

AMERICAN CHARTER

of

◆ FREEDOM OF RELIGION AND CONSCIENCE ◆

American Charter of Freedom of Religion and Conscience

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Preface

Freedom of religion and conscience is a foundational right that is central to the American experiment. Historically, Americans have agreed on the fundamental importance of *freedom of religion and conscience* to the nation and have come together to defend it, even though they have not always agreed on its precise contours. Today, however, conflicts and confusions threaten to overwhelm our common-ground tradition of respect and support for this essential right.

We, the drafters and signers of this document, come from divergent religious and political backgrounds. Yet we come together to reaffirm the fundamental principles of *freedom of religion and conscience*. We are resolved that we can and must have a better conversation about these issues. As does this American Charter, our conversations should include affirmations that *freedom of religion and conscience* is a fundamental human right that must remain at the heart of the American tradition; that *freedom of religion and conscience* is a right possessed by everyone everywhere; that it must be respected and protected by governments; and that while we differ sometimes about how it should be defined and applied, we are determined not to permit those differences to divide us.

We acknowledge that this Charter does not resolve certain important and contentious issues such as clashes over competing rights claims. However, the drafters and signers of the Charter have reached a very high degree of agreement. Indeed, our experience together has taught us that, when consensus

seems elusive or even impossible, we can with persistence and good will find common ground because of our mutual commitment to the dignity of every human being. We encourage all people of good will to take the risk of striving to understand and respect their fellow citizens, especially those with whom they disagree. Together we can advance the common good and, at the same time, strengthen the declining virtue of civility in the American Republic.

*Congress shall make no law respecting an establishment of religion,
or prohibiting the free exercise thereof ...*

– First Amendment, U.S. Constitution

*Everyone has the right to freedom of thought, conscience and religion;
this right includes freedom to change his religion or belief,
and freedom, either alone or in community with others and in public or private,
to manifest his religion or belief in teaching, practice, worship and observance.*

– Article 18, Universal Declaration of Human Rights

Introduction

Aware of the historic significance of the right of *freedom of religion and conscience* in the story of liberty in our Republic and its promise as a key to human dignity and flourishing and to making our world more peaceful and secure, we publish this Charter to affirm this foundational right and its centrality to the American experiment. We seek to rebuild a national consensus around these foundational principles of liberty.

As human beings, we seek insight into the source of our being and the ultimate order of reality. On the basis of our beliefs about these ultimate matters, we form judgments about the right and the good, judgments that guide our lives and give them meaning, purpose, and order. By protecting *freedom of religion and conscience*, governments ensure that neither they nor any human power

subject this essential human quest to undue coercion or manipulation. *Freedom of religion and conscience* is a foundational right for all human beings without exception, a right to be enjoyed by people of all faiths and worldviews, whether religious or secularist, transcendent or naturalistic. It is therefore a responsibility and duty for all people to respect—and for government and other institutions to protect—this right for all people.

Like all human rights, *freedom of religion and conscience* is not absolute. It is, however, a robust freedom. It is the fundamental right to pursue the truth about ultimate reality and to order one's life accordingly, whether alone or in community with others. It recognizes and affirms the deep need of all human beings to be free. It encompasses the right, as conscience dictates, to speak and act on the basis of ultimate beliefs in private and public life, as well as the right to question religious truths or not to believe in them at all. *Freedom of religion and conscience* carries with it the additional obligation to recognize that, just as all must be free to follow the dictates of conscience, all are bound by the duty to respect the consciences of others.

Just as the ordering of this right has played an irreplaceable role in the story of our nation, so too is the freedom it guarantees and the social capital it creates vital for human flourishing and for open, free, and peaceful societies around the world. We believe that an urgent challenge of our time is to build and sustain societies that are worthy of human beings possessing innate and inalienable dignity and freedom and to resolve the question of how we are to live with our deepest differences, especially when those differences are religious and ideological.

So we address the promise and peril of our day, for current conflicts and confusions on both the Right and the Left are threatening to undermine our national commitment to *freedom of religion and conscience*. That freedom is not an

absolute, inflexible bar to other rights claims, but other rights claims do not always trump claims of *freedom of religion and conscience*. Where rights clash, the issue in each case must be assessed on the merits, giving due weight to the considerations and arguments of the competing sides.

We draw inspiration and determination from the great tradition of freedom-loving peoples and their ringing declarations that have contributed to the defining ideals of *freedom of religion and conscience*—from the Magna Carta (1215), to the English Bill of Rights (1689), to the Virginia Declaration of Rights (1776), to the Declaration of Independence (1776), to the U.S. Constitution (1791), to the Universal Declaration of Human Rights (1948).

We acknowledge the great heritage of women and men who have stood for *freedom of religion and conscience* for all, who have spoken and written eloquently on its behalf, and who have even suffered and died for their convictions. In our own country, the most celebrated statements in this shining heritage have included Roger Williams’s *The Bloody Tenent of Conscience, for cause of Conscience* (1644), James Madison’s “Memorial and Remonstrance against Religious Assessments” (1785), and Thomas Jefferson’s “Virginia Statute for Religious Freedom” (1786). America’s giants of *freedom of religion and conscience* have also included men and women such as Mary Dyer, Anne Hutchinson, William Penn, John Leland, Thomas Paine, Isaac Backus, and Susan B. Anthony. They have included Sojourner Truth, the courageous activist preacher and abolitionist, and Harriet Tubman, whose faith inspired her to become a heroic conductor on the Underground Railroad, leading slaves to freedom. Indeed, acts of conscience in the public life of our nation have energized and guided many of our most important movements for social justice, preeminently the work of Rev. Dr. Martin Luther King Jr., Rabbi Abraham Joshua Heschel, and the Civil Rights Movement to which they were integral.

This is an *American* Charter of Freedom of Religion and Conscience, with a special relevance to America, because the United States is—to borrow from Alexander Hamilton’s opening essay in *The Federalist Papers*—a nation founded on “reflection and choice” rather than mere “accident and force.” As such, America will always thrive or falter according to the strength of its commitment to its founding ideals and to perfecting our union. This Charter is also distinctively *American* because it springs from the United States’ commitment to *freedom of religion and conscience*—a commitment that is, at its heart, *covenantal*, based on a solemn and binding promise between citizens as embodied in the U.S. Constitution.

At the same time, we commend the vision, principles, and goals of the Charter to other nations. We acknowledge that there is no uniform resolution or settlement to the global challenge of protecting *freedom of religion and conscience*. Each nation enjoys its own proud history, its own values, and its own balance of the forces of principle, power, and tradition. Precisely because of these varied and distinct traditions, the concept of universally agreed foundational rights is essential. All nations should protect and promote a core of foundational rights that are due to all human beings within their jurisdiction, without exception. Each nation is free to express, apply, and expand those common rights according to its own chosen resolution or settlement so long as it does not infringe other foundational rights that are basic to all human beings and common to all rights-respecting nations.

As we consider our world today, it could not be clearer that the global community must turn resolutely from the naked evils of state oppression and cataclysmic sectarian violence. In a world of strong and undeniable diversity, all imposed absolutisms, coercive universalisms, and movements of religious and

secular ideological cleansing are the open enemies of freedom, equality, and justice for all.

Our principal objective in this Charter is to declare our whole-hearted support, first, for the religious liberty guarantees of the United States Constitution and, second, for Article 18 of the Universal Declaration of Human Rights. By this Charter we also hope to increase understanding of the towering importance of *freedom of religion and conscience* for the good of all citizens; to renew a robust and tough-minded commitment to the duty of civic responsibility; to rally Americans to stand with all individuals and communities that are being targeted with violence or threats of violence on account of their religious convictions or lack thereof; and to revive our nation's vision of a civil public square to counter the incivility of the last half century of culture-warring. Accomplishing these goals would demonstrate to the world a constructive American answer to the global challenge of living with our deepest differences.

Declaration

We therefore set forth the following declarations on *freedom of religion and conscience* for our Republic today:

Article 1

❖ Character and Scope ❖

F*reedom of religion and conscience is the right to seek, hold, share, and change religion or ultimate belief. This right includes the freedom to exercise religion or ultimate belief in teaching, preaching, practice, worship, and observance.* It is described in American law as “religious freedom” and in European and international law as “freedom of thought, conscience, religion, and belief.” This freedom is a bedrock of personal liberty, a safeguard for communal freedom, and a wellspring of social pluralism. It assumes diversity in matters of belief and stands against enforced coercions, whether religious, ideological, political, or social. As well as protecting the freedom of the “inner forum” of the mind and conscience, this right protects the freedom of the “outer forum” of the nation’s public square. From Thomas Jefferson’s avowal that “Almighty God hath created the mind free,” to the Rev. Dr. Martin Luther King Jr’s insistence that the church “is not the master or the servant of the state, but rather the conscience of the state,” our greatest leaders have affirmed that fulfilling humankind’s highest potential and responsibilities requires that individuals and communities be free to exercise their convictions of conscience in every arena of life. *Freedom of religion and conscience* is a foundational and inalienable liberty held by every human being in equal measure. To treat it as anything less, or to restrict it for any but the most pressing reasons, is to undermine human dignity, human rights, and

equality. While recognizing that there are differing views of how legal standards should be interpreted and applied, we affirm the First Amendment ban on laws “respecting an establishment of religion or prohibiting the free exercise thereof.” We also agree that any substantial burden on the freedom of religion must be justified by a compelling governmental interest and that the means chosen for serving that interest must be the least restrictive of freedom of religion.

Article 2

❖ Birthright of Belonging ❖

***F**reedom of religion and conscience is rooted in the inviolable dignity of each human being. It therefore represents a “birthright of belonging” that is owed by each to each and all to all. Under the First Amendment, Americans have a civic obligation to recognize this right, not only for themselves, but for all people, including those with whom they deeply disagree. As an outgrowth and guarantor of human dignity, *freedom of religion and conscience* does not focus on the content of ultimate beliefs but is a protection for people and their right to embrace and express the beliefs that their consciences dictate. Because it safeguards the inviolable dignity of each human being, *freedom of religion and conscience* is an inalienable right that does not increase with governmental or societal approval, or decrease with disapproval, of the beliefs and ideas in question.*

Article 3

❖ Independent of Governments and Majorities ❖

As a fundamental right grounded in the dignity of the human person, freedom of religion and conscience is foundational—it is not a gift or favor of the state and its officials. Rather, it serves to limit state power and promote the common good. This right exists prior to the state because it is ordered to transcendent truth and ultimate reality, which are before and above any political community. Its fate should not be subjected to the changing will of majorities and political decisions. Likewise, *freedom of religion and conscience* is not a government’s prerogative to grant or to deny but a government’s responsibility to guarantee and guard. When governments recognize this right and thereby limit their own power, they acknowledge that they have no special competence to judge the truth about ultimate matters and do not have the authority to violate the right of *freedom of religion and conscience*. In respecting this right, they guard their people against tyranny and nourish liberty and justice for all.

Article 4

❖ A Right Because a Duty ❖

The right to freedom of religion and conscience is grounded, not in political privilege, but in a pre-political duty to respect the dictates of conscience. We have a right to freedom of religion and conscience because, bound by the dictates of conscience, we have a duty to be faithful to what our religion or our conscience demands. This right is the foundation of the principles of moral and political dissent, conscientious objection, and civil disobedience. Conscience-bound by what we each believe to be true and right concerning ultimate truth, we are not free to act in whatever manner others—including the state—may dictate. Just as all must be free to

follow the dictates of conscience, all are bound by the duty to respect the right of conscience for others. Although not every claim for *freedom of religion and conscience* will or should succeed, no one should be compelled to believe or affirm what he or she, bound by conscience, holds to be false.

Article 5

❖ First Freedom ❖

F *reedom of religion and conscience is a foundational human right that was among the earliest rights for which people were willing to fight and that governments believed necessary to protect.* It is not only essential in itself but integral to the other basic rights from which it must not be severed. Free exercise of religion and conscience requires other fundamental rights also guaranteed by the First Amendment, including the freedoms of speech and expression and the freedoms of assembly and association. Because by its very nature it safeguards a person's convictions about ultimate reality and the right to live and act in community with others who share those convictions, *freedom of religion and conscience* has rightly been understood as the "first freedom."

Article 6

❖ A Right of Communities as Well as Individuals ❖

F *reedom of religion and conscience is a right for individuals and for individuals in community with others.* These communities typically reside in the organizations, institutions, and associations believers form on the basis of the faith they share in common with others. Indeed, belief in any ultimate worldview is normally a matter of both individual conviction and community

belonging and practice. As such, all communities with ultimate beliefs at their core must have the right to determine questions of doctrine, morality, membership, and governance free from external interference, whether by government or by others. Religious communities must be able to practice their faith openly and freely. They must also have the right to participate in the public life of our nation on the basis of full equality with groups that are not grounded in ultimate worldviews. While the various signers of this document define the term “public life” somewhat differently, we agree that this right includes, for example, the freedom for such communities to raise their voices in the debate of public issues, engage elected representatives and policymakers, and congregate in public places on the same basis as any other group. America welcomes multiple religious communities with differing beliefs and views. Our customs in law and in civil society have always recognized that participation in public life by religious communities is best guided by public norms that allow for civil debate and conciliation among competing views of the common good.

Article 7

❖ Freedom from Establishment ❖

***F**reedom of religion and conscience stands against excessive entanglement of the state and religion, which history teaches leads to oppression and violence.* Institutions of government and religion are entangled in this malign way when religion controls the levers of government power, or when the State usurps the mantle of religion. The no-establishment language of the First Amendment prevents such confusions of religion and government and, in so doing, protects *freedom of religion and conscience* for all. Authorities and orthodoxies change over time, and in recent centuries the greatest crimes against conscience have been committed,

not only by religious authorities, but by ideologues virulently opposed to religion. We thus affirm our nation's venerable tradition of rejecting state-enforced orthodoxies of any kind. *Freedom of religion and conscience* requires that faith be voluntary, dictated solely by conscience.

Article 8

❖ E Pluribus Unum ❖

F *Freedom of religion and conscience stems not only from the duty to respect conscience but also leads to another duty: the responsibility of everyone to respect this right for everyone.*

Because a fundamental right for one person is automatically a right for another and a responsibility for both, *freedom of religion and conscience* is a responsibility as well as a right, an obligation and not simply an entitlement. All citizens have responsibilities for the fundamental rights of all other citizens. A society is only as just and free as it is respectful of the fundamental rights of everyone. There is a simple and clear test of a society's health at any time: its protection of the rights of its least popular dissenters, its most vulnerable minorities, and its most marginalized communities.

We are opposed, therefore, to any governmental policy that would discriminate against individuals or groups based on their religion. Likewise, we reject rhetoric and actions by governmental leaders and others that demonize individuals or faith communities based on their religion or that hold entire faith groups collectively responsible for the evil deeds of a few. We stand united in opposition to all discrimination, violence, and threats of violence against Americans based on their faith. We call on elected leaders and our fellow Americans to condemn such unconscionable acts in the strongest possible terms and to work with us to defeat them. For discrimination or violence

directed against the faith of one individual or community is an assault on the *freedom of religion and conscience* of all.

Article 9

❖ Resolution through Civility and Good Will ❖

When claims based on a fundamental right are in tension with other vital rights and interests, as they sometimes will be, there must be a determined effort to seek resolution through civil discussion and reasonable accommodation. One of the chief challenges of any free society and a major duty of any just government is to find wise, accommodating resolutions among rights and interests that are in tension, with an eye toward reconciliation, the common good, and preserving fundamental rights and freedoms. At present, Americans are engaged in sometimes bitter debates over the relationship of *freedom of religion and conscience* to other key priorities, such as equal protection and domestic security. *Freedom of religion and conscience*, the equal protection of the laws, and domestic security are foundational American rights. When they are in tension, these competing rights and interests must be carefully considered.

In recent years there has been increasing debate regarding whether and to what extent burdens on third parties should limit the free exercise of religion. The signers of the Charter have differing views of how that debate should be resolved. Yet in a pluralistic republic it is important that all citizens can and should debate their differences, especially when principles are at stake that are of vital importance to them. All parties should have the right to participate in these debates on the basis of full equality. And rather than relegating competing interests and rights claims to zero-sum conflict, litigation, and judicial decrees,

Americans of good will must work together to fashion reasonable accommodations for the good of all.

Article 10

❖ Vigilance ❖

Freedom of religion and conscience has been won only at the cost of the toil and sacrifice of successive generations and can be sustained and passed on to future generations only by the same untiring efforts. By bold and innovative thought, wise legislation, sustained experiment, and even heroic sacrifice, our predecessors struggled to safeguard this right and hand it on to us. Eternal vigilance will always be the price of freedom. Only with courage and vigilance can Right prevail against Might, and Principle against Power. As James Madison cautioned, we must ever be ready to “take alarm at the first experiment upon our liberties.”

Article 11

❖ Habits of the Heart ❖

Freedom of religion and conscience, like all freedoms, must be strongly anchored in both the “structures of liberty”—such as our Constitution, laws, and political institutions—and in what Alexis de Tocqueville called the “spirit of liberty,” or the “habits of the heart.” Only so can it be securely transmitted from generation to generation through families, schools, and civic education. In this understanding of freedom, law serves as an essential bulwark. But freedom cannot survive by law alone. It requires that the principles of freedom and the virtues of reciprocity and responsibility be instilled in customs and attitudes. Freedom and its moral and social seedbed will be quickly lost if they are not carefully tended and nourished from one generation to the next.

Article 12

❖ Healthy Civil Society ❖

T*he overwhelming evidence of history and social science research testifies that freedom of religion and conscience for all is necessary to human flourishing and a healthy civil society.* As this body of evidence shows, protecting *freedom of religion and conscience* serves to promote stability and social harmony and to undermine the potential for religiously based tensions and conflicts, as well as violent extremism. Beyond this, many of the greatest social changes in recent centuries have come from movements motivated by one faith or another. In America, religion helped to spur the abolition of slavery, women’s suffrage, and the Civil Rights Movement. We also acknowledge, however, that some have at times used religious claims in support of prejudice, oppression, or violence. But the vast majority of individuals and communities motivated by faith have provided an overall thrust in America toward grassroots civic renewal and progress. Throughout our history, people of faith have empowered robust charitable giving and caring, essential educational institutions and initiatives, and vigorous political criticism and reform. These acts of kindness, charity, and service have unleashed the power of social innovation and entrepreneurship and have enriched our civic life immeasurably.

Article 13

❖ Civil Public Square ❖

I*n a nation of profound diversity, freedom of religion and conscience is best secured through a civil public square.* A “civil public square” is an arena of public life in which all people are free to enter and engage on the basis of their ultimate beliefs, but always under the canopy of the American covenant as embodied in the U.S.

Constitution. This covenant includes people of all ultimate beliefs, religious and secularist, and sets forth the understanding of what is just, liberal, and empowering for all. The practical implications of this covenant are twofold. First, the rights of all people are to be respected equally and according to the rule of law. Second, in accordance with our understanding that *freedom of religion and conscience* depends on a freely agreed covenant, all people must respect the rights of all others and strive in good faith to negotiate differences civilly and peacefully. Such a covenant is moral and political. It does not attempt to ground unity and civility in enforced conformity to prescribed “articles of faith,” which concern the substance of particular religious or secular doctrines. Rather, this covenant secures unity and civility on the basis of voluntary agreement on foundational moral and political principles—principles that have been aptly termed “articles of peace.”

Article 14

❖ Dignity of Difference ❖

F *freedom of religion and conscience will make pluralism more likely, just as pluralism will make this freedom more necessary.* Pluralism represents and respects a “dignity of difference” that must not be leveled by coerced uniformity. But without *freedom of religion and conscience*, and the civility that accompanies it, social pluralism may well give rise to a “danger in difference” that yields conflict, weakness, and disunity. A healthy democracy requires enough common ground to nourish and protect the freedom to be faithful to disparate ultimate beliefs. When rightly ordered through a respect for *freedom of religion and conscience* for all, a pluralism based on the dignity of difference has proven itself the only solid and enduring foundation for peace, strength, and harmony.

Article 15

❖ The Great Experiment ❖

Central to the daring of what George Washington called the “great experiment” is the fact that the American Republic rejects any established religion or ideology, yet relies crucially on the vitality of the ultimate beliefs and values of its citizens. “If there is any fixed star in our constitutional constellation,” observed U.S. Supreme Court Justice Robert Jackson in 1943, “it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” Yet the institutional separation of religion and state does not mean the separation of religion from public affairs. Religion and other comprehensive belief systems have fired the moral and political imagination of millions of Americans, past and present. They provide a crucial foundation for the American Republic, ensuring that Americans’ political commitment to the Republic is rooted in deep pre-political conviction rather than mere expediency or self-interest.

Article 16

❖ City on a Hill ❖

Freedom of religion and conscience is central to human flourishing, not just in America, but across the earth. The championing of this freedom must always be a vital, primary, and integral part of America’s relations with other countries. We acknowledge that there can be no uniform expression and settlement of these issues across the world, and we recognize that there are nations that have government established, preferred, or sponsored religions. But no matter how any particular nation structures the relation of religion and state, government must always respect and protect the bedrock principle that one’s rights as a

citizen should never depend upon one's religious identity, beliefs, or peaceful practices. In that sense, the fight for *freedom of religion and conscience*—and against religious persecution and the oppression of vulnerable individuals and groups—must remain unflagging. There must be a seamless link between the practice of our own fundamental rights and the peaceful promotion of those rights for all people everywhere.

Conclusion

We acknowledge the challenge of the unfinished task. Our nation’s founders launched this “great experiment” almost two hundred and fifty years ago. The right to the free exercise of religion and conscience, as set out in the first words of the First Amendment, has been of paramount importance to this project. Successive generations have defended and expanded this and other freedoms in order to enlarge their promise and include more and more people. But there must be no turning back. Unless freedom is sustained and spread, the experiment will falter and fail. Should it fail, millions outside our borders would suffer from the loss of a powerful precedent for how their own freedoms and rights may be fulfilled.

As our society expands its protections for freedom and rights for all, especially for minority groups that face discrimination, it is essential that we ensure that *freedom of religion and conscience* be protected. Although it is not always possible to uphold both non-discrimination *and* religious liberty claims in particular cases, both claims should be taken seriously and both sides should seek common ground. Religious and ideological factors are today an inescapable dimension of the search for peace, order, and stability around the world. These aims will be achieved only by recognizing the rights of all, including the indispensable place ultimate beliefs have in human life and, therefore, the crucial importance of *freedom of religion and conscience* for all.

The wisest and most successful settlements of religion and public life are nothing more than the best so far. The “great experiment” remains just that. We therefore present this declaration as our best judgment of today’s peril and promise for *freedom of religion and conscience*. And we call for a renewal of the American covenant through which “We the people” once again pledge to each

other our dedication to these unifying first principles and to the resolution of present and future controversies within their framework. We set out this Charter in the hope that others will advance and refine these affirmations in their turn, attempting always to build a freer, more open, and more just America—an America that promotes the flourishing of all its people while also contributing to a more just and more peaceful world.