



Attorneys inspired by the Ahlul Bayt

“No individual is lost and no nation is refused prosperity and success, if the bases of their thoughts and actions rest upon piety and godliness, and upon truth and justice.”

—Imam Ali ibn Abi Talib (pbuh), *Nahjul Balagha*, Sermon 21

Monday, June 21, 2021

Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Biden,

The American Muslim Bar Association and the undersigned organizations join together to urge your administration to repeal the specific sets of sanctions on the Islamic Republic of Iran that, as unintended consequences, are violating the religious freedom of American citizens.

The United States is built on the promise of religious freedom. Famously, many early colonists in the Americas had fled England for fear of subjugation based on religion.ⁱ At the very outset of this nation, the Founders enshrined religious freedom in the First Amendment to the Constitution: “Congress shall make no law respecting an establishment of religion, *or prohibiting the free exercise thereof.*”ⁱⁱ Yet, centuries later, the foreign policy actions of the US government are infringing on the religious rights of minorities in this country, further marginalizing an already marginalized Shi’a Muslim community.

Background

In 2019, the Trump Administration began issuing a slew of sanctions on entities in Iran that had previously been terminated under the 2015 Iran nuclear deal.ⁱⁱⁱ Since then, these sanctions and the civil and criminal penalties violations they carry, have served to intimidate and persecute minority Muslim Americans, specifically Shi’a Muslim Americans. A 2009 Pew Research study estimated that of 3.45 million Muslims in the United States, about 10–15% (200,000–400,000) identified as Shi’a Muslims.^{iv} The sanctions have limited the ability of this minority group to give religious, charitable donations, obtain religious education at the greatest Shi’a seminary in the world (*hawza*), and perform an essential pilgrimage to a major holy shrine in Iran (*ziyarat*). As applied, these sanctions infringe on the right of free exercise of religion, enshrined in the First Amendment and protected by the Religious Freedom Restoration Act of 1993 (RFRA).

For example, in the past year, individuals attempting to collect a religious tax (*khums*) used for charitable purposes were arrested and face severe criminal penalties for alleged violations of the sanctions.^v In addition, the Trump Administration's sanctions on Al Mustafa University (MIU) in Qum, Iran and Astan Quds Razavi (AQR), a charitable trust that manages the Imam Reza shrine in Mashhad have stifled the ability of Shi'a Americans to practice their faith.^{vi} MIU is the premier institution for religious learning for English-speaking students worldwide who endeavor to become Shi'a Muslim clergy. There are currently 50–100 Americans at this religious seminary and have resided there for many years with their families. Graduates return home to serve American Shi'a communities providing spiritual guidance and leadership throughout the year. AQR manages the Imam Reza Shrine, an internationally recognized place of worship on the tentative list of UNESCO's World Heritage sites and a sacred site of pilgrimage for 20 million pilgrims from around the world every year, including thousands of Americans.^{vii} This shrine was founded over 1200 years ago and is the largest mosque in the world.^{viii}

A Clear Violation of the Religious Freedom Restoration Act (RFRA)

These actions are clear violations of RFRA. All three of these practices—the religious tax, religious education, and pilgrimage to holy shrines—are sincere beliefs and practices that are substantially burdened by the sanctions, violations of which can lead to civil and criminal penalties. This blatant violation sets a dangerous precedent for all American faith communities that rely on hundreds of study abroad programs for religious learning and thousands of sacred sites for pilgrimage worldwide. The RFRA test asks whether the government effectively forces religious observers to choose between engaging in conduct that violates their religious beliefs and facing a severe consequence.^{ix} These consequences include the threat of civil and criminal penalties, which is the punishment these adherents may face for undertaking the pilgrimage to the shrine in the aftermath of these sanctions.^x The fear of being arrested or fined by the government for violating an OFAC sanction is prohibiting thousands of Shi'a Muslims from fulfilling critical religious obligations.

Further, the sanctions do not meet the narrow tailoring standard required by RFRA. Under the strict scrutiny standard, the government must prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest.^{xi} RFRA requires a more focused inquiry into the effect of the burden on the religious observer, and the court must look beyond broadly formulated interests and scrutinize the asserted harm of granting a specific exemption.^{xii} The sanctions may not significantly burden a claimant's religious exercise unless narrowly tailored to achieve a compelling interest in national security with respect to each person burdened by the law. The sanctions at issue do not meet the narrow tailoring requirement.

Protecting the Religious Freedom of Americans

We acknowledge that the government has a compelling interest in ensuring national security. However, the narrow tailoring component of RFRA does not seem to be met by a general, blanket restriction on all Americans seeking to fulfill religious obligations without a specific reason for preventing each individual from doing so.^{xiii} The least restrictive means test is an exceptionally demanding standard.^{xiv} It has not been satisfied here.

The Shi'a American community faces irreparable harm if the sanctions continue to be used to suppress their free exercise of religion. The sincere beliefs of this minority group should not be ignored

and subjugated. Therefore, we call on the Biden Administration to lift the sanctions on MIU and AQR immediately and allow Shi'a Muslim American students to continue studying religious education at the *hawza* in Qum and for the Shi'a American community to resume their sincere religious practice of *ziyarat* to Mashhad.

We, the undersigned organizations comprising the Coalition for Shi'a Religious Freedom, look forward to your response and actions on this matter. Please send any correspondence to Mohammad Ali Naquvi, Vice President of the American Muslim Bar Association, at vicepresident@ambalegal.org.

Sincerely,

The Coalition for Shi'a Religious Freedom

American Muslim Bar Association (www.ambalegal.org)

Ahle Zakiyah Tours

CAIR – Houston

CAIR – Michigan

CAIR – New Jersey

CAIR – San Francisco Bay Area

CLEAR at CUNY Law School

ICNA Council for Social Justice

Idara-e-Jaferia Inc., Maryland

Imamia Medics International

Islamic Education Center, Houston

Islamophobia Studies Center

From Ashes Rise Hope and Justice

Jetpac Resource Center

Markazi Imambargah Al Murtaza

Masjid-e-Ali (Muslim Foundation, Inc.)

Momin Center

Muslim Anti-Racism Collaborative (MuslimARC)

Muslim Public Affairs Council (MPAC)

Muslims for Progress

Muslim Women for Biden

New Jersey Muslims for Biden

New Jersey Muslim Lawyers Association

National Iranian American Council

Polymath Learning

Shi'a International

Shi'a Muslim Council of Southern California

Shi'a Racial Justice Coalition

ⁱ *The Great Migration of Picky Puritans, 1620–40*, NEW ENGLAND HISTORICAL SOCIETY, <https://www.newenglandhistoricalsociety.com/great-migration-of-picky-puritans-1620-40> (last updated 2021).

ⁱⁱ U.S. CONST. amend. I (emphasis added).

ⁱⁱⁱ Quint Forgy, *Trump Administration Unveils New Sanctions on Iran Despite Foreign Resistance*, POLITICO (Sept. 21, 2020, 1:25 PM), <https://www.politico.com/news/2020/09/21/trump-administration-sanctions-iran-419408>.

^{iv} *Mapping the Global Muslim Population*, PEW RESEARCH CENTER (October 7, 2009), <https://www.pewforum.org/2009/10/07/mapping-the-global-muslim-population/>.

^v Press Release, United States Department of Justice, Two U.S. Citizens, One Pakistani National Charged With Moving U.S. Currency to Iran (available at <https://www.justice.gov/opa/pr/two-us-citizens-one-pakistani-national-charged-moving-us-currency-iran>).

^{vi} Arshad Mohammed, *U.S. to Blacklist Iranian Official, University—U.S. Official*, REUTERS (Dec. 8, 2020, 8:52 AM), <https://www.reuters.com/article/usa-iran-sanctions-idUKKBN28I23P>; Press Release, United States Department of Treasury, Treasury Targets Billion Dollar Foundations Controlled by Iran’s Supreme Leader (available at <https://home.treasury.gov/news/press-releases/sm1234>); *What is Astan Quds Razavi?*, IMAM REZA SHRINE (Mar. 23, 2019, 18:06), <https://globe.razavi.ir/en/69512/what-astan-quds-razavi>.

^{vii} Aya Batrawy, *Iranian Clerics Keep Shrines Open, Even as Virus Spreads*, ASSOCIATED PRESS (Feb. 25, 2020), <https://apnews.com/article/7b8f420db1a339116d66bc55c9085d7c>; *Imam Reza Holy Complex*, UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION—WORLD HERITAGE CONVENTION (Feb. 2, 2017), <https://whc.unesco.org/en/tentativelists/6194/>.

^{viii} Hyder Reza Zabeth, *The Glory of the Islamic World*, IMAM REZA, <http://imamreza.net/eng/imamreza.php?id=1073>.

^{ix} *Burwell v. Hobby Lobby*, 573 U.S. 682 (2014).

^x 31 C.F.R. § 501.701 (2020) (“Persons who willfully violate any provision of TWEA or any license, rule, or regulation issued thereunder... shall, upon conviction, be fined not more than \$1,000,000 or, if an individual, be imprisoned for not more than 20 years, or both.”); Exec. Order No. 13224, 3 C.F.R. § 13224 (2002).

^{xi} *Open Soc’y Justice Initiative v. Trump*, No. 20 Civ. 8121, slip op. at *8 (S.D.N.Y. Jan. 4, 2021).

^{xii} *Hobby Lobby*, 573 U.S. at 726–27; *EEOC v. R.G.*, 884 F.3d 560, 590 (6th Cir. 2018).

^{xiii} *Merced v. Kasson*, 577 F.3d 578, 592 (5th Cir. 2009) (“The government cannot rely on upon general statements of its interests, but must tailor them to the specific issue at hand.”).

^{xiv} *Hobby Lobby*, 573 U.S. at 728.