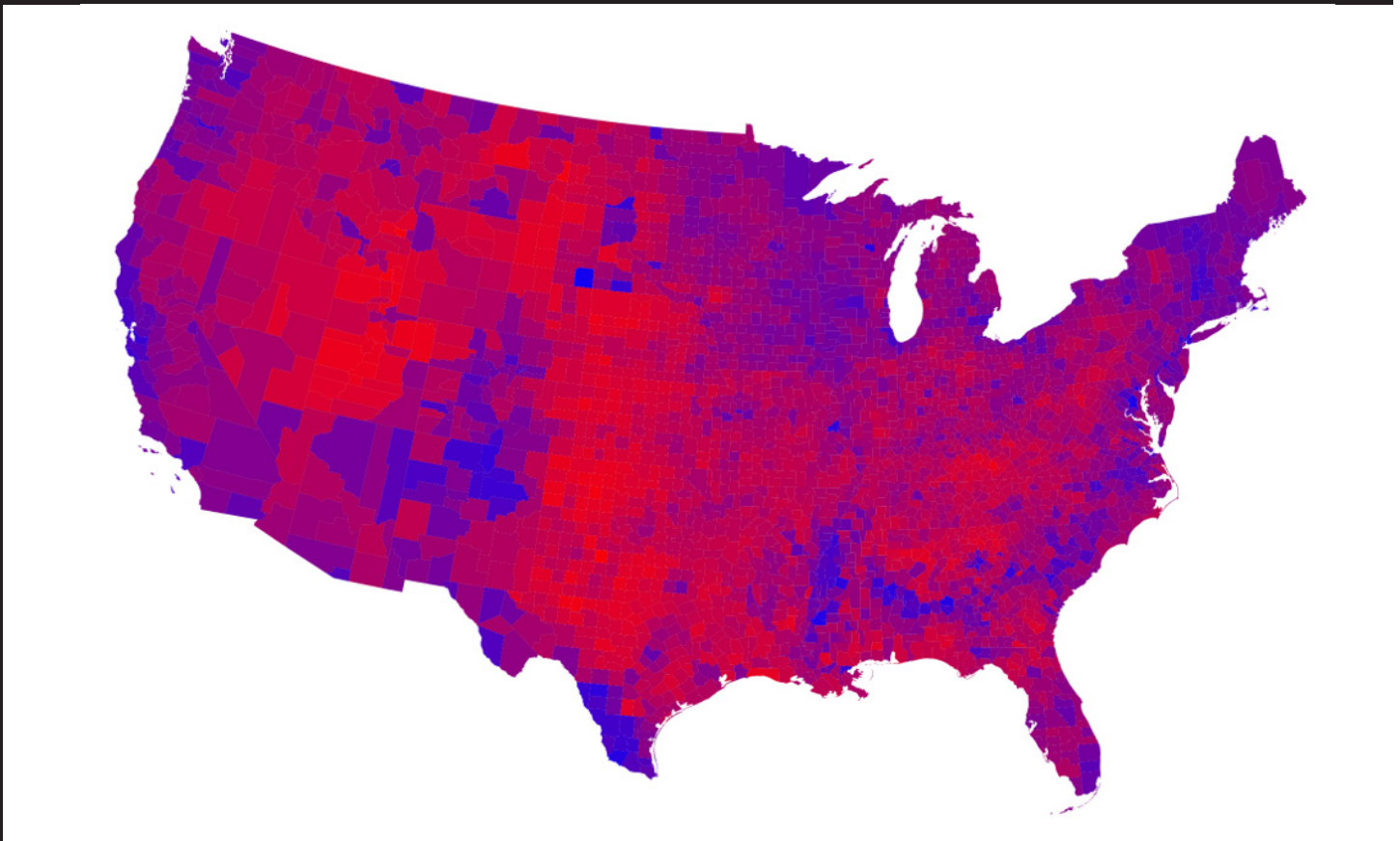




Community Brief

Manufacturing Bigotry: *A State-by-State Legislative Effort to Pushback Against 2050 by Targeting Muslims and Other Minorities*



“Obama was reelected by a coalition representing what the United States is becoming. Sure, a lot of aging, parochial white people do not like it – they do not like gays getting married or Latinos getting a chance at citizenship or urban liberals telling them that we are not just a nation of self-reliant cowboys, but a diverse, multiracial society that needs to be more tolerant and economically egalitarian. But this was quite possibly the last election in which a party that seemed to represent only this traditional, white America had a shot at victory.”¹

— David Horsey, *Los Angeles Times*

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For more information about the study, please visit:
<http://www.ispu.org/islamophobia>

For access to the Legislative Data Visualization map, please visit:
<http://www.ispu.org/visualization>

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WHY THIS STUDY?

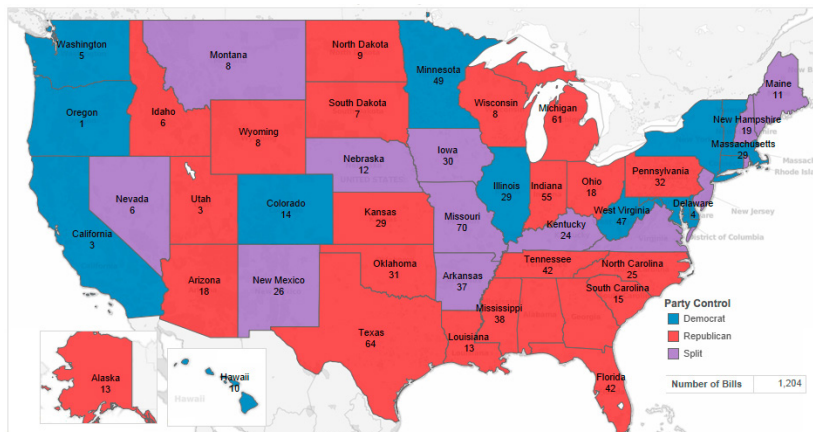
Demographics in the United States are changing rapidly, and the 2012 presidential election was a clear illustration of the United States' movement toward a more diverse population. Forecasts indicate by 2050, or even 2043² the United States will not only be more populous, it will also be a “majority-minority” country. These demographic shifts will have major political, socio-economic, legal, and cultural impacts on public discourse and public policy.

Opinion makers and major media figures are reacting to this historical transformation in a variety of ways. Some embrace America's emerging diversity. Others, including many Republicans and political conservatives accept that it is happening, and are fundamentally rethinking the ways in which they engage minority voters.

However, some individuals are uncertain and anxious about the future of America's traditionally dominant white population. As television host Bill O'Reilly fearfully noted after President Obama's reelection, “The demographics are changing...It's not a traditional America anymore...The white establishment is now the minority.”³

As certain groups—historically marginalized for their race, ethnicity/national origin, gender, sexual orientation, civic affiliation, or religious beliefs—become more visible, it is evoking a backlash from some who are eager to slow or reverse these groups' growing political and legal enfranchisement. In this community brief, the Institute for Social Policy and Understanding (ISPU) summarizes the research and documentation of state-level legislative efforts to disenfranchise historically marginalized groups.

To empirically measure the attempted disenfranchisement against these various groups, and links between efforts to roll back their rights, we examined bills in all 50 U.S. state legislatures from 2011 to 2013, across six issue areas: 1) Restrictions on abortion rights and access, 2) “Defense of Marriage Act” bills (DOMA) and other bans on same-sex marriage, 3) Right-to-Work legislation, 4) Anti-immigration proposals, 5) “Voter Identification” requirements, and 6) Anti-Sharia/Anti-“Foreign Law” bills (which serve as the report's legislative vehicle to measure Islamophobia).



Key Findings

Based on review and analysis of laws passed and bills proposed in 6 identified issue areas, some key findings are noted below:

- i. Red states, or states dominated by Republican lawmakers, have the most restrictive legislative agendas across all six (6) issue areas for both laws passed and bills proposed.
- ii. However, a relatively small number of lawmakers, 480 out of 3813 (12.6%) Republican state legislators are sponsors of restrictive bills proposed in more than one issue area. This indicates that, more than “red vs. blue” politics, this is a “red vs. red” issue, reflecting internal disagreements within the Republican Party at the state-level.
- iii. Additionally, as both parties have become more polarized, it has squeezed out ideological moderates in both parties. Particularly in the Republican Party, more moderate female Republican lawmakers have been undercut, and the more conservative female Republican lawmakers remain. This is critical because female legislators tend to be more effective than men, as well as more moderate, and collaboration- and consensus-oriented.⁴

With regard to anti-sharia specifically,

- iv. 630 of the total 3813 (16.5%) Republican state legislators have sponsored or co-sponsored an anti-sharia/anti-“foreign law” bill.
- v. And 80% of the 102 anti-sharia bills were sponsored or co-sponsored by an overlap legislator, or legislator who sponsored or co-sponsored a restrictive law in another of the six issue areas.
- vi. It is critical to note that the greatest overlap with anti-sharia/anti-“foreign law” legislation is not with anti-immigration laws as might be thought but with strict Voter ID laws and Right-to-Work laws. Both of these types of laws negatively and disproportionately impact African-Americans, women and Latinos. Thus, if a lawmaker wants to support legislation marginalizing the most people at one time, anti-sharia along with Voter ID and/or Right-to-Work would help to achieve that end.
- vii. Although the linkage between anti-immigrant and anti-Muslim advocacy is very strong, research indicates that anti-immigration law proposals are limited in number because of the high political and

financial costs of implementing legislation that faces widespread opposition from religious groups and business interests alike⁵.

The fact that anti-sharia/anti-“foreign law” bills, the legislative vehicle for anti-Muslim sentiment, track more closely to Voter ID and Right-to-Work related bills than anti-immigration bills lends credence to the idea that the current legislative agenda is about preserving power. It also indicates that, despite the rhetoric around sharia, these legislative efforts targeting “foreign laws” are actually branches of a wider domestic policy initiative targeting the changing nature of America.

Ultimately, the data supports the fact that there is deep anxiety around the changing demographic nature of American society and the approaching demographic tipping point. This is the wider domestic context in which of anti-Muslim prejudice and animus operate. In the years since 9/11, anti-Muslim sentiment has been considered more socially acceptable⁶ than animus directed at other racial, ethnic, or religious groups.⁷

Notwithstanding that American Muslims are increasingly working in partnership with various communities on a growing array of public policy issues,⁸ the narratives to counter Islamophobia have often been narrow, largely treating the issue as its own isolated phenomenon—whether intentional or not. While not seeking to downplay the unique challenges anti-Muslim bigotry poses to American pluralism, the findings clearly suggest Islamophobia is part of a broader trend of exclusion that various minority communities have experienced, and continue to experience.

The implications of this are two-fold:

First, the narrative around identifying and combating anti-Muslim animus should be positioned alongside other forms of bigotry that have been, and continue to be directed at other communities - a “common challenge” narrative.

Second, the “common challenge” narrative should be coupled with a “common values, common interests, and common solutions” narrative - namely a proactive, dual strategy of 1) bi-partisan political engagement, and 2) coalition building with organizations and communities sharing similar interests or values. Some of the resulting engagements may be inherently tactical, while others may be more long-term and strategic.

Key Recommendations

Following are key recommendations for critical stakeholders:

For Muslim Community Leaders and Organizations

- Increase self-awareness and education on the 5 other issue areas.
- Take a step back and reassess the political context.
- Explore potential intersections with other issues while maintaining your organizational mission and focus.
- Engage the 16.5% of Republican state legislators that are supporting Islamophobic legislation.

Foundations and other Potential Funders

- Continue to support research that tracks and surveys the ongoing policy intersections across multiple communities.
- Play the role of the convener, a group or institution who can facilitate the bringing together of multiple parties for a common goal or purpose.

Researchers

- Conduct further research on state-level legislative agendas in each of the fifty states.
- Document “best practices” and “lessons learned” in terms of successful legislative advocacy.

To External Advocacy Partners

- Develop and gain a contextualized understanding of Muslim demographics and related issues.
- Identify and integrate the Muslim-impact component of wider legislative and policy concerns.
- Recognize potential partner organizations and communities that have experienced similar strategies of targeted legislation.

What is Sharia? An Expert’s View

While there has been significant public controversy about *sharia*, few people have an accurate understanding of the concept. This is largely because anti-Muslim activists most frequently engage in alarmist rhetoric and typically have little to no formal education and expertise in Islamic studies.²² The main pitfall these anti-Muslim statements suffer from is the confusion of two different concepts: *sharia* and *fiqh*.

Dr. Asifa Quraishi-Landes, a trained Islamic legal specialist and Associate Professor of Law at the University of Wisconsin,²³ explains the important differences between *fiqh* and *sharia*:

Islamic jurisprudence is built on the idea that every human effort to articulate sharia (divine law) in specific legal rules is a human, and therefore unavoidably fallible, process. This process is called ijihad, and the rules it produces are called fiqh (understanding). Fiqh rules can be criticized without questioning God’s infallibility, because they are merely the result of fallible human efforts to understand and elaborate sharia. In short, whereas sharia is perfect and is not in need of reform, fiqh rules are always fallible and therefore can be wrong.²⁴

Introduction and Background

ISPU's latest project *Islamophobia: A Threat to All* seeks to reliably track trends related to the nation's ongoing social, political, and demographic transformation in the years leading to 2050. The project includes several publications.

Among them, this study, *Strength Through Diversity: Four Cases of Local and State Level Coalition Success*, researches and documents the positive work of local and state level coalitions and highlights the positive and successful efforts that have resulted from their work with other organizations and communities to promote pluralism and grassroots empowerment.

This brief summarizes ISPU research that identifies anti-2050 resistance trends, and documents the link between anti-Muslim activism and support for other forms of bigotry by analyzing state-level laws passed and bills proposed on a number of key public policy issues.

...the narratives to counter Islamophobia have often been narrow, largely treating the issue as its own isolated phenomenon—whether intentional or not.

ISPU's research offers documented evidence, across all 50 state legislatures, of the current lawmaking efforts, successful and unsuccessful to restrict or reverse the rights of various groups historically marginalized for their race, ethnicity, national origin, gender, sexual orientation, or religious affiliation. This report also places Islamophobia within a broader context of overlapping legislative campaigns that target or disproportionately impact the above-mentioned communities.

Manufacturing Bigotry focuses on six (6) issues representing major flashpoints in America's so called "culture wars".

- i. Voter Identification
- ii. Immigration laws
- iii. Laws restricting abortion rights and access
- iv. "Defense of Marriage Act" (DOMA) laws
- v. "Right-to-Work"
- vi. Anti-Sharia/Anti-"Foreign Law"

Scope of the Study

Given the exploratory nature of this report, a tightly-defined methodology was used and each public policy issue was narrowly defined. To understand the attempted backlash against groups impacted by the six (6) policy issues, two (2) categories of data were reviewed – laws passed and bills proposed:

Laws Passed. Laws passed are state-level laws that have been passed in the six issues areas in any of the 50 states, "Red", "Blue", or "Purple". These laws were reviewed and researched to identify laws passed in the six issue areas.

Bills Proposed. Bills proposed are state-level bills proposed in any of the states' legislatures during the past three legislative sessions (2011-2013). 2011 is a

starting point because it is the earliest legislative session for which many reliable non-partisan information clearinghouses provide publicly accessible information. In addition, 2011 was the first legislative year for a large numbers of Republicans legislators around the country, at both the national and state levels.

ISPU's research examines the policy content of bills proposed, as well as the sponsors and co-sponsors⁹ of these bills in order to identify "overlap legislators", or legislators sponsoring or co-sponsoring legislation in more than one of the six issue areas. Based on this information, datasets of bills were created and analyzed for each of the six issue areas. State legislators who were identified as "overlap legislators" were added to a seventh, "overlap" dataset.

Introduction and Background continued

Key Issue Areas and Methodology

The report focuses on six (6) issue areas specifically defined as follows:

1. Voter identification. Any proposed state-level legislation seeking to impose voter identification requirements more strict than those required under current laws. This inclusion criterion is based on the empirically-substantiated premise that voter fraud is a statistically insignificant and rarely occurring phenomenon¹⁰ disproportionate to the mass voter disenfranchisement that such laws often create.¹¹

2. State-level immigration laws. Although immigration enforcement is a federally regulated issue, states have increasingly sought to enact legislation facilitating the identification and detention of undocumented immigrants. Ostensibly this is to allow for compliance with federal employment regulations, however critics accuse it of being a thinly-veiled method of racial and ethnic profiling.

Other forms of proposed legislation were also reviewed including English-only language laws (which largely seek to prevent ethnic minorities from establishing themselves as influential voting blocs¹² and to exclude them from access to medical assistance,¹³ driving privileges,¹⁴ etc.); and legislation barring undocumented immigrants from certain basic services such as education.¹⁵

3. DOMA and same-sex marriage bans. This includes bills seeking to define marriage as only between one man and one woman; and/or seeking to deny legal, financial, and social benefits currently extended to opposite-sex married couples (such as hospital visitation privileges) to same-sex couples. In addition to reviewing all 50 state legislatures' websites, data from the National Conference of State Legislatures' was utilized.¹⁶

4. Right-to-Work legislation. A Right-to-Work state is one in which employers are legally barred from making membership in a labor union a prerequisite to be employed in certain types of professional occupations. Furthermore, a Right-to-Work state legally prevents employers from deducting "fair share"¹⁷ payments from a worker who refuses to join their labor union.¹⁸

5. Anti-abortion bills. This includes five (5) areas of abortion rights and access identified by the National Abortion Federation (NAF) as common legislative flashpoints at the state level:¹⁹

- **Abortion Bans.** Legislation imposing broad bans on abortion, often without exceptions for a woman's health.
- **Counseling/Waiting Periods.** Legislation imposing waiting periods on women seeking abortion; and requires abortion providers to give patients certain state-mandated materials.
- **Parental Involvement.** Legislation restricting a minor's access to abortion, generally in the form of parental notification or consent bills.
- **Targeted Regulation of Abortion Providers (TRAP).** Legislation placing substantial restrictions/requirements, not imposed on other medical professionals and facilities, on medical facilities providing abortions.
- **"Other".** These include fetal homicide bills, refusal/opt-out clauses based on religious beliefs, medication-induced (e.g. mifepristone [RU-486]) abortion restrictions, and public funding reallocations (i.e. restrictions on abortion providers and expanded access for crisis pregnancy centers).

In addition to reviewing all 50 state legislatures' websites, the report utilizes in-house datasets provided by the National Right to Life Committee.²⁰

6. Anti-sharia/anti-"foreign law" bills. Anti-sharia bills are designed to target Islamic religious practices and rules that are termed *fiqh*, but mislabeled as sharia (see the text box below for further information). Anti-"Foreign Law" bills have a similar intent in that they are designed to disproportionately impact Muslims, but their language, for political and constitutional reasons, is crafted more broadly. Legislative website searches were supplemented by the dataset of anti-sharia/anti-"foreign law" bills compiled by information from the Council on American-Islamic Relations (CAIR) and *Gavel to Gavel*, the National Center for State Courts' online magazine, a non-partisan information clearinghouse "for research information and comparative data to support improvement in judicial administration in state courts."²¹

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Institute *for* Social Policy *and* Understanding

RESEARCH MAKING AN IMPACT

About ISPU

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ISPU scholars provide insight into the major debates taking place across the country. They offer context-specific analysis and recommendations to journalists, policymakers, and the general public through reports, policy briefs, articles, op-eds and books. ISPU disseminates its publications through a variety of channels and holds regular congressional briefings, policy events and academic conferences.

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