Citizenship, Civic Virtue, and Immigrant Integration: The Enduring Power of Community-Based Norms

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INTRODUCTION

In June 2008, the Council of State of France upheld an administrative decision denying French citizenship to a Moroccan national, Faiza Silmi, on the basis that she had not demonstrated “sufficient assimilation” to French values.1

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News reports indicated that Silmi was denied citizenship because she wore the *niqab*, an Islamic veil that covered her from head to toe, revealing only her eyes. The decision of the Council of State emphasized that the denial was based not only on her attire but also on the fact that she had adopted a “radical” version of Islam “incompatible with essential values of the French community, particularly the principle of equality of the sexes.” Fadela Amara, the French Minister of Urban Affairs, who is a practicing Muslim of Algerian descent, supported the decision. She described the *niqab* as a “prison” and “strait jacket.” Amara stated publicly that “[i]t is not a religious insignia but the insignia of a totalitarian political project that promotes inequality between the sexes and is totally lacking in democracy.”

According to a French administrative agency report, Silmi’s interview with social services revealed that she “lived in total submission to her male relatives” and that “the idea of challenging it has never crossed her mind.” In an interview with the *New York Times*, Silmi explained that she had chosen to wear the *niqab* upon coming to France rather than the traditional *djelaba*—a long, flowing garment with a headscarf which she had worn in Morocco—because the *djelaba* was not modest enough and she did not want to “draw men’s looks.”

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5. Id.
7. Bennhold, *supra* note 2; see also *Holy Qur’an* 24:31 (M.H. Shakir trans., 1983) [hereinafter *Holy Qur’an*] (advising believing women to “cast down their looks and guard their private parts” and to “wear their head-coverings over their bosoms, and not display their ornaments except to their husbands or their fathers, or the fathers of their husbands, or their sons”).
She also had told French officials that she was not interested in exercising her political rights, since only men should be allowed to vote.8

The Council of State decision highlights a modern reality. Throughout the Western world, women's bodies serve as one of the battlegrounds for struggles over competing perspectives on citizenship, belonging, and the proper place of religion within a secular state.9 In many Western states, women play an important symbolic role as keepers of their culture, particularly in traditional or fundamentalist communities.10 It is not unusual for immigrants or refugees living in Western societies to adopt a stricter set of beliefs and practices than they had practiced in their home countries as a way of insulating members of their community from what they see as the negative effects of Westernization and assimilation, including crime, drugs, and declining moral values.11 Although many women and girls gladly embrace these norms, others choose conformity as the path of least resistance, while still others refuse to comply and either face social


10. See Ayelet Shachar, Multicultural Jurisdictions: Cultural Differences and Women's Rights 55-56 (2001); see also Ayelet Shachar, Religion, State, and the Problem of Gender: New Modes of Citizenship and Governance in Diverse Societies 50 McGill L.J. 49 (2005). Here, "fundamentalism" refers to a Western term that connotes the literal divinity of the religious text. The term can be traced back to approximately 1910 when certain Protestant churches in the United States published a series called "The Fundamentals," in which these churches indicated their dissent from mainstream Protestantism and embraced a more literal interpretation of the Bible. To use the term "Islamic fundamentalists" to describe radical Muslim extremists is thus misleading and inaccurate, since the belief in the divinity and inerrancy of the Qur'an is a basic tenet of Islam. See Bernard Lewis & Buntzie Ellis Churchill, Islam: The Religion and the People 161-62 (2009).

11. See Shachar, supra note 10, at 35-36; see also Kelley Bouchard, A Thousand Miles, ME. SUNDAY TELEGRAM (Portland, Me.), June 30, 2002, at 1A [hereinafter Bouchard, A Thousand Miles] (describing the perception that a tight-knit immigrant community will help the members of the community maintain their Muslim faith and Somali culture and "avoid the less attractive aspects of American culture [including] premarital sex, drug use, drinking, divorce and a lack of regard for family ties").
ostracism or prepare an exit strategy. The Council of State decision also raises an equally troubling question: To what extent is conformity to community norms at the group level treated as failure to assimilate at the national or local level?

This Article explores how some of these issues have unfolded in one community in the United States, the Lewiston/Auburn (L/A) area of south central Maine, which has become home to over 3000 Somali refugees. In February 2001, Somali refugees who had resettled in major urban areas began a secondary migration to Lewiston after Somali elders sent scouts across America in search of a home where they could raise their children and practice Islam in relative peace. After the first group settled in Lewiston in early 2001, Somalis arrived in increasing numbers, overwhelming the city's social services and resulting in the election of a new mayor, Larry Raymond, who ran and won on an anti-Somali platform. Soon after assuming office, Raymond issued an open letter to the Somali community, telling local Somalis to advise their friends and relatives to stop coming to Lewiston because the city was “maxed out financially, physically and emotionally.” This incident drew the ire of Somalis while also sparking the interest of a white supremacist group from Ohio that organized a hate rally in the city of Lewiston on a cold winter morning in January 2003.


same day, a peace rally in support of the Somalis was held at Bates College in Lewiston, which approximately 4500 attended, including the governor, the attorney general and Maine’s congressional delegation.¹⁸

Since then, the State of Maine and the neighboring towns of Lewiston and Auburn have struggled to meet the needs of the Somali refugees for social services, English classes, and job training while dealing with the social unrest their presence has created in this overwhelmingly white, insular, Roman Catholic community.¹⁹ In addition, government officials continue to face the challenge of defining to what extent they can accommodate the religious and cultural differences of the Somali community without infringing on the rights of Somali women or low-caste and minority clans.²⁰

By focusing on one case study, this Article attempts both to evaluate the merits and explore the consequences of different approaches to immigrant integration. It examines the impact that national citizenship norms and state and local integration policies have had on the Somalis’ experience in Lewiston while also exploring internal obstacles to the Somalis’ incorporation. Part I briefly reviews competing theoretical perspectives on citizenship, membership, and belonging. This Part explores the historic tension between a more liberal or pluralist view of citizenship, where loyalty to the “American Creed” is viewed as compatible with religious and cultural differences,²¹ and a more nationalist, Anglo-centric, “core culture” model, rooted in Christianity and the English common law that tends to characterize immigrants who do not share our national and cultural values as a potentially destabilizing force.²² Under yet a third model, multicultural accommodation, which has gained acceptance in Canada and is increasingly gaining adherents in the United States, ethnic groups living in cultural enclaves enjoy a certain degree of autonomy over their community’s internal affairs.²³ This Article will explore throughout whether multicultural ac-

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18. Bouchard et al., Two Worlds Collide, supra note 17. These events are also powerfully captured in the documentary The Letter, supra note 15.


22. Id.; see also Samuel P. Huntington, Who Are We? The Challenges to America’s National Identity 59-62 (2004); David Miller, On Nationality 119-54 (1995).

commodation can coexist with liberal and core culture approaches to immigrant integration.

Part II examines how these different theories of membership and belonging are reflected in the naturalization case law on good moral character. Through most of the twentieth century, and notwithstanding the U.S. Constitution's grant of power to Congress to establish a uniform rule for naturalization, the U.S. Immigration Service and many district court judges applied a community-based standard in assessing whether applicants met the good moral character requirement for U.S. citizenship. Much of the case law involved naturalization applicants accused of violating state mores legislation, including laws against adultery, fornication, homosexuality, bigamy, abandonment, and incest. In 1981, however, a Fourth Circuit decision led to an important shift in the law. The court found that reliance on state sodomy laws as a basis for denying naturalization would defeat the Constitution's uniformity requirement and adopted a federal standard for evaluating good moral character based on whether the conduct in question was "harmful to the public." In 1990, Congress transferred authority to decide naturalization petitions from the federal district courts to the Immigration and Naturalization Service (INS). Yet, prior to this, a rich body of case law emerged that explicitly draws on ecclesiastic, common

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28. Id. at 436. Soon after, the INS amended its own test to adopt the Court's approach in Nemetz. See Naturalization Requirements, INS Interp. Ltr. 316.1, § 316.1(f)(7) (as amended) [hereinafter INS Interp. Letter] (stating that private homosexual acts with consenting adults are not, alone, facts barring the applicant from meeting the good moral character standards where said acts are not considered criminal activity under the jurisdiction in which they took place); see also D.L. Hawley, Good Moral Character for Naturalization, 3-02 Immigration Briefings 1 (2002).

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law, and philosophical sources, as well as the community's moral values of the time. These earlier cases are more than just a reflection of a bygone era; they implicate the broader debate over whether state mores regulation is still appropriate and raise the question whether an applicant's eligibility for naturalization should turn on the values of the particular community where he or she resides.

Through a close study of the Somalis' experience in Lewiston, Part III of this Article explores the impact of external and intragroup barriers on the process of incorporating an immigrant or refugee group into the social fabric of a community. It first investigates the factors that led a large segment of the Somali refugee community resettled by the U.S. government in major urban cities across America to relocate to Lewiston, Maine. It then examines the initial reception of the Somali refugees by the people of Lewiston and the circumstances that led to a series of crises within the town. This Part then analyzes continuing barriers to the Somalis' incorporation. It first addresses external barriers at the federal, state, and local levels before addressing intragroup barriers, including isolationist tendencies within the Somali community, ongoing rivalries among the major clans and subclans, the subordination of women, and discrimination against minority and low-caste clans. The Article concludes in Part IV by examining the barriers to citizenship and immigrant integration that are created by the interplay among national citizenship norms, state, and local integration policies, and the norms and dynamics internal to immigrant communities themselves.

This Article is the result of two summers of ethnographic research in the town of Lewiston and the neighboring town of Auburn. In 2007 and 2008, I held a series of meetings and interviews in Lewiston and Auburn. My initial research in 2007 consisted largely of interviews with staff at the major social service providers, including Catholic Charities Maine, the Lewiston Adult Education Adult Learning Center (LAE), and the Immigrant Legal Assistance Project (ILAP). In addition to meeting with program directors and caseworkers, I tutored Somali Bantus at the LAE and conducted bi-monthly immigration intakes for ILAP in Lewiston. I also coordinated a naturalization workshop co-hosted by Catholic Charities, ILAP, and LAE to assess Somalis' eligibility for naturalization before a substantial fee increase on July 30, 2007.

See, e.g., Schmidt v. United States, 177 F.2d 450, 452 (2d Cir. 1949); Petition of Smith, 71 F. Supp. 968 (D.N.J. 1947).


E-mail from Beth Stickney, Executive Director, Immigrant Legal Advocacy Project, to Lauren Gilbert, Assoc. Professor of Law, St. Thomas Univ. (July 24, 2007, 8:26:55 EST) (on file with the Yale Law & Policy Review).

E-mail from Judith Southworth, Elder Refugee Outreach Coordinator, Catholic Charities Me., to Lauren Gilbert, Assoc. Professor of Law, St. Thomas Univ. (July 19, 2007, 11:00:47 EST) [hereinafter E-mail from Judith Southworth] (on file with the Yale Law & Policy Review); see also Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule, 72 Fed. Reg. 29,851,
The following summer, with greater awareness of the structural impediments to naturalization, I shifted my focus to examine not only external but also, perhaps more importantly, intragroup obstacles to naturalization and integration. Using a set of questions I had developed to help participants identify and assess barriers to naturalization and integration, I conducted a series of conversations with members of the Somali community as well as with Lewiston government officials and area academics. After explaining my research objectives, I then asked each Somali participant whether he or she would characterize becoming a U.S. citizen or integrating into the social fabric of Lewiston as a personal goal or a goal of members of the Somali community. I asked participants to identify the reasons why Somalis who chose to naturalize did so. If becoming a U.S. citizen or integrating into Lewiston’s social fabric was not identified as a goal, I asked participants to define what their actual goals were. I then asked participants to identify and assess particular obstacles to incorporation.

The Somalis with whom I met ranged in age from children and teenagers to the elderly, from recent arrivals to persons who had come during the 1980s before the collapse of the Somali state, from the preliterate to persons with advanced degrees. Of the Somalis with whom I spoke, 58% were female and 42% were male. They ranged in age from five to seventy-four years old. While most of the women were in their teens or early to mid-twenties, most of the males ranged in age from their late thirties to their early fifties, due, perhaps, to the traditional role of Somali men as the family’s representative in the outside world. All the Somalis with whom I met had been born in Somalia or in Kenyan refugee camps. All had obtained some form of legal status: 23% were naturalized U.S. citizens, while 69% were refugees, and 8% were either asylees or asylum seekers.

Most in-depth interviews occurred with individuals considered leaders of different segments of the Somali community, including a former elder who left Lewiston to move to Minneapolis, caseworkers at Catholic Charities active in the local mosque, a former cultural skills trainer at Catholic Charities who has opened his own consulting business, a student activist, a leader of the Somali Bantu community, and a women’s rights activist. I also had the opportunity to converse with other Somalis, including a group of recent high school graduates, Somali Bantu students at the local adult education center, a Somali family of six from a low-caste minority clan that I assisted in applying for asylum, and other Somalis seeking immigration assistance through ILAP. Although specific conversations with the latter two groups remain confidential due to attorney client privilege, these consultations were valuable in identifying impediments to citi-

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29,854 (May 30, 2007) (setting final rule for the United States Citizenship and Immigration Services (USCIS) fee schedule and comparing old fees with proposed fees and final fees).


zenship faced by members of the Somali community, particularly women, the elderly, and the illiterate. With the exception of Ismail Ahmed, who agreed to be identified, and Khadra Jama, who spoke publicly, I have used random initials to identify my Somali sources that bear no relationship to their actual names. For the most part, the persons with whom I spoke were open and engaged. I encountered less openness, however, from more traditional Somalis when exploring internal obstacles to integration in Lewiston, particularly with respect to clan and tribal differences, the treatment of low-caste and minority clans, and the role and treatment of women within Somali society.

Western liberal democracies today are struggling to define the content of citizenship norms and what the state's role should be with regard to the religious and cultural differences of its newest members. One issue highlighted by the decision of the French Council of State is what, if any, relationship should exist between laws regulating access to citizenship and policies for integrating immigrants into the social fabric.36 To what extent, if any, should the state serve as the gatekeeper with respect to persons unwilling or unable to assimilate to dominant community norms?37

By examining the Somali community in Lewiston at close range, this study critically explores various theories of citizenship and reveals their limits. It also reveals that national citizenship norms, state and local integration policies, and norms and dynamics internal to immigrant groups themselves appear to share a surprising commonality: They are all driven by community-based norms. Even citizenship theory can be reduced to three competing visions of community: a nationalist core-culture model, a liberal model based on tolerance and mutual respect, and an accommodationist model allowing for the existence of semi-autonomous immigrant enclaves alongside the dominant culture. The story of the Somalis of Lewiston, Maine and their host society reveals these various norms in play, but it also reveals the limits of a community-based approach. Excessive reliance on community norms risks infringing on the rights of subgroups within that community.

I. COMPETING THEORIES OF IMMIGRANT INTEGRATION

The conviction that we are a nation of immigrants still influences much of the debate on immigration. The mythological "melting pot," while subject to scholarly criticism,38 has demonstrated great resilience in the United States as

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38. See, e.g., RICHARD ALBA & VICTOR NEE, REMAKING THE AMERICAN MAINSTREAM: ASSIMILATION AND CONTEMPORARY IMMIGRATION 35-59 (2003); Jennifer Lee & Frank D. Bean, America's Changing Color Lines: Race/Ethnicity, Immigration and
the dominant paradigm. Under a "straight-line" convergence model, immigrant groups and the majority culture become more and more alike over time, in terms of characteristics, norms, behaviors, and values. Stanley Hoffmann has observed that the United States's unique identity is the product of a "material feature," its ethnic diversity, which results from immigration, and "an ideological feature," its "democratic Creed." The principle of *E pluribus unum* (Latin for "out of many, one"), displayed by the American Eagle on the Great Seal of the United States, remains a foundational principle of our society, even as we become increasingly diverse. Over twenty-five years ago, the Staff Report of the Select Commission on Immigration and Refugee Policy concluded that "[t]he genius of the American system has been that loyalty to the United States is compatible with other ties of affection—regional, local, religious or ethnic." This view of immigrant assimilation, however, has been challenged in recent years, both in the United States and abroad. Conservatives have questioned whether certain immigrant groups will ever assimilate, while some progressives have questioned whether absorption into the dominant culture should be the goal. Some scholars of assimilation have adopted what might be described as a more nationalist core culture model of assimilation. Multicultural accommodationists, in contrast, would advocate for a model which allows for the peaceful coexistence of different cultures, religions, and values without them
dissipating or fusing together.\footnote{See Rita Süßmuth & Werner Weidenfeld, The Integration Challenge: Living Together in a Europe of Diversity, in MANAGING INTEGRATION: THE EUROPEAN UNION’S RESPONSIBILITIES TOWARDS IMMIGRANTS xi, xi-xviii (Rita Süßmuth & Werner Weidenfeld eds., 2005) [hereinafter MANAGING INTEGRATION].}

By focusing on the Somalis of Lewiston, this Article examines the utility of different models of integration and their consequences for our own distinctly “American” conception of national identity.

In the 1960s, Milton Gordon advanced a multidimensional concept of assimilation. According to Gordon, the first stage of assimilation required “acculturation,” which he defined as the minority group’s adoption of the cultural practices of the host culture.\footnote{MILTON GORDON, ASSIMILATION IN AMERICAN LIFE: THE ROLE OF RACE, RELIGION, AND NATIONAL ORIGINS 70-71 (1964).} He defined the “core culture” of the United States as being white, Anglo-Protestant, and middle class.\footnote{Id. at 72.} Moreover, according to Gordon, acculturation was a one-way process, with the minority or immigrant group expected to adapt to the core culture, while the core culture remained largely intact.\footnote{Id. at 109-10.}

Although scholars criticized Gordon’s acculturation model as being Anglo-conformist,\footnote{Id. at 109-10.} in recent years, it has seen a revival in certain academic circles. Professor Samuel Huntington argues that the United States has a core Anglo-Protestant culture, which he claims is essential to its survival.\footnote{See Brown & Bean, supra note 40.} According to Huntington, the American identity is the product of a unique, Anglo-Protestant culture, key facets of which include the English language, Christianity, and English concepts of the rule of law.\footnote{HUNTINGTON, supra note 22, at 19, 336-40.} Huntington claims that this Anglo-Protestant culture is central to America’s identity and that failure to recommit to it poses a threat to America’s survival.\footnote{Id. at xv-xvi.} He also questions the capability of certain immigrant groups to assimilate.\footnote{Id. at 20; see also Gilbert, National Identity and Immigration Policy, supra note 36, at 115.}

Similar to the core culture model, member states of the European Union tended historically to share a philosophy of maintaining their national and cul-

\footnote{HUNTINGTON, supra note 22, at 244-56.}
tural identities. As the new millennium approached, the EU and Member States recognized the need for fresh approaches to integrating immigrants, and several EU states adopted distinctly multicultural models. In recent years, however, as doubts regarding multicultural accommodation have grown, many EU Member States have concluded that the best way to integrate legal immigrants is extending to them the same rights and responsibilities as EU citizens, while requiring that they learn the language and live by the laws and values of society.

Indeed, the decision of the French Council of State to deny citizenship to Faiza Silmi on the basis that she subscribed to a “radical” version of Islam “incompatible with essential values of the French community” was only the latest in a series of policy measures designed to ensure that immigrants adhere to French laws, culture, and traditions. In 2003, the French government adopted a policy requiring new immigrants to sign an “integration contract” which mandated that they enroll in language instruction and classes on the “values of French society.” Francois Fillon, the Social Affairs Minister, explained that the government was worried that without such a policy, France would dissolve into distinct communities, thus undermining France’s national identity. The following year, the French National Assembly and the French Senate voted in favor of a law banning the wearing of headscarves and other “ostentatious religious symbols” in public schools. The law was passed in response to the recommendations of a nineteen-member commission, which concluded that France’s public school system “should be a neutral environment where the

59. Id.; see also Rainer Bauböck, Civic Citizenship: A New Concept for the New Europe, in Managing Integration, supra note 47, at 122.
61. Zappi, supra note 60.
principles of secularism, republicanism, and citizenship are taught and reflected.  

Yet, despite recent setbacks for multiculturalism, many theorists in Canada and Europe still embrace multicultural accommodation as the most culturally sensitive approach to immigrant integration. This model recognizes the right of different ethnic subgroups to define their own identities and, in some cases, guarantees them limited group-based rights. For immigrant groups with cultural and religious traditions distinct from the host society, like the Somali Muslim community in Lewiston, such a model is appealing because it offers the possibility of a certain degree of religious and cultural autonomy. At the same time, Ayelet Shachar, in describing the “paradox of multicultural vulnerability,” warns that, given the tendencies of many diaspora communities towards “reactive culturalism,” a policy of accommodation, while protective of cultural minorities, risks infringing on the rights of individual group members, particularly women. As will be demonstrated below, Lewiston officials have faced the challenge of accommodating the claims and demands of Somali elders who profess to speak for the Somali community as a whole without causing de facto recognition of a separate Somali sphere of authority.

Throughout the history of the United States, cultural and religious enclaves have existed and often thrived, from the Amish who came to Pennsylvania in the late 1700s to the Mormons of Utah to the ethnic enclaves in San Francisco and New York City to the Arab-American community living in Dearborn, Michigan to the Somalis in Lewiston, Maine today. Nonetheless, accommodationist strategies akin to those being developed in Canada and parts of Europe may be in tension with certain core principles in U.S. law and contrary

63. Hamilton et al., supra note 62.
64. See, e.g., Shachar, supra note 10, at 22-32.
65. Id. Will Kymlicka argues that a “comprehensive theory of justice in a multicultural state will include both universal rights ... and certain group-differentiated rights or ‘special status’ for minority cultures.” Will Kymlicka, Multicultural Citizenship: A Liberal Theory of Minority Rights 5 (1995). Kymlicka’s model would accord national minorities, such as indigenous cultures, the most expansive rights, while entitling other ethnic groups, including immigrant and religious groups, less accommodation. Id. at 166-70; see also Shachar, supra note 10, at 29-32.
66. Shachar, supra note 10, at 3, 11.
68. See Reynolds v. United States, 98 U.S. 145, 168 (1878).
70. See Finnegan, supra note 13.
to a distinctly U.S. view of multiculturalism, which values diversity for the ways in which it enriches our society as a whole.\textsuperscript{71}

In fact, the term “accommodation” has acquired a different connotation in U.S. jurisprudence. Although embraced by some jurists as the best model for acknowledging the presence of religion in daily life and in government as well as protecting free exercise rights under the First Amendment,\textsuperscript{72} it has been criticized by other jurists as the death knell for separation of church and state.\textsuperscript{73} Accommodation has led the Supreme Court to uphold laws providing for public funding of religious entities, including churches, religious schools, and other faith-based initiatives.\textsuperscript{74} Extending accommodation in the United States to permit religious minorities a degree of legal authority over their internal affairs, however, such as the recent proposal by the Archbishop of Canterbury in England to permit Shari’a and other religious courts to perform certain legal functions,\textsuperscript{75} runs the risk of encouraging a kind of cultural and religious separatism that would impede refugees’ and immigrants’ integration into society. As the Archbishop acknowledged, such authority also could threaten the rights of women and other subgroups within a community.\textsuperscript{76} By studying the role of Lewiston government officials in working with Somali elders to address the


\textsuperscript{73} \textit{Id.} at 730-31 (Stevens, J., dissenting).

\textsuperscript{74} See, e.g., McCrerey County v. ACLU of Ky., 545 U.S. 844 (2005); Mitchell v. Helms, 530 U.S. 793 (2000).

\textsuperscript{75} See Dr. Rowan Williams, Archbishop of Canterbury, Remarks on the Civil and Religious Law in England at the Royal Courts of Justice (Feb. 7, 2008), \textit{available at} http://www.archbishopofcanterbury.org/1575 (citing \textit{Shachar, supra} note 10, and proposing a carefully regulated system of supplementary jurisdiction by Shari’a courts in Muslim communities in Great Britain that is protective of the rights of women and religious minorities).

\textsuperscript{76} Id. Accommodation of religious minorities is a practice familiar to immigrants from many Muslim countries. Through pacts or \textit{dhimmis}, non-Muslim minorities from tolerated religions, i.e., adherents of Christianity and Judaism, the predecessor religions of Islam, have been given the right to practice their religions and conduct their own communal affairs. \textit{Lewis \& Churchill, supra} note 10, at 10-11, 56. Unlike Muslims settling in the United States or the European Union, however, religious minorities in most Muslim countries do not have access to citizenship. \textit{Id.} at 10-11. It is unclear whether accommodationists on the U.S. Supreme Court would extend this theory to religious and cultural minorities. See \textit{supra} note 10.
Somali community’s various needs, this Article tests the utility of a distinctly accommodationist approach to immigrant integration.

For example, accommodation of the Somalis’ religious, dress, and dietary restrictions into the Lewiston Public School system has had both beneficial and troubling implications. On the one hand, consistent with democratic principles of civic engagement, accommodation has involved members of the Somali community in seeking a civic solution to their free exercise claims and has made it more likely that traditional Muslim families will keep their children in the public schools, thus furthering their incorporation into the life of the local community. On the other hand, accommodation may have symbolically endorsed the more conservative view of Islam embraced by Somali elders and other members of their community, thus making it more difficult for other Somalis, particularly women and girls who choose not to conform to prevailing community norms, to exercise their rights without coercion or the threat of ostracism.

In examining the theoretical foundations behind various naturalization requirements, Gerald Neuman has noted that the justifiability of any naturalization requirement depends on what theory of naturalization is adopted. He has identified a unilateral liberal perspective in which naturalization is an acceptable means of safeguarding or advancing private interests; a bilateral liberal perspective where societal consent is as important as individual consent and where societal focus is on the net benefits gained by naturalizing a particular applicant; a republican perspective, where the primary emphasis is on political participation as the purpose of citizenship and as demonstrating committed engagement in the life of the community rather than self-interested protection of private interests; and a communitarian perspective where citizenship is a reflection of the identity of a community and its members, with individuals seeking naturalization at some stage of their assimilation and where naturalization requires some degree of assimilation to dominant cultural values.

Although this framework was developed to examine requirements in U.S. naturalization law, it is valuable in understanding France’s recent application of its own naturalization statute to Faiza Silmi. According to the French adminis-
trative agency report, Silmi's interview with social services revealed that she lived in submission to her male relatives and that "the idea of challenging it has never crossed her mind." She also reportedly told French officials that she believed that only men should have the right to vote. Yet while the administrative tribunal raised concerns about Silmi's non-interest in politics, the Council of State's decision focused primarily on her failure to assimilate and to adopt the core French value of gender equality. These two approaches reflect the tensions between a perspective that focuses on political participation as the principal good and one that emphasizes assimilation to core community values. In emphasizing the French value of gender equality above all else, the Council of State arguably gave insufficient weight to the fact that Silmi, despite her supposed lack of interest in politics, had demonstrated civic engagement by not only seeking French citizenship but by appealing the government's denial of her application to the highest administrative body of France.

Neuman's republican perspective also is useful in examining the experiences of the Somalis of Lewiston, both in terms of their reception by the host community and their own individual choices regarding citizenship, membership, and belonging. As Sarah Song observes, minority cultures are often "constructed, polyvocal, and interactive" and "not as coherent and self-contained as prominent defenders and critics of multiculturalism have assumed." Although traditional voices in immigrant communities may not represent the immigrant community as a whole, they may claim to speak for a community and may define the way it is perceived and attempt to dictate the way it is to be treated. In setting community standards for the accommodation of immigrants, local and state officials must be circumspect in assessing who speaks for a particular immigrant community and careful not to endorse group practices inconsistent with core democratic values of liberty and equality. At the same time, government officials at the national level must be sensitive to both intergroup and intragroup dynamics in developing norms and adjudicating naturalization applications and careful not to define community-based standards in such a way that it runs the risk of further marginalizing women and other vulnerable groups.

II. A COMMUNITY-BASED ASSESSMENT OF GOOD MORAL CHARACTER

Historically, community norms have played an important role in adjudicating naturalization applications, which originally could be filed in "any common

85. Conclusions du Mme. Prada Bordenave, supra note 6, at 4.
86. Id. at 4; see also Posting of Kleine Brockhoff, supra note 8.
88. SONG, supra note 62, at 169.
89. Nadeau, The Somalis of Lewiston, supra note 19, at 144; see also SONG, supra note 62, at 82.
law court of record" in which an applicant had resided for at least the previous year. This has been particularly true with regard to the "good moral character" requirement in the naturalization statute, which mandates that an applicant demonstrate that she is "a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States." Current regulations provide that the naturalization examiner "shall evaluate claims of good moral character on a case-by-case basis taking into account the elements enumerated in this section and the standards of the average citizen in the community of residence."

Although the character requirement has been part of U.S. citizenship law since the first naturalization statute in 1790, the concept of what constitutes "good moral character" has evolved over time. Interestingly, the first naturalization statute required that an applicant demonstrate that he was a "person of good character." The addition of the word "moral" to the requirement in 1795


91. Immigration and Nationality Act of 1990 (INA) § 316(a), 8 U.S.C. § 1427(a) (2006). The INA does not define what good moral character is, but rather, what it is not. For the current good moral character requirement, see INA § 101(f), 8 U.S.C. § 1101(f) (2006). Certain bars permanently disqualify an applicant, such as murder, rape, sexual abuse of a minor, and the other aggravated felonies defined in INA § 101(a)(43), 8 U.S.C. § 1101(a)(43) (2006). Other bars only disqualify an applicant during the statutory period, including the bars for habitual drunkards, illegal gambling, and crimes involving moral turpitude. INA §§ 101(f), 212(a)(2)(A), 8 U.S.C. § 1101(f) (1981). The statute also allows the examiner to take into account other conduct as well as acts occurring outside the statutory period. INA § 316(e), 8 U.S.C. § 1427(e) (2006). Although, as will be discussed below, there have been changes to the statutory definition of good moral character over the years, the structure of the current statute resembles in many respects the original INA passed in 1952. See Immigration and Nationality Act of 1952, ch. 477, 66 Stat. 163 (1952) (codified at 8 U.S.C. §§ 1101-1503 (2006)).


93. Act of Mar. 26, 1790, ch. 3, § 1, 1 Stat. 103 (repealed 1795).
was initially opposed by some legislators as religiously-based. This opposition was ultimately overcome, however, with the argument that omitting the word "moral" would "slander the American character."94 Thus, from its beginnings, a core culture model of citizenship has been in tension with a more liberal model where civic virtue can exist independently of religion.95

In the late nineteenth century, lower courts began to clarify the content of the good moral character requirement. The first reported naturalization case to explore good moral character was the 1878 decision In re Spenser.96 In that case, the court determined that the good moral character test required an inquiry into both a person's behavior as well as his nature: "Character consists of the qualities which constitute the individual; reputation the sum of opinions entertained concerning him. The former is interior, the latter external. The one is the substance, the other the shadow."97 The court in Spenser acknowledged that the standard for good moral character will vary from generation to generation, and that "probably the average man of the country is as high as it can be set."98

During much of the twentieth century, the U.S. Immigration Service and many district court judges invoked a community-based standard in assessing the good moral character of naturalization applicants. The original rationale for applying a community-based standard was that:

[Good moral character is one that measures up as good among the people of the community in which the party lives; that is, up to the standard of the average citizen . . . . It is not contended that the applicant must be able to rise to such moral elevation that he may analyze, criticize and reject the prevailing opinions and settled convictions of his fellowmen . . . . To meet such a test a man must be a philosopher, while the statute is satisfied with a citizen whose behavior is up to the level of the average citizen.99

94. See Strange, supra note 25, at 358 n.4.


96. 22 F. Cas. 921 (C.C.D. Or. 1878).

97. Id.

98. Id. The court also indicated that whatever is forbidden by law ought generally to be considered immoral, while suggesting that some distinction should be drawn between conduct malum en se and conduct malum prohibitum, as well as between an isolated act of wrongdoing versus habitual misconduct. At the same time, it found that certain "infamous crimes," such as murder, robbery, theft, bribery, and perjury, should automatically disqualify an applicant from demonstrating good moral character. Id. at 921-22.

In that case, the applicant, Albert Hopp, was a saloon keeper in the city of Milwaukee, Wisconsin. It was estimated that 75% of the population was foreign-born and that of these many were of German extraction. During naturalization proceedings, the government determined that Hopp had violated Wisconsin's Sunday closing law and thus could not demonstrate good moral character. The district court, however, declined to find that this demonstrated a lack of good moral character. The district court judge reasoned that:

The old German adheres with tenacity to the habits and customs of the fatherland. He wishes to have the saloon kept open on Sunday, not for the purpose of revelry or debauch, but as a meeting place for friends and neighbors, and he looks upon it as his club, where he may associate in a friendly way with acquaintances, sip his beer, and smoke his pipe. He views it purely as a social matter. During all these years no drunkenness or disorder has resulted. Ardent temperance people, seeing that no evil results from this practice in this community, have ceased all agitation on the subject. In short, the public sentiment of the city is in harmony with the views suggested by the applicant in his testimony.100

In this 1910 decision, which predates Prohibition and World War I, the court suggested that good moral character should be measured both by the norms of the immigrant community and the norms of the host community. Here, because it was the practice of German immigrants in Milwaukee to meet and socialize on Sundays and because the "temperance people" had apparently accepted the practice, the applicant's violation of the Sunday closing act was not deemed to demonstrate a lack of good moral character.

In re Hopp, which might be seen as an early example of multicultural accommodation, was an early departure from the emerging judicial norm that violation of state or local laws constituted proof of a lack of good moral character.101 The court's vision of the relatively peaceful coexistence of the host society and the immigrant community suggested that, to the extent federal regulations require naturalization examiners to consider community standards in assessing good moral character, it is appropriate to take into account both the norms of

100. Id. at 562.

101. Indeed, in other naturalization cases decided during this period involving petitioners accused of violating state or federal liquor laws, the courts held that such violations were not the behavior of persons of good moral character. See, e.g., In re Bonner, 279 F. 789 (D. Mont. 1922) (finding that where the offense committed was gravely denounced by the National Prohibition Act and a direct violation of the 18th Amendment, petitioner was not "well disposed to the good order and happiness" of the nation and its people); In re Trum, 199 F. 361, 363 (W.D. Mo. 1912) ("Defiance of the established order . . . constitutes bad citizenship, bad behavior, and if persisted in, indicates a perverted moral character."); United States v. Gerstein, 284 Ill. 174 (1918) (criticizing and refusing to follow Hopp); In re Hrasky, 240 Ill. 560 (1909) (holding that a person has not behaved as a man of good moral character, and one well disposed to the good order of this country, if he has habitually, knowingly, and willfully violated the Sunday closing law).
the host community and those of the immigrant group, rather than basing their decisions narrowly on state or local law. At the same time, some of the problems inherent in such an approach emerge when one considers whether the outcome in *Hopp* would have been the same if the case had been decided a few years later, after the outbreak of World War I, mounting hostility to German immigrants, and the growth of the temperance movement.102 Furthermore, a definition of community norms based on the values of the immigrant community, while appealing in light of *Hopp*, runs the risk in other contexts of permitting a kind of cultural relativism that may be contrary to the rights of an immigrant group's most vulnerable members.103

Throughout most of the twentieth century, a split emerged between courts that applied a community-standards definition of good moral character and those in search of a national standard. Much of the case law on good moral character involved applicants accused of violating state mores legislation, including laws against adultery, fornication, bigamy, homosexuality, abandonment, illicit cohabitation, and incest.104 Throughout the 1940s and into the 1950s, the Immigration Service, invoking a community-based standard, opposed naturalization in dozens of cases on the grounds that the applicant had failed to demonstrate good moral character because the applicant had violated state mores legislation.105 While in many instances the applicant had been charged under state law, in others, the applicant had not been criminally charged or found civilly liable, but the Immigration Service assumed the role of "morality police," uncovering wrongdoing during the investigative phase (and in at least one case, after citizenship had already been granted) and opposing the applicant's naturalization in district court for failure to establish good moral character.106 During this period, while many courts deferred to the Service's approach, looking to state laws to determine the proper community standard,107 other courts questioned the Service's reliance on state and local law, arguing for a uniform federal standard focused on whether a person's character conformed to the "generally accepted moral conventions current at the time."108

102. See, e.g., *Meyer v. Nebraska*, 262 U.S. 390, 397-98 (1923) (finding that, although the desire of the Nebraska legislature to foster a homogeneous people with American ideals was understandable, this did not justify the law's interference with parents' fundamental rights to control the upbringing of their children and to teach them in German).

103. See *SONG*, supra note 62, at 87-113.


105. See generally *Strange*, supra note 25.


108. See *Johnson v. United States*, 186 F.2d 588 (2d Cir. 1951); *Schmidt v. United States*, 177 F.2d 450 (2d Cir. 1949); *Repouille v. United States*, 165 F.2d 152 (2d Cir. 1947);
During this period, a rich body of case law on the good moral character requirement emerged that reflected a normative, almost philosophical approach to determining good moral character that was rooted in Christian values and English common law.\textsuperscript{9} As New Jersey District Court Judge Fake wrote in 1947:

In considering moral character it is not easy to draw a line between principles which fall in the sphere of the ecclesiastical law and those which are exclusively within the temporal sphere. Moreover, with our traditions and our Anglo-Saxon approach, it is difficult indeed to reason on ethics at all without entering into the sphere of Christian, or biblical ethics, since our laws are so permeated with what Blackstone refers to as the “Revealed Law”... Moreover, as we have seen, the generally accepted rules of morality or ethics fluctuate in each era and the best we can do with the subject is to apply the generally accepted rules of our own day. The statutory words “good moral character” do not confine us to the ecclesiastical sphere nor yet to the temporal. We may enter the philosophical wherein the two are mingled.\textsuperscript{110}

The first \textit{statutory} definition of good moral character did not emerge until the McCarran-Walter Act of 1952 (the INA).\textsuperscript{111} That year, Congress added what is still § 101(f) to the naturalization statute, listing a series of offenses that would preclude a person from demonstrating good moral character. Adultery was number two on the list.\textsuperscript{112} In addition, the statute allowed the examiner to consider conduct and acts occurring outside the statutory period, and to determine that other offenses not defined in the statute could also demonstrate a lack of good moral character.\textsuperscript{113}

United States v. Francioso, 164 F.2d 163 (2d Cir. 1947); see also \textit{In re Lieberman}, 50 F. Supp. 121 (E.D.N.Y. 1943). Prior to the 1952 statute, at least one district court judge argued that, consistent with the \textit{Erie} Doctrine, he was not obligated to follow state law because there was a federal statute at issue. \textit{Lieberman}, 50 F. Supp. at 122. This view was later adopted by the Board of Immigration Appeals in a 1946 case. \textit{See B.-}, 2 I. & N. Dec. 617 (1946).

\textsuperscript{109} See, e.g., Schmidt v. United States, 177 F.2d 450, 451-52 (2d Cir. 1949); \textit{In re Edgar}, 253 F. Supp. 951, 953 (E.D. Mich. 1966) (discussing the necessary variables for determining good moral character in light of a national society standard while referring to weighing the individual facts of these cases as “sins” and considering whether citizenship to said sinners ought to be offered as they may contaminate the “purity of our stock”); \textit{In re Hopp}, 179 F. at 562-63; \textit{In re Smith}, 71 F. Supp. 968, 972-73 (D.N.J. 1947).

\textsuperscript{110} \textit{Smith}, 71 F. Supp. at 972-73.


\textsuperscript{112} \textit{Id.} § 101(f).

\textsuperscript{113} \textit{Id.} Under current immigration regulations and interpretations, other offenses demonstrating a lack of good character include failure to pay child support or federal income taxes and certain adulterous or homosexual acts, particularly ones
Rather than resolving the split in the case law, Congress’s adoption in 1952 of a statutory definition of good moral character only exacerbated the controversy. For example, although adultery was included among the automatic statutory bars to demonstrating “good moral character,” because Congress did not define adultery in the statute, district courts were faced with the question of whether to apply state law definitions, which tended to vary widely, or a uniform federal definition. Some courts argued that Congress’s failure to define adultery in the statute indicated its intent that good moral character be determined by community standards. Other courts argued that the 1952 statute, in making adultery an automatic bar, indicated a congressional intent to create a uniform national standard. Adding to the confusion, by permitting adjudicators to find that other offenses not specifically listed could also demonstrate a lack of good moral character, Congress gave the Immigration Service discretion to find a lack of good moral character based on violations of state mores legislation not even mentioned in the statute.

Under either approach, judges often recognized that assessments of good moral character frequently were based on a judge’s conjecture of what constituted community sentiment. Addressing the question of how to determine community standards, Judge Learned Hand cynically wrote in the 1949 Schmidt case that:

it must be owned that the law upon the subject is not free from doubt. We do not see how we can get any help from outside. It would not be practicable . . . to conduct an inquiry as to what is the common conscience on the point. Even though we could take a poll, it would not be enough merely to count heads, without any appraisal of the voters. A majority of the votes of those in prisons and brothels, for instance, ought scarcely to outweigh the votes of accredited churchgoers. Nor

that lead to the destruction of an existing marriage. See 8 C.F.R. § 316.10(b) (2006); INS Interp. Ltr., supra note 28, § 316.1(f). If an applicant has committed one of these discretionary bars, the Department of Homeland Security (DHS) Examiner is obliged to weigh such offenses against the positive equities in the applicant’s case and cannot automatically deny on this basis alone. Id.

114. Hertz, supra note 25, at 296.


116. See, e.g., In re Russo, 259 F. Supp. 230 (S.D.N.Y. 1966); In re Edgar, 253 F. Supp. 951, 953 (E.D. Mich. 1966); In re Briedis, 238 F. Supp. 149, 151 (N.D. Ill. 1965). According to this argument, Congress could not possibly have intended the outcome of a particular applicant’s naturalization petition to turn on a question of state law, since this “would lead to an absurd [sic] patchwork result, resting a petitioner’s right to United States citizenship upon the whims and idiosyncrasies of individual state legislatures.” Id. at 150.

can we see any reason to suppose that the opinion of clergymen would be a more reliable estimate than our own.\textsuperscript{118}

By the 1970s, cases involving naturalization applicants accused of violating state mores legislation had become less common, particularly following the U.S. Supreme Court’s decisions in \textit{Griswold v. Connecticut},\textsuperscript{119}, \textit{Eisenstadt v. Baird},\textsuperscript{120} and their progeny, which limited the state’s power to regulate matters of sexual intimacy.\textsuperscript{121} During this period, at least one district attempted to reconcile the community standards approach with the uniform standards test, finding that, in cases where Congress had not directly spoken, the court should look first to community standards in determining good moral character and then, if the applicant failed that test, to the common conscience of the country to see whether the country as a whole would look unfavorably upon the conduct.\textsuperscript{122}

The Fourth Circuit’s 1981 decision in \textit{Nemetz v. INS}\textsuperscript{123} ultimately led to an important shift in the Service’s approach and to a greater emphasis on uniform standards.\textsuperscript{124} In \textit{Nemetz}, the applicant had been prosecuted under the state sodomy law. Initially, the Service argued that this constituted evidence of the petitioner’s lack of good moral character. The Fourth Circuit in that case, however, held that “whether a person is of good moral character for purposes of naturalization law is a question of federal law.”\textsuperscript{125} Reliance on state sodomy laws as a basis for denying naturalization would allow for inconsistent results since homosexual persons living in states without sodomy laws would be granted naturalization while those in states with sodomy laws would be denied citizen-

\textsuperscript{118} Schmidt v. United States, 177 F.2d 450, 451 (2d Cir. 1949); see also Edgar, 253 F. Supp. at 953.

\textsuperscript{119} 381 U.S. 479 (1965) (holding that the state birth control law intruded upon the constitutionally protected right to marital privacy).

\textsuperscript{120} 405 U.S. 438 (1972) (finding that a Massachusetts state law that allowed married persons to obtain contraception while prohibiting unmarried persons from doing so violated the equal protection clause).

\textsuperscript{121} See \textit{Griswold}, 381 U.S. at 485-86 (describing the “precincts of marital bedrooms” as sacred and the search of said areas for contraceptives as “repulsive to the notions of privacy surrounding the marriage relationship”).


\textsuperscript{123} 647 F.2d 432 (4th Cir. 1981).

\textsuperscript{124} See \textit{Hawley}, supra note 28, at 12-13. Interestingly, \textit{Nemetz} can be seen as a harbinger of \textit{Lawrence v. Texas}, 539 U.S. 558 (2003), in which the Supreme Court overturned a Texas statute criminalizing homosexual sodomy, even though \textit{Nemetz} actually predates the Supreme Court’s decision in \textit{Bowers v. Hardwick}, 478 U.S. 186 (1986), which found that there was no fundamental right to engage in homosexual sodomy.

\textsuperscript{125} \textit{Nemetz}, 647 F.2d at 435.
ship based on lack of good moral character.\textsuperscript{126} In attempting to reconcile the community-based standards test with the uniformity principle, the Court wrote that, while in most cases "state law will be the best barometer of the conscience of the country as a whole," in cases where certain private acts are subject to "radically different legislative treatment by the states" the focus must be not on whether the act is offensive to personal morality, but rather, whether it is harmful to the public.\textsuperscript{127}

The INS subsequently amended its interpretation of the "good moral character" requirement to adopt the approach taken by the Court in \textit{Nemetz}. Today, the focus of the Service is not on whether a petitioner has violated state laws criminalizing homosexual conduct but whether the conduct in question is considered harmful to the public.\textsuperscript{128} The decision in \textit{Nemetz} coincided with the decision by Congress that same year to remove adultery from the statute as an automatic bar to good moral character.\textsuperscript{129} The House Report indicated "that the Immigration Service should not be required to inquire into the sex lives of applicants for naturalization. Such questions clearly represent an invasion of privacy."\textsuperscript{130}

In 1990, Congress transferred decisional authority over naturalization petitions from the federal district courts to the INS, replacing the system of judicial naturalization that has existed virtually since the founding of the Republic with a system of administrative naturalization.\textsuperscript{131} Although district court judges, by

\begin{itemize}
\item \textsuperscript{126} Id. at 435.
\item \textsuperscript{127} Id. at 436.
\item \textsuperscript{128} "[T]he Service view is that a showing of good moral character is precluded where the homosexual practices have adverse public effects: where the homosexual act involves minors, or the use of threat or fraud, or the taking or giving of money or anything of value, or the act of solicitation thereof in a public place, or the homosexual act itself is engaged in a public place, or the conduct is violation of marital vows." INS Interp. Ltr., \textit{supra} note 28, § 316.1 (f)(7).
\item \textsuperscript{130} H.R. REP. No. 97-264 at 19 (1981), \textit{reprinted in} 1990 U.S.C.C.A.N. 2577, 2588. Despite this important shift in citizenship norms towards a uniformity principle consistent with basic rights, it is worth noting that the Immigration Service has demonstrated a particular concern with the sanctity of traditional marriage in applying the discretionary bars to good moral character. It can still find a lack of good moral character where the petitioner has engaged in adultery or homosexual conduct that, respectively, "tend[s] to destroy an existing marriage" or "is violative of marital vows." 8 C.F.R. § 316.10(b)(3)(ii) (2006); INS Interp. Ltr., \textit{supra} note 28, § 316.1(f)(7); see also Ariela R. Dubler, \textit{Immoral Purposes: Marriage and the Genus of Illicit Sex}, 115 YALE L.J. 756, 763–65 (2006) (discussing the pivotal role marriage has played in the regulation of illicit and licit sex).
\end{itemize}
statute, still have the power of de novo review in revisiting denials by the Naturalization Unit, today, Homeland Security's U.S. Citizenship and Immigration Services exercises the power to naturalize persons as citizens of the United States. This has several important implications. First, naturalization examiners' discretion in determining whether or not an applicant meets the requirements for citizenship has grown considerably. Whereas in the past they would make recommendations to district court judges to find a lack of good moral character, today they can either issue denials based on these grounds, shifting the burden to the applicant to exhaust administrative remedies before seeking relief in district court, or they can encourage applicants to withdraw their applications altogether, thus subverting the review process. Second, the new system has largely eliminated transparency in the naturalization process, which was one of the hallmarks of a judicial naturalization system. Even the system of administrative review, unlike immigration appeals before the Board of Immigration Appeals, is an abbreviated one, requiring only that an application be reheard by an immigration officer, who generally is someone of equal or higher rank. Notices of Denial are essentially form letters with brief explanations of the specific reasons an application has been denied and are not available as published or unpublished opinions. Third, the rich body of naturalization case law from the federal district courts is now largely a relic of the past, with most modern decisions being limited to cases involving persons barred from naturalizing because of false testimony or criminal convictions. As a result, lawyers and re-


133. See 8 C.F.R. § 336.9 (2006) (requiring, under current requirements, exhaustion of administrative remedies prior to judicial review of denial of naturalization application); Morawetz, supra note 90, at 452-53 (discussing the role of the INS in the old system of judicial naturalization); Arnold Rochvarg, Report to the Administrative Conference—Reforming the Administrative Naturalization Process: Reducing Delays While Increasing Fairness, 9 GEO. IMMIGR. L.J. 397, 432-34 (2005) (expressing concern that examiners have encouraged withdrawals of naturalization applications in a way that may defeat judicial review and eliminate the check on administrative discretion).


135. 8 C.F.R. § 336.2(b) (2006).


searchers are greatly hindered in identifying the standards that Naturalization Examiners are applying and in determining whether they are being dictated by uniform federal standards or community norms.

Nonetheless, despite the lack of transparency under the new system, there is evidence that the role of the Immigration Service as "morality police" is alive and well. In the District Office of Portland, Maine, Beth Stickney, the Executive Director of ILAP, the only immigration legal services agency in the state, reported that although the Service rarely inquired into adulterous or homosexual conduct in adjudicating naturalization applications, one major concern has been with fathers who fail to pay child support. An applicant who has "willfully failed or refused to support dependents" will be found by the Service to lack good moral character unless he or she can establish extenuating circumstances.

District offices have tended to enforce this discretionary bar strictly, either through denying applications or by delaying them pending proof from the applicant, as demonstrated by anecdotal evidence and the limited case law available. Over the next several years, as more Somalis in Lewiston and surrounding areas become eligible to apply for naturalization, this focus will likely create barriers to naturalization and, as discussed further below, may also uncover an enduring community norm that could impose new barriers to citizenship for at least some Somalis: the practice of polygamy, a potential bar to expulsion for also deportable offenses are generally placed into removal proceedings, and thus do not have the opportunity to challenge the naturalization decision in district court. See Gatcliffe v. Reno, 23 F. Supp. 2d 581 (D.V.I. 1998); 8 U.S.C. § 1229 (2006).

138. E-mail from Beth Stickney, Executive Director, Immigrant Legal Advocacy Project, Portland, Me., to Lauren Gilbert, Assoc. Professor of Law, St. Thomas Univ. (June 19, 2008, 13:09:33 EST) [hereinafter E-mail from Beth Stickney] (on file with the Yale Law & Policy Review).


140. See Dirir v. Mukasey, 2008 WL 687440 (W.D. Wash. 2008); Zhai v. U.S.C.I.S., 2004 WL 1960195 (N.D. Cal. 2004); see also E-mail from Evelyn Cruz, Dir., Immigration Clinic, Ariz. State Univ., to Lauren Gilbert, Assoc. Professor of Law, St. Thomas Univ. (Dec. 5, 2008, 20:50:26 MST) (on file with the Yale Law & Policy Review); E-mail from Beth Stickney, supra note 138 (responding to the author's query as to how the U.S.C.I.S. District Office in Portland, Maine dealt with discretionary bases for finding a lack of good moral character, particularly those involving adultery, homosexuality and failure to support dependents and indicating that the District Office in Maine was "very strict here on child support, but less strict than [she] used to experience when [she] used to work in Boston on adultery").

141. Several persons reported that Somali men in polygamous unions were required by the U.S. government to divorce all but their first wives as a condition of their admission as refugees. Subsequent wives and children were often admitted as refugees separately. Some of these family members resettled in Lewiston, and in some circumstances, particularly in the Bantu community, may have resumed their old households. Interview with Patricia Buck, Assoc. Professor, Bates Coll., in Portland, Me. (July 22, 2008) [hereinafter Interview with Patricia Buck] (on file with...
establishing good moral character.¹⁴² In the event that naturalization examiners decide to focus on this issue, one of the remaining sexual taboos in U.S. law could lead to renewed attention to both the sexual mores of certain segments of the Somali community and to the legitimacy of defining good moral character in terms of the standards of the host society, without considering the customs and norms from an immigrant’s own culture.

The next Part explores external and internal barriers to the Somalis’ access to U.S. citizenship and to their integration into the social fabric of Lewiston, Maine, a largely Roman Catholic, former mill town built by Irish and French Canadian immigrants. Once discriminated against by Lewiston’s Protestant forefathers, today their descendents constitute the city’s dominant culture.¹⁴³ The tension between local community norms and the norms and values of the Somali community stands as an additional obstacle to the Somalis’ access to full membership and belonging.

III. THE SOMALIS OF LEWISTON

A. The Back Story

In 2001, the town of Lewiston, Maine, about thirty miles north of the city of Portland, embarked on a new course, less by choice than by necessity. That year, Somali refugees from the Horn of Africa that the U.S. government had resettled in Atlanta, Memphis, New Orleans, Minneapolis, Columbus, and other urban areas, decided to relocate to this Franco-American town of approximately 30,000 residents. The Somalis’ decision to move to this largely Roman Catholic town was reached after elders sent scouts across America in search of a home where the Somalis could raise their families and practice their religion in relative peace.¹⁴⁴ Somali families who had been resettled in urban areas grew increasingly alarmed by what they saw as the impact of crime, drugs, gangs, and black urban culture on their children.¹⁴⁵ That the population of Lewiston was

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¹⁴⁴ Bouchard, supra note 11; Nadeau, The Somalis of Lewiston, supra note 19, at 14. Today, there are an estimated 3000 to 3500 Somalis, most of them Muslim, in the City of Lewiston, giving Lewiston the largest Somali population, per capita, in America, topped only by the Twin Cities of Minnesota in terms of sheer numbers. Id.
97% Caucasian was viewed by many Somalis as a positive feature that would better enable them to establish a tightly knit community, maintain their Somali identity, and practice their Muslim faith.\textsuperscript{146}

Historically, geographic mobility has played an important role in Somali culture, particularly for the nomadic clans, with communities moving from place to place in order to survive the harsh conditions of both the natural and socio-political worlds.\textsuperscript{147} Cindy Horst has examined the decision of many Somali refugees to leave Somalia for refugee camps in Kenya, comparing this to the traditional practice of "scouting" in Somalia by which the community would send out individuals who would evaluate grazing, physical safety, the socio-cultural environment, and livelihood opportunities in different parts of the region.\textsuperscript{148} Elders would send scouts, or \textit{sahans}, into the arid desert to search for lightning, "a sure sign that a storm is brewing on the horizon."\textsuperscript{149} In late 2000, a group of Somalis in Atlanta devised a \textit{sahan} plan to send groups of Somalis across America, to San Diego, Kansas City, Dearborn, Michigan, and Portland, Maine, in search of a new home.\textsuperscript{150} The decision of the Somali elders literally to seek out greener pastures by moving their people from these urban centers to Lewiston, a small city surrounded by farms and forests, was consistent with many Somalis' nomadic pastoral identity as well as with their religious identity as Muslims, which encourages pilgrimages to Mecca (\textit{hajj}) and the migration from lands where Muslim religious practices are restricted (\textit{hijra}).\textsuperscript{151}

The Somalis' arrival in Lewiston in 2001, however, was not particularly well-timed, coming the same year as the September 11 attacks and the release of the movie "Black Hawk Down," which features American soldiers being dragged through the streets of Mogadishu by marauding Somalis.\textsuperscript{152} One of the soldiers killed was Staff Sergeant Thomas J. Field, a resident of the neighboring

\begin{itemize}
\item \textsuperscript{146} See Bouchard, supra note 11; Maggie Jones, The New Yankees, Mother Jones, Mar.-Apr. 2004, at 64.
\item \textsuperscript{147} Cindy Horst, Transnational Nomads: How Somalis Cope with Refugee Life in the Dadaab Camps of Kenya 65 (2006); see also I.M. Lewis, A Modern History of the Somali 9 (4th ed. 2002) (describing nomadic tradition of Somalis, who "move about their country with their livestock in search of pasture and water, ordering their movements as closely as possible to the distribution of these two necessities of life").
\item \textsuperscript{148} Horst, supra note 147, at 65-66.
\item \textsuperscript{149} Kelley Bouchard, Lewiston's Somali Surge, ME. SUNDAY TELEGRAM (Portland, Me.), Apr. 28, 2002, at 1A.
\item \textsuperscript{150} Jones, supra note 146, at 66.
\item \textsuperscript{151} Horst, supra note 147, at 66-67.
\item \textsuperscript{152} See, e.g., Nadya Labi, Give Us Your Tired... Just Not All of Them, Time, Oct. 28, 2002, at 10; Susan Taylor Martin, A Collision of Cultures Leads to Building Bridges in Maine, ST. PETERSBURG TIMES, Mar. 13, 2005, at A1; Moore, supra note 15; THE LETTER, supra note 15.
\end{itemize}
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town of Lisbon.\textsuperscript{153} The state highway that connects Lisbon and Lewiston is named in his honor, a harsh reminder for many local residents.\textsuperscript{154}

Despite the Somali elders' perception that Lewiston, Maine, would be a safe place to settle, the transition would not be easy for either the Somalis or Lewistonian. Maine has the reputation of being quite insular, and Mainers tend to distinguish themselves from those "from away," meaning anyone not born in the state.\textsuperscript{155} Founded in 1820 when it broke away from its parent, Massachusetts, this New England state, tucked into the northeast corner of the country, is known for its rugged individualists, many of whom have made their lives off the land, and its spirit of independence.\textsuperscript{156}

At the same time, many Lewiston residents are themselves descendants of Irish and French Canadian immigrants who came in the mid-1800s to work in the textile mills.\textsuperscript{157} Both minority groups faced discrimination and even persecution at the hands of their Yankee neighbors. It is largely thanks to the role of the Catholic Church and the Grey Nuns, who established L'Hôpital Général Ste. Marie (St. Mary's Hospital) in the late 1800s, that a system of social services eventually developed to meet the needs of the most vulnerable members of society.\textsuperscript{158} Eventually, Franco-Americans came to dominate the local scene, and today many Lewiston residents carry the surnames of their French Canadian ancestors.\textsuperscript{159}

When the Somalis began to arrive in early 2001, many groups in the community, including Catholic Charities, St. Mary's Hospital, and the City of Lewiston pulled together to meet their needs. Mayor Kaileigh Tara welcomed the newcomers to this once-thriving mill town, indicating that they not only would bring the "richness of their culture" but would help revitalize the econ-

\begin{footnotesize}
\begin{enumerate}
\item See The Letter, supra note 15, at 4:00-4:55 (quoting City Administrator James Bennet saying that the highway named after Thomas J. Field is a daily reminder that one of their residents died in Somalia).
\item CHARLOTTE MICHAUD, LEWISTON'S FRANCO-AMERICANS: THEIR ORIGINS AND EARLY HISTORY 7-8 (1974).
\item RAND, supra note 143, at 4-6.
\item MICHAUD, supra note 156, at 7.
\end{enumerate}
\end{footnotesize}
Yet, after the first group of Somali refugees arrived in early 2001, Somalis began to come by the busload, overwhelming the city’s capacity. Rumors circulated that Somalis were receiving vouchers for free cars, and members of the community expressed concern about how the Somalis’ access to social services would impact taxpayers and the city’s poor.

A common question to city officials during that time period was, “Who authorized this?” City administrators tried to explain to residents that the Somalis had come to Lewiston on their own rather than as part of any U.S. resettlement strategy and that, as legal residents, they could choose to live where they wanted. Administrators downplayed the influx as “no big deal,” but, as elected officials were bombarded with questions and complaints from their constituents, a decision was made to hold a town hall meeting.

City administrators knew that this would largely attract “people with an ax to grind” and that, at best, people would have an opportunity to “blow off some steam” but ultimately would probably walk away unhappy. Additionally, a town hall meeting was likely to attract media frenzy, and administrators would have to deal with the consequences.

In May 2002, the City convened a town hall meeting. Speakers included city administrators, social service providers, non-profit agencies, city police, and representatives from the Somali community. Elected officials were visibly absent and, as administrators had predicted, the meeting only resulted in a hardening of positions. While many at the meeting celebrated Lewiston’s history as a city of immigrants, comparing the Somalis’ arrival to the influx of French Canadians in the 1870s, others called for a moratorium on immigration, arguing that the city should take care of its own. According to Deputy City Administrator Phil Nadeau, prior to the meeting, residents had complained that

163. Interview with Phil Nadeau, supra note 154.
164. Id.
165. Id.
166. Kelley Bouchard, Lewiston Airs Concerns over Somali Influx; A Public Meeting Draws both Support for and Worry over the City’s Swelling Population of Immigrants, PRESS HERALD (Portland, Me.), May 15, 2002, at 2B; see also Nadeau, The Somalis of Lewiston, supra note 19, at 122.
167. Interview with Phil Nadeau, supra note 154.
168. Id.
170. Bouchard, supra note 166.
they were not getting answers regarding the Somali presence; after the meeting, they complained that they were not getting the answers they wanted.\textsuperscript{171}

Subsequently, Larry Raymond defeated Mayor Tara for reelection.\textsuperscript{172} Once in office, Mayor Raymond issued an open letter, advising local Somalis to tell their friends and relatives to stop coming to Lewiston. Although the letter praised city staff and residents for their efforts on behalf of the new arrivals and assured the Somalis that the city would continue to accommodate current residents, the letter ended on a harsh note: "We have been overwhelmed and have responded valiantly. Now we need breathing room. Our city is maxed out physically, financially and emotionally."\textsuperscript{173}

Many Somalis in Lewiston perceived this letter, which came from the city's chief elder, as a warning that their people were not welcome. In an open letter of their own, Somali elders described Mayor Raymond as "an ill-informed leader who is bent towards bigotry" and indicated that he would be to blame if members of the community saw the letter as a license to attack Somalis.\textsuperscript{174} Indeed, the mayor's letter sparked reactions from members of the community opposed to the presence of the Somalis, who until that time had remained largely silent. As Steve Hochstadt, a history professor at Bates College and a member of the Holocaust Human Rights Center, stated:

[I]t's not surprising that there would be some people who would seize upon a statement like this to give voice to sentiments that were beyond the bounds of civility even a few days ago .... And that's one of the things that makes it so troubling because ... it gives permission to a kind of divisiveness that, frankly, we as a society have worked so hard over the last four or five decades to overcome.\textsuperscript{175}

Hostility towards the Somalis grew as city administrators undertook to meet their needs for housing, health care, jobs, and education. When a white supremacist group from Ohio, World Church of the Creator, decided to organize a hate rally in downtown Lewiston in 2003, city administrators prepared for the worst.\textsuperscript{176}

\begin{itemize}
\item \textsuperscript{171} Interview with Phil Nadeau, \textit{supra} note 154.
\item \textsuperscript{172} David Conerty-Marin, \textit{Refugees Making Lewiston Next Stop, ME. SUNDAY TELEGRAM} (Portland, Me.), June 17, 2001, at 1A.
\item \textsuperscript{173} Kelley Bouchard, \textit{Closing the Door: Mayor's Request Disconcerts Somalis}, \textit{PORTLAND PRESS HERALD} (Portland, Me.), Oct. 5, 2002, at 1A.
\item \textsuperscript{174} Kelley Bouchard, \textit{Somalis Denounce Lewiston's Mayor; Accusing Laurier Raymond of Bigotry, Elders Call on Him To Apologize and Retract His Recent Letter}, \textit{PORTLAND PRESS HERALD} (Portland, Me.), Oct. 12, 2002, at 1A.
\item \textsuperscript{175} Meredith Goad, \textit{Somalis, Coalition Want Federal Review of Lewiston; They Plan To Ask the Justice Department To Ensure That City Programs Do Not Discriminate}, \textit{PORTLAND PRESS HERALD} (Portland, Me.), Oct. 10, 2002, at 1A.
\item \textsuperscript{176} Kelley Bouchard, \textit{Security To Be Tight for Lewiston Rallies; Concrete Barriers and Metal Detectors Will Be Used, and Random Searches Are Possible}, \textit{PORTLAND PRESS HERALD} (Portland, Me.), Jan. 10, 2003, at 1A.
\end{itemize}
This time, however, Maine's insularity worked in the Somalis' favor.\textsuperscript{177} Alarmed by the presence of "racists from away" and the international news media covering the event, community leaders chose to send a different message. The day of the hate rally in downtown Lewiston, which an estimated thirty-two Lewiston residents attended, a peace rally in support of the Somalis, organized by the Many & One Coalition, was held in the Merrill Gymnasium at Bates College in Lewiston, and approximately 4500 people attended, including Governor Baldacci, State Attorney General Steven Rowe, and Maine's two U.S. Senators, Olympia Snowe and Susan Collins.\textsuperscript{178} Former Lewiston Mayor John Jenkins, the city's first African-American mayor, was Master of Ceremonies. Mayor Raymond, who was vacationing in Florida, was ridiculed; many people at the rally had posters asking "Where's Mayor Raymond?," proclaiming "Everyone Hates Raymond," or designating empty chairs as "Reserved for Mayor Raymond."\textsuperscript{179} Mark Schlotterbeck, leader of the Many & One Coalition, said, "We've all come together to say whether you're gay or straight or whether you have this ability or disability, either you're this color, or that color or this religion or that, we say this will be our community."\textsuperscript{180} State Attorney General Steven Rowe spoke directly to the white supremacists: "I have a message for these hate mongers. You are wasting your time here."\textsuperscript{181} Although some community groups chose to boycott the event because they felt it had been appropriated by the radical left and by the gay-lesbian movement,\textsuperscript{182} the national media coverage portrayed the event at Bates College as a victory for tolerance and moderation.\textsuperscript{183}

Two years later, an act of religious intolerance met with a similar community response, although on a much smaller scale. In July 2006, when Brent Matthews rolled the frozen head of a pig, an animal considered unclean in Islam, into the local mosque during evening prayer, he was arrested and charged with desecrating a place of worship.\textsuperscript{184} A few days later, Lewiston residents held a solidarity rally in the city's Kennedy Park to show support for the Muslim community.\textsuperscript{185} At the rally, Rabbi Hillel Katzir, speaking on behalf of the Lewis-
ton-Auburn Interfaith Association, told the group that "'[i]f any one group is threatened, if any one group lives in fear, then there is no telling who will be the next target. It must stop here. It must stop now.'"

**B. Current Efforts To Integrate the Somalis**

Over seven years have passed since the Somalis first arrived in Lewiston. Government officials and social service providers, wary of media and scholarly attention, have worked hard to integrate approximately 3000 African Muslims from Somalia into an insular city in one of the whitest states in the Union. Rates of unemployment within the Somali community remain high, particularly for women with children, and job prospects are low. In 2007, the Deputy City Administrator estimated that, not counting women with children, the elderly or disabled, unemployment hovered around 50%. A 2008 study by the Maine Department of Labor found that while the percentage of Somalis with consistent employment was 39.7%, the percentage with stable employment was only 9.9%. By 2006, a total of 1963 Somalis had registered for public assistance. As the Deputy City Administrator underscored in his report, Lewiston no longer has an industrial base to support an unskilled population, and there are few unskilled jobs in reasonable proximity to Lewiston.

Today, many of the Somali men and women who entered the United States as refugees and were part of the first wave to relocate to Lewiston between 2001 and 2003 are technically eligible to apply for U.S. citizenship. In the summer of 2007, when I began this research, no single agency in Lewiston, governmental or otherwise, had assumed responsibility for providing comprehensive citizenship services. Catholic Charities Maine, which opened an office in Lewiston to provide the Somalis with resettlement services, including job training, housing,
and health care, is located in Lewiston City Hall and works closely with city administrators.\textsuperscript{194} Several of the Catholic Charities caseworkers are Somali.\textsuperscript{195} Yet, while Catholic Charities provides a full range of resettlement services,\textsuperscript{196} most funding from the U.S. State Department's Office of Refugee Resettlement (ORR) only applies during a refugee's first five years in the United States.\textsuperscript{197} Thus, at the very point that a refugee became eligible to apply for U.S. citizenship, Catholic Charities had been closing its files unless it could move them to another grant.\textsuperscript{198} Since that time, it has hired Hassan Adan, a Somali outreach coordinator, to work with the elderly community on access to citizenship issues.\textsuperscript{199}

Each weekday, the LAE provides English for Speakers of Other Languages (ESOL) classes, tutoring, and continuing education courses.\textsuperscript{200} It has also regularly offered a citizenship class, which Hassan Adan, the Catholic Charities outreach coordinator, taught during the summer of 2008. ILAP, located in Portland, performs immigration intakes once or twice a month in Lewiston in coordination with the LAE, offering free or low-cost immigration and citizen-
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ship legal services to eligible immigrants and refugees. Its Executive Director, Beth Stickney, has raised concerns, however, that many Somalis who satisfy the residency requirements for citizenship do not have the necessary English language skills to pass the naturalization test, despite the fact that many are enrolled in ESOL classes. A number of Somali self-help groups, including women’s groups and mutual assistance associations, have been started as well to address the Somalis’ unique needs in a culturally sensitive way.

In 2007, the National Civic League named Lewiston as one of its ten All America Cities. The award is given out to those cities that “symbolize the spirit of grassroots democracy and problem-solving.” The winners were selected for their ability to effectively engage a broad cross-section of the community in collaborative community problem-solving leading to concrete results. Lewiston was recognized for various initiatives, including its Lots to Gardens program, through which urban lots have been transformed into sustainable urban gardens that improve access to fresh food for at-risk populations, particularly the Somalis.

Nonetheless, despite countless success stories, Somali activists in Lewiston caution against exaggerating the city’s accomplishments or ignoring the obstacles to full participation that still exist. Many of these are intergroup barriers between the dominant white culture and the Somali community. Other barriers, however, are intragroup barriers within the Somali community, including separatist tendencies, clan rivalries, subordination of women, and discrimination against minority clans.

C. Barriers to Integration

1. Intergroup Barriers to Somali Integration

Despite the welcome they have received from many members of the Lewiston community, Somalis continue to face discrimination and harassment from Lewiston residents, including both private individuals and some government officials. Khadra Jama, a Somali student activist at the local community college and the keynote speaker on World Refugee Day 2008, described in her address various incidents that she had personally experienced, including having a resi-

201. E-mail from Judith Southworth, supra note 33.
203. Id.
204. Id.
205. Interview with Ismail Ahmed, supra note 12; Interview with E.V., supra note 12; Telephone Interview with F.M., in Minneapolis, Minn., July 26, 2008 [hereinafter Telephone Interview with F.M.] (on file with author).
dent yell at her: "Take that rag off your head!" Khadra, a young woman who wears a full hijab, later told me in an interview that she had been called a "nigger" at least three times and had people yell at her to "go back where [she] came from." When she organized an event at her college on Women and Islam, someone wrote on the poster, "Remember 9/11.

When Brent Matthews rolled a frozen pig's head into the local mosque in the summer of 2006, city officials portrayed this incident as the isolated actions of a disturbed man, charging him with a hate crime for desecrating a house of worship. Yet, less than a year later on April 11, 2007, Lewiston again attracted media attention when a middle school student threw a piece of Easter ham onto a table where Somali Muslim youngsters were gathered, thus reopening wounds that had only recently begun to heal.

Incidents of racism and bigotry are not limited to private individuals, however, as Mayor Raymond's Open Letter to the Somali community so clearly demonstrated. While city administrators have worked hard to incorporate Somali residents into the life of the community, some elected officials have continued to demonstrate resistance to their presence in Lewiston and their full participation in community affairs. For example, in 2007, when Mayor Laurent Gilbert and several members of the City Council attempted to amend the order establishing a Downtown Neighborhood Task Force to allow participation by residents of Lewiston as well as registered voters, it met with community resistance. The Mayor advocated for the appointment of Ismail Ahmed, at that time a Somali cultural skills trainer with Catholic Charities of Lewiston. Gilbert indicated that it was important to have a Somali serve on the Task Force as a representative of the neighborhood, emphasizing that Ahmed was in the process of applying for citizenship. However, one resident, Elizabeth O'Brien, stated that immigrants should care enough to be registered voters in order to get involved. After a series of votes and motions to reconsider, including an initial vote in which one member of the City Council stormed out after the mayor indicated that his abstention would be counted as a "no" vote, the pro-

208. Id.
209. Zezima, supra note 184.
212. Id.
213. Id.
posed amendment was defeated by a vote of 2-3, because it did not receive the required four affirmative votes needed to pass. 214

This incident exemplifies the interplay between community-based norms and national legal norms and the different layers of citizenship that can exist within a particular community. Although Ismail Ahmed demonstrated a commitment to civic citizenship and participation in local affairs, his lack of national citizenship became a structural impediment to his full civic engagement. Several Lewiston residents, including elected members of the City Council, took the position that membership on the Downtown Neighborhood Task Force should be limited to “registered voters,” thus barring him from participating. 215

The City Council’s actions arguably constituted discrimination based on alienage, with “registered voter” serving as a proxy for “U.S. citizen.” Although several U.S. Supreme Court decisions in the early 1970s found that state and local laws that discriminated against noncitizens were subject to strict scrutiny under equal protection analysis, 216 later decisions carved out a “public functions” exception, permitting states to pass laws barring noncitizens from participating in state government and the democratic process. 217 As the Supreme Court wrote in Cabell v. Chavez-Salido:

The exclusion of aliens from basic governmental processes is not a deficiency in the democratic system but a necessary consequence of the community’s process of self-definition. Self-government, whether direct or through representatives, begins by defining the scope of the community of the governed and those of the governors as well: Aliens are by definition those outside of this community. 218

Such alienage classifications, a reflection of community norms reinforced by federal law, send a powerful message to noncitizens that, unless and until they naturalize, they will not be considered full members. 219

214. Id.
215. Subsequently, the mayor appointed Ahmed’s sister, Zamzam Mohamud, a naturalized U.S. citizen, to the Task Force, as well as Adila Mohammed Aceto, an African-American Muslim. Interview with Ismail Ahmed, supra note 12.
Discrimination against Somalis by government officials in Lewiston has largely been limited to local elected officials responding to their constituents. In this particular instance, Lewiston’s City Council chose to reaffirm a community norm limiting participation on the task force to U.S. citizens. Whether this was done to exclude Ismail Ahmed, an outspoken Somali activist, or to reinforce a particular perspective on Lewiston’s collective identity (or both) is unclear. This example does, however, underscore the potentially transformative power of citizenship. By naturalizing, Ahmed and other Somalis in Lewiston could become constituents and claim their right to full membership, giving them both the power of the ballot and arguably a greater stake in the policy-making process.

My research revealed, however, that many Somalis in Lewiston who are eligible for citizenship have not chosen to naturalize. A significant number are technically eligible, having resided in the United States for the requisite five years, but do not possess the literacy skills needed to pass the English-language and American-civics portions of the exam. Others cannot afford to pay the exorbitant fees. Others face additional legal obstacles, such as the good moral character requirement in the statute. Many others, however, while satisfying the various requirements, choose not to naturalize.

During my interviews in Lewiston and Auburn, I asked the Somalis with whom I spoke about both the importance of U.S. citizenship to the Somali community, as well as what they saw as the major obstacles to citizenship. Many of the Somalis I interviewed indicated that the principle value of becoming a citizen was that it would allow them to obtain a U.S. passport to travel back to Somalia to visit with family and maintain their cultural connections with their homeland. Others saw in U.S. citizenship the security of knowing that they could not be deported, in light of increasingly harsh immigration laws. Elderly Somalis, who face some of the greatest obstacles, saw it as a way to maintain their eligibility for public benefits. Still other Somalis saw becoming a U.S. citizen as the final step in a process, and getting a U.S. passport as a source of great pride. Yet according to one Somali student leader, many long-time lawful permanent residents with no interest in returning to Somalia saw no real value in becoming a U.S. citizen. Moreover, few people specifically men-

220. Interview with Ismail Ahmed, supra note 12; Interview with G.T., supra note 50; Interview with H.S., supra note 195; Interview with I.R., supra note 141; E-mail from Judith Southworth, supra note 33.
221. Interview with D.W., supra note 50.
222. Interview with Ismail Ahmed, supra note 12; Interview with D.W., supra note 50; Interview with G.T., supra note 50.
223. Interview with Ismail Ahmed, supra note 12.
224. Interview with H.S., supra note 195.
225. Interview with D.W., supra note 50.
226. Id.
tioned the importance of U.S. citizenship to full civic engagement.\textsuperscript{227} Most Somalis who chose to naturalize were doing so largely for what Alex Aleinikoff would characterize as "instrumental reasons."\textsuperscript{228}

Indeed, when asked whether it was correct to presume that integration was a desirable goal for most Somalis, this same student said she personally resisted defining integration as the goal.\textsuperscript{229} Rather, her goal was to be a Somali in an American context, not just a passive recipient of acculturation but someone choosing which Somali cultural practices to keep and which to abandon, and which American practices to accept and which to reject.\textsuperscript{230} At the same time, she also volunteered that she was concerned about the creation of ethnic enclaves in Lewiston, where Somalis could live and work and pray with very little interaction with the majority community.\textsuperscript{231}

Hiroshi Motomura has recommended that the United States extend the benefits of U.S. citizenship to lawful residents during the period prior to their eligibility for naturalization.\textsuperscript{232} He argues that treating new lawful immigrants as Americans in waiting will further their successful integration into American society.\textsuperscript{233} Under his "immigration as transition" model, Motomura would no

\begin{itemize}
  \item \textsuperscript{227} Two important exceptions were F.M. and E.V. F.M., a naturalized U.S. citizen and practicing Muslims came to the United States from Somalia in 1981 on a student visa and moved with his wife to Lewiston in 2002, believing that he and his wife, a social worker, could contribute to the Somalis' resettlement process in Lewiston. They moved to Minnesota in 2006, largely frustrated by the obstacles he had encountered in Lewiston to the Somalis' full participation in the life of the community. At the time of writing, F.M. was running his own interpreting and translation business in Minneapolis and was considering pursuing an advanced degree in anthropology. Despite the frustrations he encountered in Lewiston, he explicitly embraced the "American dream" and argued that America's immigrant heritage was broad enough to accommodate Somali Muslims. Telephone Interview with F.M., \textit{supra} note 205. E.V., a Somali Muslim who works as an interpreter in the L/A (Auburn/ Lewiston) area, spoke primarily of obstacles to integration within the Somali community in the \textit{L/A} area. Yet, despite these obstacles, she is a naturalized U.S. citizen, and an active member of various organizations. Interview with E.V., \textit{supra} note 12. E.V. is also the mother of two school-age children, a girl and a boy, and constantly reminds her daughter, in particular, that, despite what she is told by other Somalis, she is capable of becoming anything to which she sets her mind. \textit{Id.}
  
  
  \item \textsuperscript{229} Interview with D.W., \textit{supra} note 50.
  
  \item \textsuperscript{230} Interview with D.W., \textit{supra} note 50; Interview with G.T., \textit{supra} note 50.
  
  \item \textsuperscript{231} Interview with D.W., \textit{supra} note 50.
  
  \item \textsuperscript{232} HIROSHI MOTOMURA, \textit{Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States} 13 (2006).
  
  \item \textsuperscript{233} \textit{Id.}
\end{itemize}
doubt encourage the participation of Ismail Ahmed on Lewiston’s Downtown Neighborhood Task Force, particularly as someone in the process of becoming a U.S. citizen. At the same time, he might also have concerns about members of the Somali community who are technically eligible for citizenship but who have not taken the steps necessary to become U.S. citizens. Motomura argues that if national citizenship is undervalued, then other connections of “religion, race, class and other groupings” will begin to matter more, resulting in what political philosopher Michael Walzer describes as a “thousand petty fortresses.”

2. Intragroup Barriers to Somali Integration

While many of the barriers to the Somalis’ full integration into Lewiston’s social fabric thus are external, others can be attributed to intragroup barriers within the Somali community itself. The major intragroup barriers to full civic participation include the following: separatist tendencies by clan elders and among conservative Somalis, ongoing clan rivalries, subordination of women, and discrimination against minority and low-caste clans.

a. Separatism or Religious Pluralism?

As discussed in the previous section, the Somalis I interviewed gave various reasons why many Somalis in Lewiston were not pursuing U.S. citizenship. One of the reasons given by educated Somalis, in particular, was resistance to integration into the American mainstream. From a multiculturalist perspective, the desire not to assimilate and thus to lose one’s cultural and religious identity is a legitimate choice that the host society should respect and accommodate. Many Somali elders view assimilation into the American mosaic as a threat to the very survival of the Somali people. To a large extent, Somali elders chose to relocate to Lewiston from major resettlement cities like Atlanta, Columbus, Memphis, and New Orleans because they did not want their people, and particularly their children, assimilated to African-American or the majority culture. The elders chose Lewiston because they believed that they could raise their children and practice their religion in relative peace, free from unwanted outside influences.

234. Id. (citing with approval Michael Walzer, Spheres of Justice: A Defense of Pluralism and Equality 39 (1984)); see also infra note 342 and accompanying text.
235. Interview with D.W., supra note 50.
236. Telephone Interview with F.M., supra note 205; see also Bouchard, A Thousand Miles, supra note 11; Jones, supra note 146, at 65.
237. Bouchard, A Thousand Miles, supra note 11. Somali elders are a self-appointed group of men who claim to speak for their community and who are recognized by the Somali community and by each other as leaders. The Somali elders tend to be older but not necessarily so. They also tend to represent more conservative tendencies within the Somali community and particular majority clans. One Lewis-
Some groups within the Somali community in Lewiston have worked hard to maintain their religious and cultural identity, through what some scholars would describe as the phenomenon of cultural reactivism, in which cultural and religious values become more pronounced in the host society as a way to preserve a refugee or immigrant group’s shared identity.\textsuperscript{23} This has particularly been the case with regard to elders from the local mosque, located on Lisbon Street in downtown Lewiston, who represent more traditionalist tendencies within the Somali community. When the founders of the mosque made an executive decision to close their new mosque to non-Muslims, despite the fact that their original mosque had been open to non-Muslims, it sparked a bitter response from many Lewiston residents, particularly from individuals who had been supporters of the Somalis. Several supporters of the Somali community had attended services at the original mosque, including Professor Heather Lindkvist, Mark Schlotterbeck, a Christian missionary and head of the Many and One Coalition, and Hillel Katzir, the local rabbi.\textsuperscript{239} Some of the mosque’s Executive Committee members expressed concern, however, with Christian evangelization within the walls of the mosque, and so the Executive Committee decided on a bright-line rule to exclude all non-Muslims rather than singling out any particular group or individual. This was a difficult decision for the mosque’s leadership to make, resulting, as it did, in the exclusion of many indi-

\textsuperscript{238} Shachar, supra note 10, at 35-36. Indeed, the migration of Muslims to non-Muslim countries is a relatively new development in the history of Muslim migration patterns. Historically, Muslim populations came under Christian rule largely by conquest. Muslims in such circumstances saw it as their religious duty to emigrate to a Muslim country, since it was not believed possible to live a true Muslim life under a non-Muslim government. Lewis & Churchill, supra note 10, at 10. In recent years, large Muslim populations have fled to or been resettled in non-Muslim countries and have thus been faced with the new challenge of adapting to or seeking accommodation from the host society. Id. at 94-95.

\textsuperscript{239} Interview with Heather Lindkvist, supra note 12.
individuals who had worked hard to achieve the Somalis’ acceptance within Lewiston.\textsuperscript{240}

Many Somalis, however, see their collective identity as Muslims as critical to overcoming the clan rivalries that historically have divided Somalis from each other. In theory, at least, the mosque is a place where they can come together as one people. Indeed, it serves as the place where much of the social networking within the Somali community occurs. A group of young women described how Somalis will provide financial assistance to other Somalis in distress without question and without regard to clan identity.\textsuperscript{241} Seeking a balance, however, between group identity and participation in the broader community is elusive given the broad array of Somali perspectives on the value of membership in the broader community.

One of the areas where city officials have attempted to weave Somali Muslims into Lewiston’s social fabric has been in the area of local government. While many Somali activists embrace this opportunity, some members of the mosque’s executive committee take the position that the Somali elders should stay out of local affairs, except when they specifically affect the Somali community.\textsuperscript{242} Minutes of a City Council meeting in which Ismail Ahmed, a Somali Muslim, was asked to give the closing prayer revealed a fascinating back-story that raises important questions about religious and multicultural accommodation in an increasingly diverse American community.\textsuperscript{243}

In early 2008, in an attempt to incorporate the Somali elders into local government affairs, Mayor Gilbert invited the imam at the Lisbon Street mosque to give the closing prayer at the Lewiston City Council meeting. Hillel Katzir, the local rabbi, was to give the opening prayer. The elders initially rejected the Mayor’s request because the mosque’s executive committee deemed it inappropriate for the imam or other mosque leaders to involve themselves in secular affairs.\textsuperscript{244} Days before the meeting, Mayor Gilbert went to the mosque in the

\begin{itemize}
\item \textsuperscript{240} Telephone Interview with F.M., \textit{supra} note 205.
\item \textsuperscript{241} Interview with A.Z., B.Y., and C.X., \textit{supra} note 12.
\item \textsuperscript{242} Interview with Ismail Ahmed, \textit{supra} note 12; Telephone Interview with F.M., \textit{supra} note 205.
\item \textsuperscript{243} Lewiston City Council Meeting Minutes (Jan. 7, 2008), http://www.ci.lewiston.me.us/council/minutes/2008/01-07-08.htm (last visited Mar. 3, 2009).
\item \textsuperscript{244} Interview with Ismail Ahmed, \textit{supra} note 12. According to Muslim teachings, in a Muslim state, there is no human legislative function. The legal function of the state is to apply and enforce the divinely given law, known as the \textit{Shari'a} or holy law, which consists of the \textit{Qur'an}, the hadiths, or traditions laid down by Mohammed during his lifetime, and \textit{ijtihad}, or authoritative interpretations of Islamic law. \textsc{Lewis & Churchill}, \textit{supra} note 10, at 26-29. In most Muslim countries, there is thus no real separation between the secular and the religious. Indeed, most recent constitutions in Muslim countries, although more secular in tone, indicate that the \textit{Shari'a} shall be a source or even the \textit{principal} source of legislation. \textit{Id.} at 36. For many Muslims living in non-Muslim states, the idea of participating in secular affairs remains fundamentally at odds with these teachings.
\end{itemize}
dead of winter to attempt to talk to the imam but was not invited inside because he is not Muslim. He discussed the issue with members of the Executive Committee on the sidewalk outside the mosque. While the leaders assured the mayor they would reconsider his invitation, when the day of the meeting arrived, the city still had not received a response from the mosque. The city then asked Ismail Ahmed, a Somali activist, to deliver the prayer instead, and he reluctantly agreed. That night, according to Ahmed, members of the mosque’s Executive Committee attended the meeting and later praised him for his prayer. According to a member of the mosque leadership familiar with this incident, the Executive Committee had decided to send a representative to give the closing prayer but had neglected to inform the City in time.

There are different ways of interpreting this incident. Members of the host community, including Mayor Gilbert and other government officials, might reasonably view it as another example of Somali cultural separatism from local affairs. Indeed, the mosque appears to have become the Somali community’s own petty fortress. Those Somali community activists who seek stronger ties with the host community argue that Islam is more than just a religion; it is a way of life, and the Somali community should be seeking a greater presence as Muslims in Lewiston rather than isolating themselves within their religious community. Yet, the desire of the mosque leadership to stay out of secular affairs is also consistent with religious orthodoxy in other faiths and, indeed, with one view of the Establishment Clause under which church and state should remain separate as a way to prevent the contamination of religion by the secular.

For example, in *County of Alleghany v. A.C.L.U.*, part of the opposition to the crèche and menorah displays in Pittsburgh came from religious organizations, including the National Council of Churches and the American Jewish Congress, who believed their placement in front of city hall secularized and degraded important religious symbols. The Mayor of Lewiston in this Catholic town may have been signaling to its Jewish and Muslim residents that they too were full members of the community. He was willing to dilute certain civic-religious rituals in an effort to integrate the Somali leaders into community affairs. His actions, however, raised important questions about the role religion has come to play in public life in Lewiston and whether Lewiston is sending a message of

246. Interview with Ismail Ahmed, supra note 12.
247. Interview with H.S., supra note 195.
248. Interview with Ismail Ahmed, supra note 12.
pluralism and freedom to choose one's own beliefs" or symbolically endorsing religion over the secular.\footnote{251}

Public education is one of the areas in which the Somalis have sought and received religious accommodation from the government. Heather Lindkvist, an anthropologist at Bates College, has described how, over the last several years, the public schools have struggled with issues of how to accommodate the Somalis' religious beliefs and practices.\footnote{252} The public school system has been very solicitous of the Somali community and their religious practices, hiring a cultural liaison from the Somali community to achieve solutions satisfactory to both the more conservative Somalis and the public schools.\footnote{253} It adopted a dress code allowing the use of headwear for religious purposes,\footnote{254} permitted Muslim girls to put on sweatpants under their hijab for gym class,\footnote{255} allowed students to opt out of gym class during Ramadan,\footnote{256} accommodated Muslims' dietary restrictions in the school lunch program, and provided special accommodations to avoid physical contact between boys and girls. They also have allowed Muslim students to leave for Friday prayer during Ramadan, although they discourage this absence as disruptive of the school’s educational mission.\footnote{257}

Lindkvist acknowledges the education literature that suggests that accommodating students by allowing them to opt out of certain school activities can reinforce a marginalized status for students within the school and negatively influence integration.\footnote{258} She also acknowledges that what it means to be a "good Somali" or "good Muslim" is highly contested.\footnote{259} She describes one incident in which two Somali students came to blows when one female student dressed in a traditional head scarf reprimanded the other for wearing a loose head scarf with American-style clothes.\footnote{260} Nonetheless, she concludes that the Lewiston public school system’s approach is consistent with a progressive model of education that provides access to education for students from diverse social and cultural backgrounds, allowing them to feel welcome and to thrive in a public school setting.\footnote{261} Despite the concerns these examples raise, the likely alternative is ar-
guably worse: Somali Muslim families opting for education at private religious schools. On the other hand, refusal to accommodate the Somali elders might have precipitated a showdown within the Somali community and a break between more traditional Somalis and those seeking fuller integration into Lewiston.

b. Ongoing Clan Rivalries

Somalis and experts alike emphasize that a Somali’s most important identity has traditionally been his or her tribe or clan. Clan membership is thus yet another form of group identity. Yet from the perspective of many of the persons whom I interviewed, it has been a destructive force in Somalia, in the refugee camps, and in the town of Lewiston.

The Somali people are divided into two major groups: the Sab and the Samale. The Sab people of southern Somalia include the Digil and Rahanweyn and are more sedentary with a bias towards cultivation. The Samale people trace their descent patrilineally, back to four major clans, the Dir, Isaaq, Hawiye, and Darod. The Samale are primarily pastoral nomads, spread throughout the land.

The major clans are further broken down into subclans, including both higher caste subclans of the Samale, like the Ogaden, the largest subclan of the Darod, who have a major presence in Lewiston, and lower caste minority clans like the Tumal, Midgan, Yibir, and Galgala. Minority clans like the Tumal, who are represented in the L/A area, are considered inferior by the Samale clans, not allowed to marry outside their clan, limited to certain occupations, and subject to discrimination by other clans. Some ethnic Somalis from the major Samale clans argue that the minority clans are looked down upon in Lewiston because many are not fully embracing Somali culture and Muslim values. Discrimination against low-caste clans also appears to be rooted in the origins stories of the Somali people.

The Samale clans are believed to be descended from a common ancestor. Any clan that does not belong to one of these four “noble” nomadic clan fami-


263. Scruggs, supra note 34, at 228.


265. Id. at 3.6.2; Interview with J.Q., Auburn, Me. (July 2, 2008) (on file with author).
lies is considered inferior.266 One young woman with whom I spoke, for exam-
ple, explained that ethnic Somalis discriminated against the Midgan clan be-
cause, generations ago, a Midgan forefather ate a dead animal in the desert
(considered haram, or forbidden, in Islam) in order to survive, then refused to
regurgitate it when he reached safety.267 The Somali Bantu, as discussed further
below, are largely outside the major clan system, descendants of slaves who
Arab traders brought to Somalia in the nineteenth century.268 The Somali clan
system is thus marked by deeply rooted hereditary inequalities that are incon-
sistent with core U.S. constitutional values of liberty and equality.

Despite efforts under the regime of Siad Barre during the 1970s to do away
with the clan system and to establish a national Somali identity, in the end, Siad
Barre played on these rivalries to maintain himself in power and, in so doing, is
said to have provoked the civil war that led to the destruction of the Somali
state.269 Similarly, despite efforts by Somali elders in Lewiston to project a
united Somali identity to the outside world—and while it is considered taboo
for Somalis to discuss clan conflicts to outsiders—my research revealed the per-
sistence of clan rivalries in the L/A area which threaten to divide the community
and to reinforce deep social inequalities.270 The importance of clan membership
is indoctrinated from early childhood.271 This essay from a Somali student at
Edward Little High School in Auburn, prepared as part of a school project in
the Spring of 2008, powerfully underscores the clan tensions that persist in the
L/A area:

When I first got here I learned that Somalian [sic] weren’t just one
kind of people, one country, they were separated as tribes. The tribes
are divided up like a tree, you have the trees then the limbs then
branches then leafs . . . . If you are Somali, when you're born you
take the tribe name of your father just like your last name, so mine is

266. Office of the Gen. Counsel, U.S. Dep’t of Justice, Immigration & Natu-
ralization Serv., Whether Somali Clan Membership May Meet the Defi-
nition of Membership in a Particular Social Group Under the Immigra-
tion and Nationality Act, Immigration and Naturalization Service 1-2
(1993).


268. Catherine Besteman, Unraveling Somalia: Race, Violence, and the Leg-
acy of Slavery 49 (1999).

269. Lewis, supra note 147, at 262-63.

270. This was one of the few areas of research where the author encountered consider-
able resistance from Somalis. Even progressive Somalis, while acknowledging the
importance of clan identity and its role as a divisive force within Lewiston, were
reluctant to identify particular clan divisions. Most of the information on this
topic came from scholarly articles on Somalia and from young people in their
teens or early twenties. See Interview with A.Z., B.Y., and C.X., supra note 12; In-
terview with D.W., supra note 50.

Hawiya. . . The Somalis that live here in the U.S. won't talk to each other until they know your tribe. Which tribe you're from depends where they'll place you in their ladder of friends. In L/A, Maine most of the Somali's [sic] are from the Darood tribe. . . . Most of the girls here become friends when their moms are friends, but there are some people that don't care about the tribe thing. . . . Right now the war that is going on [in Somalia] is because of the tribe thing, every tribe wants to take control of the government, because they think they can do a good job on it, especially two of the biggest tribes, Hawiya and Darood. At home Somali people often listens [sic] to BBC Somali to follow the latest news about the country. Most of the time I'm hearing about things that my tribe has done. . . . When I was new here I was scared to tell what my tribe is. . . . After sitting down and talking about it to my mom, she told me that my tribe isn't that bad. They are one of the tribes that started the war but they had their reasons. She also told me not to be ashamed of my tribe. Right now every time someone asks me what my tribe is I tell it to them with my head up high. Of course I still don't fit in perfectly, every time I meet some one the first thought that comes to me is, do they hate you [sic] tribe? But I'm trying to push those thoughts away and have fun in life.272

As this student essay underscores, even today in Maine, Somalis' clan membership often determines their relationship to one another. In Lewiston, it is rumored that one can not work for the city unless one belongs to particular tribes, and that Somali city workers are hired as tokens to appease certain Somali elders.273 When Somali caseworkers deny benefits to other Somalis, their decisions are often personalized, with the applicant accusing the caseworker of being personally responsible for the denial of benefits.274

Furthermore, several people with whom I spoke reported that elders from the various subclans frequently fight among themselves over who will be the next imam or religious leader.275 There has been a high turnover of imams at the mosque who are hired and fired by the mosque's executive committee. The mosque on Lisbon Street, established soon after the first Somalis came to Lewiston, reportedly was on its fourth imam. Although the mosque's executive committee has made some attempt to achieve balance among the different clans, there has been a tendency for the mosque to disproportionately represent

272. Fatima Hersi, Do I or Do I Not (Spring 2008) (unpublished manuscript, on file with the Yale Law & Policy Review); see also 'THEY WERE VERY BEAUTIFUL. SUCH THINGS ARE.' XXV (Patricia Buck & Rachel Silver eds., 2008) (describing the process of gathering stories and compiling memoirs at Edward Little High School in Auburn, Maine and at other locations from January through April 2008).

273. Interview with D.W., supra note 50.

274. Id.

certain majority clans, particularly the Ogaden. A tension exists between the imams’ role as religious leaders and their roles as clan leaders, and one imam left because he did not want to assume the role of clan leader.\footnote{276}{Interview with Ismail Ahmed, supra note 12; Interview with A.Z., B.Y., and C.X., supra note 12.}

There appears to be a genuine tension in Islamic teachings and traditions regarding the role of clan identity, which continues to pose grave challenges for the Somalis, both in Somalia and the diaspora. On the one hand, loyalty to one’s kin is, according to traditional Islamic values, a basic moral obligation. In many Muslim countries, kinship ties have survived in the form of the hamula, an Arabic term defining “a group of people descended from a common ancestor.”\footnote{277}{LEWIS & CHURCHILL, supra note 10, at 194.} Muslims who fail to use positions of power or influence to benefit their kin are seen as “failing in [their] social and moral duties.”\footnote{278}{Id. at 3-4.} At the same time, the Somalis with whom I spoke emphasized that Mohammed also called on his followers to put aside their tribal differences and to come together as one Muslim people.\footnote{279}{Interview with A.Z., B.Y., and C.X., supra note 12; see also PHILIP CARL SALZMAN, CULTURE AND CONFLICT IN THE MIDDLE EAST 137-38 (2008) (describing how Mohammed built on the tribal system of balanced opposition to create an inclusive structure in which the tribes had a common God-given identity as Muslims and a common enemy: the infidel).} Both traditional and more progressive Somali Muslims profess that clan divisions are contrary to Islam and the teachings of Mohammed, but Somalia’s legacy of clan conflict continues to haunt the Somalis of Lewiston and to stand in the way of true reconciliation.

c. “Oppression of Women by Women”

In the United States, Somali women and girls play an important symbolic role as keepers of Somali cultural and religious values.\footnote{280}{See, e.g., Heather Marie Akou, Nationalism Without a Nation: Understanding the Dress of Somali Women in Minnesota, in FASHIONING AFRICA: POWER AND THE POLITICS OF DRESS 50, 50-63 (Jean Allman ed., 2004) (discussing Somali women's use of religious dress as a means of resistance and trend toward revivalism in the Islamic world).} Although women cannot serve on the mosque’s executive committee, are not included among the Somali elders, and must pray separately from men, many Somali women in Lewiston have risen to positions of leadership and prominence within the city, including Fatuma Hussein, the director of United Somali Women of Maine, and Zamzam Mohamud, who now serves on the city’s Downtown Neighborhood Task Force.\footnote{281}{Interview with Ismail Ahmed, supra note 12; Interview with E.V., supra note 12; see also United Somali Women of Maine, http://www.usofmaine.org (last visited Mar.} Moreover, within the Muslim community, women serve
important roles, not just as mothers and wives but as educators, administrators and enforcers of Somali cultural and religious values.  

In Lewiston, most Somali women and girls wear some form of the veil as a religious duty, as a symbol of the Somali community’s collective identity, or, in some cases, as a result of community or peer pressure. Somali women in Lewiston do not all agree over what their Muslim faith requires, with some women wearing a full *hijab*, while others choose to wear only a headscarf. Nonetheless, social control has come to play an important role within the Muslim community in Lewiston, through what one Somali male described as the “oppression of women by women.”

As discussed above, Lindkvist describes an incident in her article in which two female students exchanged blows at Lewiston High School after one student, wearing the traditional headscarf and conservative clothing, criticized another Somali student for not dressing in accordance with community norms. The second student’s mother had already been warned by other Somali women against allowing her daughters to dress inappropriately. Indeed, several individuals confirmed that there are a group of Somali women in Lewiston who are both very religious and very educated who feel it is their duty to ensure that Somali women conform to Somali religious and cultural norms, as defined by the elders. Somali women from the mosque will often go door to door through the neighborhood, counseling other Somali women as to their responsibilities as “good Muslims.” Indeed, as Lindkvist discusses in her piece, one woman with whom she spoke said that the civil war in Somalia was Allah’s punishment for the Somali people not being “good Muslims.” Another Somali confirmed and the scholarly literature indicates that prior to the outbreak of civil war in Somalia, many Somali women had dressed in Western clothes. The transition to traditional Muslim attire was a response to the collapse of the So-

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22. 2009) (describing the mission of the organization and Fatuma Hussein as the founder and director).

282. *Id.; see also* Interview with C.X., *supra* note 12.


284. Interview with Ismail Ahmed, *supra* note 12. Ahmed underscored that many Somali cultural values are enforced by women against other women, including the practice of female genital mutilation, which was carried out in Somalia and in the refugee camps by women.


286. Interview with Ismail Ahmed *supra* note 12; Interview with D.W., *supra* note 50; Interview with I.R., *supra* note 141.


mali State, the rise of fundamentalism, and the role of the hijab as a form of protection from inter-clan violence.289

Even in Lewiston, failure to conform to traditional Somali community values can be costly.290 In one reported case, when a Somali Bantu from Vermont visited Lewiston wearing Bantu women’s traditional attire, a colorful dress which reveals the shoulder, the arms, and the legs, she was chased down the streets of Lewiston by Somali women in full hijab who harassed her for wearing Bantu clothing in the United States.291 This “oppression of women by women” occurs even within the setting of adult education classes taught by Western teachers, where peer pressure constitutes a powerful force for conformity.292

Refusal to conform to community values can result not only in harassment but also in social ostracism. A corollary of the centrality of clan membership as an organizing principle is the important role of social networks as sources of sustenance and support. For many Somalis, the protection of their clan became the only means for their survival, first in Somalia during the civil war, then later during their flight and in the refugee camps.293 Although social networks continue to play an important role in Lewiston, thus far they have not been effective as alternatives to state protection in cases involving domestic violence.294 Several people reported that the worst offense that a Somali woman can commit in Lewiston is to seek assistance from a women’s shelter or from the police.295

289. ALI, supra note 262, at 127-28; AKOU, supra note 280, at 55-56; Interview with I.R., supra note 141.

290. Interview with Ismail Ahmed, supra note 12.

291. Interview with I.R., supra note 141.


293. HORST, supra note 147, at 63.

294. One of the challenges faced by modern Muslims is how to deal with the problem of domestic violence. The Qur’an explicitly allows a husband to beat his wife. HOLY QUR’AN, supra note 7, at 4:34. While he should first “admonish her” to be a better wife, the Qur’an also allows him to leave her bed or beat her. Id. Modern scholars and religious leaders have struggled to reconcile that language with modern times. Many religious leaders take the position that the Qur’an permits husbands to use force to discipline unruly wives. Yet even some of the most progressive Muslims who oppose domestic violence seek to give meaning to the Qur’an’s language. For example, Jamal Badawi, the director of the Islamic Information Foundation in Canada, has denounced domestic violence and yet argued that in situations where a wife persists in disregarding her marital obligations, the husband “may resort to another measure that may save the marriage . . . more accurately described as a gentle tap on the body.” Asra Q. Nomani, Clothes Aren’t the Issue, WASH. POST, Oct. 22, 2006, at B1.

295. Interview with A.Z., B.Y., and C.X., supra note 12; Interview with Patricia Buck, supra note 141; Interview with Heather Lindkvist, supra note 12.
Yet, while Somali women who seek protection within their communities are often scolded for not being better wives, Somali women who go to the police or to a women’s shelter face social ostracism and the denial of the other benefits social networking provides.\(^{296}\)

Despite this grim picture, there are ways in which Somali women in Lewiston are creating spaces to dialogue about the role of Somali Muslim women in Western society. Many Somali women struggle with the question of how to be a Somali woman in America. ESOL classes have served as a valuable forum for such discussions. Despite the social control that takes place in the classroom and in the broader society, many Somali women are single-parent heads of households, confronted with the challenge of supporting families on their own. Some of these women are divorced spouses from polygynous marriages that were terminated before their ex-husbands could immigrate to the United States.\(^{297}\) Many are dependent on the welfare system, including ex-spouses from polygynous unions, women abandoned by their husbands, and still others who left their husbands after deciding that they and their children were better off relying on the state for support.\(^{298}\) Consequently, while subscribing to traditional Somali values, many Somali women are adapting to a lifestyle far different than the lives they knew in Somalia or the refugee camps.\(^{299}\)

Somali women, thus, are struggling to define their new roles and identities. Some educated Somali women who do not share the traditional values of their peers have chosen to move away from Lewiston, while others have chosen to stay and work through these issues.\(^{300}\) Some are dependent on their social networks.\(^{301}\) To the extent that others have achieved a certain level of financial independence and autonomy, they have found that the social pressure to conform, while ever-present, is not overwhelming, and that this autonomy creates a space where dialogue can occur about what it means to be a Somali-Muslim woman in America.\(^{302}\)

\(^{296}\) Interview with A.Z., B.Y., and C.X., supra note 12; Interview with Patricia Buck, supra note 141; Interview with Heather Lindkvist, supra note 12.


\(^{298}\) Interview with D.W., supra note 50.


\(^{300}\) Interview with A.Z., B.Y., and C.X. supra note 12; Interview with E.V., supra note 12.

\(^{301}\) Interview with A.Z., B.Y., and C.X., supra note 12.

\(^{302}\) Interview with E.V., supra note 12.
d. Discrimination Against Minority and Low-Caste Clans

The persistence of clan rivalries in Lewiston has resulted in the subordination of minority and lower-caste clans and in their being denied access to leadership positions within the Somali community. Nowhere is this more apparent than in the treatment of the Somali Bantu, who were brought to Somalia as slaves from other parts of Africa in the early nineteenth century, and who continue to face discrimination and harassment today. In the early twentieth century, after slavery was abolished, the Somali Bantus relocated to villages in southern Somalia between the Shebelle and Juba Rivers, where they, like the Sab clans, engaged largely in cultivation. Unlike ethnic Somalis, who are taller, lighter skinned, and have thinner bone structures and claim to be of Arab descent, the Somali Bantus are darker skinned, more African in appearance, and thus more easily singled out.

During the civil war in Somalia, entire Bantu villages were decimated, and families were torn apart. Many of them became refugees in Kenya but continued to face persecution at the hands of the major clans. Finally, in 1999, the United States offered refugee status to many of the Bantu people, but their admission to the United States was delayed by 9/11, and the first group of Bantu refugees was not resettled in the United States until 2003. By 2005, many had begun to make their way to Lewiston.

Despite efforts by Somali elders to project a united Somali identity, Bantu Somalis in Lewiston describe disturbing instances of discrimination by other Somalis. Acts of racism and discrimination by ethnic Somalis towards the Bantu are rampant in the school system and, according to Bantu leaders, occur frequently within the broader Lewiston community. In a 2006 New Yorker piece, one Somali Bantu describes the insults and racial slights from other Somalis in Lewiston as unrelenting. He describes how other Somalis did not hesitate to use the word “adoon,” which means “slave,” in describing the Bantus and that when a friend went to the local mosque to pray, he was told to return with six men to clean the mosque for free. These tendencies are reinforced in the public schools, where ethnic Somali children teach white children Somali insults against Bantu children.

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304. Id.
305. Id. at 115-19 (describing how the ethnic Somalis link the Bantus' African appearance to their identity as former slaves); see also Lewis, supra note 147, at 4-5 (describing the ethnic Somali as being of taller stature with thinner bone structures and coppery brown skin).
306. See Finnegan, supra note 13.
307. Id.
308. Id.
One Bantu with whom I spoke confirmed much of this behavior. He said that ethnic Somali children had taught white children to use an expression against Bantu children ("Ufl") that indicated that the Bantu children smelled bad. Apparently, Somali children may simply be mimicking their parents. This Bantu, a Muslim, described how he was made to feel unwelcome whenever he prayed at the local mosque and how on one occasion, he was told that he was not welcome at a wedding. The day of the wedding, the Somali at the door, who happened to be a government employee, told him that he could not enter because he was not dressed appropriately. The man then began to ask him what soap and deodorant he was using. The Bantu eventually left.

Ethnic Somalis express annoyance and even outrage that Somali Bantus are so outspoken about the persecution they faced in Somalia and the discrimination they continue to face in the United States. It is striking that the Bantu, enslaved and persecuted in Somalia, would choose to follow the ethnic Somalis to Lewiston, almost as a reminder of this dark legacy. Somalia's history of tribal conflict continues to haunt the Somalis in Lewiston, even as many strive to put the past behind them.

Excluded from positions of leadership within the ethnic Somali community, the Somali Bantus have chosen proudly to establish their separate identity and support networks, underscoring the fact that, although they are Muslim, they do not share the same culture, religious practices, social norms, or means of livelihood as what they call the "regular" Somalis. They emphasize that their women are not required to wear the hijab (even though many choose to do so), proudly display the traditional dress of the Somali Bantu, and resist pressure by the majority Somali culture and by Somali women's groups to conform. They also are proud of the fact that there are women on the Board of Directors of the Somali Bantu Mutual Assistance Association, and they hope one day soon to have a woman as chair. They thus challenge the view of Islam that has been presented by many Somali elders in Lewiston and the power structures that have been created to accommodate the religious and cultural values of many ethnic Somalis.

At the same time, the Somali Bantus in Lewiston face serious challenges. Members of the Bantu community who came to the United States starting in 2003 are only now becoming eligible to apply for naturalization. They face for-

309. Interview with I.R., supra note 141.

310. Interview with A.Z., B.Y., and C.X., supra note 12 (describing conversation among three women regarding the Bantu community's attitude towards ethnic Somalis). C.X. explained discrimination against the low-caste Midgan clan as occurring because generations ago, a Midgan forefather ate a dead animal in the desert (considered haram in Islam) in order to survive, then refused to regurgitate it when he reached safety. Id.

midable barriers. The greatest challenge is, without question, the high levels of illiteracy in the Bantu community. Each weekday in Lewiston, dozens of Somali refugees gather at the Lewiston Adult Education Center. Most students study English in formal classes, while preliterate students learn basic reading and writing in more informal tutoring sessions. Most of these preliterate students are Somali Bantus who never learned to read and write in Somalia. Once they reach a certain level, they can be transferred into regular ESOL classes. But, for many, English language proficiency is a distant goal, with the most basic oral communication skills being the best for which most Somali Bantus can hope. Inability to communicate in English is a major obstacle to both entry into the workforce and eventual access to U.S. citizenship.

In addition to these obstacles, one additional problem looms on the horizon for Bantus seeking naturalization. Although polygamy is legal in Somalia and Kenya, polygamous unions are void as a matter of public policy under U.S. law. Several persons reported that Somali men in polygynous unions who underwent overseas refugee processing, particularly in the Bantu community, were required by the U.S. government to divorce all their wives but one as a condition of admission. Subsequent wives and their offspring were frequently admitted as refugees separately, however. Many of these family members ultimately resettled in Lewiston, and in some circumstances, resumed their old households. Yet even where Somali Bantu men have not resumed old household patterns, they may face legal responsibility for the financial support of

312. NADEAU, supra note 14, at 3.
313. Id. at 4. Somalia, which has a long oral tradition, did not adopt a written language until 1972, during the Communist regime of Siad Barre. Lewis, supra note 147, at 216.
314. Interview with Anne Kemper, supra note 200.
315. See NADEAU, supra note 14, at 2; Interview with I.R., supra note 141 (describing lack of literacy as major obstacle facing Bantu community); E-mail from Beth Stickney, Executive Dir., Immigrant Legal Advocacy Project, to Lauren Gilbert, Assoc. Professor of Law, St. Thomas Univ. (July 17, 2007, 4:55:24 EST) (on file with the Yale Law & Policy Review) (describing lack of English capacity of most participants at Naturalization Workshop in 2007); see also Rochvarg, supra note 133, at 416 (discussing important role community-based organizations play in screening out persons who are not ready to naturalize because of their inability to satisfy the English language requirement).
318. Interview with I.R., supra note 141.
their children in the event a paternity action or child support enforcement action is brought and they are identified as the putative fathers. For many Somali Bantu men applying for naturalization, this creates a quandary. If they are actively supporting their former families, they could be accused of practicing polygamy; if they sever ties to these family members, they may be accused of willfully failing or refusing to support dependents. Either way, they may be found to lack the essential good moral character.

IV. CITIZENSHIP, CIVIC VIRTUE, AND COLLECTIVE IDENTITY

Interviews during the summer of 2008 with members of the Somali community uncovered competing perspectives on the value of becoming a U.S. citizen. Older Somalis placed less importance on it or valued it largely for instrumental reasons, like obtaining a U.S. passport to travel back to Somalia or, for the elderly, maintaining eligibility for public benefits. Younger Somalis, particularly those who had spent most of their lives in the United States, were more likely to see themselves as Americans and citizenship as the end of a process. Yet, even young Somali-Americans, particularly members of the 1.5 generation, who were born abroad but have lived most of their lives in the United States, still see themselves as Somalis first and Americans second. The importance of their collective identity as Somalis is strongly ingrained within the community, with one young Somali woman who wore full hijab describing the Somali community in Lewiston as a single organism with "one brain." While some young people describe the importance the Somalis place on their collective identity as oppressive at times, many of the same young people describe it, along with the important role played by social networks, as two of the major benefits of being Somali. These norms are strongly inculcated within the home and within the broader community.


320. Interview with D.W., supra note 50; Interview with G.T., supra note 50; Interview with H.S., supra note 195.

321. Interview with D.W., supra note 50; Interview with A.Z., B.Y., and C.X., supra note 12.


324. Id.

325. See id.
This Article has explored the interplay among competing community-based norms at the national, local, and group level in terms of their influence on an immigrant community's willingness or ability to integrate into a host community's social fabric. It also has tested the utility of theories of nationalism, liberalism, and multiculturalism in understanding the Somalis' experience in Lewiston and making policy prescriptions. By studying the Somalis and host community in Lewiston at close range, it also reaches some broader conclusions regarding effective strategies for weaving newcomers with different religious and cultural values into a community's social fabric. While the Somali experience in Lewiston is undoubtedly unique, their story has much in common with the stories of refugees resettled in communities across the United States, as well as with the experiences of other immigrant enclaves. Ultimately, I conclude that a pluralist theory of integration based on tolerance, trust, and solidarity offers far better prospects than a nationalist approach which sees immigrants who do not share the national culture as a potentially destabilizing force or a multicultural approach which would "affirm group difference at the expense of commonality . . . ." In the end, we live in a world of hyphenated identities, but the key is that the latter term transcends ethnic differences.

Many Somalis who arrived in Lewiston between 2001 and 2003, when opposition to their presence was at its zenith, have not, understandably, fully embraced local community values but have been more likely to seek sustenance and support within their own networks. Indeed, over the last few years, and particularly since Mayor Raymond's open letter, the mosque on Lisbon Street has tended to insulate itself from the broader community, opening its doors only to Muslims and educating young Somalis regarding their proper roles as Muslim men and women. It would be disingenuous not to recognize that the Somali community's tendency to self-segregate has resulted, at least in part, from the fallout created by the Raymond letter. But there has also been something of a symbiotic relationship between the Somali elders and the elders of Lewiston. Michael Walzer has argued that societal intolerance towards immigrant groups often can have group-sustaining effects. The Somali elders may have deftly used the Raymond letter and other isolated acts of hostility by Lewiston residents to justify Somali separatism.

David Abraham raises concerns about what will happen if, as in the case of post-Soviet Republics, "embedded sub-identities trump, overcome or eclipse

326. Abraham, supra note 37, at 150.
327. MILLER, supra note 22, at 126.
328. Id. at 140.
329. Id. at 136.
330. Interview with D.W., supra note 50.
331. See supra text accompanying notes 229-230.
332. WALZER, supra note 71, at 175-76.
constitutionalized national citizen identities." Multicultural accommoda-
tionists would recognize the right of each ethnic group to define its own identity and formulate its own set of claims and demands. But, while those committed to a just society should unite to combat its injustices, social solidarity is ultimately undermined if the deprived group rejects the identity of the larger community in which it resides.

There is much evidence of a strong liberal tradition in Lewiston. Notwithstanding incidents of discrimination and hostility, the city government has committed itself to meeting the Somalis' needs for food, shelter, housing, and education, and has accommodated many of their religious differences. The peace rally at Bates College in support of the Somalis attracted 4,500 participants from the surrounding area as well as the city's and state's major political leaders. When Brent Matthews rolled a frozen pig's head into the local mosque, Lewiston residents held a solidarity rally in support of the Somalis in the city's Kennedy Park.

Yet, as Patricia Buck, an education professor at Bates College in Lewiston, Maine has observed, while preferable to nativism, liberal discourse also has its limitations. Professor Buck describes how liberalism positions itself on a "moral high ground." Liberalism characterizes the United States as a "nation of immigrants," welcomes the newcomer and tolerates certain benign cultural differences, but it does so with "an expectation that newcomers learn the dominant language, work toward economic self-sufficiency, and integrate into the socio-cultural fabric of the national community." To the extent that newcomers like the Somalis do not live up to these high expectations, there is the danger that over time, the welcome mat extended will be withdrawn.

Although Motomura recommends extending the benefits of citizenship to lawful permanent residents during the period preceding their eligibility for naturalization, he also recommends withdrawing those benefits if immigrants choose not to naturalize. Motomura's model of "immigration as transition" would create powerful incentives for immigrants to transform themselves from outsiders into citizens. This model would, however, penalize those who do not

333. Abraham, supra note 37, at 150.
334. Miller, supra note 22, at 131.
335. Id. at 139.
336. Id. at 140.
337. Hench, supra note 185.
339. Id.
340. Id.
choose or are not prepared to take the path to citizenship, and could result in their further isolation within their communities.

Michael Walzer has also raised the concern that the more states open their borders to immigrants and refugees, the more local communities will “build petty fortresses” against immigrant influx.\(^\text{342}\) Indeed, we have seen this tendency in the United States over the last several years, as local communities across the country have enacted anti-immigrant ordinances.\(^\text{343}\) There is also a tendency, however, for some immigrant groups to erect their own petty fortresses and to create their own closed communities, particularly in situations where the values of the host community are in tension with an immigrant or refugee group’s own religious or cultural values and where the group has encountered discrimination from the broader society.

The tendency within the Somali community to maintain their separateness from the broader community and to value their collective identity as Somalis over their identity as new Americans is likely to stand in the way, in the short term, of their integration into Lewiston’s social fabric and into the life of the nation. Indeed, it appears that Somali elders may have capitalized on tensions with the host community and among the various Somali clans and subclans to justify Somali separatism. As long as Somalis remain divided along clan lines, the argument goes, the very conflicts that led to the destruction of the Somali state will prevent them from unifying as one people. Thus, while the mosque is a place where they can come together as one people, it has also become the Somalis’ own petty fortress. Just as the Prophet Mohammed condemned tribalism while at the same time cleverly using it to bring the Muslim people together\(^\text{344}\) and Siad Barre, Somalia’s last dictator, called for an end to clan rivalries while ultimately maintaining himself in power by playing on such rivalries,\(^\text{345}\) the Somali elders may be entrenching themselves in power by defining the Somalis in opposition to the people of Lewiston.

It is important that Lewiston public officials, in a benign effort to strengthen ties with the Somali leadership, not accommodate practices that marginalize women or groups such as the Bantu. Indeed, the Somali experience in Lewiston underscores the limits of a policy of multicultural accommodation. Ayelet Shachar warns that a policy of accommodation, while protective of group rights, risks infringing on the rights of women and cultural minorities.\(^\text{346}\) Shachar discusses the crucial role that women play in constructing a group’s collective identity vis-à-vis the wider society:

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\(^\text{342.} \) Walzer, supra note 234, at 39.


\(^\text{344.} \) See Salzman, supra note 279, at 137-38.

\(^\text{345.} \) Lewis, supra note 147, at 262-63.

\(^\text{346.} \) Shachar, supra note 10, at 51.
idealized and gendered images of women as mothers, caregivers, educators, and moral guardians of the home come to represent the ultimate and inviolable repository of “authentic” group identity. These images of “idealized womanhood” become cultural markers that help erase internal diversity and disagreement, while concurrently allowing both minority and majority leaders to politicize selective and often invented boundaries between the “self” and the “other.”

In Lewiston, the limit of group-based norms is well illustrated by the Somali community’s response to the problem of domestic violence. Notwithstanding the important role played by social networks in the Somali community, they have not served as effective alternatives to state-sponsored protections. Somali women who seek protection within their communities are often scolded for not being better wives. Those who go to the police or to a women’s shelter face social ostracism by the community and may be forced to begin new lives elsewhere. The Somali community’s approach to domestic violence as a private family matter suggests that in this area, group-based norms are not deserving of deference, and that there is a need for a broader community response.

As Somali elders attempt to keep certain challenges facing the Somali community out of the public spotlight, Somali leaders and Lewiston officials must distinguish between those problems that are distinctly Somali and require a Somali solution, such as clan rivalries, and those issues, like domestic violence, female genital mutilation, and discrimination against low caste and minority clans, that may require a state or local response. One of the areas where city administrators have confronted tensions among community norms at the national, local, and group level and developed a local response has been with regard to religious accommodation in the public schools. The City of Lewiston and its public school system have walked the fine line between the First Amendment’s free exercise clause and its establishment clause, making extraordinary efforts in recent years to accommodate the religious and cultural differences of ethnic Somalis, including through formal and informal policies for dress, prayer, and dietary restrictions. As noted, city administrators’ considerable deference to the Somali elders in implementing the new policy raises substantial establishment clause concerns and may not have taken into sufficient

347. Shachar, supra note 10, at 51-52.
348. Interview with A.Z., B.Y., and C.X., supra note 12; Interview with Patricia Buck, supra note 141; Interview with Heather Lindkvist, supra note 12.
349. Interview with Patricia Buck, supra note 141.
350. Although no reported cases of female genital mutilation (FGM) were found occurring within the Somali community in Lewiston, FGM, which was regularly practiced in Somalia and in the refugee camps in Kenya, is still practiced by Somalis in the United States. See, e.g., Song, supra note 62, at 166-68; see also Personal Statement of K.P. (Aug. 1, 2008) (on file with author).
351. See supra text accompanying notes 252-253.
consideration the views of Somali Muslims embracing a less conservative view of Islam. Nonetheless, it demonstrated the capacity of the Somalis to work with government officials to achieve a solution to a divisive social issue.

In contrast, France has veered to the opposite extreme, prohibiting, in the best-known example, "ostentatious religious symbols" in the public schools.\(^\text{352}\) The headscarf example, like the Council of State’s decision denying citizenship to Faiza Silmi, underscored the potential incompatibility in France between national community norms and group norms. Just as the French government’s decision to ban the headscarf in public schools effectively resulted in strict Muslims pulling their daughters out of public schools,\(^\text{353}\) the denial of French citizenship to Faiza Silmi was likely to make her even more dependent on her male relatives for protection. Ironically, Faiza Silmi’s conformity to the cultural and religious values of her family and her community was treated as evidence of her failure to assimilate to “core” French values of gender equality. To qualify for French citizenship, Ms. Silmi, who was eligible for citizenship through her spouse, apparently would have had to place herself in the untenable and potentially dangerous position of challenging gender roles within her family and her community.

The French example should be understood as a cautionary tale by U.S. policymakers at the national, state, and local levels. Today, nationalists in the United States have once again questioned the concept that loyalty to the United States is compatible with other ties of affection,\(^\text{354}\) with some political theorists debating the compatibility of Islam with liberal democracy.\(^\text{355}\) In France, offi-
cials were troubled by the fact that Faiza Silmi indicated no interest in politics or voting. The Council of State defined her belief system as "radical" because she believed in a woman's submission to her husband and the Islamic principle that women should not "draw men's gazes," values of modesty and a woman's proper role within the family that were seen as Western values only a few generations ago and would be considered the epitome of good moral character within her community.

Like French citizenship norms, U.S. naturalization law, as applied, often has reflected its own set of core values. There is a tension in the case law between those judges embracing a "core culture" model of citizenship rooted in Christianity and English Common Law and those endorsing a more liberal view of citizenship. Although early case law on good moral character defined community norms in terms of the values and practices of the host community and the immigrant community, it gradually evolved to define community standards in terms of state or local law, with a particular focus in the forties and fifties on state sexual mores legislation. The progression of the good moral character case law away from its emphasis in the 1940s and 1950s to a modern focus on conduct deemed harmful to the public is consistent with classic liberalism, which limits the state's power over the individual to those situations where the individual's conduct causes harm to the interests of others.

As discussed above, the good moral character bars for practicing polygamy and willful failure to support dependents loom as major obstacles for some Somalis, particularly Somali Bantus. Although the obsession in naturalization law with sexual mores appears to have dissipated since the Nemetz decision in 1981 and the removal of adultery as an automatic bar that same year, polygamy remains a taboo practice under the U.S. immigration laws. Such marriages, even if valid where performed, are still considered void as a matter of public policy and are seen as contrary to the laws of nature as recognized in Christian countries. Polygamy thus continues to remain on the illicit side of the divide between licit and illicit sex.

Noncitizens, 28 St. Mary's L.J. 833, 864-65 nn. 166-68; see also Neuman, supra note 80, at 253 n.43.


357. Id.

358. See supra text accompanying notes 104-111.


360. John Stuart Mill, On Liberty and Other Essays 14 (John Gray ed., Oxford Univ. Press 2008) (articulating the "harm principle," which contends that power can only be exercised over a member of civilized society, against his will, to prevent harm to others).

361. See supra text accompanying notes 131-141.


363. See Dubler, supra note 130, at 763-65.
Polygamy, like the issue of female genital mutilation, presents a thorny issue for the Somali community. The U.S. government knowingly admitted Somali refugees who had been practicing polygamists. To the extent that these families reunite in the United States, they face renewed accusations of practicing polygamy. Yet, as discussed above, failure to support dependents also constitutes a discretionary bar to good moral character, putting non-custodial parents in an untenable situation. One Somali Bantu pointed out the irony that U.S. society tends to overlook adultery, particularly when it occurs clandestinely, but is mortified by the idea of a man maintaining separate households.\textsuperscript{364} Consistent with liberal values, naturalization law should continue to move in the direction of defining good moral character in terms of those practices that are harmful to the public. To the extent that underage girls are forced into polygynous marriage, it is cause for serious concern. To the extent that Somali men are attempting to fulfill their social obligations to their previous families, these continuing ties should not serve as a basis for denying them citizenship.

The Naturalization Unit can use norms such as the English language and good moral character requirements as tools for membership closure, applying facially neutral rules as a means to exclude. Or it can see U.S. citizenship as a tool for integrating immigrants into the life of a community and interpret citizenship requirements generously to embrace eligible Somalis and other immigrants seeking full membership. In addition, a greater commitment should be made at the national level to encourage immigrants and refugees living within cultural enclaves to naturalize and to support local programs for their integration. This is particularly important in cases of secondary migration where refugee groups resettled in urban areas have chosen, like the Somalis, to relocate to communities without adequate infrastructure.

Although many Somalis in Lewiston still embrace a more instrumental approach to naturalizing consistent with Professor Neuman's unilateral liberal model,\textsuperscript{365} choosing to naturalize only when it is in their private self-interest,\textsuperscript{366} other Somalis in Lewiston see U.S. citizenship as the key to full civic engagement, whether through participation on the downtown neighborhood task force, in city council meetings, or through volunteer work in public school.\textsuperscript{367} They are critical of fellow Somalis who choose not to participate in public affairs unless they or their families are directly affected.\textsuperscript{368} Nonetheless, like Faiza

\textsuperscript{364} Interview with I.R., supra note 141.

\textsuperscript{365} Neuman, supra note 80, at 238-39.

\textsuperscript{366} See Interview with D.W., supra note 50; Interview with G.T., supra note 50; Interview with H.S., supra note 195. G.T. recounted how many Somalis naturalize in order to obtain a U.S. passport to travel back to Somalia, while H.S., who provides citizenship outreach services to the elderly, described how others, particularly the elderly, do so to maintain their eligibility for public benefits.

\textsuperscript{367} See Interview with Ismail Ahmed, supra note 12; Interview with E.V., supra note 12.

\textsuperscript{368} See Interview with E.V., supra note 12.
Silmi’s decision to appeal her case to the French Council of State, it is arguable that the Somalis’ willingness to engage the public school system in a discussion of what degree of religious accommodation was appropriate or permissible is consistent with a model of citizenship that views civic engagement as a core goal. Just as it is possible for Americans simultaneously to be members of their local community, their religious community and the national community, and for Somalis to be simultaneously Somalis, Muslims, and members of their particular clan, it should be possible for Somalis in Lewiston to rely on their strong cultural and religious ties to their community while simultaneously seeking membership within the broader community and, ultimately, U.S. citizenship. Fortunately, the Somalis of Lewiston have several community leaders who have been willing to challenge Somali elders to abandon isolationism and to work towards a model of civic engagement in which Somalis are treated as and consider themselves to be full members of the broader community.

Conclusion

Over seven years have passed since the first group of Somali refugees relocated to Lewiston. It remains to be seen whether this social experiment in our country’s whitest state will succeed or whether the Somali elders will eventually send scouts in search of a new home. For the time being, the voices of liberalism in the local community have prevailed over the voices of nationalism and insularity, and the Somali community has been embraced by citizens, government leaders, and social service providers committed to ensuring their integration into the social fabric. A growing number of Somalis have chosen the pathway to U.S. citizenship, many for instrumental reasons, such as obtaining a U.S. passport, while others have done so to participate fully in the life of the community. Countless Somalis, particularly the elderly, women, and members of the Somali Bantu community, face obstacles to citizenship, but social service providers have demonstrated an expanded commitment over the last few years to assist them through this process. Many educated members of the Somali community embrace a definition of “acculturation” that enables them to choose which values of American culture to accept and which to reject, in a country in which it still is possible to be both Somali and a U.S. citizen.

At the same time, government officials at both the national and local levels must be aware of intragroup barriers to U.S. citizenship and integration and the tendency within some immigrant and refugee communities to see U.S. citizenship as a choice between assimilating to American values and maintaining their cultural identity through religious and cultural separatism. They must be sensitive to the public-private divide in U.S. law, respecting social networks as a source of social solidarity but taking care not to endorse practices that violate women’s rights, like domestic violence, forced marriage, or female genital mutilation. Although multiculturalism is not necessarily inconsistent with modern liberal perspectives on citizenship, in some cases multicultural accommodation and nationalism, while described as polar opposites on the ideological spectrum, may in practice be mutually reinforcing. Either approach can impede ef-
forts to integrate immigrants into the American mosaic, while permitting nationalistic tendencies in both U.S. and immigrant cultures to thrive. To the extent that officials attempt to accommodate religious and cultural differences without being sensitive to these tendencies, they run the risk of marginalizing women and other groups living within ethnic enclaves.