

STOP IMPORTING JIHADISTS- A Secure Freedom Strategy paper

EXECUTIVE SUMMARY

Current U.S. law allows for the vetting and exclusion of Islamic supremacists from entry into the United States, or naturalization as citizens. The President has wide latitude in excluding would-be immigrants. There are also in place statutory restrictions based on both violent acts and unconstitutional activities to remove or supplant our laws and government. This document assesses the applicability of those restrictions to totalitarian/Sharia-supremacist Muslims, as well as suggestions for improving them. The relevant sections are in the Immigration and Nationality Act (U.S. Code Title 8).

Existing entry bans:

- ❖ Bar entry based on activities intended to overthrow or control the U.S. government by violent or illegal means or totalitarian party membership
- ❖ Bar entry based on terrorist activity or association

Existing bases for denying naturalization:

- ❖ Failure “positively attach” to the principles of the Constitution
- ❖ Advocacy for the imposition of anti-constitutional totalitarian rule

To implement these restrictions against Sharia-supremacists, existing legal options must be applied against their totalitarian ideology, Sharia, as well. Current laws should also be adapted to stop our enemies from using our own freedoms against us.

Rationale for applying current restrictions to Islamic supremacists:

- ❖ Sharia is a totalitarian ideology, *not* a protected religion
- ❖ Sharia prohibits adherents from placing any man-made law above it
Individual sharia adherents and Islamist groups or parties are required to conduct active efforts to impose Sharia, by force if necessary.

The exclusion of Sharia-supremacists would be made more resilient to legal challenge if certain statutes were amended.

Changes suggested to align current law with current threats:

- ❖ Allow statements by non-citizens supporting Sharia to be used as grounds for exclusion
- ❖ Amend law to prohibit entry to those who reject the supremacy of the U.S. Constitution
- ❖ Ban members of groups that have the avowed goal of replacing or subordinating the U.S. Constitution

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MAKING SHARIA-SUPREMACISM A BAR TO IMMIGRATION AND NATURALIZATION

The United States cannot long survive if it invites into its midst non-citizens who are fundamentally opposed to our Constitution, the government it established and the freedoms it guarantees. Previous generations understood this reality and codified into law grounds for excluding Nazis, Communists *and others* bent on establishing a totalitarian system in place of our representative democracy from entering this country and becoming naturalized citizens. The current threat posed by the Global Jihad Movement and its animating doctrine, Sharia, can and should be addressed by these same restrictions.

Two types of activity by Sharia-supremacists that should preclude entry to the U.S. are violence, commonly known as terrorism, and subversive acts aimed at undermining and ultimately overthrowing our system of government. Terrorist activity is grounds for exclusion based purely on its violent nature.

Pre-violent Sharia-supremacists prepared to engage in subversion should also be banned based on the goal these groups and individuals also have of supplanting the U.S. Constitution and system of government with the totalitarian Islamic code called Sharia. Many such efforts are based upon a long term, incremental strategy for stealthily insinuating Sharia globally and, therefore, each step on its own can easily be mistakenly perceived as unobjectionable.

Current statutes do allow Sharia-supremacists to be vetted and banned from entry, but should be amended to codify the prohibition from entry of these non-citizens who do not, and cannot, faithfully support the basic tenets of the U.S. Constitution.

Burden of Proof

It is critically important to bear in mind that immigration is *not* a criminal justice issue and potential immigrants do not have the same rights as citizens. The burden must be fully placed upon a potential immigrant to show that he is not a threat, not on government to prove he is one. In any individual case, the executive branch has discretion to keep an alien out, and this exercise of discretion should not be reviewable by the courts because:

(a) aliens do not have judicially enforceable rights;

(b) the Constitution makes political branches supreme in matters of national security and immigration enforcement;

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(c) the Constitution assumes that immigration enforcement is a political rather than a legal issue in the sense that the check on government policy is the ballot box, not lawsuits brought by aliens;

(d) any legitimate First Amendment interest of Americans to hear dissent from, and associate with aliens, is more than adequately satisfied by modern communications technology, without the need for the alien to be physically present in the U.S.; and

(e) as long as there is no categorical ban on Muslims in place, any conceivable due process requirement (assuming only for argument's sake that there is such a requirement) is more than satisfied by an individualized vetting process in which the alien is given the opportunity to prove that he/she is not a threat.

Decisions by executive agencies to exclude sharia-adherent individuals should be unreviewable. Decisions by them to admit individuals who may be obscuring their adherence to Sharia should, however, be reviewable by other agencies and courts. Regardless of any other authority, the President may ban sharia-adherent individuals based on executive authority granted in 8 U.S. Code § 1182 - Inadmissible aliens section (f):

(f) Suspension of entry or imposition of restrictions by President
Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.

The past six Presidents, including the current one, have all used this authority to ban certain classes of people from entry. Given the immediate and ongoing threat posed by Sharia, all available means to stop entry by individuals with the goal of undermining the U.S. Constitution should be used.

Sharia Adherence is the Key

A dividing line can and should be drawn that does not automatically exclude all Muslims from entry into the United States. We have numerous allies who would lose their ability to travel here and there are many Muslims who do not pose a threat and have done nothing to deserve a ban on entry. The proper differentiator is their adherence and/or attachment to the totalitarian Sharia doctrine.

Sharia is derived from Islam's religious texts and explicitly requires adherents to support the establishment of a society based upon its totalitarian code. While this politico-military-legal system has a patina of religiosity (including prayers, a belief in a supreme being, ritual practices, community worship, etc.), it is still properly



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defined as a totalitarian ideology. Adherence to Sharia *requires* support for and active work to achieve the destruction or subordination of both the U.S. Constitution and the national existence of the United States of America.

Sharia includes a doctrine of conquest known as Jihad, which is a central feature of its laws and requirements. Jihad and Sharia are inextricably linked, with Sharia formulating and commanding Jihad, and with Jihad being waged for the purpose of imposing and instituting Sharia. Adherence to Sharia is adherence to the legal, political, and military doctrines and law of Jihad. The ultimate aim of Jihad is the imposition of Sharia on all nations, including the United States.

Sharia Definition for the purpose of U.S. Code

The mainstream interpretation of Sharia by the authorities of Islam is the totalitarian version aimed at enforced imposition worldwide. This belief system, especially its domination of all aspects of life, is not shared by all Muslims. The United States has a national security interest in truly “modern” (i.e., post-Sharia) Muslims prevailing in the internecine Islamic debate.

Therefore, it is necessary to repudiate expressly the anti-constitutional tenets of political Islam’s construction of Sharia (e.g., unequal treatment under the law, anti-democratic governance structure, denial of First Amendment freedoms, etc.) in order, among other things, to help those moderates marginalize the extremists who threaten us all.

The imposition of Sharia is accomplished using both violent means, non-violent techniques, including subversion, and in some cases lawful ones (e.g., immigration-fueled population growth). Irrespective of the approach employed, the goal is the same: increasing the political influence and power of Sharia’s adherents. Adherence to and advocacy for Sharia-adherence is a significant indicator of likely commission of material support for and actual acts of terrorism.

Sharia must be considered a totalitarian ideology for the purposes of the Immigration and Naturalization Act. In light of these facts, the admission into the United States and naturalization as citizens of individuals who adhere to Sharia poses clear and present dangers to the U.S. Constitution, this country and its people, and should be precluded.

Applicable U.S. Law Authorizing Entry Bans and Suggested Modifications

The current Immigration & Nationality Act (INA) has language that provides a basis for determining that Sharia-adherents and members of groups with the avowed goal of imposing Sharia should be banned from entry. This is based on the determination that Sharia is a totalitarian ideology incompatible with the U.S. Constitution and that

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its avowed goal is to replace our system of governance with a totalitarian system based on Sharia's dictates.

Defining Totalitarianism

The current definition of totalitarian for these purposes is in [8 U.S. Code § 1101 – Definitions](#):

(37)

The term “totalitarian party” means an organization which advocates the establishment in the United States of a totalitarian dictatorship or totalitarianism. The terms “totalitarian dictatorship” and “totalitarianism” mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

This definition, which was written to provide a basis for excluding members of totalitarian political parties should be amended so as to permit it to capture as well adherents to a totalitarian ideology, including one that has religious elements (yellow highlighted text contains suggested revisions):

(37)

The term “totalitarian” refers to individuals, ideologies and organizations that advocate the establishment in the United States of a system of government not representative in fact, characterized by (A) absolute submission to a supreme political authority or a party, that is organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

This applicability of this definition to an otherwise qualifying system of government, organization or party is unaffected by its attachment to beliefs and practices that may be commonly associated with a religion (e.g., belief in a Supreme Being, community worship, daily rituals, etc.)

Grounds for Exclusion

The current law allowing exclusion based on overthrow of government and establishment of a totalitarian system is 8 U.S. Code, Section 1182(a)(3) <https://www.law.cornell.edu/uscode/text/8/1182>.



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The relevant sections are:

Exclusion for overthrow of government

(3) Security and related grounds

(A) In general

Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

- (i)** any activity (I) to violate any law of the United States relating to espionage or sabotage or (II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,
- (ii)** any other unlawful activity, or
- (iii)** any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means, is inadmissible.

Exclusion for membership in a totalitarian party

(D) Immigrant membership in a totalitarian party

(i) In general

Any immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party (or subdivision or affiliate thereof), domestic or foreign, is inadmissible.

These provisions can and should be used with guidance from the relevant executive branch agencies to prohibit entry based on the attributes of Sharia identified above. The criteria for establishing Sharia-adherence for purposes of restricting entry should be similar to those used previously to exclude practitioners of Communism and other totalitarian doctrines.

[8 U.S. Code Section 1182\(3\)\(C\)\(iii\)](#) should be amended by adding the following at its end (the current Exception for Officials C (ii) relating to diplomats and legal representatives of other governments would remain):

Any alien who the consular officer or the Attorney General knows, or has reasonable grounds to believe, rejects the supremacy of the United States Constitution, including the laws and regulations enacted and the common law judicially developed pursuant to it, as the sole governing legal authority or otherwise seeks to limit that supremacy as the sole governing legal authority within the jurisdiction of the United States is inadmissible.

Any aliens who advocate, teach, fundraise for, take oaths or pledges in support of or who are members of or affiliated with any ideology or

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organization that advocates or teaches the overthrow by forceful or subversive means of the Government of the United States to establish a totalitarian form of government applying foreign laws incompatible with the United States Constitution, either through their own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such ideology or organization or paid for by the funds of, or funds furnished by, such organization, are inadmissible.

Changes should also be made to a provision granting de facto extension of U.S. First Amendment protections to non-citizens seeking entry: 8 U.S. Code Section 1182(a)(3)(C)(iii). The statements, beliefs and associations of anyone attempting to enter the United States should certainly be open to scrutiny and potentially cause exclusion if they evince an attachment to an anti-constitutional ideology like Sharia. Non-resident aliens outside the country should have no expectation of First Amendment or any other rights guaranteed by the U.S. Constitution. Therefore, the section entitled "Exception for other aliens" highlighted below should be repealed (red highlighted text to be removed).

C) Foreign policy

(i) In general

An alien whose entry or proposed activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is inadmissible.

(ii) Exception for officials

An alien who is an official of a foreign government or a purported government, or who is a candidate for election to a foreign government office during the period immediately preceding the election for that office, shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) solely because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States.

(iii) Exception for other aliens

An alien, not described in clause (ii), shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States, unless the Secretary of State personally determines that the alien's admission would compromise a compelling United States foreign policy interest.

Naturalization restrictions



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There are significant numbers of Sharia-adherent Muslims already in the U.S. and permitting them to become naturalized citizens is potentially an even greater danger than allowing the entry of more jihadists. Current law offers several provisions regarding support for establishing a totalitarian government that can be used to restrict naturalization of practitioners and advocates of Sharia, including this section:

1. [U.S. Code](#) › [Title 8](#) › [Chapter 12](#) › [Subchapter III](#) › [Part II](#) › § 1424
8 U.S. Code § 1424 - Prohibition upon the naturalization of persons opposed to government or law, or who favor totalitarian forms of government

(a) Notwithstanding the provisions of section 405(b) of this Act, no person shall hereafter be naturalized as a citizen of the United States—

(4)

who advocates or teaches or who is a member of or affiliated with any organization that advocates or teaches (A) the overthrow by force or violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or

(5)

who writes or publishes or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating (A) the overthrow by force, violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or (E) the economic, international, and governmental doctrines of world Communism or the establishment in the United States of a totalitarian dictatorship; or

(6)

who is a member of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated,



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distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display any written or printed matter of the character described in subparagraph (5) of this subsection.

These provisions as currently enacted provide grounds for denial of naturalization based on the practice of Sharia. The current law directly names Communism as a prohibited totalitarian doctrine. It should be amended to cover any totalitarian doctrine that advocates supplanting the U.S. Constitution. Membership in groups that require active efforts to replace existing U.S. law and government with Sharia and propagating materials advocating this anti-constitutional doctrine should also be grounds for denying naturalization.

8 U.S. Code § 1424 (4)(A) should be amended as follows:

(4)

who advocates or teaches or who is a member of or affiliated with any organization that advocates or teaches (A) the overthrow by force or violence or other unconstitutional means of the Government of the United States or **established** forms of law

8 U.S. Code § 1424 (5)(E) should be amended as follows:

(E)...the economic, international, and governmental doctrines of world Communism, or the establishment in the United States of a totalitarian **form of government which supplants the U.S. Constitution**; or....

Conclusion

The United States government is tasked with ensuring that anyone entering this country does not actively seek to overthrow our system of government or impose another form of governance incompatible with the U.S. Constitution. It must also ensure those who seek to become naturalized citizens share the values enshrined in the nation's founding documents or be denied that privilege.

The Islamic totalitarian ideology of Sharia is fundamentally incompatible with the free society and government enjoyed by all Americans. It contains elements of religion, but its requirements to mandate all aspects of private and public life for both its adherents and non-believers exceeds the boundaries for religious protection under the First Amendment. Sharia's assertion of supremacy over all man-made laws and its requirement that those who attach to it must actively strive to impose Sharia worldwide constitute sufficient grounds to consider Sharia an anti-constitutional totalitarian doctrine and restrict its adherents' entry and

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naturalization in accordance with existing law. Amendments can, however, helpfully clarify and eliminate bases for contesting that restriction.

All executive branch agencies responsible for international and homeland security and immigration should be immediately informed of this guidance for investigations and use in denying entry and naturalization. Congress should evaluate and enact the proposed changes to strengthen the government's ability to screen out from both entry and naturalization non-citizens holding and acting on this anti-constitutional Sharia ideology.



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