



INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION
GEORGETOWN UNIVERSITY LAW CENTER

December 14, 2017

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Trump,

On the night you were elected President, you [promised](#) to “bind the wounds of division” by devoting yourself to serving *all* Americans, regardless of their “races, religions, backgrounds, and beliefs.” We were encouraged to hear those assurances.

As a private citizen, you openly stoked resentment against ethnic and religious minorities, dismissing efforts to avoid harmful stereotyping as “political correctness.” You verged on typecasting entire groups of people—as presumptively suspicious, or incapable of participating equally in society—solely on account of the color of their skin or the god they worshiped. Taking to Twitter, you [called out](#) “blacks and hispanics” for their supposed criminal tendencies. You [warned](#) the United Kingdom about its “massive Muslim problem.” You [claimed](#) to be “right” on “Muslims”—specifically urging the United States to “[ban Muslims](#),” “[stop\[\] Muslim immigration](#),” and quit “[let\[ting\] the Muslims flow in](#).”

These targeted affronts linger as hurtful examples of your pre-Inauguration Day statements. But you’re President now. You’ve taken the helm of a pluralistic society, where people of vastly different beliefs and cultural traditions must work together to solve pressing national problems. Good-faith disagreement on policy challenges is to be expected. To facilitate this healthy clash of ideas, Congress and the executive branch enjoy robust free-speech protections, as do the private citizens they represent. Yet for the U.S. Government—including its President—the domain of permissible civic discourse is not unlimited. The state cannot use its megaphone to express wanton hostility toward the very people it must represent on an equal footing.

That’s why your three recent anti-Muslim tweets are so troubling. On November 29, 2017, you retweeted [three unverified videos](#) uploaded by the leader of a far-right European extremist group. To your immediate audience of 44 million Twitter followers, which grew rapidly into a much wider global audience, you broadcast the following captions: “Muslim migrant beats up Dutch boy on crutches!” “Muslim destroys a Statue of Virgin Mary!” “Islamist mob pushes teenage boy off roof and beats him to death!”

These tweets sought to draw attention to the misdeeds of *Muslims*, simply on account of their being Muslims. According to your tweets, the distinguishing feature of the wrongdoers in these videos was their presumed adherence to the Muslim faith. If the objective had been to oppose violent crime and the destruction of religious icons, or even to raise policy questions associated with immigration, the alleged Muslim identity of each perpetrator would have been gratuitous.



INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION
GEORGETOWN UNIVERSITY LAW CENTER

Instead, all three tweets explicitly drew a connection between the underlying acts and the religious identity of those who engaged in them. Your decision to retweet these messages carried a dark and unmistakable message: Muslims are to be feared; Islamic practices pose a danger to society; Muslims can never be truly equal citizens under the law. Moreover, this type of rhetoric emanating from the Oval Office has a wider negative impact, fueling a public backlash that can reach Sikhs, South Asians, and minorities of other faiths and ethnicities.

It's even more unfortunate that these demeaning messages were endorsed by someone who personifies an entire branch of government. Your @realDonaldTrump Twitter account bears the imprimatur of the "45th President of the United States of America." You frequently use the account to announce official policies, promote your legislative agenda, communicate with foreign leaders, and recap state visits. Not surprisingly, former Press Secretary Sean Spicer [clarified](#) that tweets from @realDonaldTrump should be understood as "official statements by the President of the United States." An attorney for your administration [characterized](#) them as such in federal court as recently as December 8. The American people understand—for good reason—that the views you express on Twitter are those of the executive branch of our government.

Because you are no longer a private citizen, you must abide by constitutional restrictions applicable to all other state actors. The government, to be sure, enjoys considerable latitude in deciding what viewpoints it will express. But its message cannot be that certain people are inferior members of the political community. Under the U.S. Constitution, the government cannot openly denigrate a class of Americans, marking them for special disdain and reproach simply because of who they are.

That's especially true when the government would stigmatize its own constituents because of their religious beliefs. The Supreme Court has made clear that "government speech must comport with the Establishment Clause." *Pleasant Grove City v. Summum*, 555 U.S. 460, 468 (2009). At a minimum, the Clause forbids governmental displays of "animus toward religion," *Locke v. Davey*, 540 U.S. 712, 725 (2004), or "hostility" toward a particular faith, *Lynch v. Donnelly*, 465 U.S. 668, 673 (1984). The Court has repeatedly recognized this prohibition on "disparag[ing] any . . . faith or belief." *Marsh v. Chambers*, 463 U.S. 783, 795 (1983). The restriction on impugning particular faiths is but one expression of the broader, and equally longstanding, principle that the state is forbidden to "prefer one religion to another." *Bd. of Educ. of Kiryas Joel Village Sch. Dist. v. Grumet*, 512 U.S. 687, 703 (1994).

Your [promise](#) to "be President for all Americans" is no mere rhetorical aspiration. It also has an important constitutional dimension. Whatever else your administration might seek to accomplish, it may not vilify members of a religious community on account of their theological convictions. Our constitutional tradition affords *all* Americans the right to pray as their conscience compels them without being besmirched and belittled by their government.

There is nothing wrong with a President using social media, as your Press Secretary has phrased it, to "[bring\[\] up important issues of our time.](#)" But your words not only set the tone for the rest



INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION
GEORGETOWN UNIVERSITY LAW CENTER

of the executive branch and public discourse more broadly; they also carry independent legal significance. The Constitution forbids you from conveying the administration's policy agenda in ways that demean those who worship differently than you. We urge you to reflect upon the constitutional values at stake before further fracturing the American people along religious lines.

Sincerely,

Avodah

Congregation of Our Lady of Charity of the Good Shepherd, US Provinces

Emgage Foundation

Franciscan Action Network

Franciscans for Justice

Institute for Constitutional Advocacy and Protection

Muslim Advocates

Muslim Public Affairs Council

National Advocacy Center of the Sisters of the Good Shepherd

National Justice for Our Neighbors

The Sikh Coalition

cc: Donald F. McGahn
White House Counsel

Sarah Huckabee Sanders
White House Press Secretary

Dan Scavino Jr.
White House Director of Social Media