

2018

## Islam and the United States Supreme Court: Problems of History, Otherness, and Legal Recognition

Zoha Khan

Follow this and additional works at: <https://scholarship.law.berkeley.edu/aalj>



Part of the [Law Commons](#)

---

### Recommended Citation

Zoha Khan, *Islam and the United States Supreme Court: Problems of History, Otherness, and Legal Recognition*, 25 ASIAN AM. L.J. 21 (2018).

### Link to publisher version (DOI)

<https://doi.org/10.15779/Z38V698C33>

This Article is brought to you for free and open access by the Law Journals and Related Materials at Berkeley Law Scholarship Repository. It has been accepted for inclusion in Asian American Law Journal by an authorized administrator of Berkeley Law Scholarship Repository. For more information, please contact [jcera@law.berkeley.edu](mailto:jcera@law.berkeley.edu).

# Islam and the United States Supreme Court: Problems of History, Otherness, and Legal Recognition

Zoha Khan<sup>†</sup>

Introduction .....	21
I. Methodology of Research .....	22
A. Methodology Log .....	23
B. Database Chart.....	23
II. History of Islam in the United States .....	23
A. History of Pre-Colonial Contributions .....	24
B. Muslims and Slavery .....	24
C. Early Muslim Communities in America and the Rise of the Nation of Islam .....	26
D. Muslims and the Early Military Involvement.....	26
E. Post-Colonial Muslim Immigration and Enrichment.....	27
III. Review of Results .....	29
A. Early Cases: Islam and Orientalism .....	29
B. First Amendment Cases: Substantiation and Islam as an Example ...	32
C. Modern Cases that Use Islam as an Example .....	34
D. Modern Cases that Directly Discuss Islam Issues .....	35
Conclusion.....	36
Appendix 1: Methodology Log .....	36
Appendix 2: Case Database .....	48

## INTRODUCTION

Islam’s presence in America reaches as far back as, if not further than, the first group of Europeans reaching the American shore. However, even with this dated presence of Islam in America, prior to 9/11, little significance

---

DOI: <https://doi.org/10.15779/Z38V698C33>

Copyright © 2018 Regents of the University of California.

<sup>†</sup>. The completion of this research and paper could not have been done without the guidance and mentorship of Professor Neil T. Gotanda. Without him, this article would still be an idea in my head. I am very fortunate to have worked with the *Asian American Law Journal* at the Berkeley School of Law, in assisting with publishing this research. Their time and dedication to this article is deeply appreciated. Lastly, to my parents, siblings, and partner, thank you for your unwavering support in this endeavor, and all.

has been placed on Muslims in America or their contribution to American history.<sup>1</sup> Furthermore, American courts have treated Islam and Muslims with similar insignificant reference by excluding them from critical discussions or minimizing their contributions and presence. Exploring Islam in the context of American courts, one scholar notes that very few cases from the nineteenth and early twentieth centuries mention Islam or Muslims.<sup>2</sup>

After a preliminary review of Islam in the American courts, I conducted an exploratory study of U.S. Supreme Court (“Supreme Court”) cases that mentioned Islam. At the conclusion of this research, I compiled a database of Supreme Court cases that referenced Islam or Muslims.<sup>3</sup> Part I focuses on the methodology of research used to create this database. Part II briefly examines the history of Islam in America. Part III reviews the results of the research in a historical context. The Supreme Court’s historical references to Islam and Muslims do not seem consistent with the presence of Islam in America. Despite Islam’s extensive and important presence in U.S. history, the Supreme Court has generally reduced Islam to an Orientalist example of otherness, diminishing its many contributions and ties to the United States.

## I. METHODOLOGY OF RESEARCH

This study consisted of conducting a thorough search and examination of Supreme Court cases that pertain to or mention Islam or Muslims. I utilized both Lexis Nexis and Westlaw legal databases in order to obtain a diverse range of results. I performed identical searches in both search engines then logged and compared the results to one another.<sup>4</sup> I conducted twenty keyword searches using terms relating to Islam or Muslims and included variations in spelling.<sup>5</sup>

Under both legal search engines, I filtered each keyword search for only Supreme Court cases. I noted the number of results each keyword term produced. If keyword searches revealed cases that had already been

---

1. Nadia B. Ahmad, *The Islamic Influence in (Pre-)colonial and Early America: A Historical-Legal Snapshot*, 12 Seattle J. for Soc. Just. 913, 919-920 (2014). (“American history is incomplete without exploring the entire Islamic influence on it. Academic textbooks should reflect the role Muslims had in establishing this nation and its legal scholarship. Schools and universities must include Islam in their American history and law curricula to provide an objective viewpoint”).

2. Marie A. Failing, *Islam in the Mind of American Courts: 1800 to 1960*, 32 B.C. J. L. & Soc. Just. 1 (2012). (discussing three central themes found in early cases that mention Islam: “First, Islam was seen as a decidedly non-American religion. Second, Islam was often used to illustrate world wide acceptance of a legal principle, reflecting on core common values between people of different faiths. Third, religious tolerance extended beyond traditional Christian ideologies to encompass Islam, at least in theory if not in practice.”).

3. See Islam in the United States Supreme Court Database.

4. See Appendix I: Methodology Log.

5. List of keywords searched: Islam, Muslim, Moslem, Moors, Moorish, Mohammedan, Muhammadan, Mahomedan, Mahometan, Mohammedanism, Muhammadanism, Suni, Shia, Shiite, Sufi, Islamism, Quran, Qu’ran, and Koran.

discovered through a previous keyword search, I noted the number of previously discovered cases. After a review of the cases that the keyword searches revealed, I recorded the total number of cases that actually pertained to Islam or Muslims.

#### *A. Methodology Log*

I created a methodology log and recorded the research conducted. The first column on the left notes the keyword used in the search. The second column indicates the results obtained utilizing the Lexis Nexis search database. The third column indicates the results obtained utilizing the Westlaw search database. The fourth column consists of comments that arose during a review of the results.

#### *B. Database Chart*

I compiled the results of the study into a chronologically organized database chart. The first column from the left indicates the jurisdiction of the case.<sup>6</sup> The second column lists the citation of the case. The third column indicates the year of the case. The fourth column contains comments regarding the case, including the search terms entered into Lexis Nexis and Westlaw.<sup>7</sup> The fifth column includes a brief summary of the nature of the case as well as quoted language from the opinion that pertains to Islam or Muslims.

## II. HISTORY OF ISLAM IN THE UNITED STATES

Many texts that cover American history in the context of religion nevertheless fail to focus on the presence of Islam and Muslims in America.<sup>8</sup> This brief overview of the history of Islam in America examines different time periods in American history in order to contextualize the various Supreme Court decisions that relate to or mention Islam within the time period they were issued. The purpose of this historical examination is to demonstrate that the Supreme Court has minimized and often failed to recognize Islam's presence in America. Despite longstanding presence in America, the historical representation of Islam and Muslims is not equally mirrored in the Supreme Court's discussion of this religion or population.

---

6. As noted above, this study focused exclusively on United States Supreme Court cases, which is reflected in the jurisdiction column.

7. The search term is contained in quotation marks ("Example"), and the legal search engine in which the search term revealed the case result immediately follows the quoted term.

8. Failinger, *supra* note 2, at 1. ("If [muslims] are mentioned, it is generally in connection with the conquest of Spain or the rise of the Nation of Islam in the 1960s. Similarly, it is difficult to find an American legal history of note that discusses the role of Muslims in American law."); *see also* Dr. Yvonne Y. Haddad, *A Century of Islam in America*, AMERICAN INSTITUTE OF ISLAMIC AFFAIRS 1 (1986) ("Although Islam is one of the world's greatest religions . . . it is not normally associated with the United States").

### A. History of Pre-Colonial Contributions

Despite the lack of mainstream historical references to Muslims in America, reports suggest that Muslims have been present in the Americas for centuries prior to the arrival of Christopher Columbus. The first Muslims, reportedly from Mali and West Africa, arrived around 1312 to search the interior of America and used the Mississippi River as their access route.<sup>9</sup> Also, Columbus was known for being influenced by the geography laid out by Al-Idrissi, an Arab scholar who wrote about the journey of a group of seamen reaching America.<sup>10</sup> Then, in the mid-1500s, Estevanico, a Muslim sold into slavery in Morocco, was among the first to reach the west coast of Mexico in an expedition from Florida to the Pacific Coast.<sup>11</sup> As evidenced through this glance at the early centuries of American history, there were a number of contributions by Muslims that assisted in leading to the discovery and development of this country.

### B. Muslims and Slavery

Muslims also had a significant presence in the era of American slavery.<sup>12</sup> Research suggests that up to one-fifth of African slaves brought to the Americas were Muslims, and many were sent to South America.<sup>13</sup> Of the African slaves brought to the American colonies, around ten percent were Muslims.<sup>14</sup> References to Islamic customs practiced by African slaves in

9. Amir Nashid Ali Muhammad, *MUSLIMS IN AMERICA: SEVEN CENTURIES OF HISTORY 1312-1998* 3 (1st ed. 1998).

10. Muhammad, *supra* note 9, at 3; see also Dr. Abdullah Hakim Quick, *The History of Islam: The African, and Muslim, Discovery of America—Before Columbus*, <http://historyofislam.com/contents/the-classical-period/the-african-and-muslim-discovery-of-america-before-columbus/> (last visited Sep. 7, 2015) (“A group of seafarers sailed into the sea of darkness and fog (the Atlantic Ocean) from Lisbon in order to discover what was in it and to what extent were its limits. They were a party of eight and they took a boat which was loaded with supplies to last them for months. They sailed for eleven days until they reached turbulent waters with great waves and little light. They thought that they would perish so they turned their boat southward and travelled for twelve days. They finally reached an island that had people and civilization but they were captured and chained for three days. On the fourth day, a translator came speaking the Arabic language! He translated for the King and asked them about their mission. They informed him about themselves, then they were returned to their confinement. When the westerly wind began to blow they were put in a canoe blindfolded, and brought to land after three days sailing. They were left on the shore with their hands tied behind their backs. When the next day came another tribe appeared, freeing them and informing them that between them and their lands was a journey of two months.”).

11. *Id.* at 4-5 (“At least two states owe their beginning to [Estevanico], Arizona and New Mexico”). See also, *History > Muslim Immigration > Estevanico*, <http://arabsinamerica.unc.edu/history/muslim-immigration/estevanico/>, (last visited Sep. 7, 2015, 4:05 PM).

12. Muhammad, *supra* note 9, at 7 (“Many African Americans are descendants of Muslims who came to America’s shores after being enslaved in West Africa and some from losing in the Barbary Coast Wars in North Africa.”)

13. Haddad, *supra* note 8 at 2.

14. Thomas A. Tweed, *Islam in America: From African Slaves to Malcolm X*, NATIONAL HUMANITIES CENTER (Dec. 2004), <http://nationalhumanitiescenter.org/tserve/twenty/tkeyinfo/islam.htm><http://nationalhumanitiescenter.org/tserve/twenty/tkeyinfo/islam.htm>

America reach as far back as the early 1700s.<sup>15</sup> Furthermore, advertisements of runaway Muslim slaves date back to the late 1700s.<sup>16</sup> One story of a Muslim slave that survives in popular culture is that of Kunta Kinte, a Muslim from the village Juffure in Gambia, who was enslaved in 1767 and transported to Annapolis, Maryland.<sup>17</sup> Eventually sold to a Virginia planter, Kinte struggled to hold onto his Islamic beliefs; he tried to pray every day and scratched Arabic phrases into the dirt.<sup>18</sup> Claiming to be a descendent of Kunta Kinte, Alex Haley wrote *Roots: The Saga of an American Family*.<sup>19</sup> Another enslaved African was able to write his own biography. Omar Ibn Said, born in 1770 in the African region then known as Futa Toro,<sup>20</sup> was enslaved and sold to a planter in South Carolina.<sup>21</sup> Around 1821, Said converted from Islam to Christianity.<sup>22</sup> However, many scholars assert that even after converting, Said continued to maintain his Islamic beliefs.<sup>23</sup> In 1831, Said transcribed his autobiography in Arabic, which was later translated into English.<sup>24</sup> Even though Said wrote his autobiography after his conversion, he included Islamic prayers and passages from the Quran.<sup>25</sup> Additionally, historians and scholars note that other artifacts related to or written by Said include references to his Islamic faith.<sup>26</sup> Clearly, Muslim

---

<http://nationalhumanitiescenter.org/tserve/twenty/tkeyinfo/islam.htm> (last visited Sep. 8, 2015); <http://nationalhumanitiescenter.org/tserve/twenty/tkeyinfo/islam.htm> (last visited Sep. 8, 2015); see also "Oh ye Americans": The Autobiography of Omar ibn Said an enslaved Muslim in the United States NATIONAL HUMANITIES CENTER, (Sep. 8, 2015, 4:20PM), <http://nationalhumanitiescenter.org/pds/maai/community/text3/religionomaribnsaid.pdf>

15. Muhammad, *supra* note 9, at 11.

16. *Id.* at 16 (for example, in 1774 the Savannah Georgia Gazette advertised the running away of a slave named Mahomet).

17. *Id.* at 15.

18.*Id.*

19. See generally, Alex Haley, *ROOTS: THE SAGA OF AN AMERICAN FAMILY* (1976).

20. Omar Ibn Said, *African Muslim Enslaved in the Carolinas*, DOCUMENTING THE AMERICAN SOUTH (Sep. 8, 2015, 4:30 PM), <http://docsouth.unc.edu/highlights/omarsaid.html>.

21. *Id.*

22. *Id.*

23. *Id.*

24. See "Oh ye Americans": The Autobiography of Omar Ibn Said an enslaved Muslim in the United States, NATIONAL HUMANITIES CENTER (Sep. 8, 2015, 4:35 PM), <http://nationalhumanitiescenter.org/pds/maai/community/text3/religionomaribnsaid.pdf>; see also Omar Ibn Said, *African Muslim Enslaved in the Carolinas*, DOCUMENTING THE AMERICAN SOUTH, (Sep. 8, 2015, 4:30PM), <http://docsouth.unc.edu/highlights/omarsaid.html>. ("Said composed his autobiography (in Arabic); the manuscript was later translated and published in the *American Historical Review*.")

25. "Oh ye Americans" The Autobiography of Omar Ibn Said an enslaved Muslim in the United States, NATIONAL HUMANITIES CENTER, (Sep. 8, 2015, 4:35PM), <http://nationalhumanitiescenter.org/pds/maai/community/text3/religionomaribnsaid.pdf>.

26. Omar Ibn Said, *supra* note 20 ("Two surviving artifacts of Said's Arabic writing provide insights into the complicated interplay between Christianity and Islam during his life as an American slave. The first is a transcription of the 23rd Psalm, which Said recorded in Arabic and which was later translated back . . . [t]he re-translation reveals that the psalm is prefaced with the statement, 'In the name of God, the merciful and gracious. May God have mercy on the prophet Mohammed' . . . The second artifact is a card bearing Said's Arabic script. Inscribed on the back is the following explanation in

presence has been intertwined with some of the most significant periods of U.S. history, such as the era of slavery.

*C. Early Muslim Communities in America and the Rise of the Nation of Islam*

Some of the first Muslim communities in America can be dated back to the 1800s. In the early 1800s, Bilali, a slave in Georgia, was appointed to the position of slave manager of his master's plantation.<sup>27</sup> He oversaw approximately 500 slaves on the Georgia sea islands of Sapelo and St. Simons.<sup>28</sup> Studies on Sapelo and St. Simons show that their isolation allowed for the cultivation and preservation of Islamic traditions.<sup>29</sup> Bilali was also known for writing an Arabic manuscript in which he compiled "pieces from the Malik legal text *ar-Risala*—[which] attempted to reconcile the law of Islam with leading a principled life and showed how [Bilali] was struggling to maintain his *iman*<sup>30</sup> in the land of America."<sup>31</sup>

In 1930, during the Great Depression, W.D. Fard established the Nation of Islam, an African-American Islamic group with both political and spiritual aspects.<sup>32</sup> Elijah Muhammad, Fard's chief assistant, emerged as a prominent leader in the Nation of Islam, advocating "racial separatism and ethnic pride."<sup>33</sup> Malcolm X, born Malcolm Little in 1925, became Muhammad's chief missionary and a prominent voice in the Civil Rights movement.<sup>34</sup> However, due to political differences with Muhammad, Malcolm X eventually disassociated himself with the Nation of Islam to practice what he believed to be orthodox Islam.<sup>35</sup> As the United States continued to grow, so did the presence of Islam within it.

*D. Muslims and the Early Military Involvement*

Muslims served in and aided the U.S. Armed Forces in some of the earliest American wars. In 1775, a former Muslim slave named Peter Saleem received his freedom by enlisting in the Army and fighting in the Battle of

---

English: 'The Lord's Prayer written in Arabic by Uncle Moreau (Omar) a native African, now owned by General Owen of Wilmington, N.C. He is 88 years of age & a devoted Christian.' The Arabic text, however, is not the Lord's Prayer, but actually Surat 110 from the Koran (entitled 'The Help'), predicting a mass conversion of unbelievers to Islam in which men will '[enter] the religion of Allah in companies.'")

27. Manning Marable & Hishaam D. Aidi, BLACK ROUTES TO ISLAM (CRITICAL BLACK STUDIES) 3 (2009).

28. *Id.*

29. *Id.*

30. "Iman" is a believer's faith in Islam.

31. *Id.*

32. Edward E. Curtis IV, BLACK MUSLIM RELIGION IN THE NATION OF ISLAM, 1960-1975 2 (2006).

33. *Id.*

34. *Id.* at 3.

35. *Id.*

Bunker Hill.<sup>36</sup> One anecdote reveals that when British Major John Pitcairn ordered the colonial troops to surrender, Saleem stepped forward and shot Pitcairn.<sup>37</sup> Saleem continued to fight in many battles and remained in the Army.<sup>38</sup> Mohammed Ali Ben Said was another Muslim member of the U.S. military.<sup>39</sup> Born in the mid-1800s, Said joined the 55th Regiment of Massachusetts Colored Volunteers and rose through the ranks from corporal to sergeant.<sup>40</sup>

In 1856, Secretary of War Jefferson Davis approved the “Camel Corps” project, in which the United States experimented with the potential use of camels in the desert.<sup>41</sup> Hajj Ali, also known as “Hi Jolly,” traveled from Syria to the coast of Texas, bringing with him thirty-three camels to head the Camel Corps experiment.<sup>42</sup> The project was a failure, and the camels were later auctioned off to zoos, circuses, or set wild.<sup>43</sup> Despite the dissolution of the Camel Corps, Ali remained in the United States, and there are stories describing his participation in the Islamic customs of fasting and praying.<sup>44</sup>

Islam and Muslims have a constant presence throughout U.S. history. This presence can be dated back to colonial times and continued through critical stages of U.S. development.

#### *E. Post-Colonial Muslim Immigration and Enrichment*

Immigration to the United States by Muslims occurred for the most part in two waves.<sup>45</sup> The first wave took place beginning around 1875 and continuing to the early 1900s.<sup>46</sup> The second wave began in the mid-1960s and continued throughout the 1990s.<sup>47</sup> The immigrant groups came mainly from Syria, Lebanon, and Palestine but also included a small number from India.<sup>48</sup> North Dakota, Indiana, Iowa, and Michigan became home to many of the newly arrived immigrants.<sup>49</sup>

Barriers to Muslim immigration from East Asia arose during the first wave. This was in large part due to the Chinese Exclusion Acts of 1882, the

---

36. Muhammad, *supra* note 9, at 17.

37. *Id.*

38. *Id.* at 18.

39. *Id.* at 45.

40. *Id.*

41. Michael Knight, BLUE-EYED DEVIL: A ROAD ODYSSEY THROUGH ISLAMIC AMERICA 159 (2006).

42. *Id.* at 159-60.

43. *Id.* at 160.

44. Muhammed Al-Ahari, *The Story of Hajj Ali (Hi Jolly) and the U.S. Camel Calvary Corp*, [http://www.academia.edu/4250078/The\\_Story\\_of\\_Hajj\\_Ali\\_and\\_the\\_U.S.\\_Camel\\_Calvary\\_Corps](http://www.academia.edu/4250078/The_Story_of_Hajj_Ali_and_the_U.S._Camel_Calvary_Corps). (last visited Sep. 8, 2015).

45. Michelle Fine & Selcuk R. Sirin, *Muslim American Youth: Understanding Hyphenated Identities through Multiple Methods* 36 (2008).

46. *Id.*

47. *Id.*

48. *Id.*

49. Fine & Sirin, *supra* note 47, at 35-36.

exclusion of Japanese immigrants in the 1908, and the creation of the Asiatic Barred Zone in 1917.<sup>50</sup> Around 1924, the first major wave of Muslim immigration came to a halt in United States due to the 1924 Johnson-Reed Immigration Act, which “disfavored countries outside of northern and western Europe.”<sup>51</sup> Following the immigration reforms of 1965, Muslims from South Asia and the Middle East were allowed to immigrate to America.<sup>52</sup> Additionally, the second wave also included a large number of Muslims from India, Pakistan, and Bangladesh.<sup>53</sup> Although the exact number of Muslims in present-day America is difficult to ascertain because the U.S. Census Bureau does not ask question about religion, research and studies reveal that the number is anywhere from two to nine million Muslims.<sup>54</sup> A recent Pew Research Study put the number at 3.45 million Muslims in the United States in 2017, or 1.1% of the total population.<sup>55</sup>

Muslims immigrating to the United States settled in all parts of the country and began to put down roots. Since establishing roots in the United States, Muslims have contributed to many aspects of American culture. For example, Dr. Fazlur Rahman Khan, a Muslim immigrant from Bangladesh, designed three prominent North American buildings: the John Hancock Center, One Shell Plaza, and the Willis Tower.<sup>56</sup> Muslims have also been invited to offer prayer to both the House of Representatives and the Senate. In 1991, Imam Siraj Wahhaj was the first Muslim to offer prayer to the House of Representatives.<sup>57</sup> Wahhaj was followed by Imam Warith Deen Mohammed in 1992, who became the first Muslim to offer prayer to the Senate.<sup>58</sup>

More recently Muslims have made groundbreaking presence in the sports and entertainment industries. Muhammad Ali, a world-renowned champion boxer, made headways for Muslim-Americans by winning many boxing matches and incorporating Islamic principles into his life after his conversion.<sup>59</sup> Dave Chappelle, a comedian and producer, starred in many films and had his own television series on a popular television network.<sup>60</sup> Muslims continue to affect the U.S. as the country grows and develops.

---

50. Failinger, *supra* note 2, at 1, 9.

51. Failinger, *supra* note 2, at 1, 9.

52. Fine & Sirin, *supra* note 47, at 35-36.

53. *Id.*

54. Jonathan Curiel, *ISLAM IN AMERICA* 66 (I.B. Tauris & Co. Ltd ed. 2015).

55. Besheer Mohamed, “New estimates show U.S. Muslim population continues to grow,” Pew Research Center, January 3, 2018, <http://www.pewresearch.org/fact-tank/2018/01/03/new-estimates-show-u-s-muslim-population-continues-to-grow/>.

56. Mohammed, *supra* note 9, at 66.

57. *Id.* at 68.

58. *Id.*

59. Thomas Hauser, *MUHAMMAD ALI: HIS LIFE AND TIMES* 1 (2012).

60. Edward E. Curtis, *ENCYCLOPEDIA OF MUSLIM-AMERICAN HISTORY* 100 (2010).

## III. REVIEW OF RESULTS

The methodology and process of compiling this database was tailored in a manner to reach

a large quantity of results that varied in substantive nature as to the subject-matter content of cases. Because the database itself is set up chronologically, a review of the results of the database is also laid out chronologically, with an emphasis on certain themes or notable observations in the Supreme Court over time.

*A. Early Cases: Islam and Orientalism*

The earliest cases discussing or mentioning Islam ranged from the early to mid-to-late 1800s. These cases mainly used the terminology “Moors” or “Mohammedan,” with a variation of spellings.<sup>61</sup> The earliest case to appear in the database is *Manella, Pujals & Co. v. Barry* from 1806.<sup>62</sup> The Supreme Court did not actually discuss or mention Islam in any substantive manner. However, the subject matter of the case was a “Moorish” ship.<sup>63</sup> The Supreme Court did not allude to what “Moorish” was meant to describe.<sup>64</sup> However, because “Moorish” was commonly used during the time period of the case to refer to a geographical location in the Middle East or group of Muslim people, it is likely that the Court did not feel necessary to define “Moorish.”

Many of the other early cases in the database mentioned Islam as a religion disassociated from the United States. Such performance by the Supreme Court is consistent with an Orientalist viewpoint common during that time period. Edward Said discussed Orientalism at length in his 1978 book:<sup>65</sup>

Taking the late eighteenth century as a very roughly defined starting point Orientalism can be discussed and analyzed as the corporate institution for dealing with the Orient—dealing with it by making statements about it, authorizing views of it, describing it, by teaching it, settling it, ruling over it: in short, Orientalism as a Western style for dominating, restructuring, and having authority over the Orient.<sup>66</sup>

Some cases exhibited “Orientalist” ideas in the way they distinguished the East from the West. In the 1818 case *The Star*, the Supreme Court reviewed a matter regarding the ownership of a vessel.<sup>67</sup> Footnote 2 of the opinion discussed how the law of European nations should not be applied “to

---

61. (See e.g. “Moors,” “Moorish,” “Mohammedan,” “Muhammadan,” “Mahomedan,” “Mahomedan,” “Mahometan”).

62. *Manella v. Barry*, 7 U.S. 415 (1806).

63. *See Id.*

64. *See Id.*

65. Edward W. Said, *ORIENTALISM* 3 (1978).

66. *Id.*

67. *The Star*, 16 U.S. 78 (1818).

the Turks and other Mohammedan people with the same rigor.”<sup>68</sup> Such language leans towards exemplifying how, during this time period, the Court reflected society’s “othering” of the East.

Other cases discussed traditions or principles practiced in Islam and Islamic countries. In the 1875 case *Dainese v. Hale*, the Supreme Court reviewed a matter of recovery for goods, chattel, and certain credit of the plaintiff.<sup>69</sup> Justice Bradley’s opinion noted a specific characteristic found in Islamic countries: “it is also conceded that in Pagan and Mahometan countries it is usual for the ministers and consuls of European States to exercise judicial functions as between their fellow-subjects or citizens.”<sup>70</sup> By setting forth that “Mahometan” countries have different ideals and functions than that of the United States, regardless of the context, the Supreme Court further advanced the subtle “othering” of Islam. The Court once again distinguished perceived Eastern principles from Western principles.

The use of Islam in these limited functions also demonstrates the differential viewpoint given to Islam during this period. This treatment of Islam as a solely Eastern religion detached Islam from having significance within the United States. For example, in the 1891 case *In re Ross*, the Court discussed the “rise of Islamism” in the western region of Asia:<sup>71</sup>

After the rise of Islamism, and the spread of its followers over western Asia and other countries bordering on the Mediterranean, the exercise of this judicial authority became a matter of great concern. The intense hostility of the people of Moslem faith to all other sects, and particularly to Christians, affected all their intercourse, and all proceedings had in their tribunals.<sup>72</sup>

By giving Islam an adversarial relationship with Christianity, the Court further distanced Islam from the United States and perpetuated the “othering” of Islam. This “othering” can still be seen in cases decades after *In re Ross*. In 1968, Justice Douglas noted in his dissent in *Board of Education v. Allen*, “[t]he Crusades, for example, may be taught as a Christian undertaking to ‘save the Holy Land’ from the Moslem Turks who ‘became a threat to Christianity and its holy places.’”<sup>73</sup> Although Justice Douglas might have intended to use an illustrative example and not showcase his personal beliefs on the Crusades, the idea behind the example still advances the “othering” of Islam by acknowledging the possibility of an adversarial relationship between Christianity and Islam in the United States.

As discussed in above Part II, by the 1950s, Muslims made many

---

68. *Id.* at 93 n.2 (“[b]ut the law of nations, as received among the nations of Europe and the countries colonized by them, or that part of the human race denominated Christendom, is not to be applied to them, to the Turks and other Mohammedan people, with the same rigour, and in all the details with which it is administered among that class of nations to which it is peculiarly applicable”).

69. *Dainese v. Hale*, 91 U.S. 13 (1875).

70. *Id.* at 15.

71. *In re Ross*, 140 U.S. 453, 463 (1891).

72. *Id.* at 463.

73. *Bd. of Educ. v. Allen*, 392 U.S. 236, 260 (1968).

contributions to the development and sculpting of the United States. However, it was not until 1953 in *Fowler v. Rhode Island* that the court began to normalize the presence of Islam in America.<sup>74</sup> Although, there are other earlier cases that referenced the presence of Islam in the United States, those cases made the reference indirectly or in a manner that still presented Islam and Muslims as foreign.<sup>75</sup>

For example, in *Fowler*, the Supreme Court held that an ordinance that penalized a minister of Jehovah's Witnesses for preaching at a public park violated the First and Fourteenth Amendments.<sup>76</sup> In the Court's opinion, Justice Douglas noted:

. . . if we affirmed this conviction in the face of the concession made during oral argument. Baptist, Methodist, Presbyterian, or Episcopal ministers, Catholic priests, Moslem mullahs, Buddhist monks could all preach to their congregations in Pawtucket's parks with impunity. But the hand of the law would be laid on the shoulder of a minister of this unpopular group for performing the same function.<sup>77</sup>

Referencing the Muslim mullah, an Islamic religious leader,<sup>78</sup> amongst the other religious leaders begins to show a more normalized understanding of Islamic presence in the United States. Although Islam is only mentioned briefly by grouping the "Moslem" with a group of other religions, the Court took a step towards showing recognition of Islam as a religion practiced in the United States.

Throughout the Supreme Court's use of Islam and Muslims, there has been a continuous theme of "othering." Islam has been used descriptively to reference customs, people, and ideals that are seen as inconsistent with the views of the United States. Furthermore, a significant number of the Supreme Court's references to Islam by the Supreme Court have not been

---

74. See *Fowler v. Rhode Island*, 345 U.S. 67 (1953). (By using "Moslem mullahs" in conjunction with other religious leaders and setting forth an example of these religious leaders preaching, the Court has inadvertently and passively acknowledged that other religions, such as Islam are practiced in America presumably by Americans. The practice of Islam is therefore seen as something occurring within the United States and not just an eastern ideal).

75. See *United States v. Libellants & Claimants of The Schooner Amistad*, 40 U.S. 518, 533 (1841). (stating an indirect reference to Islamic presence in America, the opinion included excerpts of depositions, one of which stated, "[t]o one of them, I spoke, and repeated a Mohammedan form of prayer in the Arabic language; the man immediately recognized the language, and repeated a few words of it after me, and appeared to understand it, particularly the words 'Allah akbar,' or God is great"); see also *Thurlow v. Massachusetts*, 46 U.S. 504, 573 (1847) (contrasting Christian values to that of Muslim values by The cases before the Supreme Court were regarding Section 25 of the Judiciary Act. There was no opinion of the Court. Six Justices gave separate opinions. One of the opinions discussed, stating that "to license and regulate the sale of spirituous liquors, that it might be consistent with the preservation of good order, and with the Christian virtue of temperance, and not to inhibit it, in enforcement of the Mahometan rule of abstinence").

76. *Fowler*, 345 U.S. at 69.

77. *Id.* at 70.

78. See *Mullah*, MERRIAM-WEBSTER ONLINE DICTIONARY, <http://www.merriam-webster.com/dictionary/mullah> (Nov. 6, 2015).

substantive, as the research corresponding to this paper has revealed. The limited use of Islam in these cases demonstrates the minimalizing of the presence of Islam in America, when reviewing the historical and consistent presence of Islam in the United States during these periods. The history of the presence of Islam and Muslims in America is significant in comparison to the attention and references given to Islam by the Supreme Court. Although the Supreme Court eventually shifted towards recognizing Islam as a religion practiced in the United States, there is still a long way to go before the court normalizes the presence of Islam.

*B. First Amendment Cases: Substantiation and Islam as an Example*

The majority of cases found using the methodology of this database involved Constitutional issues that focused primarily on First Amendment rights. The First Amendment sets forth that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”<sup>79</sup> The two clauses within this portion of the First Amendment are known as the Establishment clause and the Free Exercise clause. Islam, as a religion, is primarily discussed in the context of the First Amendment religion clauses. The First Amendment is a mechanism that protects many liberties, including religious freedom. Thus, the Supreme Court substantively discusses Islam through the lens of the First Amendment.

In the 1989 case *County of Allegheny*, the Supreme Court acknowledged that First Amendment protections apply to all different forms of religion, and not just Christianity.<sup>80</sup> The Supreme Court was faced with determining the constitutionality of two holiday displays located on public property in downtown Pittsburgh: a crèche depicting the Christian Nativity scene and an eighteen-foot Chanukah menorah.<sup>81</sup> The Court found that the Nativity scene violated the Establishment clause, but the Chanukah menorah display did not.<sup>82</sup> In the Court’s opinion, Justice Blackmun noted, “[p]erhaps in the early days of the Republic [the First Amendment was] understood to protect only diversity within Christianity, but today [the First Amendment is] recognized as guaranteeing religious liberty and equality to ‘the infidel, the atheist, or the adherent of a non-Christian faith such as Islam or Judaism.’”<sup>83</sup> Here, the Supreme Court directly referenced Islam in a manner that normalized its presence, and established the need to defend non-Christian faiths in the same way that Christianity has been historically protected.

As in *Allegheny*, many of the cases associated with First Amendment rights did not involve a direct, substantive issue related to Islam. Rather,

---

79. U.S. CONST. amend. I.

80. *Cty. of Allegheny v. ACLU*, 492 U.S. 573, 590 (1989).

81. *Id.*

82. *Id.*

83. *Id.* at 590.

Islam or Muslims were used in an illustrative manner.<sup>84</sup> Additionally, in some cases, the Supreme Court used Muslims to substantiate an argument. Justice Douglas was particularly fond of using Muslims to support the contentions in his opinions. In *Walz v. Tax Comm'n of City of New York*, the Supreme Court held that a New York tax exemption for religious organizations that used property solely for religious worship was not unconstitutional.<sup>85</sup> In his dissent, Justice Douglas noted:

[y]et if the Catholics, controlling one school board, could put their prayer into one group of public schools, the Mormons, Baptists, Moslems, Presbyterians, and others could do the same, once they got control. And so the seeds of Establishment would grow and a secular institution would be used to serve a sectarian end.<sup>86</sup>

A year later in *Lemon v. Kurtzman*, Justice Douglas again used Muslims to illustrate a point.<sup>87</sup> In *Lemon*, the Supreme Court reviewed whether state statutes providing government aid to church-related schools violated the First Amendment.<sup>88</sup> Justice Douglas's concurrence noted:

[m]any nations follow that course: Moslem nations teach the Koran in their schools; Sweden vests its elementary education in the parish; Newfoundland puts its school system under three superintendents—one from the Church of England, one from the Catholic church, one from the United Church. In Ireland the public schools are under denominational managership—Catholic, Episcopalian, Presbyterian, and Hebrew.<sup>89</sup>

In the year following, Justice Douglas once again used Muslims to support an argument in his dissent in *Moose Lodge No. 107 v. Irvis*.<sup>90</sup> In *Moose*, a private club sought review of the lower court decision finding that the club's refusal to serve a guest of a club member, solely based on the guest's race, gave rise to an Equal Protection clause violation.<sup>91</sup> The Supreme Court reversed the lower court's decision.<sup>92</sup> In his dissent, Justice Douglas's wrote that "[t]he individual can be as selective as he desires. So the fact that the Moose Lodge allows only Caucasians to join or come as guests is constitutionally irrelevant, as is the decision of the Black Muslims to admit

---

84. See e.g., *R. A. V. v. St. Paul*, 505 U.S. 377, 435 (1992) (Stevens, J., concurring) ("[a]ssuming such signs could be fighting words (which seems to me extremely unlikely), neither sign would be banned by the ordinance for the attacks were not 'based on . . . religion' but rather on one's beliefs about tolerance. Conversely (and again assuming such signs are fighting words), just as the ordinance would prohibit a Muslim from hoisting a sign claiming that all Catholics were misbegotten, so the ordinance would bar a Catholic from hoisting a similar sign attacking Muslims"); *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 525 (1993) ("[i]n modern Islam, there is an annual sacrifice commemorating Abraham's sacrifice of a ram in the stead of his son.").

85. *Walz v. Tax Comm'n of N.Y.*, 397 U.S. 664 (1970).

86. *Id.* at 702.

87. *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

88. *Id.*

89. *Id.* at 631.

90. See *Moose Lodge No. 107 v. Irvis*, 407 U.S. 163,180 (1972).

91. *Id.* at 165.

92. *Id.* at 165.

to their services only members of their race.”<sup>93</sup>

Other Supreme Court justices also used Islam or Muslims to illustrate an example, such as in the 1992 case, *R. A. V. v. St. Paul*.<sup>94</sup> In *R.A.V.*, the Supreme Court nullified a city ordinance banning displays of symbols that had the potential of arousing anger based on religion, and other characteristics such as race, color, creed, or gender.<sup>95</sup> Justice Steven’s concurrence stated:

[a]ssuming such signs could be fighting words (which seems to me extremely unlikely), neither sign would be banned by the ordinance for the attacks were not ‘based on . . . religion’ but rather on one’s beliefs about tolerance. Conversely (and again assuming such signs are fighting words), just as the ordinance would prohibit a Muslim from hoisting a sign claiming that all Catholics were misbegotten, so the ordinance would bar a Catholic from hoisting a similar sign attacking Muslims.<sup>96</sup>

### C. Modern Cases that Use Islam as an Example

Although modern cases more prominently feature questions directly related to Islam, the Supreme Court continues to use Islam and Muslims in an illustrative manner. However, the Supreme Court has progressed from presenting Islam as a foreign religion to recognizing that Islam is present in, and a part of, the United States. For example, in *Burwell v. Hobby Lobby Stores, Inc.*, the Supreme Court found that closely held corporations were not required to cover certain contraceptives if they were religiously opposed to them.<sup>97</sup> In her dissent, Justice Ginsburg used certain beliefs of Muslims to substantiate her argument:

[w]ould the exemption the Court holds RFRA demands for employers with religiously grounded objections to the use of certain contraceptives extend to employers with religiously grounded objections to blood transfusions (Jehovah’s Witnesses); antidepressants (Scientologists); medications derived from pigs, including anesthesia, intravenous fluids, and pills coated with gelatin (certain Muslims, Jews, and Hindus); and vaccinations (Christian Scientists, among others)?<sup>98</sup>

In *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, the Supreme Court once again used characteristics of Islam to provide an example for its proposition.<sup>99</sup> Footnote 3 in the Opinion stated:

[i]n Islam, for example, ‘every Muslim can perform the religious rites, so there is no class or profession of ordained clergy. Yet there are religious

93. *Id.* at 180.

94. *See R. A. V. v. St. Paul*, 505 U.S. 377 (1992).

95. *See Id.* at 435.

96. *Id.* at 435.

97. *Burwell v. Hobby Lobby Stores Inc.*, 134 S. Ct. 2751 (2014) (holding that corporate employers are not required to cover contraceptives based on religious belief).

98. *Id.* at 2805.

99. *See Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 132 S. Ct. 694 (2012).

leaders who are recognized for their learning and their ability to lead communities of Muslims in prayer, study, and living according to the teaching of the Qur'an and Muslim law'.<sup>100</sup>

#### *D. Modern Cases that Directly Discuss Islam Issues*

Only recent Supreme Court cases include substantive issues of Islam in the U.S. These cases involve the practicing principles and foundational elements of Islam.

A recent case that received not only legal scholarly attention, but also made headways in media outlets, was *EEOC v. Abercrombie & Fitch Stores, Inc.*<sup>101</sup> In *Abercrombie*, respondent Abercrombie refused to hire Samantha Elauf, a practicing Muslim woman, because the hijab headscarf that she wore according to her religious beliefs conflicted with Abercrombie's employee dress code policy.<sup>102</sup> The Equal Employment Opportunity Commission ("EEOC") filed suit on Elauf's behalf under Title VII of the Civil Rights Act of 1964.<sup>103</sup> The Civil Rights Act prohibits a prospective employer from refusing to hire an applicant because of their religious practice when the practice could be accommodated without undue hardship.<sup>104</sup> The EEOC prevailed in the district court, but the Tenth Circuit reversed.<sup>105</sup> The Supreme Court ultimately reversed the Tenth Circuit and remanded the case for further proceedings.<sup>106</sup> One journalist opined as to the significance of the *Abercrombie* ruling:

[a] large majority of Americans affected by such discriminatory policies belong to minority faith communities, and the Supreme Court's decision directly impacts how we think about equal opportunity and religious freedom in this country. Elauf demonstrated that she recognizes her case would have bearing for a number of different communities.<sup>107</sup>

This case is a great example of the Supreme Court finally acknowledging Islam in a manner that normalizes, or at the very least recognizes, the practice of Islam in the United States. By identifying institutional issues with discriminatory practices that impact religious beliefs, the Supreme Court conceded that non-Western ideologies such as Islam need protection.

Another recent case primarily dealing with issues related to Islam is *Holt v. Hobbs*.<sup>108</sup> In this 2015 case, the Supreme Court held that a state

---

100. *Id.* at 713 n.3.

101. *See EEOC v. Abercrombie & Fitch Stores, Inc.*, 135 S. Ct. 2028 (2015).

102. *Id.* at 2031.

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.*

107. Simran Jeet Singh, *A Muslim woman beat Abercrombie & Fitch. Why her Supreme Court victory is a win for all Americans*, THE WASHINGTON POST, June 1, 2015.

108. *See Holt v. Hobbs*, 135 S. Ct. 853 (2015).

prison's policy preventing an inmate from growing a short beard violated the Religious Land Use and Institutionalized Persons Act.<sup>109</sup> The Court held that the beard policy substantially burdened the inmate's religious belief because his religion required a beard.<sup>110</sup> The Court further emphasized that there was no showing that the policy was the least restrictive means of furthering the interests of the prison.<sup>111</sup> This case illustrates another instance where the Supreme Court acknowledged the need to protect the religious liberties of non-Western ideologies.

#### CONCLUSION

This database is not intended to solely reflect the research and commentary presented throughout this paper. Rather, it is intended to be a historical reference that can be viewed and discussed in a number of ways. This database is meant to be available for other authors and scholars to reference and formulate their own observations and analyses. There remains an abundance of history to be explored, and this article is merely intended to be the starting spark.

The research and data compiled in this database provide a view of the Supreme Court through the lens of Islam. As discussed at length in Part II, the Supreme Court's use of Islam and Muslims does not coincide with the presence of Islam in America, which dates back much farther than the Court's first acknowledgement. The Supreme Court took even longer to begin to normalize Islam and Muslims in the United States. Despite this progress, it is clear that there is still a long way to go before the Court abandons its Orientalist discourse, and truly recognizes and normalizes the presence of Islam in the United States.

#### APPENDIX 1: METHODOLOGY LOG

Term	Lexis Nexis	Westlaw	Comments
1. Islam	<p>"Islam" search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 21 cases.</p> <p>14 out of 21 cases</p>	<p>"Islam" search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 32 cases.</p> <p>14 out of 32 cases were already inputted</p>	<p>Only 2 cases were different from the results in Lexis Nexis.</p>

---

109. *Id.* at 849.

110. *Id.*

111. *Id.*

	<p>were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence and/or dissent.</p>	<p>into the database.</p> <p>16 out of 32 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence and/or dissent.</p>	
2. Muslim	<p>“Muslim” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 35 cases.</p> <p>11 out of 35 cases were already inputted into the database.</p> <p>32 out of 35 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case or mentioned Islam in the text of the opinion, concurrence and/or dissent.</p>	<p>“Muslim” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 38 cases.</p> <p>31 out of 38 cases were already inputted into the database.</p> <p>31 out of 38 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case or mentioned Islam in the text of the opinion, concurrence and/or dissent.</p>	

3. Moslem	<p>“Moslem” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 10 cases.</p> <p>1 out of 10 cases were already inputted into the database.</p> <p>9 out of 10 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence and/or dissent.</p>	<p>“Moslem” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 26 cases.</p> <p>16 out of 26 cases were already inputted into the database.</p> <p>19 out of 26 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case or mentioned Islam in the text of the opinion, concurrence and/or dissent.</p>	
4. Moors	<p>“Moors” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 268 cases.</p> <p>1 out of 268 cases were already inputted into the database.</p> <p>2 out of 268 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or</p>	<p>“Moors” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 124 cases.</p> <p>2 out of 124 cases were already inputted into the database.</p> <p>2 out of 124 cases were actually pertaining to Muslims/Islam as a religion, in the substantive nature of the case, or mentioned Islam in</p>	<p>Theses cases were mainly pertaining to Moor, in the nautical sense of the word.</p>

	mentioned Islam in the text of the opinion, concurrence, and/or dissent.	the text of the opinion, concurrence, and/or dissent.	
5. Moorish	<p>“Moorish” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 2 cases.</p> <p>0 out of 2 cases were already inputted into the database.</p> <p>0 out of 2 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence and/or dissent.</p>	<p>“Moorish” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 23 cases.</p> <p>1 out of 23 cases were already inputted into the database.</p> <p>2 out of 23 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	<p>Many of the cases that were produced under the Westlaw search did not contain the word “Moorish” at all.</p> <p>The case <i>Sherbert v. Verner</i>, 374 U.S. 398 (1963) was produced in this result, and has already been inputted into the database under the Search Terms “Islam” (Lexis Nexis and Westlaw) and “Moslem” (Westlaw). However, the term “Moorish” was not found in the opinion, and was not used in the context relating to Islam or Muslims.</p>
6. Mohammedan	<p>“Mohammedan” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 7 cases.</p>	<p>“Mohammedan” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 25 cases.</p>	

	<p>1 out of 7 cases were already inputted into the database.</p> <p>7 out of 7 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	<p>12 out of 25 cases were already inputted into the database.</p> <p>16 out of 25 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	
7. Muhammadan	<p>“Muhammadan” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 1 case.</p> <p>1 out of 1 case was already inputted into the database.</p> <p>1 out of 1 case was actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	<p>“Muhammadan” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>1 out of 20 cases were already inputted into the database.</p> <p>1 out of 20 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	
8. Mahommedan	<p>“Mahommedan” search into Lexis Nexis filtered for only United States</p>	<p>“Mahommedan” search into Westlaw filtered for only United States</p>	

	<p>Supreme Court cases.</p> <p>Search produced 0 cases.</p>	<p>Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>0 out of 20 cases were already inputted into the database.</p> <p>0 out of 20 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	
9. Mahomedan	<p>“Mahomedan” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 0 cases.</p>	<p>“Mahomedan” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>0 out of 20 cases were already inputted into the database.</p> <p>2 out of 20 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	

10. Mahometan	<p>“Mahometan” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 4 cases.</p> <p>2 out of 4 cases were already inputted into the database.</p> <p>4 out of 4 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	<p>“Mahometan” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 37 cases.</p> <p>15 out of 37 cases were already inputted into the database.</p> <p>15 out of 37 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	
11. Mohammedanism	<p>“Mohammedanism” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 0 cases.</p>	<p>“Mohammedanism” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>12 out of 20 cases were already inputted into the database.</p> <p>12 out of 20 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or</p>	

		mentioned Islam in the text of the opinion, concurrence, and/or dissent.	
12. Muhammadanism	<p>“Muhammadanism” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 0 cases.</p>	<p>“Muhammadanism” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>1 out of 20 cases was already inputted into the database.</p> <p>1 out of 20 cases was actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	
13. Suni	<p>“Suni” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 1 case.</p> <p>0 out of 1 case was already inputted into the database.</p> <p>0 out of 1 case was actually pertaining to</p>	<p>“Suni” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>0 out of 20 cases were already inputted into the database.</p> <p>0 out of 20 cases were actually pertaining to</p>	

	Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.	Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.	
14. Shia	<p>“Shia” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 0 cases.</p>	<p>“Shia” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>0 out of 20 cases were already inputted into the database.</p> <p>0 out of 20 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	
15. Shiite	<p>“Shiite” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 0 cases.</p>	<p>“Shiite” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>3 out of 20 cases were already inputted into the database.</p> <p>3 out of 20 cases</p>	

		were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent	
16. Sufi	<p>“Sufi” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 0 cases.</p>	<p>“Sufi” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 25 cases.</p> <p>0 out of 25 cases were already inputted into the database.</p> <p>0 out of 25 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent</p>	

17. Islamism	<p>“Islamism” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 2 cases.</p> <p>2 out of 2 cases were already inputted into the database.</p> <p>2 out of 2 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.</p>	<p>“Islamism” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 22 cases.</p> <p>7 out of 22 cases were already inputted into the database.</p> <p>7 of 22 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent</p>	
18. Quran	<p>“Quran” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 2 cases.</p> <p>0 out of 2 cases were already inputted into the database.</p> <p>0 out of 2 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in</p>	<p>“Quran” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>2 out of 20 cases were already inputted into the database.</p> <p>2 of 20 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the</p>	

	the text of the opinion, concurrence, and/or dissent.	opinion, concurrence, and/or dissent	
19. Qu'ran	<p>“Qu'ran” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 0 cases.</p>	<p>“Qu'ran” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>1 out of 20 cases were already inputted into the database.</p> <p>1 of 20 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent</p>	
20. Koran	<p>“Koran” search into Lexis Nexis filtered for only United States Supreme Court cases.</p> <p>Search produced 13 cases.</p> <p>5 out of 13 cases were already inputted into the database.</p> <p>6 out of 13 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of</p>	<p>“Koran” search into Westlaw filtered for only United States Supreme Court cases.</p> <p>Search produced 20 cases.</p> <p>7 out of 20 cases were already inputted into the database.</p> <p>7 out of 20 cases were actually pertaining to Muslims/Islam as a religion in the substantive nature of the case, or</p>	

	the case, or mentioned Islam in the text of the opinion, concurrence, and/or dissent.	mentioned Islam in the text of the opinion, concurrence, and/or dissent	
--	---	---	--

## APPENDIX 2: CASE DATABASE

All cases are in the U.S. Supreme Court.

Citation	Year	Comments	Summary/Annotation
1. <i>Manella, Pujals &amp; Co. v. Barry</i> , 7 U.S. 415 (1806).	1806	Search Term: "Moorish" Westlaw.	The Supreme Court ruled on an action for recovery of the price of cargo on a ship captured en route to Spain.  The subject of the action was a "Moorish" ship.
2. <i>The Star</i> , 16 U.S. (3 Wheat.) 78 (1818).	1818	Search Term: "Mohammedan" Lexis Nexis.  Search Term: "Mohammedan" Westlaw.	The Supreme Court reviewed a matter regarding the ownership of a vessel.  Footnote 1 of the opinion included, "[b]ut the law of nations, as received among the nations of Europe and the countries colonized by them, or that part of the human race denominated Christendom, is not to be applied to them, to the Turks and other Mohammedan people, with the same rigour, and in all the details with which it is administered among that class of nations to which it is peculiarly applicable." <i>The Star</i> , 16 U.S. (3 Wheat.) 78, 93 n.1 (1818).

<p>3. <i>New York v. Miln</i>, 36 U.S. 102 (1837).</p>	1837	<p>Search Term: “Moors” Lexis Nexis.</p> <p>Search Term: “Moors” Westlaw.</p>	<p>The Supreme Court ruled on an action for debt recovery.</p> <p>The opinion noted, “It was not a military colonization, like the Greek and Roman colonies; nor was it mercantile, like the East India and American colonies of modern Europe. Neither did it resemble the emigration of the Moors from Spain, or the Huguenots from France.” <i>New York v. Miln</i>, 36 U.S. 102, 130 (1837).</p>
<p>4. <i>United States v. Libellants &amp; Claimants of The Schooner Amistad</i>, 40 U.S. 518 (1841).</p>	1841	<p>Search Term: “Mohammedan” Lexis Nexis.</p> <p>Search Term: “Mohammedan” Westlaw.</p>	<p>The Supreme Court reviewed a matter involving the possession of a Spanish vessel.</p> <p>The opinion included excerpts of depositions, one of which stated, “[t]o one of them, I spoke, and repeated a Mohammedan form of prayer in the Arabic language; the man immediately recognised the language, and repeated a few words of it after me, and appeared to understand it, particularly the words ‘Allah akbar,’ or God is great.” <i>United States v. Libellants &amp; Claimants of The Schooner Amistad</i>, 40 U.S. 518, 587 (1841).</p>
<p>5. <i>Thurlow v. Massachusetts</i>, 46 U.S. (5 How.) 504 (1847).</p>	1847	<p>Search Term: “Mahometan” Lexis Nexis.</p> <p>Search Term: “Mahometan” Westlaw.</p>	<p>The cases before the Supreme Court were regarding Section 25 of the Judiciary Act. There was no opinion of the Court. Six justices gave separate opinions.</p> <p>One of the opinions discussed, “to license and regulate the sale of spirituous liquors, that it might be consistent with the preservation of good order, and with the Christian virtue of temperance, and not to inhibit it, in enforcement of the Mahometan rule of abstinence.”</p>

			<p><i>Thurlow v. Massachusetts</i>, 46 U.S. (5 How.) 504, 573 (1847).</p>
<p>6. <i>Gaines v. Hennen</i>, 65 U.S. 553 (1860).</p>	1860	<p>Search Term: “Mahomedan” Westlaw.</p>	<p>This case had been before the Court in various other aspects. This excerpt illustrated points of law and fact from all other reports.</p> <p>The opinion discussed, “[t]he inquisition, as it had existed for more than a hundred years in France and Italy, was introduced into Spain by Gregory IX, about the middle of the 13th century. It encountered no opposition there. It at first attained a prevalence and extension of power larger than it had exercised before, and was on the increase when Spain became an united kingdom under Ferdinand and Isabella. They were authorized by the bull of Sextus IV to establish the inquisition in their States. And then it was invested with jurisdiction of heresies of all kinds, and also of sorcery, Judaism, Mahomedanism, offences against nature, and polygamy, with power to punish them, from temporary confinement and severe penances to the san benito and the auto de fé. Before that time the inquisition had exercised a capricious jurisdiction, both as to persons and creeds.”</p> <p><i>Gaines v. Hennen</i>, 65 U.S. 553, 581 (1860).</p>

<p>7. <i>Mahoney v. United States</i>, 77 U.S. (10 Wall.) 62 (1869).</p>	<p>1869</p>	<p>Search Term: “Mohammedan” Lexis Nexis.</p> <p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mohammedanism” Westlaw.</p>	<p>The Supreme Court reviewed an appeal from the Court of Claims addressing an act of Congress fixing a salary to the consul of Algiers, assigning duties, and treating that place as if it belonged to a Mohammedan power.</p>
<p>8. <i>Dainese v. Hale</i>, 91 U.S. 13 (1875).</p>	<p>1875</p>	<p>Search Term: “Mahomedan” Westlaw.</p> <p>Search Term: “Mahometan” Lexis Nexis.</p> <p>Search Term: “Mahometan” Westlaw.</p> <p>Search Term: “Mohammedanism” Westlaw.</p>	<p>The Supreme Court reviewed a matter of recovery for goods, chattel and certain credit of the plaintiff.</p> <p>Justice Bradley's opinion noted, “[i]t is also conceded that in Pagan and Mahometan countries it is usual for the ministers and counsuls of European States to exercise judicial functions as between their fellow-subjects or citizens. . .” <i>Dainese v. Hale</i>, 91 U.S. 13, 15 (1875).</p>
<p>9. <i>In re Ross</i>, 140 U.S. 453 (1891).</p>	<p>1891</p>	<p>Search Term: “Moslem” Lexis Nexis.</p> <p>Search Term: “Moslem” Westlaw.</p> <p>Search Term: “Islamism” Lexis Nexis.</p> <p>Search Term: “Islamism” Westlaw.</p> <p>Murder conviction.</p>	<p>The Supreme Court reviewed a murder conviction.</p> <p>In the majority opinion, the Court noted, “[a]fter the rise of Islamism, and the spread of its followers over eastern Asia and other countries bordering on the Mediterranean, the exercise of this judicial authority became a matter of great concern. The intense hostility of the people of Moslem faith to all other sects, and particularly to Christians, affected all their intercourse, and all proceedings had in their tribunals.” <i>In re Ross</i>, 140 U.S. 453, 463 (1891).</p>

<p>10. <i>De Lima v. Bidwell</i>, 182 U.S. 1 (1901).</p>	<p>1901</p>	<p>Search Term: "Koran" Lexis Nexis.</p>	<p>The Supreme Court reviewed a matter regarding the recovery of back duties paid on the import of sugar.</p> <p>The opinion included quotes from Thomas H. Benton's book, <i>Historical and Legal Examination of the Dred Scott Case</i>.</p> <p>Mr. Benton wrote, "It was a royal despotic government, and everybody knew it, and no one thought of testing it by the Constitution (some few new members in the House excepted) than by the Koran." <i>De Lima v. Bidwell</i>, 182 U.S. 1, 174 (1901).</p>
<p>11. <i>Ancient Egyptian Arabic Order v. Michaux</i>, 279 U.S. 737 (1929).</p>	<p>1929</p>	<p>Search Term: "Mohammedan" Lexis Nexis.</p> <p>Search Term: "Mohammedan" Westlaw.</p>	<p>The Supreme Court reviewed a state court case involving an injunction by an all-white members only fraternity to restrain a black members fraternity from using similar designations.</p> <p>Justice Van Devanter discussed, "[a]nother feature imitatively copied was a purely fanciful claim, once put forth by the white order and afterwards discredited, to the effect that that order was an authorized extension of an ancient and illustrious order established centuries ago in Mohammedan countries." <i>Ancient Egyptian Arabic Order v. Michaux</i>, 279 U.S. 737, 739 (1929).</p>

<p>12. <i>Everson v. Board of Ed. of Ewing Tp.</i>, 67 S.Ct. 504 (1947).</p>	<p>1947</p>	<p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mahometan” Westlaw.</p> <p>Search Term: “Mohammedanism” Westlaw.</p>	<p>The Supreme Court reviewed a resolution providing transportation of students to both public and parochial schools.</p> <p>Justice Black’s opinion discusses, “[o]n the other hand, other language of the amendment commands that New Jersey cannot hamper its citizens in the free exercise of their own religion. Consequently, it cannot exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, because of their faith, or lack of it, from receiving the benefits of public welfare legislation.” <i>Everson v. Board of Ed. of Ewing Tp.</i>, 67 S.Ct. 504 (1947).</p>
<p>13. <i>Joseph Burstyn v. Wilson</i>, 343 U.S. 495 (1952).</p>	<p>1952</p>	<p>Search Term: “Mohammedan” Lexis Nexis.</p> <p>Search Term: “Mohammedan” Westlaw.</p>	<p>The Supreme Court reviewed whether a film was deemed “sacrilegious” within the meaning of a statute.</p> <p>Justice Reed’s concurrence noted, “[i]n the Rome of the late emperors, the England of James I, or the Geneva of Calvin, and today in Roman Catholic Spain, Mohammedan Saudi Arabia, or any other country with a monolithic religion, the category of things sacred might have clearly definable limits.” <i>Joseph Burstyn v. Wilson</i>, 343 U.S. 495, 528 (1952).</p>

<p>14. <i>Fowler v. Rhode Island</i>, 345 U.S. 67 (1953).</p>	<p>1953</p>	<p>Search Term: “Moslem” Lexis Nexis.</p> <p>Search Term: “Moslem” Westlaw.</p> <p>Religious statute.</p>	<p>The Supreme Court held that an ordinance as applied penalized a minister of Jehovah's Witnesses for preaching at a public park violated the First and Fourteenth Amendment.</p> <p>Justice Douglas noted, “[i]f we affirmed this conviction in the face of the concession made during oral argument. Baptist, Methodist, Presbyterian, or Episcopal ministers, Catholic priests, Moslem mullahs, Buddhist monks could all preach to their congregations in Pawtucket's parks with impunity. But the hand of the law would be laid on the shoulder of a minister of this unpopular group for performing the same function.” <i>Fowler v. Rhode Island</i>, 345 U.S. 67, 70 (1953).</p>
<p>15. <i>Reid v. Covert</i>, 354 U.S. 1 (1957).</p>	<p>1957</p>	<p>Search Term: “Moslem” Lexis Nexis.</p> <p>Search Term: “Moslem” Westlaw.</p> <p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mahometan” Lexis Nexis.</p> <p>Search Term: “Mahometan” Westlaw.</p> <p>Search Term: “Islamism” Lexis Nexis.</p>	<p>The Supreme Court held that civilians who were tried by court-martial and convicted of murder, should be released from custody.</p> <p>Justice Frankfurter's concurrence noted, “[a]fter the rise of Islamism, and the spread of its followers over eastern Asia and other countries bordering on the Mediterranean, the exercise of this judicial authority became a matter of great concern. The intense hostility of the people of Moslem faith to all other sects, and particularly to Christians, affected all their intercourse, and all proceedings had in their tribunals.” <i>Reid v. Covert</i>, 354 U.S. 1, 57 (1957).</p> <p>Footnote 8 of the concurrence quoted John Quincy Adams, “[t]he Declaration of Independence</p>

		<p>Search Term: “Islamism” Westlaw.</p> <p>Court martial conviction.</p>	<p>recognised the European law of nations, as practised among Christian nations, to be that by which they considered themselves bound, and of which they claimed the rights. This system is founded upon the principle, that the state of nature between men and between nations, is a state of peace. But there was a Mahometan law of nations, which considered the state of nature as a state of war -- an Asiatic law of nations, which excluded all foreigners from admission within the territories of the state . . . With all these different communities, the relations of the United States were from the time when they had become an independent nation, variously modified according to the operation of those various laws. It was the purpose of the Constitution of the United States to establish justice over them all.” <i>Id.</i> at 58 n.8.</p>
<p>16. <i>McGowan</i> v. <i>Maryland</i>, 366 U.S. 420 (1961).</p>	1961	<p>Search Term: “Moslem” Lexis Nexis.</p> <p>Search Term: “Moslem” Westlaw.</p> <p>Search Term: “Mohammedan” Lexis Nexis.</p> <p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mahometan” Westlaw.</p> <p>Search Term:</p>	<p>The Supreme Court held that “Sunday Closing laws” were constitutional. There was discussion of “Moslems” throughout the opinion. “The First Amendment commands government to have no interest in theology or ritual; it admonishes government to be interested in allowing religious freedom to flourish -- whether the result is to produce Catholics, Jews, or Protestants, or to turn the people toward the path of Buddha, or to end in a predominantly Moslem nation, or to produce in the long run atheists or agnostics.” <i>McGowan v. Maryland</i>, 366 U.S. 420, 564 (1961). In Justice Douglas’s dissent, he cited a California Supreme Court case, <i>Ex parte</i></p>

		<p>“Mohammedanism” Westlaw.</p> <p>Sunday Closing laws.</p>	<p><i>Newman</i>, “[t]he truth is, however much it may be disguised, that this one day of rest is a purely religious idea. Derived from the Sabbatical institutions of the ancient Hebrew, it has been adopted into all the creeds of succeeding religious sects throughout the civilized world; and whether it be the Friday of the Mohammedan, the Saturday of the Israelite, or the Sunday of the Christian, it is alike fixed in the affections of its followers, beyond the power of eradication, and in most of the States of our Confederacy, the aid of the law to enforce its observance has been given under the pretence of a civil, municipal, or police regulation.” <i>McGowan v. Maryland</i>, 366 U.S. 420, 571 (1961) (quoting <i>Ex parte Newman</i>, 9 Cal. 502, 509 (1858)).</p>
<p>17. <i>Arlan’s Dep’t Store of Louisville, Inc. v. Kentucky</i>, 371 U.S. 218 (1962).</p>	1962	<p>Search Term: “Moslem” Westlaw.</p> <p>Kentucky Sunday Closing Law</p>	<p>The Supreme Court dismissed an appeal pertaining to a Kentucky Sunday Closing Law.</p> <p>Justice Douglas’s dissent discussed, “[b]y what authority can government compel one person not to work on Sunday because the majority of the populace deems Sunday to be a holy day? Moslems may someday control a state legislature. Could they make criminal the opening of a shop on Friday? Would not we Christians fervently believe, if that came to pass, that government had no authority to make us bow to the scruples of the Moslem majority?” <i>Arlan’s Dep’t Store of Louisville, Inc. v. Kentucky</i>, 371 U.S. 218, 219 (1962).</p>

<p>18. <i>Sherbert v. Verner</i>, 374 U.S. 398 (1963),</p>	<p>1963</p>	<p>Search Term: "Islam" Lexis Nexis.</p> <p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Moslem" Westlaw.</p> <p>Search Term: "Moorish" Westlaw.</p> <p>Search Term: "Mohammedan" Westlaw.</p> <p>Search Term: "Mahometan" Westlaw.</p> <p>Search Term: "Mohammedanism" Westlaw.</p> <p>Unemployment benefits denial.</p>	<p>The Supreme Court reversed the denial of unemployment benefits to a Seventh-Day Adventist who was discharged by her employer for her refusal to work on Saturday, the Sabbath Day of her faith.</p> <p>Justice Douglas's concurrence stated, "[r]eligious scruples of Moslems require them to attend a mosque on Friday and to pray five times daily," and cited to Footnote 1, "See Shorter Encyclopedia of Islam (Cornell Press, 1953), 336, 493." <i>Sherbert v. Verner</i>, 374 U.S. 398, 411 (1963).</p>
--	-------------	---	--

<p>19. <i>Wright v. Rockefeller</i>, 376 U.S. 52 (1964).</p>	<p>1964</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Search Term: “Moslem” Westlaw.</p> <p>Search Term: “Muhammadan” Lexis Nexis.</p> <p>Search Term: “Muhammadan” Westlaw.</p> <p>Search Term: “Muhammadanism” Westlaw.</p> <p>N.Y. State Law § 111.</p>	<p>The Supreme Court affirmed that N.Y. State Law § 111 was constitutional.</p> <p>Justice Douglas’s dissent discussed the Electoral Register System that Britain introduced into India.</p> <p>“That system gave a separate constituency to Sikhs, Muslims, Anglo-Indians, Europeans, and Indian Christians. 5 Religious minorities found comfort and safety in such an arrangement.” <i>Wright v. Rockefeller</i>, 376 U.S. 52, 63 (1964).</p> <p>Footnote 5 of the dissent cited <i>Acharya, Indian Elections and Franchise</i> (1937), p. 17: “No one who is not a Sikh, a Muhammadan, Anglo Indian, European or an Indian Christian, is entitled to be included in a Sikh, Muhammadan, Anglo Indian, European or an Indian Christian constituency respectively. No person who is entitled to be included in a Sikh, Muhammadan, Anglo Indian, European or an Indian Christian constituency will be included in the electoral roll for a General Constituency in a province.” <i>Id.</i> at n.5.</p>
--	-------------	---	--

<p>20. <i>Bd. of Educ. v. Allen</i>, 392 U.S. 236 (1968).</p>	<p>1968</p>	<p>Search Term: “Moslem” Lexis Nexis.</p> <p>Search Term: “Moslem” Westlaw.</p> <p>Textbook statute.</p>	<p>The Supreme Court affirmed that a statute requiring school boards to furnish free textbooks to school children did not violate the First Amendment.</p> <p>In Justice Douglas’s dissent, he notes, “[t]he Crusades, for example, may be taught as a Christian undertaking to ‘save the Holy Land’ from the Moslem Turks who ‘became a threat to Christianity and its holy places,’ which ‘they did not treat . . . with respect’ (H. Wilson, F. Wilson, B. Erb &amp; E. Clucas, <i>Out of the Past</i> 284 (1954)).” <i>Bd. of Educ. v. Allen</i>, 392 U.S. 236, 260-61 (1968).</p>
<p>21. <i>Walz v. Tax Comm'n of City of New York</i>, 397 U.S. 664, 702, (1970).</p>	<p>1970</p>	<p>Search Term: “Moslem” Westlaw.</p> <p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mahometan” Westlaw.</p> <p>Search Term: “Mohammedanism” Westlaw.</p> <p>Search Term: “Koran” Westlaw.</p> <p>Property tax exemption.</p>	<p>The Supreme Court held that a New York property tax exemption for religious organizations for properties used solely for religious worship was not unconstitutional.</p> <p>Justice Douglas’s dissent notes, “[y]et if the Catholics, controlling one school board, could put their prayer into one group of public schools, the Mormons, Baptists, Moslems, Presbyterians, and others could do the same, once they got control. And so the seeds of Establishment would grow and a secular institution would be used to serve a sectarian end.” <i>Walz v. Tax Comm’n of City of New York</i>, 397 U.S. 664, 702, (1970).</p>

<p>22. <i>Clay v. United States</i>, 403 U.S. 698 (1971).</p>	<p>1971</p>	<p>Search Term: "Islam" Lexis Nexis.</p> <p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Search Term: "Moslem" Lexis Nexis.</p> <p>Search Term: "Moslem" Westlaw.</p> <p>Search Term: "Koran" Lexis Nexis.</p> <p>Search Term: "Koran" Westlaw.</p> <p>Conscientious objector exemption.</p>	<p>Petitioner filed an application for classification as a conscientious objector. After the hearing on the application, the Department of Justice advised the State Appeal Board to deny petitioner's application because petitioner failed to satisfy one of the three tests for qualification as a conscientious objector. The Board denied petitioner's application without setting forth a statement of reasons. The reviewing court reversed the order upholding petitioner's ensuing conviction of willful refusal to submit to induction into the armed forces. The United States Supreme Court affirmed the reversal of the conviction.</p>
---	-------------	--	--

<p>23. <i>Lemon v. Kurtzman</i>, 403 U.S. 602 (1971).</p>	<p>1971</p>	<p>Search Term: “Moslem” Lexis Nexis.</p> <p>Search Term: “Moslem” Westlaw.</p> <p>Search Term: “Mahometan” Westlaw.</p> <p>Search Term: “Koran” Lexis Nexis.</p> <p>Search Term: “Koran” Westlaw.</p> <p>State aid to church schools.</p>	<p>The Supreme Court reviewed whether state statutes providing state aid to church related schools violated the First Amendment.</p> <p>Justice Douglas’s concurrence notes, “[m]any nations follow that course: Moslem nations teach the Koran in their schools; Sweden vests its elementary education in the parish; Newfoundland puts its school system under three superintendents - - one from the Church of England, one from the Catholic church, one from the United Church. In Ireland the public schools are under denominational managership -- Catholic, Episcopalian, Presbyterian, and Hebrew.” <i>Lemon v. Kurtzman</i>, 403 U.S. 602, 631 (1971).</p>
<p>24. <i>Gillette v. United States</i>, 401 U.S. 437 (1971).</p>	<p>1971</p>	<p>Search Term: “Mohammedan” Lexis Nexis.</p> <p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mahometan” Westlaw.</p> <p>Search Term: “Mohammedanism” Westlaw.</p>	<p>The Supreme Court was presented with the issue of whether a conscientious objection to a particular war, rather than all war in general, met the requirements to relieve a person from military service.</p> <p>Justice Douglas’s dissent discussed, “Tolstoy wrote of a man, one Van der Veer, who, as he himself says, is not a Christian, and who refuses military service, not from religious motives, but from motives of the simplest kind, motives intelligible and common to all men, of whatever religion or nation, whether Catholic, Mohammedan, Buddhist, Confucian, whether Spaniards or Japanese.” <i>Gillette v. United States</i>, 401 U.S. 437, 466 (1971).</p>

<p>25. <i>Joseph v. United States</i>, 405 U.S. 1006 (1972).</p>	<p>1972</p>	<p>Search Term: "Islam" Lexis Nexis.</p> <p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Nation of Islam member conscientious objector exemption.</p>	<p>Majority opinion vacated judgment and remanded based on government's new position. Joseph, a member of the Nation of Islam applied for a conscientious objector exemption in 1967. Joseph's board met and based on the information in the SSS Form 150 and information in his file, but without meeting Joseph, voted unanimously to retain him in classification Class I-A.</p>
<p>26. <i>Moose Lodge No. 107 v. Irvis</i>, 407 U.S. 163 (1972).</p>	<p>1972</p>	<p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Private club seclusion.</p>	<p>A private club sought review of the lower court decision finding that the club's refusal to serve a guest of a club member, solely based on the guest's race gave rise to an Equal Protection Clause violation.</p> <p>The Supreme Court reversed the lower court.</p> <p>In Justice Douglas's dissent, he wrote, "[t]he individual can be as selective as he desires. So the fact that the Moose Lodge allows only Caucasians to join or come as guests is constitutionally irrelevant, as is the decision of the Black Muslims to admit to their services only members of their race." <i>Moose Lodge No. 107 v. Irvis</i>, 407 U.S. 163, 180 (1972).</p>

<p>27. <i>United States v. United States Dist. Court</i>, 407 U.S. 297 (1972).</p>	<p>1972</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Disclosure order.</p>	<p>The Supreme Court affirmed the lower court’s denial of the government’s petition for a writ of mandamus to compel the district judge to vacate a disclosure order.</p> <p>The majority opinion stated, “Senator Hart addressed this dilemma in the floor debate on § 2511 (3): ‘As I read it -- and this is my fear -- we are saying that the President, on his motion, could declare -- name your favorite poison -- draft dodgers, Black Muslims, the Ku Klux Klan, or civil rights activists to be a clear and present danger to the structure or existence of the Government.’” <i>United States v. United States Dist. Court</i>, 407 U.S. 297, 314 (1972).</p>
<p>28. <i>Abney v. United States</i>, 431 U.S. 651 (1977).</p>	<p>1977</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Double jeopardy claim.</p>	<p>Petitioners sought review of a decision affirming the district court’s denial of petitioners’ motion to dismiss an indictment on double jeopardy grounds.</p> <p>The Supreme Court affirmed in part and reversed in part.</p> <p>The majority opinion discussed the testimony of Ulysses Rice, the alleged victim of the conspiracy: “According to Rice, petitioners had engaged in a pattern of extortionate practices against him. Initially, such activities had been thinly veiled under the pretense of solicitations for subscriptions to Black Muslim newspapers, sales of various food items, and appeals for contributions for a Black Muslim holiday.” <i>Abney v. United States</i>, 431 U.S. 651, 654 (1977).</p>

29. <i>Pa. v. Mimms</i> , 434 U.S. 106 (1977).	1977	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Fourth Amendment violation.</p>	<p>The Supreme Court reversed the state court’s reversal of a conviction for Fourth Amendment violations.</p> <p>Footnote 5 of Justice Stevens’s dissent noted, “[t]wo members of the court were persuaded that introducing testimony about Mimms’ Muslim religious beliefs was prejudicial error, and three others specifically reserved the issue.” <i>Pa. v. Mimms</i>, 434 U.S. 106, 116 (1977).</p>
30. <i>McDaniel v. Paty</i> , 98 S.Ct. 1322 (1978).	1978	<p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mohammedanism” Westlaw.</p>	<p>The Supreme Court reviewed a declaratory judgment on whether a Baptist minister was disqualified from serving as a delegate.</p> <p>Footnote 7 of Justice Blackmun's dissent made reference to <i>Everson v. Board of Education</i>, “[t]he ‘language of the [first] amendment commands that New Jersey cannot hamper its citizens in the free exercise of their own religion. Consequently, it cannot exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, because of their faith, or lack of it, from receiving the benefits of public welfare legislation.’ <i>Everson v. Board of Education</i>, 330 U.S. 1, 16, 67 S.Ct. 504, 512, 91 L.Ed. 711 (1947) (emphasis in original).” <i>McDaniel v. Paty</i>, 98 S.Ct. 1322, 1331 (1978).</p>

<p>31. <i>Procunier</i> v. <i>Navarette</i>, 434 U.S. 555 (1978).</p>	<p>1978</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Search Term: “Shiite” Westlaw.</p> <p>Prisoner’s civil right suit.</p>	<p>The Supreme Court reversed an order reversing the grant of summary judgment to prison officials in an inmate’s civil rights suit.</p> <p>Footnote 11 notes, “<i>Northern v. Nelson</i> upheld an inmate’s right to receive a newspaper which was ‘necessary for effective exercise of plaintiff’s right to practice the Muslim religion.’ 315 F. Supp., at 688.” <i>Procunier v. Navarette</i>, 434 U.S. 555, 564 n.11 (1978).</p>
<p>32. <i>Bell v. Wolfish</i>, 441 U.S. 520 (1979).</p>	<p>1979</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Federal custodial facility policies.</p>	<p>The Supreme Court held that “double-bunking” practice, “publisher-only” rule, body-cavity search practice, ban against receipt of packages, and room search rule of a federal custodial facility did not violate the detainees’ constitutional rights.</p> <p>Footnote 10 of the majority opinion stated, “[t]he District Court also granted respondents relief on the following issues: classification of inmates and movement between units; length of confinement; law library facilities; the commissary; use of personal typewriters; social and attorney visits; telephone service; inspection of inmates’ mail; inmate uniforms; availability of exercise for inmates in administrative detention; food service; access to the bathroom in the visiting area; special diets for Muslim inmates; and women’s ‘lock-in.’” <i>Bell v. Wolfish</i>, 441 U.S. 520, 529 n.10 (1979).</p>

<p>33. <i>Thomas v. Review Bd. of Indiana Employment Sec. Division</i>, 101 S.Ct. 1425 (1981).</p>	<p>1981</p>	<p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mohammedanism” Westlaw.</p>	<p>The Supreme Court reviewed the denial of employment benefits to a Jehovah's Witness.</p> <p>The majority opinion discussed <i>Everson v. Board of Education</i>: “[m]ore than 30 years ago, the Court held that a person may not be compelled to choose between the exercise of a First Amendment right and participation in an otherwise available public program. A state may not ‘exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, because of their faith, or lack of it, from receiving the benefits of public welfare legislation.’ <i>Everson v. Board of Education</i>, 330 U.S. 1, 16, 67 S.Ct. 504, 511, 91 L.Ed. 711 (1947) (emphasis deleted).” <i>Thomas v. Review Bd. of Indiana Employment Sec. Division</i> 101 S.Ct. 1425, 1431. (1981).</p>
--	-------------	--	---

<p>34. <i>Hewitt v. Helms</i>, 459 U.S. 460 (1983).</p>	<p>1983</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Summary judgment reversal</p>	<p>The Supreme Court reversed the lower court’s reversal of a grant of summary judgment for prison officials.</p> <p>Proceeding provided to inmate met due process requirements for administrative segregation.</p> <p>Footnote 23 in Justice Stevens’s dissent mentioned “Black Muslims.”</p> <p>“The plaintiffs had been placed in administrative solitary confinement for a variety of reasons, including “becoming too militant” and spending too much time in the yard with other Black Muslims, being an influential member of the Mexican prison community and having “leadership qualities,” and being “suspected of being a leader in Nuestra Familia.”” <i>Hewitt v. Helms</i>, 459 U.S. 460, 493 n.23 (1983) (citing <i>Wright v. Enomoto</i>, 462 F.Supp., 400-401).</p>
---	-------------	--	--

<p>35. <i>Wallace v. Jaffree</i>, 472 U.S. 38 (1985).</p>	<p>1985</p>	<p>Search Term: "Islam" Lexis Nexis.</p> <p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Mahometan" Westlaw.</p> <p>Moment of silence in school.</p>	<p>The Supreme Court held that a State statute authorizing a moment of silence in public schools for "meditation or voluntary prayer," for the sole express purpose of returning voluntary prayer to the schools violated the Establishment Clause.</p> <p>Justice Stevens's majority stated, "[j]ust as the right to speak and the right to refrain from speaking are complementary components of a broader concept of individual freedom of mind, so also the individual's freedom to choose his own creed is the counterpart of his right to refrain from accepting the creed established by the majority. At one time it was thought that this right merely proscribed the preference of one Christian sect over another, but would not require equal respect for the conscience of the infidel, the atheist, or the adherent of a non-Christian faith such as Islam or Judaism." <i>Wallace v. Jaffree</i>, 472 U.S. 38, 52 (1985).</p> <p>The opinion also cites Joseph Story, a member of the Court from 1811 to 1845, and a professor at the Harvard Law School: "[t]he real object of the [First] [A]mendment was not to countenance, much less to advance, Mahometanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment which should give to a hierarchy the exclusive patronage of the national government." <i>Id.</i> at 105.</p>
---	-------------	--	--

<p>36. <i>O'Lone v. Estate of Shabazz</i>, 482 U.S. 342 (1987).</p>	<p>1987</p>	<p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Search Term: "Moslem" Westlaw.</p> <p>Search Term: "Islamism" Westlaw.</p> <p>Search Term: "Koran" Lexis Nexis.</p> <p>Search Term: "Koran" Westlaw.</p> <p>Inmates working off-site unable to partake in Friday Jummah Prayer.</p>	<p>Petitioners were prison officials that had created new regulations for inmates to work off site. The new regulations prevented Muslim inmates, the respondents, from returning to the prison to participate in Friday prayer, Jummah.</p> <p>Respondents alleged that petitioners violated the Free Exercise clause of the U.S. Const. amend. I.</p> <p>The court determined whether the regulation was reasonably related to legitimate penological objectives. The court held that the regulations were made for the appropriate use of resources, safety, and rehabilitative concerns.</p> <p>The court held that petitioners acted in a reasonable manner. The court reversed judgment of the appellate court and entered judgment in favor of petitioners. Supreme Court reversed the lower court.</p>
<p>37. <i>St. Francis Coll. v. Al-Khazraji</i>, 481 U.S. 604 (1987).</p>	<p>1987</p>	<p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Moslem" Westlaw.</p> <p>Action under 42 U.S.C.S. § 1981 alleging discrimination based on Arab identity.</p>	<p>Action under 42 U.S.C.S. § 1981 alleging discrimination based on Arab identity.</p> <p>U.S citizen born in Iraq filed a complaint against employer based on discrimination. District court granted the employer's motion for summary judgment.</p> <p>Appellate court reversed the grant of summary judgment. The Supreme Court affirmed.</p>

<p>38. <i>Cnty. of Allegheny v. ACLU</i>, 492 U.S. 573 (1989).</p>	<p>1989</p>	<p>Search Term: "Islam" Lexis Nexis.</p> <p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Moslem" Westlaw.</p> <p>Search Term: "Mahometan" Westlaw.</p> <p>Religious displays in public.</p>	<p>The Supreme Court was faced with determining the constitutionality of two holiday displays located on public property in downtown Pittsburgh. A creche depicting the Christian Nativity scene, and an 18-foot Chanukah menorah or candelabrum. The Court found that the creche violated the establishment clause and the Chanukah menorah display did not.</p> <p>In the majority opinion, Justice Blackmun noted, "[p]erhaps in the early days of the Republic these words were understood to protect only the diversity within Christianity, but today they are recognized as guaranteeing religious liberty and equality to 'the infidel, the atheist, or the adherent of a non-Christian faith such as Islam or Judaism.'" <i>Cnty. of Allegheny v. ACLU</i>, 492 U.S. 573, 590 (1989).</p>
<p>39. <i>Dudley v. Stubbs</i>, 489 U.S. 1034 (1989).</p>	<p>1989</p>	<p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Institution-wide sit-down strike</p>	<p>The Supreme Court granted Respondent's motion for leave to proceed in forma pauperis.</p> <p>The petition for a writ of certiorari was denied.</p> <p>Justice O'Connor's dissent discussed the events that took place at Arthur Kill Correctional Facility where there was an institution-wide sit-down strike orchestrated and controlled by a group of prisoners known as the "Muslims."</p>

<p>40. <i>Thornburg v. Abbott</i>, 490 U.S. 401 (1989).</p>	<p>1989</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term “Muslim” Westlaw.</p> <p>Turner reasonableness standard.</p>	<p>The Supreme Court held that regulations affecting sending certain publications to a prisoner must be analyzed under the Turner reasonableness standard.</p> <p>The majority opinion discussed <i>O’Lone v. Estate of Shabazz</i>, 482 U.S. 342 (1987): “[i]n <i>O’Lone</i> if prisoners were permitted to participate in other Muslim religious ceremonies. As the regulations at issue in the present case permit a broad range of publications to be sent, received, and read, this factor is clearly satisfied.” <i>Thornburgh v. Abbott</i>, 490 U.S. 401, 418 (1989).</p>
<p>41. <i>Webster v. Reprod. Health Servs.</i>, 492 U.S. 490 (1989).</p>	<p>1989</p>	<p>Search Term: “Islam” Lexis Nexis.</p> <p>Search Term: “Islam” Westlaw.</p> <p>Abortion statutes</p>	<p>The Supreme Court held that provisions of a Missouri statute regulating performance of abortions were not unconstitutional.</p> <p>Footnote 17 in the dissent states, “[j]ust as the right to speak and the right to refrain from speaking are complementary components of a broader concept of individual freedom of mind, so also the individual’s freedom to choose his own creed is the counterpart of his right to refrain from accepting the creed established by the majority. At one time it was thought that this right merely proscribed the preference of one Christian sect over another, but would not require equal respect for the conscience of the infidel, the atheist, or the adherent of a non-Christian faith such as Islam or Judaism.” <i>Webster v. Reprod. Health Servs.</i>, 492 U.S. 490, 572 n.17 (1989).</p>

<p>42. <i>Employment Div., Dep't of Human Res. of Oregon v. Smith</i>, 494 U.S. 872 (1990).</p>	<p>1990</p>	<p>Search Term: "Moslem" Westlaw.</p> <p>Search Term: "Mohammedan" Westlaw.</p> <p>Search Term: "Mohammedanism" Westlaw.</p>	<p>The Supreme Court held that religious use of peyote which amounted to misconduct resulting in the denial of unemployment benefits, was not a violation of the free exercise clause.</p> <p>Footnote 8 in Justice Blackmun's Dissent cited, "[o]ver the years, various sects have raised free exercise claims regarding drug use. In no reported case, except those involving claims of religious peyote use, has the claimant prevailed. . . <i>United States v. Hudson</i>, 431 F.2d 468 (CA5 1970) (marijuana and heroin use by Moslems), cert. denied." <i>Emp't Div. v. Smith</i>, 494 U.S. 872, 917 n.8 (1990).</p>
<p>43. <i>INS v. Elias-Zacarias</i>, 502 U.S. 478 (1992).</p>	<p>1992</p>	<p>Search Term: "Moslem" Lexis Nexis.</p> <p>Search Term: "Moslem" Westlaw.</p> <p>Political asylum.</p>	<p>The Supreme Court held that a Guatemalan was not eligible for asylum in United States.</p> <p>Justice Scalia notes, "[t]he ordinary meaning of the phrase 'persecution on account of . . . political opinion' in § 101(a)(42) is persecution on account of the victim's political opinion, not the persecutor's. If a Nazi regime persecutes Jews, it is not, within the ordinary meaning of language, engaging in persecution on account of political opinion; and if a fundamentalist Moslem regime persecutes democrats, it is not engaging in persecution on account of religion." <i>INS v. Elias-Zacarias</i>, 502 U.S. 478, 482 (1992).</p>

<p>44. <i>R. A. V. v. St. Paul</i>, 505 U.S. 377 (1992).</p>	<p>1992</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Cross burning statute.</p>	<p>The Supreme Court held that a City ordinance, banning display of symbols including burning of a cross, which arouses anger in others on basis of race, color, creed, religion, or gender, was facially invalid under First Amendment.</p> <p>Justice Steven’s concurrence states, “[a]ssuming such signs could be fighting words (which seems to me extremely unlikely), neither sign would be banned by the ordinance for the attacks were not ‘based on . . . religion’ but rather on one’s beliefs about tolerance. Conversely (and again assuming such signs are fighting words), just as the ordinance would prohibit a Muslim from hoisting a sign claiming that all Catholics were misbegotten, so the ordinance would bar a Catholic from hoisting a similar sign attacking Muslims.” <i>R. A. V. v. St. Paul</i>, 505 U.S. 377, 435 (1992).</p>
<p>45. <i>Church of Lukumi Babalu Aye v. City of Hialeah</i>, 508 U.S. 520 (1993).</p>	<p>1993</p>	<p>Search Term: “Islam” Lexis Nexis.</p> <p>Search Term: “Islam” Westlaw.</p> <p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mohammedanism” Westlaw.</p> <p>Santeria animal sacrifice ordinances.</p>	<p>The Supreme Court reviewed Florida ordinances regulating animal sacrifice for violations of the free exercise clause of the US Constitution.</p> <p>The Court reversed the lower courts and held that the ordinances did violate the free exercise clause.</p> <p>Justice Kennedy’s majority notes, “[i]n modern Islam, there is an annual sacrifice commemorating Abraham’s sacrifice of a ram in the stead of his son. See C. Glasse, <i>Concise Encyclopedia of Islam</i> 178 (1989); 7 <i>Encyclopedia of Religion</i>, supra, at 456.” <i>Church of Lukumi Babalu Aye v. City of Hialeah</i>, 508</p>

			U.S. 520, 525 (1993).
46. <i>Rosenberger v. Rector &amp; Visitors of the Univ. of Va.</i> , 515 U.S. 819 (1995).	1995	<p>Search Term: "Islam" Lexis Nexis.</p> <p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Search Term: "Koran" Westlaw.</p> <p>State university printing of student religious newspaper.</p>	<p>The Supreme Court held that a state university's refusal to fund printing of students' religious newspaper did not violate First Amendment Free Speech and was not in accordance with the Establishment Clause.</p> <p>Justice O'Connor's concurrence states, "[b]esides the general news publications, for example, the University has provided support to <i>The Yellow Journal</i>, a humor magazine that has targeted Christianity as a subject of satire, and <i>Al-Salam</i>, a publication to 'promote a better understanding of Islam to the University Community.'" <i>Rosenberger v. Rector &amp; Visitors of the Univ. of Va.</i>, 515 U.S. 819, 850 (1995).</p>

<p>47. <i>Atkins v. Virginia</i>, 536 U.S. 304 (2002).</p>	<p>2002</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Death penalty</p>	<p>The Supreme Court held that execution of mentally retarded criminals was cruel and unusual punishment.</p> <p>Justice Rehnquist’s dissent includes, “[t]o further buttress its appraisal of contemporary societal values, the Court marshals public opinion poll results and evidence that several professional organizations and religious groups have adopted official positions opposing the imposition of the death penalty upon mentally retarded offenders. See ante, at 11-12, n. 21 (citing Brief for American Psychological Association et al. as Amici Curiae; Brief for American Association on Mental Retardation et al. as Amici Curiae; noting that ‘representatives of widely diverse religious communities . . . reflecting Christian, Jewish, Muslim, and Buddhist traditions . . . share a conviction that the execution of persons with mental retardation cannot be morally justified.’)” <i>Atkins v. Virginia</i>, 536 U.S. 304, 325-26 (2002).</p>
--	-------------	--	--

<p>48. <i>Zelman v. Simmons-Harris</i>, 536 U.S. 639 (2002).</p>	<p>2002</p>	<p>Search Term: "Islam" Lexis Nexis.</p> <p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Search Term: "Islamism" Westlaw.</p> <p>Search Term: "Koran" Lexis Nexis.</p> <p>Ohio educational pilot program.</p>	<p>The State of Ohio established a pilot program that was designed to provide educational choices to families with children who reside in the Cleveland City School District.</p> <p>The Supreme Court was faced with the issue as to whether the pilot program offended the Establishment Clause of US Constitution and held that it did not.</p> <p>In Justice Souter's dissent, he states, "[r]eligious teaching at taxpayer expense simply cannot be cordoned from taxpayer politics, and every major religion currently espouses social positions that provoke intense opposition." He notes that "[n]or will every secular taxpayer be content to support Muslim views on differential treatment of the sexes," and cites to the following footnote: R. Martin, <i>Islamic Studies</i> 224 (2d ed. 1996) (interpreting the Koran to mean that 'men are responsible to earn a living and provide for their families; women bear children and run the household')." <i>Zelman v. Simmons-Harris</i>, 536 U.S. 639, 716 (2002).</p>
--	-------------	---	--

<p>49. <i>Locke v. Davey</i>, 124 S.Ct. 1307 (2004).</p>	<p>2004</p>	<p>Search Term: “Mohammedan” Westlaw.</p> <p>Search Term: “Mohammedanism” Westlaw.</p>	<p>The Supreme Court reviewed a suit involving a claim that a statute prohibiting state aid to any post-secondary student pursuing degree in theology violated the Free Exercise Clause.</p> <p>Justice Scalia’s dissent cited <i>Everson v. Board of Ed. of Ewing</i>: “New Jersey cannot hamper its citizens in the free exercise of their own religion. Consequently, it cannot exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, because of their faith, or lack of it, from receiving the benefits of public welfare legislation.” <i>Locke v. Davey</i> 124 S.Ct. 1307, 1316 (2004).</p>
--	-------------	--	---

<p>50. <i>Cutter v. Wilkinson</i>, 544 U.S. 709 (2005).</p>	<p>2005</p>	<p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Search Term: "Moslem" Westlaw.</p> <p>Search Term: "Mahometan" Westlaw.</p> <p>Search Term: "Shiite" Westlaw.</p> <p>Search Term: "Islamism" Westlaw.</p> <p>Search Term: "Quran" Westlaw.</p> <p>Search Term: "Qu'ran" Westlaw.</p> <p>Search Term: "Koran" Lexis Nexis.</p> <p>Search Term: "Koran" Westlaw.</p> <p>RLUIPA</p>	<p>The Supreme Court held that the Religious Land Use and Institutionalized Persons Act (RLUIPA)'s protection of prisoners' religious rights did not violate the Establishment Clause.</p> <p>Footnote 8 of Justice Ginsburg's opinion noted, "[d]irected at obstructions institutional arrangements place on religious observances, RLUIPA does not require a State to pay for an inmate's devotional accessories. See, e.g., <i>Charles v. Verhagen</i>, 348 F.3d 601, 605 (C.A.7 2003) (overturning prohibition on possession of Islamic prayer oil but leaving inmate-plaintiff with responsibility for purchasing the oil)." <i>Cutter v. Wilkinson</i>, 544 U.S. 709, 720 n.8 (2005).</p>
---	-------------	--	---

<p>51. <i>McCreary</i> <i>Cnty. v.</i> <i>ACLU</i>, 545 U.S. 844 (2005)</p>	<p>2005</p>	<p>Search Term: "Islam" Lexis Nexis.</p> <p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Search Term: "Mahometan" Westlaw.</p> <p>Search Term: "Islamism" Westlaw.</p> <p>Ten Commandment monument in Kentucky courthouse.</p>	<p>The Supreme Court affirmed the removal of the Ten Commandments from a Kentucky courthouse. In Justice Scalia's dissent, he states, "[t]he three most popular religions in the United States, Christianity, Judaism, and Islam--which combined account for 97.7% of all believers--are monotheistic... All of them, moreover (Islam included), believe that the Ten Commandments were given by God to Moses, and are divine prescriptions for a virtuous life." <i>McCreary Cnty. v. ACLU</i>, 545 U.S. 844, 894 (2005).</p>
---	-------------	--	--

<p>52. <i>Van Orden v. Perry</i>, 545 U.S. 677 (2005).</p>	<p>2005</p>	<p>Search Term: "Islam" Lexis Nexis.</p> <p>Search Term: "Islam" Westlaw.</p> <p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Search Term: "Mahometan" Westlaw.</p> <p>Search Term: "Islamism" Westlaw.</p> <p>Ten Commandment monument's placement on Texas State Capitol grounds. Discussion of Islam in Justice Stevens's dissent.</p>	<p>The Supreme Court held that the establishment clause allowed for a display on Texas State Capitol's grounds, of monument inscribed with Ten Commandments.</p> <p>In Justice Stevens's dissent, he notes, "[t]he original understanding of the type of 'religion' that qualified for constitutional protection under the Establishment Clause likely did not include those followers of Judaism and Islam who are among the preferred 'monotheistic' religions Justice Scalia has embraced in his McCreary County opinion." <i>Van Orden v. Perry</i>, 545 U.S. 677, 728 (2005).</p>
<p>53. <i>Hamdan v. Rumsfeld</i>, 548 U.S. 557 (2006).</p>	<p>2006</p>	<p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Enemy combatant.</p>	<p>The Supreme Court ruled on the structures and procedures of military commission convened to try particular purported enemy combatants.</p> <p>In Justice Thomas's dissent he cites "Y. Alexander &amp; M. Swetnam, Usama bin Laden's al-Qaida: Profile of a Terrorist Network, App. 1B (2001) ('The ruling to kill the Americans and their allies--civilians and military--is an individual duty for every Muslim who can do it in any country in which it is possible to do it')." <i>Hamdan v. Rumsfeld</i>, 548</p>

			U.S. 557, 687 (2006).
54. <i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009).	2009	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Bivens action for designating Iqbal as a person of high interest based on race, religion, or national origin</p>	<p>Post 9-11, Iqbal, a Pakistani Muslim, was arrested on criminal charges and detained by federal officials.</p> <p>Iqbal filed a Bivens action against numerous federal officials alleging in his complaint Iqbal alleged that he was classified as a person of high interest based on his race, religion or national origin in violation of the First and Fifth Amendment.</p> <p>The Second Circuit Court of Appeals upheld a denial of the Petitioner’s (federal official) motion to dismiss based on qualified immunity. The Supreme Court reversed the Second Circuit, and the case was remanded.</p>

<p>55. <i>Ricci v. DeStefano</i>, 557 U.S. 557 (2009).</p>	<p>2009</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” WestLaw.</p> <p>Promotion of non-black firefighters.</p>	<p>The Supreme Court held that the City’s refusal to promote non-black firefighters who passed a promotion test was disparate treatment that violated Title VII of Civil Rights Act of 1964.</p> <p>Footnote 21 of Justice Ginsburg’s dissent cited to <i>Ashcroft v. Iqbal</i>, 556 U.S.662: “allegations that senior Government officials condoned the arrest and detention of thousands of Arab Muslim men following the September 11 attacks failed to establish even a ‘plausible inference’ of unlawful discrimination sufficient to survive a motion to dismiss.” <i>Ricci v. DeStefano</i>, 557 U.S. 557, 643 n.21, 129 S.Ct. 2658, 2710 (2009).</p>
<p>56. <i>Christian Legal Soc’y Chapter of the Univ. of Cal. v. Martinez</i>, 561 U.S. 661 (2010).</p>	<p>2010</p>	<p>Search Term: “Islam” Lexis Nexis.</p> <p>Search Term: “Islam” Westlaw.</p> <p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Search Term: “Moors” Lexis Nexis.</p> <p>Search Term: “Moors” Westlaw.</p> <p>UC Hastings’s all comer policy.</p>	<p>The Supreme Court was presented with the issue of whether UC Hastings violated the First and Fourteenth Amendments by conditioning its official recognition of a student Christian group, and use of school funds and facilities, on the group’s agreement to open eligibility for membership and leadership to all students.</p> <p>The Court held that the First and Fourteenth Amendments were not violated.</p> <p>In Justice Alito’s dissent he notes, “[t]he State of California surely could not demand that all Christian groups admit members who believe that Jesus was merely human. Jewish groups could not be required to admit anti-Semites and Holocaust deniers. Muslim groups could not be forced to admit persons who are</p>

			viewed as slandering Islam.” <i>Christian Legal Soc’y Chapter of the Univ. of Cal. v. Martinez</i> , 561 U.S. 661, 731 (2010).
57. <i>Hosanna-Tabor Evangelical Lutheran Church &amp; Sch. v. EEOC</i> , 132 S.Ct. 694 (2012).	2012	Search Term: “Islam” Lexis Nexis.  Search Term: “Islam” Westlaw.  Search Term: “Muslim” Lexis Nexis.  Search Term: “Muslim” Westlaw.  Ministerial exception.	The Supreme Court held that the Ministerial exception grounded in the First Amendment required dismissal of a civil suit involving a teacher who alleged that her termination from employment at church-operated school violated the Americans with Disabilities Act (42 U.S.C.S. § 12101 et seq.) Footnote 3 in the opinion states, “[i]n Islam, for example, ‘every Muslim can perform the religious rites, so there is no class or profession of ordained clergy. Yet there are religious leaders who are recognized for their learning and their ability to lead communities of Muslims in prayer, study, and living according to the teaching of the Qur’an and Muslim law.’”

<p>58. <i>Univ. of Tex. Sw. Med. Ctr. v. Nassar</i>, 133 S.Ct. 2517 (2013).</p>	<p>2013</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Discrimination in hospital-employment setting based on race and religion.</p>	<p>Former faculty employee asserted discrimination against former university employer based on Arab Muslim identity. Jury found for the employee. The Fifth Circuit affirmed in part and reversed in part. The Supreme Court reversed the Fifth Circuit.</p>
<p>59. <i>Burwell v. Hobby Lobby Stores, Inc.</i>, 134 S.Ct. 2751 (2014).</p>	<p>2014</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Contraceptive mandate.</p>	<p>The Supreme Court held that closely held corporations were not required to cover certain contraceptives if they were religiously opposed.</p> <p>In Justice Ginsburg’s dissent she discusses, “[w]ould the exemption the Court holds RFRA demands for employers with religiously grounded objections to the use of certain contraceptives extend to employers with religiously grounded objections to blood transfusions (Jehovah’s Witnesses); antidepressants (Scientologists); medications derived from pigs, including anesthesia, intravenous fluids, and pills coated with gelatin (certain Muslims, Jews, and Hindus); and vaccinations (Christian Scientists, among others)?” <i>Burwell v. Hobby Lobby Stores, Inc.</i>, 134 S.Ct. 2751, 2805 (2014).</p>

<p>60. <i>Town of Greece v. Galloway</i>, 134 S.Ct. 1811 (2014).</p>	<p>2014</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Search Term: “Mahometan” Lexis Nexis.</p> <p>Search Term: “Mahometan” Westlaw.</p> <p>Opening town meetings with prayer.</p>	<p>The Supreme Court held that allowing local clergy members to open town board meetings with prayer did not violate the establishment clause.</p> <p>Justice Breyer’s dissent discusses, “[y]et our Constitution makes a commitment still more remarkable—that however those individuals worship, they will count as full and equal American citizens. A Christian, a Jew, a Muslim (and so forth)—each stands in the same relationship with her country, with her state and local communities, and with every level and body of government.” <i>Town of Greece v. Galloway</i>, 134 S.Ct. 1811, 1841 (2014).</p> <p>Footnote 1 of Justice Kagan’s dissent discussed writings of Thomas Jefferson: “Thomas Jefferson, who followed the same practice throughout his life, explained that he omitted any reference to Jesus Christ in Virginia’s Bill for Establishing Religious Freedom (a precursor to the Establishment Clause) in order ‘to comprehend, within the mantle of [the law’s] protection, the Jew and the Gentile, the Christian and Mahometan, the Hindoo, and infidel of every denomination.’ <i>1 Writings of Thomas Jefferson</i> 62 (P. Ford ed. 1892).” <i>Id.</i> at 1844 n.1.</p>
--	-------------	---	--

<p>61. <i>Holt v. Hobbs</i>, 135 S.Ct. 853 (2015).</p>	<p>2015</p>	<p>Search Term: “Islam” Lexis Nexis.</p> <p>Search Term: “Islam” Westlaw.</p> <p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Beard length for inmates.</p>	<p>The Supreme Court held that a state prison’s policy preventing an inmate from growing a short beard violated the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C.S. § 2000cc et seq., because it was undisputed that the policy substantially burdened the inmate’s sincerely held religious belief that a beard was required by his religion, and there was no showing that the policy was the least restrictive means of furthering compelling prison interests.</p> <p>It was unlikely that contraband could be hidden in a short and easily searched beard, which precluded a showing of a compelling interest, and the prison did not require inmates to have short head hair. The policy was not the least restrictive means.</p>
<p>62. <i>EEOC v. Abercrombie &amp; Fitch Stores, Inc.</i>, 135 S.Ct. 2028 (2015).</p>	<p>2015</p>	<p>Search Term: “Muslim” Lexis Nexis.</p> <p>Search Term: “Muslim” Westlaw.</p> <p>Hijab-Abercrombie discrimination.</p>	<p>Respondent Abercrombie refused to hire Samantha Elauf, a practicing Muslim, because the hijab headscarf that she wore pursuant to her religious beliefs conflicted with Abercrombie’s employee dress policy.</p> <p>The Equal Employment Opportunity Commission (EEOC) filed suit on Elauf’s behalf, alleging a violation of Title VII of the Civil Rights Act of 1964, which prohibits a prospective employer from refusing to hire an applicant because of the applicant’s religious practice when the practice could be accommodated without undue hardship.</p> <p>The EEOC prevailed in the District Court, but the Tenth Circuit</p>

			reversed, and the Supreme Court reversed the Tenth Circuit.
63. <i>Tex. Dep't of Hous. &amp; Cmty. Affairs v. Inclusive Cmty. Project, Inc.</i> , 576 U.S. ____ (2015).	2015	<p>Search Term: "Muslim" Lexis Nexis.</p> <p>Search Term: "Muslim" Westlaw.</p> <p>Disparate impact claim.</p>	<p>The Supreme Court reviewed a disparate impact claim as cognizable under the Fair Housing Act.</p> <p>In Justice Thomas's dissent, he states, "[r]acial imbalances do not always disfavor minorities. At various times in history, 'racial or ethnic minorities . . . have owned or directed more than half of whole industries in particular nations.' Sowell 8. These minorities 'have included the Chinese in Malaysia, the Lebanese in West Africa, Greeks in the [55] Ottoman Empire, Britons in Argentina, Belgians in Russia, Jews in Poland, and Spaniards in Chile—among many others.' Ibid. (footnotes omitted). 'In the seventeenth century Ottoman Empire,' this phenomenon was seen in the palace itself, where the 'medical staff consisted of 41 Jews and 21 Muslims.'" <i>Tex. Dep't of Hous. &amp; Cmty. Affairs v. Inclusive Cmty. Project, Inc.</i>, 2015 U.S. LEXIS 4249, *55 (U.S. June 25, 2015).</p>