic.com/national/archive/2015/02/three-muslims-shot-in-chapel-hill-Craig-Stephen-Hicks/385383>.

100. Emily Kassie, *Anatomy of Hate*, MARSHALL PROJECT (Feb. 18, 2020, 7:00 AM), <https://www.themarshallproject.org/2020/02/18/anatomy-of-hate>.

101. AHMADI & COLE, *supra* note 41, at 51–52 (“The Southern Poverty Law Center (SPLC) has stated that after the Trump election, the bigoted alternative right, or alt-right, movement gained traction at college campuses across the country.”).

102. *Id.* at 53 (“The hate organization, according to their website, organized a mass poster effort to display their hate materials at Texas State University, Rice University, the University of North Texas, the University of Texas at Dallas, Collin College, Abilene Christian University, and Louisiana State University. The posters also made appearances at Rutgers University and University of Texas at Austin.”).

103. *Id.* at 56 (Figure 1.3).

104. *Id.* at 52–53 (“For example, posters from the Freedom Center were seen across the San Francisco State University campus. The posters falsely identified faculty and students as ‘Terrorist Supporters’ [(Figure 1)]. Subsequently, the president of the university, Les Wong, provided no condemnation of the posters and even refused to have the posters removed, claiming them to be legitimate free speech instruments (Dajani, 2017).”).

Since October 2023 proceeding the War on Gaza, Muslim students at higher education institutions have reported an upsurge of harassment and discrimination.¹⁰⁵ In response to protesting the war on and off campus, Muslim students have faced horrific doxing,¹⁰⁶ hate crimes,¹⁰⁷ and suppression of free speech through various means—whether it be administrators canceling a Muslim valedictorian’s commencement speech¹⁰⁸ or dismantling peaceful encampments via police batons and tear gas.¹⁰⁹ The totality of these negative experiences has led to a critical need to “develop a greater level of understanding and preparedness to work with Muslim communities”¹¹⁰ in higher education.¹¹¹

Many argue, and rightly so, that such inaction and defense of defamatory posters as ‘free speech’ is tantamount to endorsing them.”).

105. See CAIR, *Hostile: How Universities Target Anti-Genocide Protesters While Enabling Anti-Palestinian Racism and Islamophobia*, ISLAMOPHOBIA (May 19, 2024), <https://islamophobia.org/special-reports/hostile-how-universities-target-anti-genocide-protesters-while-enabling-anti-palestinian-racism-and-islamophobia>.

106. *Id.* (“At Harvard University, for example, students were subjected to a doxxing campaign that displayed the names and faces of students, many of whom were Palestinian, Arab, and Muslim, who were suspected of signing an open letter critical of Israel in October 2023.”).

107. *See, e.g., id.* (“A group of Muslim students at the University of Texas-Austin were reportedly harassed by three men during a Palestine Solidarity Committee meeting on campus in October 2023 [And in] November 2023, Muslim and Palestinian student groups at the University of Connecticut reported receiving a series of racist, threatening, and anti-Muslim emails and voicemails Muslim and Palestinian students called on George Washington University to provide protection to students amid a rise in Islamophobic attacks on campus. Students have reported at least four instances in which Muslim students have had their hijabs ripped off.”).

108. *Id.* (“In April 2024, the University of Southern California canceled the graduation speech of undergraduate valedictorian Asna Tabassum. In a letter, USC Provost Andrew T. Guzman reportedly cited “unnamed threats” after Tabassum, who had been criticized online for supporting Palestinian human rights, had been publicized as the valedictorian, claiming that the decision was made to “maintain campus security and safety.”).

109. *Id.* (“Students report that officers with riot gear attacked Muslim students engaged in prayer and those encircling the worshippers in an attempt to protect them, “shoving people into those in prayer, causing people to fall on top of tents, and knowingly creating a stampede where students were trampled while attempting to seek refuge.” A university spokesman also confirmed that officers stationed on the roof of the Ohio Union had “long-range firearms” as law enforcement began to arrest students and protesters. Protesters arrested during the protest claimed that police “forced women to remove religious head coverings and refused to provide space for arrestees to pray.”).

110. Patterson & Porter, *supra* note 7, at 1.

111. While there is some research available on Muslim students in K-12 and undergraduate colleges, no research or studies exist for how law schools can better provide an inclusive space for Muslim students. *See generally id.*; Kevin Singer, *The Imperative to Support Muslim Students*, INSIDE HIGHER ED (Oct. 12, 2021), <https://www.insidehighered.com/views/2021/10/13/colleges-must-do-more-support-muslim-students-opinion>; Kevin Singer, *Twenty Years After 9/11, Muslim Students Still Need Our Help*, EDSOURCE (Oct. 6, 2021), <https://edsourse.org/2021/twenty-years-after-9-11-muslim-students-still-need-our-help/662039>.

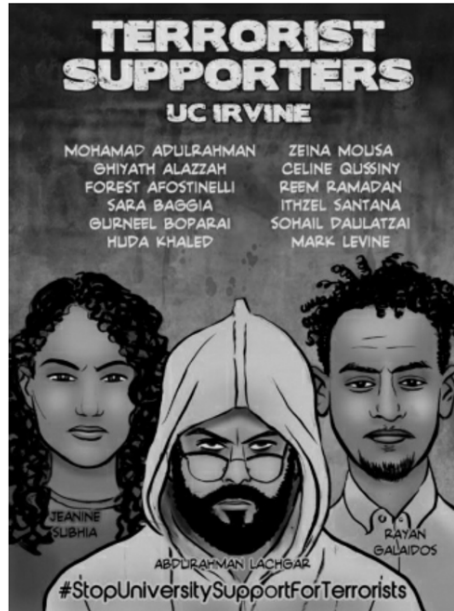


Figure 1: “Posters from the Freedom Center posted across the San Francisco State University campus . . . falsely identifying] faculty and students as ‘terrorist supporters.’”¹¹²

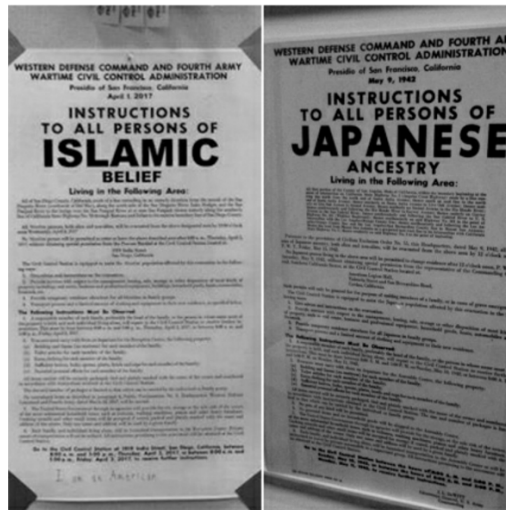


Figure 2: “Posters targeting Muslims appeared at the UC San Diego campus. The posters were designed to imitate announcements for the internment of Japanese Americans during World War II.”¹¹³

However, this unique need struggles to be met because of the minority status of Muslims, and that too, a discriminated minority. As a minority, administration and faculty might not be as informed, educated, or trained on Islamic practices and how they conflict with daily student life. This puts the onus and burden on Muslim students to educate them and ask for accommodations. However, as discriminated minorities, it becomes a challenge for Muslim students to take on that burden or to even embrace their own religious identity. These two factors create an obstacle for institutions, administration, and faculty to understand¹¹⁴ and cooperate as needed to provide a safe and accommodating space for Muslim students on campus.¹¹⁵ In addition, these two factors create an obstacle for Muslim students, who have internalized Islamophobia, to practice publicly and fearlessly or ask for inclusive measures to practice safely.¹¹⁶

These problems are exacerbated in postgraduate settings, particularly in law schools. Law schools have a smaller student population, which means the minorities in these spaces are amplified minorities.¹¹⁷ Whether it be Black, women, low-income, first-generation, or Muslim students, the law school experience becomes distinctly isolating.¹¹⁸ Out of the 1.1 percent of Muslims in

112. AHMADI & COLE, *supra* note 41, at 53.

113. *Id.* at 54.

114. Samantha Sinutko, *Students Call on GU Law to Stand Against Professor's Islamophobic Curriculum*, HOYA (Mar. 3, 2022), <https://thehoya.com/news/students-call-on-gu-law-to-stand-against-professors-islamophobic-curriculum>.

115. Singer, *The Imperative to Support Muslim Students*, *supra* note 111 (“In California alone, 40 percent of Muslim college students reported facing harassment or discrimination during the 2019-20 academic year. MSA West, a nonprofit serving 3,000 Muslim students across 30 California campuses, discovered that nearly four out of five women (79 percent) whom they surveyed in 2019 reported experiencing religious discrimination on campus, as did 63 percent of male participants. The survey also found that 38 percent reported experiencing abuse from peers, 15 percent from campus professors and 11 percent from campus administrators.”).

116. U.S. COMM’N ON CIV. RTS., FEDERAL CIVIL RIGHTS ENGAGEMENT WITH ARAB AND MUSLIM-AMERICANS POST 9/11 (2014), https://www.usccr.gov/files/pubs/docs/ARAB_MUSLIM_9-30-14; Othering & Belonging Institute, *Islamophobia in Post-9/11 America*, YOUTUBE (Sept. 29, 2021), <https://www.youtube.com/watch?v=hDwWcD2ftL0> (explaining, per Professor Hatem Bazian, that “the level of tolerance of victims, of Islamophobia, that the rate of what they consider to be Islamophobia has almost went to only direct violence and therefore everything beyond that is seen as normal. So, a woman in the grocery store being assaulted verbally which should not be acceptable, is being seen as just where in a time where open type of verbal hostilities is acceptable.”).

117. AM. BAR ASS’N, ABA NATIONAL LAWYER POPULATION SURVEY: 10-YEAR TREND IN LAWYER DEMOGRAPHICS (2022), http://www.americanbar.org/content/dam/aba/administrative/market_research/national-lawyer-population-demographics-2009-2019.pdf; Deseriee A. Kennedy, *Access Law Schools & Diversifying the Profession*, 92 TEMP. L. REV. 799, 802 (2020) (“Law school demographics present a similar picture. White students represent approximately 62% of law students. Latinx students represent about 13% of law students compared to 18.3% of the population. Black Students represent 8% of law students compared to 13.4% of the population and Asian/Pacific Islanders represent 6% of law students compared to 5.9% of the population.”).

118. See generally Cathleen A. Roach, *A River Runs Through It: Tapping into the Informational Stream to Move Students from Isolation to Autonomy*, 36 ARIZ. L. REV. 667 (1994). Critical legal theorists have “focused on the alienation and despair which are the common consequences of both traditional legal education and the professional identity inculcated in the legal education and socialization process.” Rhonda MaGee, *Legal Education and The Formation of Professional Identity: A Critical Spirituo-Humanistic-“Humanity Consciousness” – Perspective*, Univ. of San Francisco Law Research Paper No. 2009-12, 471, 471. Professor

this country, Pew Research Center estimated in 2017 that about 54 percent hold a college degree, but only 11 percent hold postgraduate degrees.¹¹⁹ If that percentage is funneled even further to Muslims in law schools, the percentage would be less than 0.0121 percent in the U.S. population.¹²⁰

The legal profession is not foreign to silencing or instilling fear in discriminated minority communities, including that of Muslim law students, both on a micro-scale (impacts in law school) and macro-scale (impacts in career).¹²¹ Discriminated minorities' reluctance, fearfulness, and paranoia can stifle the embrace of their identities and practices on campus.¹²² While there are notable law schools with strong MLSAs, which serve as means to advocate for Muslim students, there are many others where MLSAs do not exist.¹²³ Even in the Bay Area, only Stanford School of Law, University of California Berkeley School of Law, and now, UC Law, have existing MLSAs. However, in more rural and smaller towns, the existence of MLSAs is never spoken of. In conversation with a law student at the Saint Louis University School of Law, MLSA has never existed on his campus despite having a handful of Muslim

MaGee defines these consequences to “those outside of power relative to the mainstream—including but by no means limited to, many (but not all!) people of color; many (but not all!) women; and all committed, leftist students in traditional legal environments.” MaGee, *supra* note 118, at 467–68 n.3. Her paper highlights studies that show how students who struggle with an identity crisis in legal education are non-traditional students or non-white male students, including “feelings of increased isolation and alienation which lead to disengagement from the law school community.” *Id.* at 471. Feelings of isolation are likely exacerbated for racial and religious minority law students by the lack of diversity at many law schools. See, e.g., Vernellia Randall, *2021 The Whitest Law School Report*, RACE, RACISM & LAW (2021), <https://racism.org/2021-introduction>.

119. AHMADI & COLE, *supra* note 41, at 20; Jeff Diamant & Claire Gecewicz, *5 Facts About Muslim Millennials in the U.S.*, PEW RSCH. CTR. (Oct. 26, 2017), <https://www.pewresearch.org/fact-tank/2017/10/26/5-facts-about-muslim-millennials-us>.

120. This calculation is done by first multiplying the percentage of Muslims in the U.S. by the percentage of those with postgraduate degrees (1.1/100 x 11/100= 0.121%). Then, the percentage of the U.S. population that is Muslim and attending law school is estimated. Since law school is a subset of postgraduate education, a certain proportion of those with postgraduate degrees are in law school. However, there is no specific data on the population of Muslims in law school to determine this precisely. If we assume, for instance, that 10% of Muslims with postgraduate degrees attend law school (which is an arbitrary but reasonable estimate for the sake of calculation), we get 0.0121%. See Jonathan S. Coley, Dhruva Das & Gary John Adler Jr., *2/3 of US Colleges and Universities Lack Student Groups for Muslims, Jews, Hindus or Buddhists*, CONVERSATION (June 6, 2022, 8:51 AM), <https://theconversation.com/2-3-of-us-colleges-and-universities-lack-student-groups-for-muslims-jews-hindus-or-buddhists-183076> (showing, in a recent study, that out of nearly two thousand four-year colleges and universities in the U.S., only 28% had a Muslim student organization).

121. Sinutko, *supra* note 114; See also, e.g., Deepa Fernandes, *Berkeley Survey: Majority of Muslim Americans Face Islamophobia, Especially Women*, S.F. CHRON. (Sept. 29, 2021, 9:20 AM), <https://www.sfchronicle.com/bayarea/article/Berkeley-institute-Islamophobia-is-shockingly-16494831.php>; Hon. Mustafa T. Kasubhai and Sarah Malik, *Is There a Place For Us?*, OR. STATE BAR (Feb./Mar. 2021), <https://www.osbar.org/bulletin/issues/2021/2021FebruaryMarch/index.html>.

122. Meera E. Deo, Walter R. Allen, A.T. Panter, Charles Daye & Linda Wightman, *Struggles & Support: Diversity in U.S. Law Schools*, 23 NAT'L BLACK L.J. 71, 73–74 (2010).

123. In conversation with a National Muslim Law Students Association (“NMLSA”) spokesperson Hafsa Mansoori (NMLSA is the National organization of Muslim law students) she mentioned, “while each school’s MLSA is independently organized, we serve as the parent organization for each of them by providing support, networks, and a larger national community. Currently in the US, we have seventy-one MLSAs that we are aware of and in touch with our organization.”

students at the school. Thus, no one openly shares being Muslim, students pray at home, and no one even *thinks* of asking for religious accommodations. This was a similar situation for Muslim law students at UCLSF before its first prominence in 2019.

The connection between Islamophobia and identity display is significant because it connects to academic performance. When students are unable to embrace their identities on school campuses, it can lead to a detrimental impact on their performance in school.¹²⁴ For Muslim law students, fasting during exams without accommodations impacts their performance. Stepping out of class to pray or spending religious holidays with family without accommodations means missing class time and impacting their attendance records. Attending networking events where nonalcoholic options are unavailable or hosted at wine-tasting restaurants means they either do not attend the events or attend while uncomfortable and do not reap the most for their careers.

One way to relieve Muslim law students of barriers to identity embracing is for campuses to provide religious accommodations for Muslim law students. These accommodations include small-scale measures, which include prayer areas, Ramadan and religious holiday policies, Halal meal options, alcohol alternatives, and large-scale actions such as crisis support and hiring Muslim faculty. These accommodations are essential because they will (1) individually help Muslim law students succeed in an educational environment where they feel safe and (2) broadly assist law schools in fostering an inclusive and understanding campus climate.

Law schools can provide these good-faith measures without fear of facing severe legal challenges. Per the First Amendment, law schools are neither compelled nor forbidden to provide religious accommodations. Though the legal obligations to provide these accommodations are flexible, law schools should provide them for the essential goals mentioned earlier. If law schools genuinely want to foster an inclusive environment and pride themselves in their diverse makeup, efforts must exceed lip service.¹²⁵ Law schools' taking these measures indicates to present and future students attending, applying, or enrolling in the law school that "diversity," "equity," and "inclusion" are not merely words imprinted on mission statements but goals that the law school acts.¹²⁶ For

124. *Id.*

125. Singer, *The Imperative to Support Muslim Students*, *supra* note 111 ("Muslim students shouldn't be saddled with the sole responsibility of advocating for their own safety and inclusion on campus. At the same time, administrators and faculty should not assume that diversity and inclusion programs alone will cover the distinct challenges that Muslim students face on campus. That's because many of those programs don't touch religious diversity and inclusion at all.")

126. Larry Ferlazzo, *How Schools Can Support Arab and Muslim Students*, EDUC. WEEK (Apr. 3, 2023), <https://www.edweek.org/leadership/opinion-how-schools-can-support-arab-and-muslim-students/2023/04> ("With the weaponization of equity work and the censoring of many culturally responsive texts across our nation, there is more and more of a need for teachers to co-design with students and plan instruction that allows for the integration of their voices.")

Muslim law students, these religious accommodations are a step towards actualizing equity and inclusion efforts.

B. THE FIRST AMENDMENT AND RELIGIOUS ACCOMMODATIONS

When determining possible religious accommodations to resolve these problems, the First Amendment guides what may or may not be permissible. The First Amendment states, “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.”¹²⁷ The Free Exercise and Establishment Clauses are derived from this. The Free Exercise Clause protects an individual’s right to practice their faith, and the Establishment Clause protects against the government’s endorsement of religion.¹²⁸

1. *The Free Exercise Clause*

The Free Exercise Clause protects individuals’ “right to practice their religion as they please, so long as the practice does not run afoul of a ‘public morals’ or a ‘compelling’ governmental interest.”¹²⁹ Individuals are afforded varying degrees of protection from government invention depending on whether religious belief or conduct is involved.¹³⁰ The first case to evaluate the Free Exercise Clause was *Reynolds v. United States*, which focused on protecting religious beliefs.¹³¹ Reynolds, secretary to Mormon Church leader Brigham Young, was convicted of violating a federal anti-bigamy statute.¹³² He challenged the statute under the Free Exercise Clause, arguing that his religion required plural marriage.¹³³ The Supreme Court upheld the statute as constitutional because while the First Amendment protects religious beliefs, it does not protect religious conduct.¹³⁴ This distinction created nuances in protecting religious protection under the Free Exercise Clause.¹³⁵ Still, it addressed the logical concern that if the Court allowed some to disobey laws others had to follow, it “would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself.”¹³⁶

127. U.S. CONST. amend. I.

128. See generally John Wesley Lowery, *Understanding the Legal Protections and Limitations upon Religion and Spiritual Expression on Campus*, 23 COLL. STUDENT AFFS. J. 146 (2004).

129. *First Amendment and Religion*, U.S. CTS., <https://www.uscourts.gov/educational-resources/educational-activities/first-amendment-and-religion> (last visited Feb. 14, 2024).

130. *Cantwell v. Connecticut*, 310 U.S. 296, 303–04 (1940).

131. 98 U.S. 145 (1879).

132. *Id.* at 146.

133. *Id.* at 147.

134. *Id.* at 166.

135. Frederick Gedicks & Michael McConnell, *Interpretation & Debate: The Free Exercise Clause*, NAT’L CONST. CTR., <https://constitutioncenter.org/the-constitution/amendments/amendment-i/interpretations/265#the-free-exercise-clause> (last visited May 1, 2024).

136. *Reynolds*, 98 U.S. at 167.

Reynolds continued to be the legal backdrop of evaluating laws against the Free Exercise Clause up until 1972, when the shift came in *Wisconsin v. Yoder*.¹³⁷ The Court in *Yoder* held “that the government may not enforce even a religiously neutral law that applies generally to all or most of society unless the public interest in enforcement is ‘compelling.’”¹³⁸ However, the Court returned to a similar *Reynolds* sentiment only eighteen years later in *Employment Division v. Smith*.¹³⁹ The Supreme Court held that the Free Exercise Clause cannot be used to challenge a neutral law of general applicability.¹⁴⁰ No matter the burden the law creates on a religion, “so long as it does not single out religious behavior for punishment and was not motivated by a desire to interfere with religion.”¹⁴¹ The government did not embrace the *Smith* approach wholly, and Congress responded to the decision by passing the Religious Free Restoration Act (the “RFRA” or the “Act”).¹⁴² The Act inevitably brought back the “compelling” interest standard, as discussed below, and thus, schools may only burden a student’s religious exercise where the school can show a “compelling interest” and the least restrictive means possible are employed to protect that interest.¹⁴³

2. Establishment Clause

The Establishment Clause prohibits the government, states, or state actors from endorsing, establishing, or creating preference for a religion.¹⁴⁴ For decades, the doctrine that evaluated whether a government action violated the Establishment Clause was the “*Lemon Test*.”¹⁴⁵ The *Lemon Test* comprised of three prongs, and if a government action violated any one of them, the action or law was unconstitutional: (1) the action/law has a secular purpose; (2) the action/law does not advance or inhibit religion; and (3) the action/law does not contain excessive government entanglement with religion.¹⁴⁶ However, in the 2022 *Kennedy v. Bremerton* decision, the Supreme Court did away with the *Lemon Test* to evaluate Establishment Clause violations.¹⁴⁷ In *Kennedy*, the Supreme Court held that the First Amendment protects a high-school football

137. *Id.*; *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

138. Gedicks & McConnell, *supra* note 135; *Yoder*, 406 U.S. at 220.

139. Gedicks & McConnell, *supra* note 135; *Emp. Div., Dep’t of Hum. Res. of Or. v. Smith*, 494 U.S. 872 (1990).

140. *Smith*, 494 U.S. at 879.

141. ERWIN CHEREMINSKY, *CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES* 1363 (6th ed. 2019).

142. Gedicks & McConnell, *supra* note 135.

143. Jade Yeban, *Religious Accommodations for Students*, FINDLAW (Jan. 10, 2024), <https://www.findlaw.com/education/student-rights/religious-accommodation-for-students.html>.

144. *See* U.S. CONST. amend. I.

145. Peter Greene, *The Supreme Court Killed a Fifty-Year-Old Test for Church and State Separation. Will We Miss It?*, FORBES (July 13, 2022, 4:26 PM), <https://www.forbes.com/sites/petergreene/2022/07/13/the-supreme-court-killed-a-fifty-year-old-test-for-church-and-state-separation-will-we-miss-it/?sh=2aa5aef0765a>.

146. *Id.*

147. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 535–36 (2022).

coach praying on the football field after their game.¹⁴⁸ As with other recent Supreme Court decisions, this case established that history and tradition must be used as the guiding mechanism to evaluate Establishment Clause violations.¹⁴⁹

3. *The First Amendment, The Statutes, and Religious Accommodations*

Following interpretative case law on the freedom of religion clauses, the RFRA became a supplemental mechanism for providing “exemptions in a wide range of federal [actions].”¹⁵⁰ The Act states:

Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability, except . . . if [the government] demonstrates that application of the burden to the person (1) is in furtherance of a compelling governmental interest; (2) is the least restrictive means of furthering that compelling government interest.¹⁵¹

One notable application of the RFRA to federal action was in *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*.¹⁵² A city’s local ordinances prohibited the “unnecessary kill[ing] [of an] animal in a public or private ritual or ceremony not for the primary purpose of food consumption.”¹⁵³ However, the Santeria religion sacrificed animals as a form of worship.¹⁵⁴ The Supreme Court agreeably struck down the law as a violation of the RFRA.¹⁵⁵ Under the RFRA, governmental action that imposes a substantial burden on religious exercise (1) must serve a compelling government interest; and (2) must also constitute the least restrictive alternative of serving interest.¹⁵⁶ The Supreme Court held that there were other ways to ensure public health and animal safety and that this law was not the least restrictive alternative.¹⁵⁷

In addition to this supplemental protection, the RFRA has become a binding agent between the Free Exercise and the Establishment Clauses. Claims made under the RFRA have established that individuals have “the right to seek appropriate accommodation when [their] religious practices conflict with government policy.”¹⁵⁸

148. *Id.* at 514.

149. *Id.* at 535–36 (“In place of *Lemon* and the endorsement test, this Court has instructed that the Establishment Clause must be interpreted by ‘reference to historical practices and understandings.’ . . . ‘[T]he line’ that courts and governments ‘must draw between the permissible and the impermissible’ has to ‘accor[d] with history and faithfully reflect the understanding of the Founding Fathers.’”).

150. Gedicks & McConnell, *supra* note 135.

151. Religious Freedom Restoration Act of 1973, 42 U.S.C. § 2000bb-1(a)–(b).

152. 508 U.S. 520 (1993).

153. *Id.* at 527.

154. *Id.* at 526.

155. *Id.* at 524.

156. *Id.* at 546.

157. *Id.*

158. Marci A. Hamilton & Michael McConnell, *Interpretation & Debate: The Establishment Clause*, NAT’L CONST. CTR., <https://constitutioncenter.org/the-constitution/amendments/amendment-i/interpretations/264> (last visited May 1, 2024) (“Hundreds of federal, state, and local laws exempt or accommodate religious believers or institutions from otherwise neutral, generally-applicable laws for whom compliance would conflict with

For example, in *Holt v. Hobbs*, a unanimous Supreme Court held that a Muslim prisoner could grow a beard as a religious accommodation without violating the First Amendment.¹⁵⁹ In *Holt*, an inmate, Abdul Muhammad, brought a claim against Arkansas state prison for denying him the right “to grow a half-inch beard in accordance with his religious beliefs.”¹⁶⁰ He brought his claim under the RFRA equivalent in the context of prisons, the Religious Land Use and Institutionalized Persons Act (the “RLUIPA”).¹⁶¹ The State argued that it prohibited Muhammad from growing a beard to further prison safety and security.¹⁶² It claimed that this policy “prevent[ed] prisoners from hiding contraband” and “prevent[ed] prisoners from disguising their identities.”¹⁶³

First, the Court found that Muhammad’s request for this accommodation met the Court’s standard established in *Burwell v. Hobby Lobby* because his request was “sincerely based on a religious belief” and not idiosyncratic.¹⁶⁴ Second, the Court explained that while both of the state’s reasons were compelling, the execution of these reasons was not by the least restricting means.¹⁶⁵ “The least-restrictive-means standard is exceptionally demanding,” and it requires the government to “sho[w] that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion by the objecting part[y].”¹⁶⁶ By inspecting one’s beard for contrabands and taking periodic pictures of inmates, both interests could be met without infringing on Muhammad’s religious exercise.¹⁶⁷ Furthermore, as Justice Ginsberg and Justice Sotomayor pointed out in concurrence, “Unlike the exemption this Court approved in [*Burwell*], accommodating [Muhammad’s] religious belief in this case would not detrimentally affect others who do not share [his] belief.”¹⁶⁸ While this case involved an inmate in a prison setting, the general principles of religious accommodations are permissible as long as they do not harm the public, favor one religion over another, and “lift a governmental obstacle to the exercise of religion.”¹⁶⁹

religiously motivated conduct. Examples include military draft exemptions, kosher or halal meals for prisoners, medical neglect exemptions for parents who do not believe in medical treatment for their ill children, exemptions from some anti-discrimination laws for religious entities, military headgear requirements, and exemptions for the sacramental use of certain drugs. The Supreme Court has addressed very few of these exemptions.”)

159. *Holt v. Hobbs*, 574 U.S. 352, 356 (2015).

160. *Id.* at 355–56.

161. *Id.* at 356.

162. *Id.* at 363.

163. *Id.* at 363, 365.

164. *Id.* at 360–61.

165. *Id.* at 364–65.

166. *Id.*

167. *Id.* at 366.

168. *Id.* at 370 (Ginsburg, J. concurring).

169. Michael McConnell, *The Establishment Clause: Co-Guarantor of Religious Freedom*, NAT’L CONST. CTR., <https://constitutioncenter.org/the-constitution/amendments/amendment-i/interpretations/264#:~:text=And%20the%20Supreme%20Court%20has,favor%20one%20faith%20over%20another> (last visited May 1, 2024).

The latest case on religious accommodations evaluated by the Supreme Court was this past summer in *Groff v. DeJoy*.¹⁷⁰ Groff, a former United States Postal Service (“USPS”) employee, claimed it was against his religious beliefs as a Christian to work on Sundays and requested that he be accommodated for his absence.¹⁷¹ However, Groff’s employer continued to schedule him for Sunday shifts.¹⁷² Groff resigned after a series of absences, where there was a lack of volunteers to take over for him and he was subjected to progressive discipline for his absences.¹⁷³ Groff sued the USPS under Title VII of the Civil Rights Act of 1964 because they failed to provide a religious accommodation.¹⁷⁴ Though the crux of the analysis in *Groff* relied on a different standard and legal doctrine of “undue burden,”¹⁷⁵ the unanimous opinion noted that no employer “can avoid accommodating a religious employee by showing anything more than a trivial burden.”¹⁷⁶ Implications of this decision included that employers seek “various options at their disposal to provide accommodation; they cannot conclude that one form of accommodation poses an undue hardship and refuse to look at alternatives.”¹⁷⁷ Interestingly, in discussing the seminal case that first defined the scope of “undue burden” for religious accommodations in the workplace, the Court noted the Establishment Clause concerns “played no on-stage role.”¹⁷⁸

Though these precedents, doctrines, and jurisprudence do not require public law schools to provide religious accommodations, they do not prohibit them. To avoid any constitutional pushback, like the state tried to do against Muhammad, law schools should ensure that they provide religious accommodations in an evenhanded manner. By the same token, if law schools deny religious accommodations, they should be aware of constitutional pushback against them if their prohibitions are not (1) furthering a compelling interest and (2) accomplishing the interest by the least restrictive means. This includes awareness of establishing any “burden” on the school equivalent to surpass *de minimus* burdens, as illustrated in *DeJoy*.

Those who worry that providing religious accommodations is a religious endorsement must note that allowing students to follow their religious practices does not equate to an institution endorsing the religion. By allowing Muhammad to grow a beard, the state prison is not endorsing Islam but simply allowing him to practice his faith freely. “The ‘separation of church and state’ does not mean

170. 600 U.S. 447 (2023).

171. *Id.* at 454–55.

172. *Id.* at 455.

173. *Id.*

174. *Id.* at 456.

175. *Id.* at 457.

176. ABIGAIL A. GRABER, CONG. RSCH. SERV., LSB10999, GROFF V. DEJOY, SUPREME COURT CLARIFIES EMPLOYMENT PROTECTIONS FOR RELIGIOUS WORKERS 2 (2023), <https://crsreports.congress.gov/product/pdf/LSB/LSB10999>. See *DeJoy*, 600 U.S. at 457.

177. GRABER, *supra* note 176, at 3.

178. *DeJoy*, 600 U.S. at 461.

that there is an impermeable wall between the two,”¹⁷⁹ but rather allows for “an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma.”¹⁸⁰

II. THE OBSTACLES FACING MUSLIM LAW STUDENTS

There are various issues that arise for Muslim law students who want to practice freely on their law school campuses. While reading these issues, it is essential to acknowledge that Muslim students live at the intersection of diverse experiences. Muslims belong to various sects, such as *Shia* and *Sunni*, racial, ethnic, or national origin demographics, and various levels of commitment to practice. Many are first-generation, low-income, immigrants, refugees, or hold other marginalized identities. All to say, not every Muslim student will have the same experiences or require the same accommodations, if any. However, as the Supreme Court noted in *Holt v. Hobbs*, even if a person’s religious belief is idiosyncratic, the First Amendment guarantees are “not limited to beliefs which are shared by all of the members of a religious sect.”¹⁸¹ While Muslim students have a spectrum of experiences, many common problems arise in law schools due to unmet needs. Requests may differ; however, there should be policies that administration and faculty know about to accommodate the student’s needs adequately.

A. SALAT

One problem Muslim students face is finding a clean space on campus to complete their obligatory prayers. One of the Five Pillars of Islam and one in daily practice is *salat* or prayer.¹⁸² The day has five obligatory prayers: pre-sunrise, noon, afternoon, sunset, and evening.¹⁸³ Before praying, Muslims do *wudhu* or cleanse their mouth, nose, face, arms, hands, and feet.¹⁸⁴ Then, the prayer is done on a clean surface or a prayer mat.¹⁸⁵ The motions of the prayer include standing, bowing, prostrating, and sitting on the surface.¹⁸⁶ Each prayer lasts about ten to fifteen minutes depending on reciting speed, the verses of the

179. Hamilton & McConnell, *supra* note 158.

180. *Zorach v. Clauson*, 343 U.S. 306, 313 (1952).

181. *Holt v. Hobbs*, 574 U.S. 352, 362 (2015) (quoting *Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 715–16 (1981)).

182. Alean Al-Krenawi & John R. Graham, *Islamic Theology and Prayer: Relevance for Social Work Practice*, 43 INT’L SOC. WORK 289, 294 (2000).

183. *Id.*

184. *Salat: Daily Prayers*, PLURALISM PROJECT, <https://pluralism.org/salat-daily-prayers> (last visited May 1, 2024).

185. Rym Ghazal, *The Significance of Prayer Mats*, NATIONAL (June 17, 2015), <https://www.thenationalnews.com/arts/the-significance-of-prayer-mats-1.95066>.

186. *Salat: Daily Prayers*, *supra* note 184.

Quran one recites, or proceeding, additional prayers one makes.¹⁸⁷ Aside from the pre-sunrise prayer, all prayers are during hours in which law students may have classes or exams. Beyond obligatory daily prayers, many Muslims participate in the Friday congregational prayers, or *Jummah*.¹⁸⁸ *Jummah* is led by the Imam, the leader of the prayer, preceded by a two-part sermon known as the *khutbah*.¹⁸⁹

The potential problems faced by Muslim students seeking to pray are (1) the lack of a clean prayer space on campus and (2) the discomfort or impossibility of excusing oneself from class or exam time to pray for daily or *Jummah* prayers. These problems have resulted in Muslim law students scrambling to find empty classrooms or random spaces, including fire escape exits, to pray.¹⁹⁰ For example, Zahra Billoo, executive director of CAIR in the San Francisco Bay Area and a UCLSF alumna, mentioned to me, as I showed her UCLSF's newest prayer space, "I remember I would pray in the staircases near the fire escape, or rush over to the Mosque [the house of worship for Muslims] on Jones St. between classes."

Additionally, because there is an allotted amount of time to pray each *salat*, if no space to pray exists or potential areas are unavailable, it may lead to missing a prayer altogether. Internalized discomfort may make students reluctant to ask professors to leave for prayer or space to pray. In an interview regarding religious accommodations, Andaleeb Rahman, an undergraduate student at the University of Virginia, voiced that, growing up, his parents were too reluctant to ask teachers for prayer space or time.¹⁹¹ "We decided as a family that I would not pray when I was at school [and] [a]fter school I would rush home and try to say make-up prayers."¹⁹² Muslim students like Rahman find themselves at a crossroads requiring them to choose between their obligations for their faith and their education. There must be creative solutions to ensure these can coexist.

B. RAMADAN

Another issue that often arises for Muslim students is completing their obligatory fasts during Ramadan while also in law school. Ramadan is one of

187. *Answers to Frequently Asked Questions About Islam and Muslims*, ISLAMIC NETWORKS GRP., <https://ing.org/resources/for-all-groups/answers-to-frequently-asked-questions/answers-to-frequently-asked-questions-about-islam-and-muslims> (last visited May 1, 2024).

188. *Jum'ah: The Friday Prayer*, PLURALISM PROJECT, <https://pluralism.org/jum'ah-the-friday-prayer> (last visited May 1, 2024).

189. *Id.*

190. In conversation about religious accommodations with previous UCLSF students, alumni like Zahra Billoo and Sajid Khan offered their law school experiences as Muslim students.

191. Mercedes White, *Muslim Students Struggle to Practice Faith in U.S. Schools, Seek Accommodation for Religion*, DESERET NEWS (Feb. 24, 2012, 10:57 PM PST), <https://www.deseret.com/2012/2/25/20395828/muslim-students-struggle-to-practice-faith-in-u-s-schools-seek-accommodation-for-religion>.

192. *Id.*

the holiest months in the Muslim faith.¹⁹³ Fasting during Ramadan is one of the Five Pillars of Islam¹⁹⁴ and is mandatory for those who are of age and without dire illnesses.¹⁹⁵ Muslims abstain from eating and drinking, including water, from dawn to dusk for the entire month of Ramadan.¹⁹⁶ Muslims are also encouraged to observe the five daily prayers on time and to use the time just before breaking their fast at sunset to recite from their holy book, the Quran.¹⁹⁷ After the sunset prayer, a large feast is shared with family and friends.¹⁹⁸ The end of Ramadan marks a time of intense worship.¹⁹⁹ Some Muslims go into seclusion on those final days, spending all their time in the mosque.²⁰⁰ The end of Ramadan is celebrated by a holiday called *Eid al-Fitr*.²⁰¹

A Muslim student who observes the Fast adheres to a schedule like the following:

Ramadan Schedule for Muslim Students ²⁰²	
<i>These times are estimates.</i>	
4:30 AM	<i>Suhoor</i> . This is the pre-dawn meal that precedes the fast. Some people may get up earlier to cook this meal for themselves or others they may live with.
5:30 AM	<i>Fajr</i> . Morning prayer.
5:30 AM to 7:30 PM	<i>Fasting hours</i> . Students will have no food or drink during this time as they go to classes, take exams, and complete other responsibilities.
1:15 PM	<i>Duhr</i> . Noon prayer.
4:50 PM	<i>Asr</i> . Afternoon prayer.
7:30 PM	<i>Maghrib</i> and <i>Iftar</i> . Sunset is time for prayer and the breaking of the fast.
8:50 PM	<i>Isha</i> . Night prayer.
10:00 PM to 12:00 AM	<i>Taraweeh</i> prayers. These are additional congregational prayers recited during the month of Ramadan, aiming to complete the recital of the Quran (Holy Book) by the end of the month. Many Muslims will perform these prayers every night of Ramadan.

193. Sheikh Saalim Al-Azhari, *Sawm (Fasting)*, ISLAMIC RELIEF UK (Apr. 5, 2023), <https://www.islamic-relief.org.uk/resources/knowledge-base/five-pillars-of-islam/sawm>.

194. *Id.*

195. *Id.*

196. *Ramadan and Eid Al-Fitr*, PLURALISM PROJECT, <https://pluralism.org/ramadan-and-eid-al-fitr> (last visited May 1, 2024).

197. *Id.*

198. *Id.* at 2.

199. Mufti Bilal Omarjee, *The Night of Power – Laylatul Qadr*, ISLAMIC RELIEF UK (Mar. 8, 2023), <https://www.islamic-relief.org.uk/giving/islamic-giving/ramadan/laylatul-qadr>.

200. *Id.* The worship in seclusion is called “*Itikaf* (devotion to *Ibaadah* inside a mosque for the last ten nights).” *Id.*

201. Al-Krenawi & Graham, *supra* note 182, at 295.

202. See Letter from Aya Ouda, Senator at-Large for Muslim Students, Migrants, Refugees, and Undocumented Students and the Dir. of Comm’n’s, N.Y.U Student Gov’t Assembly, to N.Y.U. Admin., Observance of Ramadan (Nov. 7, 2019) (available at <https://www.nyu.edu/content/dam/nyu/stuSenatorsCouncil/documents/2019-20/Letter%20of%20Support%20on%20Observance%20of%20Ramadan.pdf>).

As illustrated above, Ramadan is not simply limited to fasting but is an ongoing series of events, prayers, and preparation.²⁰³ Problems arise when Muslim students are expected to perform at their best level while sleep-deprived, hungry, and prioritizing their spirituality during this time. Additionally, because the beginning of Ramadan moves back ten days every year, per the lunar calendar, this expectation to perform may be during the semester or finals. Unlike other set academic calendar holidays like Christmas, which always falls in Winter Break, Ramadan cycles the entire academic calendar. This means Muslim law students are reading for classes, preparing for cold calls, potentially breaking their fast during class, or taking their exams while fasting. Failing to provide proper accommodations in classroom or final settings puts Muslim students in a distinct dilemma: prioritizing academics or their religion.

C. RELIGIOUS HOLIDAYS

As noted previously, Muslims observe two major religious holidays: *Eid-al-Fitr* and *Eid-al-Adha*.²⁰⁴ The former is celebrated at the end of Ramadan, marking the spiritual month's end and celebration.²⁰⁵ The latter is celebrated "at the time of Hajj or pilgrimage to Mecca by Muslims who did not go on the pilgrimage."²⁰⁶ Both are celebrated for three days, participating in congregational morning prayers and visiting family and friends.²⁰⁷ Because these holidays also follow the lunar calendar,²⁰⁸ they fall back every ten to eleven days yearly. This rotating timeline means, again, classes or exams may overlap. This overlap again puts Muslim law students in a challenging position to attend class, take their exams, or celebrate their religious holidays. Law students are again torn between showing up for classes, taking their exams, or fulfilling attendance policies at the expense of embracing their religious identity.

D. DIETARY RESTRICTIONS

Islam prohibits the consumption of pork or pork by-products, non-halal meat, and alcohol.²⁰⁹ *Halal* is Arabic for "permissible."²¹⁰ For meat to be *halal*, specific Islamic dietary laws must be followed, for example, the exclusion of pork.²¹¹ While pork may be easily detectable, pork by-products could be more

203. *Ramadan Information Sheet*, ISLAMIC NETWORKS GRP., <https://ing.org/resources/for-all-groups/calendar-of-important-islamic-dates/ramadan-information-sheet> (last visited May 1, 2024).

204. *Religious Practices of Muslim Students in Public Schools*, ISLAMIC NETWORKS GRP., <https://ing.org/resources/for-educators/other-educator-resources/religious-practices-of-muslim-students-in-public-schools> (last visited May 1, 2024).

205. Al-Krenawi & Graham, *supra* note 182, at 295.

206. *Religious Practices*, *supra* note 204.

207. *Id.*

208. *Id.*

209. *Id.*

210. *Id.*

211. *Id.*; Kathryn Hill, *Here's What You Should Know About Halal Meat*, KITCHN (Aug. 21, 2023), <https://www.thekitchn.com/good-question-what-is-halal-me-60979>.

difficult to distinguish. These products include gelatin found in marshmallows.²¹² While most law schools provide vegetarian diets that may avoid some dietary issues, there is less effort to address Muslim students' concerns about consuming non-*halal* foods.²¹³

Adding to Muslim law students' concern about restricted availability of food and beverages they can consume is the ubiquity of alcohol.²¹⁴ During my law school orientation, a presenter asked us to look at the person to our left and then at the person to our right. She then said at least one of the three of us would become an alcoholic. That same day, we held a convocation where alcohol was served, followed by semester checkpoint "celebrations," which, prior to this year, were called "Beer on the Beach."

In 2014, fifteen law schools participated in a survey funded by the American Bar Association's Enterprise Fund and Commission on Lawyer Assistance Programs assessing the alcohol, drug, and mental health issues among law students.²¹⁵ The survey found that 53 percent of students got drunk at least once within thirty days of receiving the survey,²¹⁶ 43 percent of students binge drank within two weeks of receiving the survey,²¹⁷ and 19.3 percent of students missed class at least once because of drinking,²¹⁸ and 13.9 percent were afraid they might be alcoholics.²¹⁹ The pervasiveness of alcoholism within the profession and at academic institutions leading up to the profession are sufficient to advocate for alcohol alternatives at campus events.

UCLSF did provide alcohol alternatives at convocation, but this is one example of how *all* law school events should ensure that alcohol alternatives for those who do not drink, including practicing Muslims, are available.

E. ATTIRE

Muslims, particularly Muslim women, wear modest attire known as *hijabs* and *niqabs*. However, assuming Islamophobia and unfamiliarity with the religion exist, there is constant threat and harassment surrounding the wearing of such garments.²²⁰ Last year, an eighth grader in Massachusetts received an

212. *Everything but the Oink By-Products from Pigs*, FARM CREDIT OF VIRGINIAS (Jan. 17, 2023), <https://www.farmcreditofvirginias.com/knowledge-center/blog/everything-oink-products-pigs>.

213. *Being a Muslim College Student in America*, AFFORDABLE COLLS. ONLINE (Apr. 12, 2023), <https://www.affordablecollegesonline.org/college-resource-center/muslim-student-support>.

214. TORONTO PUB. HEALTH, GUIDE TO UNDERSTANDING HALAL FOODS 2 (2004), <https://www.halalrc.org/images/Research%20Material/Literature/Guide%20to%20Halal%20Foods.pdf>.

215. See generally Jerome M. Organ, David B. Jaffe & Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116 (2016).

216. *Id.* at 129.

217. *Id.*

218. *Id.* at 132.

219. *Id.*

220. *Religious Practices*, supra note 204. See, e.g., Beatrice Dupuy, *Muslim Students Are Getting Their Hijabs Pulled Off by Teachers in Classrooms Across the Nation*, NEWSWEEK (Nov. 16, 2017, 6:02 PM), <https://www.newsweek.com/teacher-placed-leave-hijab-pulling-714356> ("Virginia school district has placed a

uniform infraction for wearing a *hijab*.²²¹ The school's superintendent responded to the backlash by clarifying that *hijabs* are permissible but that the student needed to first seek a religious accommodation to wear it.²²² Additionally, in 2024 student encampment protests against the war on Gaza, Muslim women students have been subject to removal of their hijab by police officers called to the scene by college administration.²²³

As Tahirah Amatul-Wadud, executive director of CAIR in Massachusetts, eloquently put it, wearing a *hijab* should not require seeking religious accommodations.²²⁴ However, the legal status of Muslim attire like the *hijab* is constantly in flux. In 2016, Georgia state representative Jason Spencer introduced a bill that would illegalize and penalize women wearing a headscarf in public.²²⁵ Similarly, France banned women and girls who played sports from wearing the *niqab* and the *hijab*.²²⁶ To promote equity and inclusion in opposition to Islamophobia, an individual's unequivocal right to wearing a *hijab* free from discrimination, should be articulated in campus policies and handbooks.

teacher on leave for removing a student's hijab from her head."); Jeff Goldberg, *2 Muslim Students at Va. High School Has to Carry Permission Slips to Wear Hijabs*, ABC7NEWS (June 2, 2017, 7:23 PM), <https://wjla.com/news/local/2-muslim-students-at-freedom-high-school-had-to-carry-permission-slips-to-wear-hijabs> ("Mansaray and Bah say all year school administrators have required them to carry signed notes from their mothers giving them permission to wear a hijab. Bah says Thursday a staffer asked for her note but Bah didn't have it. She says the staffer then told her to take off the hijab or go home, 'I was like, 'I refuse. I'm not taking it off because of my religion.'"); CAIR-CA 2017 School Bullying Report, COUNCIL ON AM.-ISLAMIC RELS. S.F. BAY AREA 1, 7 (2017), https://ca.cair.com/sfba/wp-content/uploads/sites/10/2018/04/2017_CAIR-CA_School_Bullying_Report.pdf ("More specifically, 36% of 2016 survey respondents who wear the hijab reported being targets of having their hijab tugged, pulled or other forms of offensive touching."); CAIR-CA 2023 Bullying Report, COUNCIL ON AM.-ISLAMIC RELS. S.F. BAY AREA 1, 8 (2023), https://ca.cair.com/sfba/wp-content/uploads/sites/10/2023/11/CAIR-CA-2023-Bullying-Report_Digital.pdf.

221. Assoc. Press, *Muslim Girl in US School Is Told Her Hijab Breached Uniform Code*, NATIONAL (Aug. 21, 2022), <https://www.thenationalnews.com/world/us-news/2022/08/21/muslim-girl-in-us-school-is-told-her-hijab-breached-uniform-code>.

222. *Id.*

223. Jacon Rosenberg and Najib Aminy, *A Columbia University Protester Says the NYPD Made Her Remove Her Hijab-Despite New Policy*, MOTHERJONES (May 16, 2014), <https://www.motherjones.com/politics/2024/05/protester-columbia-nypd-hijab-gaza-israel-encampment>; Helen Rummel and Dylan Wickman, *Muslim Leaders Denounce Officers For Removing Woman's Hijab During ASU Protest Arrests*, AZCENTRAL (May 2, 2024, 9:00 PM), <https://www.azcentral.com/story/news/local/tempe-breaking/2024/04/29/asu-police-removed-womans-hijab-during-pro-palestinian-protests-muslim-leaders-say/73506348007>; Neshmia Malik and Erik Runge, *Chicago Police Clears Anti-War, Pro-Palestine Encampment*, NEWS NATION (May 16, 2024, 1:11 PM), <https://www.newsnationnow.com/world/war-in-israel/chicago-student-protest-depaul-university>.

224. *Id.*

225. Felix Garcia, *US State Bill Could Make Hijabs and Niqabs Illegal in Public*, INDEP. (Nov. 17, 2016, 5:40 PM), <https://www.independent.co.uk/news/world/americas/georgia-hijab-niqab-ban-illegal-bill-islam-muslims-law-a7423441.html>.

226. Shaista Aziz, *France Is on a Dangerous Collision Course with its Muslim Population*, CNN (Feb. 5, 2022, 1:20 PM), <https://www.cnn.com/2022/02/05/opinions/france-hijab-ban-sports-aziz/index.html>.

F. CRISIS SUPPORT/FACULTY

Almost all law schools have developed a diversity, equity, and inclusion committee of some kind. However, little is done to prepare these committees for what actions they should take when a problem arises. Specifically, little is done to educate faculty, committees, or students on how to handle Islamophobia on law school campuses.²²⁷ Simply reporting to the Dean of Students is insufficient. In 2022, the MLSA at Georgetown University Law called on the administration to address a professor's Islamophobic class curriculum and exams, which included an exam requiring students to advocate for the removal of the Muslim veil.²²⁸ This case is one example of why Islamophobia should be part of faculty training or addressed in student handbooks.²²⁹

Muslim law students should not be burdened with experiencing discrimination and being the sole advocates for their safety and inclusion on campus.²³⁰ A 2017 research done at the University of Southern California's Center for Education, Identity, and Social Justice, "Sense of Belonging and Mattering," showed that higher-education Muslim students had taken the burden in addressing Islamophobia on campuses.²³¹ Muslim students felt they were the spokespeople for defending "their religion from misconceptions and stereotypes"²³² and tokenized to "showcase[] to external constituents as examples of a diverse student body but did not necessarily receive the support they needed to thrive on campus."²³³ Muslims are one example of a minority taking on the burdens of their communities. Law school mission statements often include how their institution promotes diversity, equity, and inclusion to benefit their student population. Diversity is imperative, especially in law school, where advocates train to work with clients who may not share their values. However, diversity should not be at the detriment of the very marginalized communities that come to enhance law school's diversity.

III. SOLUTIONS AND RECOMMENDATIONS

Accommodations are not easy to ask for or even admit to needing. Law school administrators should be prepared to evaluate and respond to the needs of their Muslim students given the social and political background of Muslim students, the complications and problems that may arise, and legal obligations

227. See generally Singer, *The Imperative to Support Muslim Students*, *supra* note 111.

228. Sinutko, *supra* note 114.

229. White, *supra* note 191 ("Lack of understanding and apprehension about the Islamic faith 'makes (educators) ill-prepared to effectively work with the differences Muslim students bring to the classroom,' said Katerine Bruna, professor of multicultural education at Iowa State University.").

230. Singer, *The Imperative to Support Muslim Students*, *supra* note 111.

231. SHAFIQA AHMADI, DARNELL COLE, ALEX ATASHI, MARITZA SALAZAR, MABEL SANCHEZ & YUTONG LIU, *CTR. EDUC. IDENTITY & SOC. JUST., SENSE OF BELONGING AND MATTERING* 21 (2019).

232. *Id.* at 18.

233. *Id.*

and limitations. Respecting a religion means allowing students the space to follow it.

A. SALAT

The primary solutions for *salat* include (1) a prayer space and (2) time to pray. Firstly, law school campuses should have a quiet, clean area for students to pray. This accommodation would not impede the requirements and restraints provided by the religious clauses because this space would be open to everyone, and the use of which would be voluntary and necessary for Muslims to practice their faith. Secondly, law schools should give Muslim law students reasonable time to pray during class or exams. For example, MLSA representatives at the University of Pennsylvania Carey Law School and Harvard Law School stated that Muslim students were provided break periods during exams to pray.²³⁴ Additionally, at the University of Virginia School of Law, the representative mentioned that their school allows students to leave during class to pray.

The policies could be provided in course syllabi or student handbooks to apply this accommodation generally. For example, professors could include a policy in their syllabus that students requesting any accommodations, such as religious accommodation for prayer, should inform the professor at the beginning of the semester. This would avoid tense confrontations and provide a supportive environment for Muslim students.

B. RAMADAN

Addressing Ramadan in one of the most challenging graduate school programs is essential. Regardless of the sect or where a Muslim finds herself along the “religious” spectrum, Ramadan is observed by all through fasting, praying, or small acts of self-improvement. Muslim students need an exceedingly high level of support during this time. It would not burden the school or faculty to primarily be informed of the religious month and formulate a means and end to potential requests for accommodations. Though not legally required to take these measures, law schools should still adopt them because they are reasonable requests that ultimately assist a Muslim student’s performance. In addition, these requests relate to educating the campus, garnering understanding for classroom and exam accommodations, and meal options for fasting students so this would not burden other students.

1. *Educate the Campus*

First, faculty should be made aware of the month, provided details of what the month is about, and policies in place or accommodations they may provide.

234. In preparation for a meeting with the Deans at UCLSF to solidify Ramadan accommodations, I contacted various law schools’ MLSA Board Members via email and social media. I asked the representatives what Ramadan accommodations or general accommodations their law school provided to Muslim students. I recorded their responses in a chart, and this information is what they replied with.

Administrators can do this by email or training at faculty meetings, ideally before professors create their syllabi.²³⁵ Second, the reminder should be sent out during Ramadan to ensure faculty are prepared to assist students. Third, the admin should educate adjunct professors on this topic and its policies. Since these professors are not part of the immediate faculty and are often swapped around, the admin can clarify these policies in the student handbook. These steps help ensure clear communication and well-rounded planning and prevent blind-sightedness and confusion for professors on what they can accommodate.

2. *Classroom Accommodations*

Since students are often sleep-deprived, fatigued, and constrained for time, Muslim students observing Ramadan inevitably need to work twice as hard to catch up to other students in class. Studying and learning on an empty stomach and less than six hours of sleep are common reasons someone may fall behind.

a. *In-person attendance*

Students should be allowed to join classes remotely or watch the lectures online without being penalized for attendance. This is often helpful for students commuting early in the day or late at night. In addition, the attendance policy should clearly show how many virtual classes a student may attend following ABA requirements.²³⁶ Muslim students should also promptly communicate any in-person absences with their professors. Finally, both professors and students should find attendance alternatives to make up for participation if needed.

b. *Prayer & Iftar break during class*

Similar to students permitted to leave class for an appropriate time to pray, there should be an accommodating time for breakfast (which may not always align with designated class breaks). Simply breaking the fast with water and a date after over thirteen hours of fasting is insufficient. Instead, students should be allowed to step out to pray and break their fast for a reasonable time.

c. *Cold-calls/On-call*

Students should be given flexibility on cold calls and on-call if requested by the professor for the reasons mentioned above.

235. MLSA representatives from the University of Michigan Law School stated their administration sends out an email which lists Ramadan accommodation suggestions for professors to follow when navigating Muslim students' experiences in classrooms.

236. AM. BAR ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023 23 (2022), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2022-2023/2022-2023-standards-and-rules-of-procedure.pdf ("A law school shall adopt, publish, and adhere to sound academic standards, including those for regular class attendance . . .").

d. *Extra office hours and nuanced needs*

Professors should be open to allotting additional office hours for students to catch up on material for a class they may have missed due to attendance or difficulty concentrating. Additionally, professors should be reminded to ask the administration for proper procedure and policy if they are unsure about providing the requested accommodation. Students are already spread thin during this month, and putting the burden on them to figure out an approach creates hesitancy on behalf of the student and inefficiency in providing accommodation.

3. *Exam or Assignment Extension*

Law schools should offer appropriate academic extensions for students fasting, which includes but is not limited to allowing students fasting or celebrating *Eid* to take their finals or midterms at an allotted time that works for them, offering extensions during times of late-night prayers, especially during the last ten nights of Ramadan. For example, Emory Law provided exam accommodations for rescheduling last year when Ramadan coincided with finals.

4. *Meal Prep Options for Iftar*

There is a likely possibility that (1) *Iftar* and classes overlap, and (2) that students will not have the time or resources to provide for themselves the two meals they will have for the day. Law schools should find undergraduate campus programs, like Harvard University's Ramadan Meal Program, as guiding and ideal accommodations. Harvard Law continues to have affordable *Suhoor* packaging for students. Law schools should consider providing *halal* meal options or snacks available to purchase, like Harvard Law's meal prep program, to break their fast with if they are on campus or in the middle of classes.

C. RELIGIOUS HOLIDAYS

Law schools should consider making *Eid-al-Fitr* and *Eid-al-Adha* official holidays.²³⁷ Ahmed Nezar Kobeisy, an Imam of the Syracuse Masjid, spearheaded the successful effort at Syracuse University to mark *Eid-Al-Fitr* as an official school holiday.²³⁸ There is a counterargument that if law schools start accommodating Muslim holidays, then where do schools stop? Does this extend to Jewish, Hindu, Sikh, and Mormon holidays? As most law schools are secular, public universities that do not want to endorse religion by providing a holiday for the entire school. If that's the case, then holidays like Christmas should be

237. *Being a Muslim College Student in America*, *supra* note 213 ("Syracuse University is a good example of a school leading the way to this inclusivity; Eid al Fitr is now an official holiday at the school, thus allowing Muslims to properly celebrate the end of Ramadan.")

238. Naheed Mustafa, *Two Colleges' Accommodation of Muslim Students*, SOUND VISION (1996), <https://www.soundvision.com/article/two-colleges-accommodation-of-muslim-students>.

re-evaluated.²³⁹ Suppose the school-wide holiday is not an option, as it might conflict with Establishment Clause barriers. In that case, Muslim students should be accommodated for excused absences on those religious holidays. In either scenario or solution, faculty and professors must be informed, and ideally, these holidays should be represented in institutional policies. This way, there is a smooth process to request and approve accommodations. For example, the University of Pennsylvania Carey Law School's religious holiday policy reads:

The University recognizes that there are other holidays, both religious and secular, which are of importance to some individuals and groups on campus. Such occasions include, but are not limited to . . . the Muslim New Year, Diwali, Navaratri, Rama Navami, Paryushan, and the Islamic holidays Eid Al-Fitr and Eid Al-Adha. Students who wish to observe such holidays must inform their instructors . . . and [s]tudents who make such arrangements will not be required to attend classes or take examinations on the designated days, and faculty must provide reasonable opportunities for such students to make up missed work and examinations.

Communicating to professors that these holidays exist, and that law students might be absent from class, avoids shifting the burden onto Muslim students. Students should still inform their professors of their absence and list *Eid* as the reason why. However, proactively educating faculty avoids potential push-back and back and forth between faculty and administration. When such emails to inform a professor or to request accommodation are met with resistance, it pushes Muslim students back into their cages, not to ask at all. Creating space for Muslim students to request holiday accommodations would allow law schools to cultivate an inclusive environment for this student community.

D. DIETARY RESTRICTIONS

Law schools should strive to work towards inclusive meal options and alcohol-free alternatives. While law schools have slowly worked to provide vegan and vegetarian options on campuses, *halal* options are scarce. For example, Columbia University offers *halal* meal plans for registered students.²⁴⁰ While law school is different in that there are fewer undergraduate housing and meal programs, efforts should be made to include *halal* options at law school networking events, orientations, and general school events. This can be done by having *halal* options readily available for school-sponsored events or providing RSVPs that include “*halal*” as a dietary option. Many law school events require RSVPs where dietary restrictions and considerations could be solicited from responding students. Providing a box labeled “*halal*” in those RSVP links can substantially help Muslim law students feel included and allow event organizers

239. See generally John M. Hartenstein, *A Christmas Issue: Christian Holiday Celebration in the Public Elementary Schools Is an Establishment of Religion*, 80 CALIF. L. REV. 981 (1992).

240. *Halal* | Columbia Dining, COLUM. U., <https://dining.columbia.edu/halal> (last visited May 1, 2024).

to assess their catering options. Where *halal* meat is unavailable, vegetarian and fish products are good alternatives.

Beverage alternatives to alcohol should be placed at the forefront of what campus events provide, or at least as much as alcohol is itself. It is well known that the legal field has a substance abuse problem.²⁴¹ School-sponsored receptions, law school club events, or nearby law firms all host events with free alcohol. It seems that the entire law school experience is permeated with it. Though there is no avoiding alcohol at most law school events, and while this is a discussion for deeper exploration, inclusivity and the comfort of those who do not drink should at a minimum be considered. Instead of calling an event “Beer on the Beach,” community-wide events should be labeled something more alcohol-neutral and inclusive.

E. ATTIRE

Law schools should include accommodation in their student handbooks to ensure that Islamic attire will not be an obstacle for Muslim students or a simple choice of dress they must advocate for. This can be accomplished on two fronts: (1) providing religious accommodations and (2) updating non-discrimination and harassment policies. In addition, though Islamophobic representatives may question the *hijab* and other religious attire’s legal status, law schools should support its existence as religious covering.

Women have come a long way in fighting back against the expectation to be in specific attire related to the legal profession. However, there are still voices within the profession that ostracize women for wearing a pantsuit instead of a skirt in court. For Muslim women who strictly follow modest clothing standards, skirts are not an option unless worn with opaque stockings that cover their legs. Even then, Muslim women may opt to wear a pantsuit instead. Though there is no specific accommodation to be had here, the question of how to support students, Muslim or not, in feeling empowered to choose their own mode of dress is a conversation that needs to be had with faculty and staff. Muslim law students should not feel pressured into wearing specific professional clothing, nor should they be othered when they choose not to do so. Faculty and staff must be aware of these issues and work towards preventing them.

F. CRISIS SUPPORT

Post-graduate schools are becoming more diverse as minority communities continue to grow and its members enter the field. In law schools, administration and faculty are essential to ensuring this diversity is retained, respected, and recognized.²⁴² One critical minority community is that of Muslim law students. The Muslim student controversy and invisibility are heightened in the law school

241. Benya Clark, *Do Law Schools Encourage Excessive Drinking?*, MEDIUM (Oct. 9, 2020), <https://medium.com/exploring-sobriety/do-law-schools-encourage-excessive-drinking-effd06dec699>.

242. AHMADI & COLE, *supra* note 41, at 52–53.

atmosphere. For example, in February 2023, the MLSA at Seton Hall Law posted on their Instagram that their Executive Board members were targets of an Islamophobic message sent to their school emails.²⁴³ The email “included direct accusations of [MLSA] being a front for terrorist groups, having members who are high ranking in terrorist organizations, and ended with a call to boycott all MSA activities.”²⁴⁴ After bringing this horrific email to the administration’s attention, the response in handling the email was “pale” compared to other measures taken by the law school to address other issues.²⁴⁵ Not only did the Dean’s email response lack proper acknowledgment of the incident as a hate crime,²⁴⁶ but it was also sent without the university’s logo, letterhead, or footer as would “indicate that [it] came from the administration”²⁴⁷ and was sent a week after the incident.²⁴⁸ Seton Hall Law is still unaware of who sent the email and whether the individual is still present at the university.²⁴⁹

This story shows how Muslims’ minority status and the current wave of Islamophobia cause law school administrators and professors to lack the appropriate knowledge to ensure their Muslim students are properly protected. Law school faculty and administration should be educated on the rise in Islamophobia, providing greater context so that they can provide swift communication channels between Muslim law students and the administration to resolve such issues when they arise. Additionally, education and proactiveness are imperative to grow trust in school administrations among Muslim law students, so they feel supported in voicing legitimate problems they may be facing. Crisis support measures can include proper education on Islamophobia and its impacts on students, hiring Muslim faculty, or counselors with xenophobia training.

Taking these small measures would substantially increase the sense of safety, reliability, and trust Muslim law students have in their school’s administration, so they can practice their faith while excelling academically.

CONCLUSION: “ROCK THE BOAT”

In 1992, Javed Iqbal immigrated from Pakistan to the United States.²⁵⁰ He settled in Long Island, New York, working strenuous, menial jobs, sometimes

243. Seton Hall Law Muslim Law Students Association (@mlsa.shulaw), INSTAGRAM (Feb. 24, 2023), https://www.instagram.com/p/CpEqIzGsP5r/?utm_source=ig_web_copy_link&igshid=MzRIODBiNWF1ZA== (“Last week, members of the Seton Hall Law MLSA received a threatening, Islamophobic email to their school inbox. We followed University procedures and entrusted the investigation to the administration; however, their response was determined to be inadequate and lacking. Thus, we are calling for immediate action to ensure the safety and success of Muslim students at Seton Hall Law. Read the full statement in the post.”).

244. *Id.*

245. *Id.*

246. *Id.*

247. *Id.*

248. *Id.*

249. *Id.*

250. BEYDOUN & CHOUDHURY, *supra* note 5, at 97.

seven days a week.²⁵¹ He finally landed a stable job as the local “cable guy” in his community.²⁵² On the morning of September 11, 2001, Iqbal had an appointment with the U.S. Immigration and Naturalization Service to review his work authorization card.²⁵³ He was stopped in his footsteps as he watched the World Trade Center fall to its demise.²⁵⁴

About eight weeks later, a hovering helicopter and police vehicles surrounded Iqbal’s home.²⁵⁵ He was arrested, indicted, and charged with multiple securities and fraud charges.²⁵⁶ After two months of confinement in general prison, authorities transferred him to a special “K-Unit,” which kept inmates under suspicious connection with the 9/11 attacks.²⁵⁷ There is no public information available that shows why authorities transferred him.²⁵⁸ That same evening of his transfer, officers surrounded him and beat, kicked, punched, and slandered him.²⁵⁹ While in the K-Unit, Iqbal was subjected to multiple strip searches, severely beaten when he protested them,²⁶⁰ and placed outside the prison unit on cold nights, undressed, as prison guards watched, amused.²⁶¹

Iqbal reluctantly pled guilty to the charges to escape the K-Unit and eventually opted for voluntary departure, knowing he would never be able to fight for his innocence.²⁶² Once back in Pakistan, he tried in vain to live a quiet life.²⁶³ After he refused to allow political groups to capitalize on his story, his teenage son was stamped with false capital charges.²⁶⁴ As a result, his son ran away, and, to this day, Iqbal does not know where his son went.²⁶⁵ This is the story of Javed Iqbal from the key civil procedure case, *Ashcroft v. Iqbal*.²⁶⁶

In their first year of law school, every law student reads the case *Ashcroft v. Iqbal*, which established a heightened pleading standard.²⁶⁷ However, the story of Javed Iqbal is more than just the backdrop of a seminal case—it demonstrates the struggles of being a Muslim American post-9/11. From overt discrimination to unjust criminalization and an intense reluctance to fight for themselves, Iqbal’s story paints the triple threat faced by Muslim Americans. While Iqbal’s story is but one example of the heinous aftermath of 9/11, these

251. *Id.*

252. *Id.*

253. *Id.* at 98.

254. *Id.*

255. *Id.*

256. *Id.* at 99.

257. *Id.*

258. *Id.*

259. *Id.*

260. *Id.*

261. *Id.* at 100.

262. *Id.*

263. *Id.*

264. *Id.* at 101–02.

265. *Id.*

266. *Id.* at 95.

267. 556 U.S. 662 (2009).

extreme examples created a chilling effect on the rest of Muslim Americans, including Muslim students in higher education. Sajid Khan, a 2007 graduate of UC Law San Francisco, lived through 9/11 and its aftermath. The aftershocks bled into his law school experience as he was reluctant to emphasize the needs of Muslim students on campus. He did not seek any religious accommodation or assistance in law school because he “did not want to rock the boat.” He never expected or thought religious accommodations could be something the school could or wanted to consider, nor did the school consider such accommodations on its own. So he prayed in stairwells, discreetly left class to break his fast, and showed up to class whether sleep-deprived or starving during Ramadan.

It is time to rock the boat. Many of the solutions discussed in this Note are what some may describe as “low-hanging fruit.” It seems that in contemporary America, asking for these accommodations should not be a daunting task. However, given the lack of knowledge of Muslims’ practices because of their minority status, coupled with deep, institutionalized, and internalized Islamophobia, these fruits are challenging to pick. While law schools are not legally obligated to provide religious accommodations to Muslim law students, providing such accommodations benefits both law schools and law school students. For law schools, developing accommodations and educating around the need for them is an opportunity to actualize claims of diversity and inclusion in a way that would positively impact student performance and, thus, would be a positive reflection on any school instituting them. For Muslim law students, religious accommodations would allow them to practice freely and safely on campus, which could positively impact their well-being and academic performance.²⁶⁸ Such “low hanging fruit” would mean Muslim law students would not be torn between practicing the law or practicing their religion.

268. Allen Kenneth Schaidle, *Supporting Muslim Students*, INSIDE HIGHER ED (May 18, 2016), <https://www.insidehighered.com/views/2016/05/19/how-colleges-can-better-support-muslim-students-essay>.
