

The Pervasiveness of Islamophobia in the United States

Shadow Report to the UN Committee on the Elimination of Racial Discrimination
in review of the US government's compliance with the International Convention
on the Elimination of All Forms of Racial Discrimination (ICERD)

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This report is published by the Othering & Belonging Institute at UC Berkeley. The Institute engages in innovative research and strategic narrative work that attempts to reframe the public discourse from a dominant narrative of control and fear towards one that recognizes the humanity of all people, cares for the earth, and celebrates our inherent interconnectedness.

The report was submitted on July 21, 2022 to the United Nations Committee on the Elimination of Racial Discrimination in review of the US government's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

This publication is part of the Global Justice Program's Human Rights Agenda report series. In this series, we collaborate with other human rights, civil rights, and civil society organizations to advance the utility of the rights-based framework as a meaningful organizing tool for impacted communities and social movements to articulate claims of social, cultural, and political rights, and belonging. Our reports are reviewed by the United Nations Human Rights Commission, and the Human Rights Council, and inform the UN's recommendations to hold the US Government and legislative bodies accountable to their obligations as related to the Universal Periodic Review (UPR), the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), and the International Covenant on Civil and Political Rights (ICCPR).

The Global Justice Program (GJP) seeks to unmask the multiplicities of Islamophobia in the US that are influencing legal, political, and social domains, ranging from anti-Muslim legislation to the dramatic increase in coordinated anti-Muslim campaigns that have proliferated across the country. The information provided in this submission is sourced from original research conducted by the GJP, such as our database documenting anti-Muslim legislation, our national survey assessing the impacts of Islamophobia on Muslim Americans, expert interviews, and reports that serve to counter the effects of Islamophobia. The research specifically studies and addresses how Muslim communities in the US are directly impacted by anti-Muslim policies and practices, and how these policies — in addition to disproportionately discriminating against Muslims — are undermining the US Constitution and US international obligations.

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Contents

1. Introduction and Issue Summary	1
Defining and Understanding Islamophobia	1
The Historical and Present Implications of Islamophobia	2
2. Short Stories from Directly Impacted Communities Highlighting Testimonies from Victims and Survivors	3
Assessing Perceptions and Experiences of Islamophobia	3
Assessing the Social, Psychological, and Emotional Impacts	4
Assessing Societal Engagement, Worldviews, and Belonging	4
3. CERD Committee Position	5
Concluding Observations, 2014	5
General Recommendations, 2013 and 2020	6
4. US Government Response	7
Responses to racial profiling, hate speech, and hate crimes	7
Responses to housing discrimination and segregation	8
Responses to Guantánamo Bay	8
Common core document and concluding observations	8
5. Other UN and Regional Human Rights Bodies Recommendations	9
UN Recommendations and US Responses	9
Recommendations from Special Rapporteur Ahmed Shaheed	10
6. Questions and Recommendations	11
Questions for the CERD Committee to ask the US Government	11
Recommendations for the CERD Committee to provide to the US Government	11
Endnotes	12

Introduction and Issue Summary

THIS SUBMISSION IS IN RESPONSE to the request by the United Nations Committee on the Elimination of Racial Discrimination (CERD Committee), in review of the United States of America, and the federal government's obligation to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). As a signatory to the ICERD, the United States is under an obligation to prohibit and eliminate racial discrimination in all its forms (Article 2, ¶1) as defined by the ICERD. This submission addresses the issue of **Islamophobia¹ and its impacts on Muslim Americans**. It documents how the actions of the federal and state governments discriminate against Muslims on the basis of their religious and national backgrounds, positioning the US in violation of the ICERD, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (ICCPR). Additionally, this submission connects the issue of Islamophobia with the CERD Committee's *List of themes in relation to the combined tenth to twelfth reports of the United States of America*, specifically to the theme of The Convention in Domestic Law and the Institutional and Policy Framework for its Implementation, and to the theme of Racist Hate Speech and Hate Crimes.²

While this submission will focus on the acute repercussions of Islamophobia within the United States, it must be noted that Islamophobia is a global phenomenon, impacting Muslims and those perceived to be Muslim around the world.³ Presenting the case of the pervasiveness of Islamophobia in the United States is not intended to conflate religion, in this case Islam, with race, or to conflate religious discrimination with racial discrimination. There are a number of structures and processes that render groups as other, and that

are also often related to racialization, yet, not all forms of othering fall within the category of racial discrimination. However, discrimination is also often intersectional, infringing on several protected characteristics simultaneously, and there are distinct ways in which marginalization and othering manifest.

Islamophobia is a form of legal, political, and social othering of, and discrimination against, Muslims and those perceived to be Muslim. Islamophobia is built on the existing foundations of xenophobia, structural racism, and racialization in the US, and has existed in the United States well before September 11, 2001. However, within the context of the United States, the contemporary understanding of Islamophobia and how it's manifested, as well as its impacts, vary greatly when examining Islamophobia before and after the 9/11 attacks. Preceding 9/11, Islamophobia existed by way of an individual's anti-Muslim bias, animus, and actions. Following the events of 9/11, there was an immediate shift to Islamophobia operating at the structural level, giving rise to organized efforts to institutionalize Islamophobia through public policies and legal regimes that are explicitly anti-Muslim/ Islam and led by politicians, organizations, think tanks, institutes, paid anti-Muslim activists, and grassroots organizing campaigns.⁴

The impacts of Islamophobia range from bigoted attacks to undermine Muslim members of the United States Congress (notably Muslim women)⁵ and alarmingly the hundreds of threats against Congresswoman Ilhan Omar which she stated are "often triggered by Republican attacks on my faith,"⁶ to data from 2021 reflecting a 27-year high of civil rights complaints by Muslim Americans on issues related to travel, immigration, workplace discrimination, hate and bias incidents, and more.⁷

In addition, one of the most prominent sites of institutionalized Islamophobia is the US-operated Guantánamo Bay Prison, in which all prisoners detained at the site since 9/11 have been Muslim.⁸ Guantánamo Bay prisoners are denied US constitutional protections as the prison is outside of US borders, and the prison serves to sanction state violence against Muslims by way of torture, indefinite detention, and the normalization of a differential system of justice for Muslims.⁹ As pointedly stated by the American Civil Liberties Union, “Around the world, Guantánamo is a symbol of racial and religious injustice, abuse, and disregard for the rule of law.”¹⁰

What’s more, for over two decades the federal government, states, and local authorities have infringed on the religious freedoms of its Muslim citizens and lawful residents by enacting policies and practices that disproportionately discriminate against Muslims. Anti-Muslim policies have been introduced and enacted into law at the state and federal level such as the 232 anti-Sharia bills introduced in 44 US state legislatures¹¹ and 15 federal measures that have either been revoked or that continue to legalize discrimination against Muslims.¹² These policies subject Muslims to unwarranted surveillance, profiling, exclusion, and discrimination along the lines of race, ethnicity, national origin, and religion.¹³ Dangerously, these federal and state policies undermine the civil and constitutional rights of Muslims in the United States and compromise the US government’s compliance with the ICERD, notably Article 2 ¶1(c), and Article 5 (d)(vii).¹⁴

The US federal and state governments are largely responsible for exacerbating and institutionalizing Islamophobia in the United States and have done far too little to address its impacts, or to prevent Islamophobia from spreading in the first place. Some noteworthy examples of when the federal government has addressed Islamophobia include President Joe Biden’s rescission of the Travel Ban, otherwise known as the Muslim Ban, on the day of his inauguration on January 20, 2021. The final version of the Travel Ban, an executive order by former President Donald Trump effectively blocked the issuance of travel visas to the United States to

nationals of seven Muslim-majority countries. The move was consistent with Trump’s campaign call for a “total and complete shutdown of Muslims entering the United States.”¹⁵ Even with the reversal of the ban, there are lasting impacts as 40,000 visa applications were denied as a result of the ban, and rescinding the ban doesn’t reverse or address the harm to those who were impacted.¹⁶

In addition, to address the rise of Islamophobia in the United States and around the world, and to educate policymakers on the globalized and interconnected issue of anti-Muslim bigotry, US Congress members Ilhan Omar (D-Minnesota) and Jan Schakowsky (D-Illinois) authored legislation H.R. 5665 - Combating International Islamophobia Act, for the US State Department to establish a Special Envoy to monitor and combat Islamophobia worldwide.¹⁷ As of July 2022, the bill passed in the US House of Representatives but has yet to be voted on in the Senate.¹⁸ Importantly, President Biden has expressed his support for the bill.¹⁹ As stated by the co-author of the bill, Representative Schakowsky, “...It is more urgent than ever that the U.S. do all it can to combat anti-Muslim hate. The creation of a Special Envoy for Monitoring and Combating Islamophobia is the first step to ensuring the U.S. dedicates the resources necessary to safeguard human rights and religious and cultural freedom around the world...”²⁰ If passed, this piece of legislation marks a critical step toward combating Islamophobia, to redress the federal government’s role in perpetuating Islamophobia on a national and international scale, as well as to uphold the US’ commitment to the ICERD.

Short Stories from Directly Impacted Communities Highlighting Testimonies from Victims and Survivors

IN ORDER TO BETTER UNDERSTAND the impact of Islamophobia on Muslim Americans, the Othering & Belonging Institute developed and administered the first ever national survey to assess Islamophobia's prevalence from the perspectives of Muslims — the population that bears the brunt of its effects on their daily lives. Additionally, the study, titled *Islamophobia Through the Eyes of Muslims: Assessing Perceptions, Experiences, and Impacts*, sought to account for the diversity of US Muslims, and to assess their societal engagement, worldviews, and belonging as they navigate their lives in the US.²¹ This study was one of two reports referenced by US Representatives Ilhan Omar and Jan Schakowsky as background research and evidence in support of H.R. 5665.²² The study conducted in 2020 was groundbreaking as it uplifted and centered the collective experiences and voices of Muslim Americans so as to hear from the affected community directly. A total of 1,123 Muslim Americans participated in the survey and their responses narrate and inform the key findings below²³ — which both illuminate a measurable othering of Muslims, and the grave repercussions of Islamophobia on Muslim Americans.

In our assessment of Muslims' Perceptions of Islamophobia in the US we sought to understand Muslim Americans' beliefs about Islamophobia: if it exists, how prevalent they perceive it to be, when they first became aware of it, and who they believe is more at risk of experiencing or being impacted by Islamophobia.²⁴ Our findings indicated that irrespective of age, gender, or if the survey participants were US- or foreign-born, nearly all participants believe that Islamophobia exists in the US (97.8%). In addition, almost all survey participants (95%) agree that Islamophobia

is a problem in the US. Close to two-thirds of respondents (60.6%) assess Islamophobia to be a very big problem, while over a third (34.4%) believe that Islamophobia is a somewhat big problem. Notably, over a third (34.3%) of all participants first noticed the existence of Islamophobia prior to 2001, suggesting that more Muslims that participated in the survey were already aware of Islamophobia prior to September 11, 2001. In assessing those most impacted by Islamophobia, almost three-quarters of participants (74.3%) believe that women are more at risk of experiencing Islamophobia. In addition, more than a third of respondents (39.4%) believe that all age groups of Muslims are equally at risk of experiencing Islamophobia. Significantly, over half of participants (55.4%) have personally encountered an incident but did not report it to the authorities, and 32.1% have never personally encountered an incident. Only 12.5% of participants have reported an incident to the authorities. What's more, US-born participants (64.2%) were less likely to report an Islamophobic incident than foreign-born participants (49.8%), and almost two-thirds of respondents (65.7%) that encountered an Islamophobic incident did not know where to report the incident.

Our assessment of US Muslims' Experiences with Islamophobia sheds light on the othering of Muslims and the lived experiences of the survey participants in relation to Islamophobia, how often they experience Islamophobia, the impacts of discriminatory policies, and the treatment of survey participants by law enforcement and health-care providers.²⁵ A staggering two-thirds of participants (67.5%) have personally experienced Islamophobia in their lifetimes. Survey respondents ages 18–29 were more likely to have personally experienced

Islamophobia than any other age group (81.2%), and in general, younger respondents were more likely than older respondents to have personally experienced Islamophobia. What's more, women are more likely than men to have had a personal encounter with Islamophobia (women: 76.7%, men: 58.6%). In addition, most US-born participants have personally experienced Islamophobia (82.3%) compared to over half (58.1%) of foreign-born participants. Regardless of age, gender, or place of birth, almost two-thirds of participants (62.7%) responded that they themselves, or family members, friends, or members of their community, have been affected by federal and/or state policies that disproportionately discriminate against Muslims. And notably, more than half (53.3%) of respondents have been treated unfairly by a law enforcement officer because of their religious identity.

Our study also assessed the Social, Psychological, and Emotional Impacts of Islamophobia on US Muslims to measure its effects on survey participants' well-being and its effects on the Muslim community at large.²⁶ When assessing the psychological and emotional impacts of Islamophobia on US Muslims, most survey participants (93.7%) responded that Islamophobia affects their emotional and mental well-being. In assessing the social impacts of Islamophobia on US Muslims, almost a third of survey participants (32.9%) at some point in their lives have hid or tried to hide their religious identity, while over two-thirds (67.1%) have never done so. In addition, regardless of age, most respondents (88.2%) censor their speech or actions out of fear of how people might respond or react to them. Significantly, women censor themselves at a higher rate (91.8%) than men (84.6%).

Our assessment of the Societal Engagement of US Muslims provides an analysis of survey participants' efforts toward community building, intercultural mixing, and civic engagement, and how Islamophobia impacts those efforts.²⁷ Regardless of age, gender, or place of birth, almost all respondents (99.6%) socialize with non-Muslim groups, and more than half (51.5%) very often socialize with non-Muslim groups. Yet, 79.2% of participants said that

Islamophobia prevented them from building social connections with non-Muslims. In contrast, 69.9% of respondents find it difficult to build community with other US Muslims because of Islamophobia. In assessing US Muslims' civic engagement, 76.5% of participants feel uncomfortable making demands on their local authorities or congressperson.

Lastly, our assessment of US Muslims' Worldviews and Belonging measures survey participants' social and religious worldviews, their perspectives on race and relations between Muslims and non-Muslims, and their sense of belonging.²⁸ Notably, most survey participants (79.4%) agree that Islamic values are consistent with US values, and 40% of participants strongly agree. In considering diversity, irrespective of age, gender, or place of birth, nearly all participants (99.1%) agree — with 91.9% strongly agreeing — that it is a good thing that the US society is made up of people from different cultures. Moreover, most participants (86%) agree that most immigrants coming to the US are doing enough to adapt to the American way of life. Most participants (97.1%) also agree that racial prejudice is a major problem in the US. What's more, almost all respondents (99%) agree that all races and ethnicities of people should be treated equally. On the role of the US media's portrayal of Muslims, almost all respondents (97.5%) agree that the US mainstream media's portrayal of Muslims is unfair. In addition, most respondents (93.7%) agree that it is important to them that their children are, or would be, fully accepted as Americans.

CERD Committee Position

THE FOLLOWING SUMMARIZES prior recommendations by the CERD Committee to the United States government, however, the CERD Committee's prior recommendations do not directly address to the issue of anti-Muslim bigotry or Islamophobia. Despite this, there are several notable recommendations from the CERD Committee that, if adopted by the US, would play a significant role in preventing the discrimination against Muslim Americans. These include the need to improve the monitoring and response of the applicability of the Convention at the national level, as well as the issue of racial profiling and illegal surveillance, racist hate speech and hate crimes, and the immediate closure of the Guantánamo Bay prison. We have identified and listed these specific recommendations from the CERD Committee below.

2014 Concluding observations on the combined seventh to ninth periodic reports of the United States of America:

Section B: Positive Aspects:

In the 2014 CERD Committee's *Concluding observations on the combined seventh to ninth periodic reports of the United States of America* under Positive aspects, the Committee noted with appreciation, "...the legislative and policy developments in the State party to combat racial discrimination, since its last report, including: (a) The termination of the National Security Entry-Exit Registration System in April 2011, as recommended by the Committee in its previous concluding observations (para. 14)".²⁹ The National Security Entry-Exit Registration System was one of several federal measures that disproportionately discriminated against Muslims, and terminating the measure was of critical importance.

Section C: Concerns and Recommendations:

Regarding the applicability of the Convention at the national level, the CERD Committee recommended:

1. (a) "Prohibiting racial discrimination in all its forms in federal and state legislation, including indirect discrimination, covering all fields of law and public life, in accordance with article 1, paragraph 1, of the Convention"³⁰
2. (c) "Improving the system of monitoring and response by federal bodies to prevent and challenge situations of racial discrimination."³¹

Regarding racial profiling and illegal surveillance, the CERD recommended:

1. (a) "Adopting and implementing legislation which specifically prohibits law enforcement officials from engaging in racial profiling, such as the End Racial Profiling Act"³²
2. (b) "Swiftly revising policies insofar as they permit racial profiling, illegal surveillance, monitoring and intelligence gathering, including the 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies"³³
3. (c) "Ending immigration enforcement programmes and policies which indirectly promote racial profiling, such as the Secure Communities programme and the Immigration and Nationality Act section 287(g) programme"³⁴
4. (d) "Undertaking prompt, thorough and impartial investigations into all allegations of racial profiling, surveillance, monitoring and illegal intelligence-gathering; holding those responsible accountable; and providing effective remedies, including guarantees of non-repetition."³⁵

Regarding racist hate speech and hate crimes, the CERD Committee recommended:

1. (b) “Improving its data collection system for statistics on complaints of hate crimes, including by officially requiring all law enforcement agencies to record and transmit all such instances to the FBI, disaggregated by factors such as race, ethnicity, age and religion, and regularly publicize such information.”³⁶

Regarding Guantánamo Bay, the CERD Committee urges:

1. “...the State party to end the system of administrative detention without charge or trial and ensure the closure of the Guantánamo Bay facility without further delay. Recalling its general recommendation No. 30 (2004) on discrimination against non-citizens and general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, it also calls upon the State party to guarantee the right of detainees to a fair trial, in compliance with international human rights standards, and to ensure that any detainee who is not charged and tried is released immediately.”³⁷

CERD Committee General Recommendations:

Regarding General Comments and Recommendations from the CERD Committee, General Recommendation No. 35 (2013) - Combatting racist hate speech, directly addresses the issue of hate speech and Islamophobia. The intention of the general recommendation is to provide guidance to the States parties on the requirements of the Convention in order to combat racist hate speech and for States parties to meet their obligations. Under Section II of the general recommendation, the Committee states that it is concerned “...by hate speech targeting persons belonging to certain ethnic groups who profess or practice a religion different from the majority, including expressions of Islamophobia, anti-Semitism and other similar manifestations of hatred against ethno-religious groups, as well as

extreme manifestations of hatred such as incitement to genocide and to terrorism. Stereotyping and stigmatization of members of protected groups has also been the subject of expressions of concern and recommendations adopted by the Committee.”³⁸

The Committee elaborates on recommendations to uphold articles 4, 5 and 7 of the Convention in order to prevent racist hate speech. Notably recommendations referencing Article 7 suggest to: eliminate racial discrimination through educational approaches; promote understanding; formally denounce hate speech by public officials; develop strategies to combat hate speech; adopt codes for fair and informed media reporting; and provide accurate media representation of ethnic, minority, and indigenous groups.³⁹

General Recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials is intended to provide guidance to states on combating and preventing racial profiling with the aim of strengthening democracy as well as the peace and security within communities.⁴⁰ The CERD Committee notes with concern an increase in racial profiling in relation to fears surrounding terrorism and migration – fears that serve to promote intolerance and prejudice toward certain ethnic groups and communities.⁴¹ Recommendations by the Committee to prevent and combat racial profiling by law enforcement officials include: specialized and mandatory trainings for law enforcement agencies to address biases in their work and to ensure non-discriminatory conduct,⁴² trainings for artificial intelligence experts and officials to interpret data without bias,⁴³ and for states to establish a reporting mechanism separate from law enforcement and other connected agencies to receive complaints from citizens on issues related to discrimination, racism, and racial profiling.⁴⁴ Additionally, states need to ensure that senior officials review the impact of legislation and operations, including legislation and operations for countering terrorism, to make certain that these policies don't have a disproportionate impact on marginalized communities.⁴⁵

US Government Response

THE FOLLOWING SUMMARIZES the US government's response to the CERD Committee's recommendations and observations on the issue of prejudice against Muslims, as well as other forms of discrimination that serve to influence Islamophobia, and that directly impact Muslim Americans. Such issues include racial profiling, racist hate speech and hate crimes, discrimination and segregation in housing, and the United States government's refusal to close the Guantánamo Bay prison.

Combined tenth to twelfth periodic reports submitted by the United States of America under article 9 of the Convention, due in 2017 — Submitted June 2021:

In response to the issue of racial profiling (paragraph 8 of the 2014 CERD Committee's Concluding observations):

1. ¶15: President Biden has called for the passage of the George Floyd Justice in Policing Act, a bill intended to prohibit racial profiling. At the time of this submission the bill passed in the House of Representatives, but it has yet to pass in the Senate.⁴⁶
2. ¶16: In January 2021 President Biden issued Proclamation 10141, Ending Discriminatory Bans on Entry to the United States, which rescinded Executive Order 13780 and earlier proclamations that had prohibited nationals of primarily Muslim and African countries from entering the United States.⁴⁷

In response to the issue of racist hate speech and hate crimes (paragraph 9 of the 2014 CERD Committee's Concluding observations):

1. ¶22: The United States holds reservation to article 4 of the Convention stating that the US "cannot accept any obligation that could limit protections for freedoms of expression, peaceful assembly, and association guaranteed in the U.S. Constitution. At the same time, the federal government aggressively prosecutes hate crimes under federal statutes barring violence, attempted violence, threats, and property damage based on racial and other forms of bias. Most states have hate crime laws as well."⁴⁸
2. ¶23: The government claims that federal agencies such as the Department of Justice and the Department of Homeland Security are working to stop or prevent violence and threats toward certain populations based on religion, race, ethnicity, and other protected categories. These efforts have led to the creation of a DHS-wide Equity Task Force to make sure the principles of racial equity are incorporated throughout DHS's policies, programs, and activities.⁴⁹
3. ¶29: The United States is making efforts to improve its hate crimes data collection and reporting. Police data reporting at the state and local levels is voluntary, however, the DOJ encourages state and local reporting to support a comprehensive collection of data.⁵⁰

In response to the issue of discrimination and segregation in housing (paragraph 13 of the 2014 CERD Committee's Concluding observations):

1. ¶ 54: The United States enforces the Religious Land Use and Institutionalized Persons Act, which protects the rights of those affiliated with religious communities to build places of worship and religious schools. The Department of Justice found in studies conducted in 2010 and 2016 that, "Christians from congregations consisting primarily of minorities, and members of minority religious congregations such as Muslims and Sikhs that often include members of racial or ethnic minorities, have their religious rights impacted more frequently than individuals from congregations consisting primarily of non-minorities."⁵¹

In response to Guantánamo Bay (paragraph 22 of the 2014 CERD Committee's Concluding observations):

1. ¶ 121: The United States notes that this recommendation falls outside the scope of obligations arising under the Convention, and that the United States continues to have legal authority to detain Guantánamo detainees until the hostilities cease.⁵²

Common core document forming part of the reports of States parties, United States of America:

The US does not address the issue of Islamophobia in its *Common core document forming part of the reports of States parties, United States of America*, submitted in December 2011. However, the proliferation of anti-Muslim legislation at the state and federal levels of the US government has been an ongoing and significant issue for over two decades. The *Common core document forming part of the reports of States parties, United States of America* states in ¶ 171 that the Department of Justice's Civil Rights Division is responsible for enforcing federal measures that effectively ban discrimination on the basis of religion, race, sex, disability, and national origin.⁵³

Concluding observations on the combined seventh to ninth periodic reports of the United States of America, Addendum: Information received from the United States of America on follow-up to the concluding observations:

The US does not address the issue of Islamophobia in its addendum submitted in September 2015, *Information received from the United States of America on follow-up to the concluding observations*. However, racial profiling is a significant issue impacting Muslim Americans, and as noted in the addendum ¶ 9, in response to the CERD Committee's Recommendation 17(b), there have been efforts, although notably not nearly enough, to prevent racial profiling in the United States. In December 2014, the Department of Justice updated a policy on profiling which instructs that law enforcement under federal supervision may not consider race, ethnicity, national origin, gender identity, gender, religion,⁵⁴ or sexual orientation when making procedural or spontaneous decisions.⁵⁵

The addendum ¶10 also noted that there have been legislative efforts at the state and local levels to address excessive force and discriminatory policing by developing implicit bias training programs for law enforcement and by requiring police departments to record data based on race related to traffic stops.⁵⁶

Critically, the CERD Committee's Recommendation 22 on Guantánamo where the Committee urged "... the State party to end the system of administrative detention without charge or trial and ensure the closure of the Guantánamo Bay facility without further delay"⁵⁷ was, and continues to be, unaddressed by the United States. The US responded in ¶ 34 stating that the US has the legal authority to hold Guantánamo detainees until hostilities cease.⁵⁸

Other UN and Regional Human Rights Bodies Recommendations

THE FOLLOWING RECOMMENDATIONS were made by other UN human rights bodies on the issue of Islamophobia, or relatedly, xenophobia and discrimination against religious minorities. In the 2020 *Report of the Working Group on the Universal Periodic Review: United States of America*, several States provided recommendations for the United States to address the issue of Islamophobia, urging the US to:

- 1. Recommendation 127:** “Adopt effective measures to enhance equality and eliminate racial discrimination and xenophobia against migrants and refugees, as well as racial, ethnic and religious minorities (Qatar).”⁵⁹
US Response (March 2021): The US shares the ideals in the recommendation and supports them, although subject to limitations.⁶⁰
- 2. Recommendation 128:** “Take meaningful and demonstrable steps to end Islamophobia and hate speech, including through criminalization (Pakistan).”⁶¹
US Response (March 2021): The US does not support this recommendation.⁶²
- 3. Recommendation 134:** “Combat racial profiling and Islamophobia on a non-discriminatory basis applicable to all religious groups (Algeria).”⁶³
US Response (March 2021): The US supports this recommendation, and stated that racial profiling is not permitted under the US Constitution and federal government policy.⁶⁴
- 4. Recommendation 135:** “Strengthen efforts to address discrimination, racial profiling, religious intolerance and incidents of Islamophobia, including when perpetrated by the authorities (Malaysia).”⁶⁵
US Response (March 2021): The US supports this recommendation, and stated that racial profiling is not permitted under the US Constitution and federal government policy.⁶⁶
- 5. Recommendation 175:** “Close Guantánamo and guarantee the rights of detainees (Bolivarian Republic of Venezuela).”⁶⁷
US Response (March 2021): The US intends to resolve the issue of the Guantánamo Bay detention facility, but until that time, operations will continue.⁶⁸
- 6. Recommendation 176:** “Close as soon as possible the Guantánamo detention center (France).”⁶⁹
US Response (March 2021): The US intends to resolve the issue of the Guantánamo Bay detention facility, but until that time, operations will continue.⁷⁰
- 7. Recommendation 177:** “Close totally illegal extraterritorial prisons, especially at Guantánamo, a territory illegally occupied by the United States (Nicaragua).”⁷¹
US Response (March 2021): The US rejects the supposition of the recommendation.⁷²

In addition, there is a report by the Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, entitled *Countering Islamophobia/anti-Muslim hatred to eliminate discrimination and intolerance based on religion or belief*, in which the Special Rapporteur provides a number of recommendations that States can take to counter Islamophobia. Critically, in March 2021, the Special Rapporteur told the UN Human Rights Council that, “institutional suspicion of Muslims and those perceived to be Muslim has escalated to epidemic proportions.”⁷³ Some noteworthy recommendations identified by the Special Rapporteur that are relevant to the United States include:

1. “Take all measures necessary to combat direct and indirect forms of discrimination against Muslims, whether at the national, regional or local levels, particularly recalling that such discrimination is often intersectional, being based concurrently on religion or belief, race, ethnicity, gender and other protected characteristics. This includes taking steps to eliminate discrimination in the fields of employment, education, access to justice, adequate housing, health care and immigration and citizenship by monitoring access to these services, including by gathering data disaggregated by religious or belief group, by working with national human rights institutions to monitor compliance and examine complaints and by repealing laws and policies that discriminate against Muslims;”⁷⁴
2. “Counter discrimination through law enforcement, including by eliminating the discriminatory profiling of Muslims and promoting fair policing; taking measures to enhance the ability of law enforcement to recognize anti-Muslim bias; and increasing the enforcement of hate crime laws;”⁷⁵
3. “Provide resources to Muslim communities to invest in educational, mentorship and leadership programmes that can build resilience and skills and support socially disadvantaged individuals;”⁷⁶
4. “Ensure the existence of accessible and confidential mechanisms where victims can report incidences of Islamophobic hate crime and discrimination. Where such mechanisms exist, States must ensure that they are easily accessible and function in accordance with a victim-based human rights approach, including within the criminal justice system;”⁷⁷
5. “Address Islamophobic discourse by providing anti-stereotyping training to State officials and educators, removing Islamophobic rhetoric from educational curricula and including content on religious and cultural diversity in school curricula;”⁷⁸
6. “The media should adopt guidelines for reporting on Muslims and Islam, imbedding good practices that include avoiding stereotypes and generalizations, portraying diversity and explaining context, and train journalists and other media content producers accordingly.”⁷⁹

Recommended Questions

Priority questions for the CERD Committee to ask the US Government upon its formal review of the United States' compliance with the ICERD

1. The US federal and state governments are largely responsible for exacerbating and institutionalizing Islamophobia in the United States and have done far too little to address its impacts, or to prevent Islamophobia from spreading in the first place. Moving forward, how will the United States government work with, and support, Muslim American communities to combat Islamophobia on a state and national level?
2. Regardless of age, gender, or place of birth, almost two-thirds of Muslim Americans (62.7%), either they themselves, or family members, friends, or members of their community, have been affected by federal and/or state policies that disproportionately discriminate against Muslims. Beyond having revoked the Travel Ban, what is the US government actively doing to address this issue and to prevent Muslims from being disproportionately discriminated against by federal and state policies?
3. What will the United States government do to prevent anti-Muslim legislation (such as the 232 anti-Sharia bills that have been introduced in 44 states) from being introduced and enacted in state legislatures?

Suggested Recommendations

Key recommendations for the CERD Committee to provide to the US Government upon its formal review of the United States' compliance with the ICERD

1. That the United States federal government and state legislatures support efforts to counter Islamophobia, including enacting policies that seek to prevent and address Islamophobia.
2. That the federal government address the issue of the enactment of anti-Sharia legislation by working with state governments to immediately rescind the 20 anti-Sharia bills that have been passed into law, as well as to implement policies to prevent anti-Sharia legislation from being introduced and enacted. These laws are inherently discriminatory and xenophobic and infringe on the constitutional rights of Muslims and non-Muslims within the United States, but disproportionately affect Muslims.
3. That the United States government protect the rights of Muslim individuals as enshrined in our Constitution and rule of law, and to recognize Islamophobia as a form of religious discrimination and hatred based on national origin or other manifestations of hatred against ethno-religious groups.

Endnotes

- 1 As defined by the Othering & Belonging Institute, Islamophobia constitutes legal and public policy actions rooted in bias, prejudice, hate, and or exclusion of Muslims or those perceived to be Muslim. Such actions may result in a personal verbal and or physical attack or the collective dehumanization of Muslims. Islamophobia has been expressed in prejudicial views, discriminatory language, and acts of verbal and physical violence inflicted upon Muslims, and those perceived to be Muslim. Islamophobia has manifested in a policing regime that engages in the profiling, surveillance, torture, and detention of people along racial/ethnic and religious lines, and has justified the militarization of foreign policy as well as an unprecedented expansion of security.
- 2 Committee on the Elimination of Racial Discrimination, *List of themes in relation to the combined tenth to twelfth reports of the United States of America* (2022), accessed July 6, 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%-2fUSA%2fQ%2f10-12&Lang=en.
- 3 Ahmed Shaheed, *Countering Islamophobia/anti-Muslim hatred to eliminate discrimination and intolerance based on religion or belief: Report of the Special Rapporteur on freedom of religion or belief, Ahmed Shaheed* (United Nations, 2021), accessed June 29, 2022, <https://www.ohchr.org/en/calls-for-input/report-countering-islamophobiaanti-muslim-hatred-eliminate-discrimination-and>.
- 4 Elsadig Elsheikh, Basima Sisemore, and Natalia Ramirez Lee, *Legalizing Othering: The United States of Islamophobia* (Berkeley, CA: Othering & Belonging Institute, 2017), 6, accessed June 29, 2022, <https://belonging.berkeley.edu/islamophobia/legalizing-othering>.
- 5 Hanna Trudo, “Tlaib offers tearful rebuke to anti-Muslim comments from Boebert,” *The Hill*, December 8, 2021, <https://thehill.com/homenews/house/584959-tlaib-offers-tearful-rebuke-to-anti-muslim-sentiment-on-capitol-hill/>.
- 6 Mike Lillis, “Omar, Muslim Democrats decry Islamophobia amid death threats,” *The Hill*, November 30, 2021, <https://thehill.com/homenews/house/583715-omar-muslim-democrats-decry-islamophobia-amid-death-threats/>.
- 7 *Still Suspect: The Impact of Structural Islamophobia* (Washington, DC: Council on American-Islamic Relations, 2022), 5, accessed June 29, 2022, <https://www.cair.com/wp-content/uploads/2022/04/Still-Suspect-Report-2022.pdf>.
- 8 Maha Hilal, *Innocent Until Proven Muslim: Islamophobia, the War on Terror, and the Muslim Experience since 9/11* (Minneapolis, MN: Broadleaf Books, 2021), 146.
- 9 Ibid.
- 10 Hina Shamsi, “20 Years Later, Guantánamo Remains a Disgraceful Stain on Our Nation. It Needs to End,” ACLU, January 11, 2022, <https://www.aclu.org/news/human-rights/20-years-later-guantanamo-remains-a-disgraceful-stain-on-our-nation-it-needs-to-end>.
- 11 “Anti-Sharia Legislation Introduced and Enacted in the US State Legislatures from 2010 – 2020,” Othering & Belonging Institute, September 2017, <https://belonging.berkeley.edu/islamophobia/database>.
- 12 Rhonda Itaoui and Basima Sisemore, “Trump’s travel ban is just one of many US policies that legalize discrimination against Muslims,” *The Conversation*, January 29, 2018, <https://theconversation.com/trumps-travel-ban-is-just-one-of-many-us-policies-that-legalize-discrimination-against-muslims-89334>.
- 13 Islamophobia is recognized as a form of xenophobia and discrimination based on religious and national origin that aims to single out, exploit, and exclude Muslims. This belief forms the basis of a distorted ideology that views Muslims and Islam as inferior to Judaism and Christianity, as well a threat to “Western” civilization.

- 14** UN General Assembly resolution 2106 (XX), “International Convention on the Elimination of All Forms of Racial Discrimination,” United Nations, December 12, 1965, accessed June 26, 2022, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>.
- 15** Andrew Rafferty, “Trump Calls for ‘Complete Shutdown’ of Muslims Entering the U.S.,” *NBC News*, December 7, 2015, <https://www.nbcnews.com/politics/2016-election/trump-calls-complete-shutdown-muslims-entering-u-s-n475821>.
- 16** Jihan Abdalla, “‘Empty promises’: The US’s ‘Muslim ban’ still reverberates,” *Al Jazeera*, February 4, 2022, <https://www.aljazeera.com/news/2022/2/4/empty-promises-the-us-muslim-ban-still-reverberates>.
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- 19** Executive Office of the President, Office of Management and Budget, *Statement of Administration Policy: H.R. 5665 – Combating International Islamophobia Act* (Washington, D.C.: 2021), accessed June 29, 2022, <https://www.whitehouse.gov/wp-content/uploads/2021/12/HR-5665-SAP.pdf>.
- 20** “House Foreign Affairs Committee Passes Combating International Islamophobia Act,” *omar.house.gov*.
- 21** Elsadig Elsheikh and Basima Sisemore, *Islamophobia Through the Eyes of Muslims: Assessing Perceptions, Experiences, and Impacts* (Berkeley, CA: Othering & Belonging Institute, 2021), <https://belonging.berkeley.edu/islamophobia-survey>.
- 22** “House Foreign Affairs Committee Passes Combating International Islamophobia Act,” *omar.house.gov*.
- 23** Elsadig Elsheikh and Basima Sisemore, *Islamophobia Through the Eyes of Muslims*, 4 – 7.
- 24** *Ibid*, 5.
- 25** *Ibid*, 5 – 6.
- 26** *Ibid*, 6.
- 27** *Ibid*.
- 28** *Ibid*, 6 – 7.
- 29** Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined seventh to ninth periodic reports of the United States of America* (United Nations, 2014), 1, accessed July 1, 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fUSA%2fCO%2f7-9&amp%3BLang=en.
- 30** *Ibid*, 2.
- 31** *Ibid*.
- 32** *Ibid*, 3.
- 33** *Ibid*.
- 34** *Ibid*, 4.
- 35** *Ibid*.
- 36** *Ibid*, 4.
- 37** *Ibid*, p 10 – 11.
- 38** Committee on the Elimination of Racial Discrimination, *General recommendation No. 35, Combating racist hate speech* (United Nations, 2013), 2- 3, accessed July 1, 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fGC%2f35&Lang=en.
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- 40** Committee on the Elimination of Racial Discrimination, *General recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials*, (United Nations, 2020), 1, accessed July 3, 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fGC%2f36&Lang=en.
- 41** *Ibid*, 3.
- 42** *Ibid*, 9.
- 43** *Ibid*.

- 44** Ibid, 11.
- 45** Ibid.
- 46** The Government of the United States of America, *Combined tenth to twelfth periodic reports submitted by the United States of America under article 9 of the Convention, due in 2017* (United Nations, 2021), 5, accessed July 28, 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%-2fUSA%2f10-12&%3BLang=en.
- 47** Ibid.
- 48** Ibid, 6.
- 49** Ibid, 6.
- 50** Ibid, 7.
- 51** Ibid, 13.
- 52** Ibid, 27.
- 53** The Government of the United States of America, *Common core document forming part of the reports of States parties, United States of America* (United Nations, 2011), 43, accessed July 28, 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=HRI%2fCORE%2fUSA%2f2011&%3BLang=en.
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- 57** Ibid, 10.
- 58** Ibid.
- 59** The Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: United States of America* (United Nations, 2020), 13, accessed June 29, 2022, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/348/52/PDF/G2034852.pdf?OpenElement>.
- 60** The Government of the United States of America, *Report of the Working Group on the Universal Periodic Review, United States of America, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review* (United Nations, 2021), 2 – 3, accessed June 29, 2022, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/055/32/PDF/G2105532.pdf?OpenElement>.
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- 66** The Government of the United States of America, *Report of the Working Group on the Universal Periodic Review, United States of America, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 2.
- 67** The Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: United States of America*, 15.

68 The Government of the United States of America, *Report of the Working Group on the Universal Periodic Review, United States of America, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 4.

69 The Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: United States of America*, 15.

70 The Government of the United States of America, *Report of the Working Group on the Universal Periodic Review, United States of America, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 4.

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