

Remarks of Eric Treene, Special Counsel for Religious Discrimination,

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It is a great pleasure to be here in Malaysia to discuss with you the critically important issue of religious tolerance and harmony in multi-ethnic societies. I had the pleasure a year ago to meet with Tan Sri Attorney General Gani in Washington to discuss these issues, and last year the Assistant Attorney General for Civil Rights, Tom Perez—who is now the U.S. Secretary of Labor—came to Kuala Lumpur to speak at a conference on legislating national harmony. I am very happy to be able to now come to visit you in Malaysia and continue the dialogue.

While every country has a unique history, culture, and context, there are also common areas where we can learn much from each other. This is particularly true in the experiences of the United States and Malaysia. Both our nations have a majority of citizens who belong to one particular faith—Islam in Malaysia and Christianity in the U.S.—and our citizens are not merely nominally or culturally associated with those faiths, but pursue these faiths seriously and devoutly, whether measured by daily prayers, regular attendance at a place of worship, or similar criteria.

Yet at the same time, both of our nations have a diversity of vibrant and devout minority faiths that also are flourishing. In the United States, this diversity has increased markedly over the last fifty years. While the United States has long been a destination for those seeking the ability to

worship their faiths with equality and freedom, for the first two hundred years that mostly meant people from the many different denominations of Christianity, as well as Jews and relatively small numbers of Muslims. Now we have a growing and thriving Muslim community, along with Sikhs, Hindus, and members of other faiths, all becoming part of the American mosaic. Achieving and ensuring the preservation of religious tolerance and harmony has thus become a more multi-faceted and complex issue.

This is not just an issue that we are concerned with in the U.S. as we respond to changing demographics and societal dynamics, or which Malaysia is concerned with as part of its efforts at preserving harmony through the National Unity Consultative Council and other initiatives. The international community has been increasingly focused on issues of religious tolerance, equality, and freedom.

In 2011, the United Nations Human Rights Council unanimously adopted Resolution 16/18, a resolution focused on combatting intolerance, discrimination and violence based on religious belief. The resolution, jointly sponsored by the Organization for Islamic Cooperation and the United States, calls on nations to undertake efforts to prevent religious discrimination; to undertake measures promoting the ability of members of all religious communities to practice their religions and contribute openly and on an equal footing in society; and to undertake measures to counter religious violence and threats. The resolution also calls for promoting tolerance through government outreach and dialogue with diverse religious communities. Each year since its passage, Resolution 16/18 has been re-adopted by the UN Human Rights Council and the UN General Assembly.

The United States has been involved in various country-to-country discussions about how to effectively implement Resolution 16/18. As a law enforcement official focusing on religious discrimination issues and crimes motivated by religious bias, I have met with my counterparts in a number of countries, including Spain, Indonesia, Turkey, Bosnia-Herzegovina, and Britain, discussing both the principles underlying Resolution 16/18, but also having practical discussions about how we are able to work to counter religious threats and violence, reduce discrimination, and increase tolerance. I am very excited to have the opportunity to explore these issues with you today.

As I noted at the beginning of my remarks, it is particularly enriching to have this discussion with you because of the common feature of our countries of having a majority of citizens who are devout, practicing believers of one faith, and significant numbers of citizens who are devout members of minority faith groups.

Beyond this observation about basic similarity, I do not claim to be an expert on the religious landscape in Malaysia. But I would lay out for you some aspects of the U.S. experience with religious diversity and religious tolerance, especially my insights as an official enforcing legal protections in these areas, with the hope that you will find it interesting, and that there may be some common aspects about our respective experiences worth exploring together.

I would like to start with posing a question. How can a country be tolerant when it has both high degrees of religious devotion and high levels of religious diversity at the same time? This might

appear to be a paradox. After all, it is easy to be tolerant when everyone is basically the same. We can look around the globe and find societies that have achieved tolerance in the religious realm by a general secularization and reducing of religion to something relatively unimportant in people's lives.

From its earliest days, the United States has rejected such a secularist approach, instead embracing a pluralistic model that protects religious tolerance and equality, seeking to allow both members of the majority faith, and members of minority faiths, to practice their religion authentically and comprehensively in their lives. Such an approach is, we believe, necessary to protect the fundamental religious rights of all, whether for members of minority faith or members of a majority faith. Of course, in the United States we have not always been consistent in achieving this goal, and there have been setbacks and sometimes severe failings, but the underlying principles and thrust of our history has been to continually move toward realizing this pluralistic model.

Religious freedom in the U.S. is often called the "First Freedom," partly because it is the first freedom listed in our Constitution's Bill of Rights, but also because religion and conscience are so important and foundational. When we were a British colony, people of many different Christian sects came to America to practice their faith. When we declared independence from England in 1776 and adopted a Constitution, one of the focuses of our founders was on ensuring religious tolerance

In doing so, the American founders followed a principle that is similar to one found in the Holy Quran. The Quran states, in a verse well-known to Muslims and many non-Muslims alike, that “there shall be no compulsion in religion.” (2:256) In a later verse, the Quran states “If it had been your Lord’s will, all of the people on Earth would have believed. Would you then compel the people so to have them believe?” (10:99) This verse has a strong parallel in Christian doctrine, in the idea that God has chosen not to simply impose faith on all people, but rather offers faith and grace to those who call upon His name.

Thomas Jefferson, the third U.S. President and the writer of the statute on which our Constitution’s protections for religious freedom were based, said something that has some very interesting parallels to these verses of the Quran. He said “Almighty God hath created the mind free” and attempts to influence belief based on punishments or civil burdens are “a departure from the plan of the Holy author of our religion.” In England in the 18th Century, magistrates determined when worship could be held, gave out fines for not honoring the Sabbath day, and exerted other controls on the exercise of faith. Jefferson and the other American founders rejected such infringements on religion for reasons that were rooted in their understanding of God and their desire to protect authentic faith. As the British philosopher John Locke, who was very influential on the thought of Jefferson and other U.S. founding fathers, stated simply: “faith is not faith without believing.”

Now, I do not know if Thomas Jefferson directly drew on the Quran when he said that it is God’s plan that believers must come to faith voluntarily, but he kept a copy of the Quran in his library. Indeed, when the first Muslim U.S. Congressman, Keith Ellison of Minnesota, was

sworn in to office several years ago, he took the oath of office while placing his hand on Thomas Jefferson's Quran.

We also know that Jefferson was quite explicit in including all faiths, and Muslims in particular, in the foundational documents protecting religious freedom and tolerance. When some legislators tried to add a reference to Christianity to Jefferson's religious freedom provision, the legislature voted the amendment down resoundingly. Jefferson stated that the principles of religious freedom and tolerance were intended to protect "the Jew, the Gentile, the Christian, Muslim, and Hindu." At a time in the United States where the major issues were divisions among Christian sects, and there were very few people around of other faiths, such foresight and dedication to principle is remarkable.

America was and remains a country that is majority Christian. And its culture is heavily Christian, though it is increasingly more diverse. But its government, and its principles about religious tolerance and freedom, have never been Christian. The second U.S. president, John Adams, signed a treaty with the Bey of Tunis in 1797, declaring that "the Government of the United States is not, in any sense, founded on the Christian religion" and "has no character of enmity against the laws, religion, or tranquility of Muslims." The treaty further stated that "no pretext, arising from religious opinions, shall ever produce an interruption of the harmony existing between the two countries."

This attention to religious tolerance and freedom, stated by our founding fathers and in our founding documents, has a long and proud history in application. At the time of the American

Civil War, for example, Quakers, members of a pacifistic religious sect that grew out of Christianity, were vilified for their pacifistic stance and imprisoned for failing to fight for the United States during the war. After an appeal by Quaker leaders directly to President Abraham Lincoln, he granted them the right of conscientious objection, and that has been honored in every war since. It is in wartime, when the stakes are so high, that true dedication to principle is tested. In the middle of World War II, with patriotic fervor at its highest, the Supreme Court ruled that Jehovah's Witness children could not be forced to say the pledge of allegiance to the United States, a stunning victory for conscience. We vigorously enforce the protection of individuals against employment discrimination for people of all faiths. As I will discuss in more detail in a moment, the Department of Justice has brought suit to protect the right of Muslim women and Sikh men to wear religious headcoverings while working as bus drivers, and has brought suit to protect employee's ability to observe holy day or to go on pilgrimages such as the *hajj*. Our dedication to religious liberty in these and many other contexts has led to the United States becoming a place where a multiplicity of faiths have flourished—not just major faith groups like Christians, Muslims, Jews, Sikhs, Hindus, and Buddhists, but hundreds of sects and subsects within major faith groups.

This is not to say that we have always been consistent in our protection of religious liberty and tolerance. It is hard to think today of Catholics in the United States being a persecuted and despised minority—they constitute more than 25% of the population in the U.S. and are powerful politically, culturally, and economically. But in the 19th century Catholics were immigrants and outsiders to the mainstream culture, and their religion was seen as theocratic and fundamentally at odds with American democracy.

Catholics faced widespread discrimination in employment and sometimes were met with violence. For example, in 1844 riots broke out in Philadelphia when a rumor circulated that Catholics were trying to remove Bibles from public schools, resulting in the burning of Catholic churches and seminaries. But in a story showing the best of the American tradition, however, at St. Joseph's Catholic Church, a large group of Quakers gathered and surrounded the church, preventing the mobs from destroying it.

Other groups have been met at various times in our history and to varying degrees with discrimination and violence, including Jews, Mormons, and most recently Muslims. This was never due to a failure of our principles, which reflect universal and timeless values, but rather a failure to apply them consistently.

We faced great challenges after the 9/11 terror attacks. We saw a sharp rise in attacks against Muslims and Arabs, as well as South Asians and Sikhs who were mistaken as being Muslim because of their turbans. The Civil Rights Division of the Department of Justice has jurisdiction over hate crimes, and we very aggressively prosecuted these cases. For example, one man in Florida, angry about the attacks, drove his pickup truck into the front of a mosque, damaging the door and door frame. He was convicted and sentenced to 27 months in prison. Another man in Salt Lake City set fire to the wall of a Pakistani Restaurant. The fire was quickly put out, but could have caused great harm to people and buildings. He was sentenced to more than four years in prison. We also prosecuted many cases of threats of violence, both in person and threats by telephone or email, including several bomb threats against mosques. The number of such

against Muslims is down significantly from where it was in the months after 9/11, it is still about 5 times what it was before 9/11, at around 125 incidents per year based on federal statistics.

In addition to these cases of threats and violence, we also saw an increase in discrimination against Muslims at work, when seeking an apartment or house, and when mosques seek to build or expand. We have been very active in bringing lawsuits to protect the rights of Muslims in these areas, and I will talk about these cases in more detail in a moment.

But I think it is important to point out that while Muslims faced discrimination after 9/11, and still do today, there is a broader story of success that needs to be emphasized. As a law enforcement official who brings prosecutions and lawsuits to protect religious minorities, I tend to see all the things that are going wrong in society, and it is very easy to focus on the negative side of things. But there is much that is going right. There are an estimated 2 to 3 million Muslims in the United States, worshiping in more than 2,000 mosques—and that number is growing as Muslims move to new communities and build new mosques. Muslims are well integrated into American society, and enjoy a high level of prosperity. Polls show that 82% of Muslims in the U.S. are satisfied with their lives, a number that is actually slightly higher than the number for the general population. But the same polls show Muslims in the U.S. are also very concerned about discrimination. Thus our work at the Department of Justice is laid out for us.

Our work in protecting the rights of Muslim Americans has been made much easier by some particular features of American history. America has long struggled with the issue of racial

equality, going back to the 1860's when we fought a long and bloody civil war over the issue of slavery, and have struggled in the years since toward achieving civil and political equality for African-Americans. But America's legacy of racial discrimination against African-Americans has ironically aided us in protecting religious liberty. In 1964, after the sustained advocacy of civil rights leaders such as Martin Luther King, Jr., Congress passed sweeping civil rights legislation to protect against discrimination in a wide range of contexts, including employment, education, access to public accommodations and other areas. The Civil Rights Act of 1964 empowered the Department of Justice to use its resources to enforce the Act's provisions. While the main purpose of the Act was to end racial discrimination, the law also barred discrimination based on national origin, sex, and religion. This law, and others enacted over the years since, provide my agency, the Civil Rights Division of the Department of Justice, with powerful tools to combat religious discrimination and religion-based violence. We thus have a strong infrastructure of civil rights protections and resources that we were able to bring to bear on religious discrimination after 9/11.

I have already mentioned our prosecution of bias-motivated crimes. The Department of Justice has been very active in ensuring that bias crimes are vigorously prosecuted, and sending a strong message from the federal government that such violence, and threats of violence, will not be tolerated.

We also have been active in preventing religion-based harassment and discrimination in the workplace. As with bias crimes, workplace discrimination complaints by Muslims have increased since 9/11. In addition to cases where individuals are denied jobs because of their

religion, or harassed in the workplace, our employment discrimination law have an additional protection for religious observances and practices by employees. For example, we resolved a suit last year against the City of New York, which had told Sikh men and Muslim women working as bus and subway drivers that they could not wear religious headcoverings with their uniforms. This was not necessarily a case of anti-Muslim or anti-Sikh bias—the city claimed that it wanted everyone to wear the same uniform, with no exceptions. But our federal employment law, called Title VII, says that an employer must make a reasonable accommodation of religious observances and practices unless the employer can prove that it would be an undue hardship on the exercise of its business. In our case, the employees were willing to wear headscarves and turbans that matched the color of the uniform, and keep the headscarves neatly tucked in. This did not interfere with the city’s interest in a neat and professional appearance for its employees, and we thus obtained a court-monitored settlement in the case.

These cases can involve multiple faiths. We won a case against the Washington, DC. Transit authority that involved a Christian woman bus driver whose religion required her to wear a skirt rather than the pants that came with the uniform, as well as two Muslim woman drivers who wore headscarves. The settlement requires the transit authority to adopt a policy to accommodate the reasonable needs of employees of *all* religions. The Department of Justice has also successfully brought cases on behalf of Muslims who need time off on Friday for Jumah prayer, for Jews and Christian who observe a Sabbath day, and a Muslim school teacher who needed time off to go on the *Hajj*.

Another federal law empowers the Department of Justice to bring suits to involving religious discrimination and harassment in public schools. For example, we resolved a case in which Somali Muslim students in Minnesota had been subject to harassment by other students and disproportionate discipline from school administrators. We also successfully sued a school in the State of Oklahoma for refusing to allow a Muslim girl to wear a headscarf to school. While the headscarf is generally not a controversial issue in the United States and Muslim girls wear them without a problem, this school had a no-hats policy and used it to prevent the Muslim girl from wearing her hijab. The Department of Justice also won the right for Muslim students to gather during the lunch hour to pray, and similarly for Christian students to gather for Bible study during free periods.

The Department of Justice also bring cases involving religious discrimination in housing. While residential segregation based on religion in the United States is not a problem on any significant scale, we do experience individual cases where people are denied apartments or houses based on their religion. While there are far more racial complaints filed than religious complaints filed with us, it is significant to note that one fourth of the religious discrimination complaints are by Muslims, who make up only 2% of the population. One of the ways we combat this is through our fair housing testing program. For example, we will send a Muslim woman wearing a headscarf in to apply for an apartment, and she might be told that there are no apartments available. Then we send in a woman without a headscarf and see if she is offered an apartment or treated more favorably. This technique has long been successful with rooting out racial discrimination, and provides the evidence we need to prove discrimination in court.

One final area I would like to highlight is our work fighting for the right of religious groups to buy property and build places of worship and religious schools. In the United States, as in many countries, local officials in cities and towns have great power and discretion in determining which types of buildings will be allowed in which neighborhoods. Unfortunately, this power and discretion is often used in arbitrary or discriminatory ways to deny permits to religious communities, especially minority religious communities. In response, in 2000, Congress unanimously passed a law called the Religious Land Use and Institutionalized Persons Act (RLUIPA), which prohibits discriminatory or arbitrary denial of permission to religious communities to build places of worship or religious schools. The law gives the religious groups the right to sue to protect their rights, but it also empowers the Department of Justice to bring suit.

We bring suits on behalf of a wide range of religious groups—Christian churches often face discrimination, particularly smaller evangelical congregations starting new churches, or Christian congregations whose members are poor or are from ethnic minorities. We also see cases of discrimination against Jewish synagogues. But we see a disproportionate number of cases involving mosques—about 15% of our cases involve mosques—and so this has been an area where we have focused our resources.

Sometimes the bias is overt, as in a lawsuit we successfully brought in the State of Georgia where in our investigation we uncovered anti-Muslim statements by city officials and differential treatment of Christian churches of similar size that had applied for permits in the past. However, sometimes bias can be hard to prove. As a result, the land use law contains a provision that if

denial of a land-use permit would impose a “substantial burden” on a congregation’s religious exercise, then the burden shifts to the town or city to prove that it had a compelling reason for the denial of the permit. Thus we won a case last year in California where a congregation had outgrown its small and aging mosque, and had raised funds to build a larger and modern mosque with classrooms for children’s religious education and a library. The city denied the permit needed to build the mosque. There was not sufficient evidence to bring a discrimination case, but we were able to bring and win suit because the denial substantially burdened the congregation, and the city could not come up with a sufficiently strong reason to justify the denial.

These cases have taken a lot of our resources, and have often been frustrating for the communities affected, but they also have led to increased tolerance and harmony. One case that I handled personally recently involves the Islamic Center of Murfreesboro, Tennessee. There, a Muslim congregation that had been meeting in a former office building for more than 20 years raised money for a free-standing mosque, and bought a large parcel of property on which to build it. The local government did the right thing and approved the mosque, which was in a zone that allowed places of worship. But some neighbors did not want the mosque, and went into state court and got a local judge to stop the congregation from legally using the mosque as it was nearing completion. We went into federal court and won an order allowing the congregation to move into the mosque to move in time to celebrate Eid at the end of Ramadan in 2012.

A lot of wonderful stories came out of this case. The Imam of the Murfreesboro mosque, Sheikh Osama Bahloul, told me that he has received letters from people all over the United States,

saying that they support the Muslim community's efforts. Some even gave contributions of money to help finish the mosque, including an American soldier stationed in Afghanistan.

Sheik Osama told me that for every member of the community who protested the mosque, there were several community members who came to him and told him they were with him. At the grand opening celebration for the mosque, there were people from many faiths--the Catholic Bishop, Jewish leaders, various Christian leaders--who had come out to support the mosque.

This interfaith support for the Murfreesboro mosque underscores a point I made at the beginning of my remarks—the United States is a country marked by both strong religious devotion and broad religious diversity. We are able to maintain both of these characteristics in harmony because of our strong commitment to the principles of religious freedom, equality, and tolerance.

I saw this at work on the 10th anniversary of the 9/11 attacks. On the anniversary, I attended an event held by Muslim organizations, multiple national Jewish organizations, and Christian organizations ranging from the National Catholic Bishops' conference to various Protestant denominations. The interfaith group, which has met previously to address civil rights issues facing Muslims, is called "Shoulder to Shoulder"—a reference to the various religious groups standing shoulder to shoulder in support of religious freedom. The event was a beautiful remembrance of the victims of the 9/11 attacks, with each participant speaking from his or her own religious tradition about healing, justice, and peace.

Among the victims remembered at the event were two young Muslim immigrants from Bangladesh, Shakila Yasmin Miah and her husband, Nurul Haq Miah, who were the only

married couple to die in the 9/11 attacks. They both worked for an insurance broker, their offices four floors apart in the north tower of the World Trade Center. Shakila's mother and father were there, her mother wearing a hijab and proudly holding a picture of her daughter and son-in-law, and holding back tears. This was a poignant reminder of the great diversity of peoples in the United States, and our common humanity. American is very diverse, and a mass attack on the United States inevitably results in attacks on a multiplicity of religions and ethnicity. Speakers quoted from the Bible, the Quran, and the Talmud, focusing on passages condemning violence against innocents, and calls to do justice, protect the weak, and engage in acts of brotherhood and kindness. These passages had similar themes, but they were also unique and different. This was not an attempt at syncretism, of watering down our differences and pretending that all religions are really the same, or of a secularism that asks people to set aside religion as if it didn't matter. Rather, each representative, gave a message from his or her own tradition: authentic, robust *religious* messages. And yet there was identification of common ground, respect, cooperation and harmony.

This is the tradition of pluralism of which Americans are very proud. But this pride cannot become complacency. As our history has shown, it takes great effort—through passage and enforcement of laws, educating our citizens, reaching out to diverse communities, and teaching our children—to make such a system work.

I look forward to discussing these issues further with you, and with other Malaysians during my visit here. Thank you.