

No. 25A443

IN THE
Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, *et al.*,
Applicants,

v.

STATE OF ILLINOIS AND THE CITY OF CHICAGO,
Respondents.

**BRIEF FOR INTERFAITH ALLIANCE FOUNDATION
AS AMICUS CURIAE IN SUPPORT OF RESPONDENTS**

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INTEREST OF AMICUS CURIAE¹

Amicus curiae Interfaith Alliance Foundation is a network of people of diverse faiths and beliefs from across the country working together to build a resilient democracy and fulfill America's promise of religious freedom and civil rights for all. Since its founding in 1994, Interfaith Alliance has worked tirelessly to defend the values that define this nation—values of inclusion, dignity, and the protection of everyone's right to believe and worship as they choose. Interfaith Alliance strives to build a strong, inclusive democracy that respects the inherent dignity of all people, affords each person the freedoms of belief and religious practice, and guarantees to all the opportunity to thrive.

Interfaith Alliance has an important interest in the outcome of this case because it implicates the First Amendment rights of the Alliance's members and others belonging to diverse faith communities in the United States who regard protesting injustice as an expression of their faith. As in countless other protest movements, religious leaders and lay people have protested against the federal government's immigration-enforcement policies in Chicago by engaging in acts of religious speech and expression. Those activities are protected by the First Amendment. But deploying the National Guard would inevitably escalate tensions in Chicago that have already had a profound chilling effect on those religious freedoms. The district court's order prohibiting the illegal deployment of the

¹ No counsel for a party authored this brief in whole or in part, and no entity or person, other than amicus curiae and its counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

National Guard in Chicago safeguards First Amendment rights and provides necessary breathing space for Interfaith Alliance's members and others to exercise their religious freedoms.

SUMMARY OF ARGUMENT

For many Americans, publicly protesting injustice is an essential expression of their religious faith. Religious teachings from many traditions urge believers to seek justice and to speak out when they perceive injustice. As a result, faith leaders and religious groups have often played important roles in protest movements around the world, including the U.S. civil rights movement, the South African anti-apartheid movement, and the Polish resistance to communist rule. In the United States, the First Amendment provides multiple mutually reinforcing protections for such protests as expressions of faith, which work in tandem to protect and promote religiously motivated protests.

The proposed deployment of the National Guard in Chicago threatens those First Amendment freedoms. As in other protest movements, religious groups and faith communities have been front and center in peaceful protests against the government's immigration policies in Chicago, including weekly prayer vigils and other religious demonstrations outside the Broadview ICE facility. Those acts of religious speech and expression are protected by the First Amendment, yet they have recently been profoundly chilled by confrontations with federal agents. Allowing the government to deploy armed National Guardsmen in response to those protests would threaten to escalate an already volatile situation and, given that

soldiers are trained for combat rather than civilian policing, would raise the specter of military-civilian confrontations that would undoubtedly worsen the chilling effect on religious expression of peaceful protesters. Even if no violent incidents occurred, the mere presence of soldiers at a protest would predictably chill the exercise of the First Amendment rights to free expression, free exercise of religion, and peaceable assembly. Those core constitutional guarantees deserve judicial protection when the government broadly claims that emergency conditions justify highly unusual measures, as it has done here. Because the district court acted appropriately to safeguard constitutional rights, the application for a stay should be denied.

ARGUMENT

I. PEOPLE OF MANY FAITH TRADITIONS HAVE LONG ENGAGED IN PEACEFUL PROTEST AS A VITAL COMPONENT OF THEIR RELIGIOUS EXPRESSION

A. Many Faith Traditions Call Believers To Protest Injustice

Americans of many faith traditions are called to protest, among other First Amendment activities, as an expression of their religious commitments to rectify injustice and pursue righteousness. That principle holds true broadly across many faith traditions practiced in the United States.

Jewish tradition emphasizes the obligation to pursue “tzedek,” the concept of righteousness or justice. The Book of Deuteronomy commands believers: “Justice, justice shall you pursue . . .” Deuteronomy 16:20. The Hebrew term “tikkun olam” (“repairing the world”) refers to the Jewish social responsibility to promote a more just world through both individual action and public policy, including through acts of peaceful protest. The Hebrew Prophets protested injustice in their own times, and

American Jews follow that example through prophetic advocacy today, often through Jewish institutions, echoing the Prophet Micah's words: "He has shown you, O mortal, what is good. And what does the Lord require of you? To act justly and to love mercy, and to walk humbly with your God." Micah 6:8.

Dharmic traditions such as Hinduism, Buddhism, and Sikhism underscore the concept of dharma—engaging in a right way of living, that has sometimes been translated as "justice" or "righteousness." That concept includes a moral responsibility to follow a path of righteousness in society at large, including through the practice of seva, or selfless service toward others. Protesting injustice is a vital component of that responsibility. For example, as the Sikh Coalition has recently explained, "the Sikh faith tradition has a long and proud history of standing against injustice[]," which "runs in lockstep with the central nature of the rights to free speech and protest in the American story and democratic experiment." Letter from Sikh Coalition to Assistant Att'y Gen. for Civ. Rts. Nominee Harmeet Kaur Dhillon (Dec. 19, 2024), <https://perma.cc/YXQ7-Y94T>.

For Muslims, the Qur'an teaches that "God commands justice, the doing of good." Qur'an 16:90. Believers are called to "stand out firmly for justice as witnesses to God." Qur'an 4:135. Indeed, the command to enjoin what is good and forbid what is evil is repeated throughout the Islamic texts of the Qur'an and hadith; it can therefore be considered an act of worship for Muslims to call their fellow Americans toward justice, including through public protest.

For Christians, Jesus protested injustice in the temple by clearing the moneychangers and turning over their tables. Matthew 21:12. He also taught his followers, “Blessed are those who are persecuted because of righteousness,” Matthew 5:10, and that the greatest commandment is to love God and love your neighbor as yourself, Mark 12:30-31. In Matthew 25, Jesus teaches that nations will be judged for how they treated the most vulnerable. These teachings have led many Christians throughout history to challenge unjust policies and regimes. For example, the United States Conference of Catholic Bishops set forth “a commitment to resist manifest injustice and public evil with means other than force. These include dialogue, negotiations, protests, strikes, boycotts, civil disobedience and civilian resistance.” U.S. Conf. of Cath. Bishops, *The Harvest of Justice is Sown in Peace* (Nov. 17, 1993), <https://perma.cc/NL68-FFAT>. The Bishops cite examples of effective protests by Catholics around the world to “demonstrate the power of nonviolent action, even against dictatorial and totalitarian regimes.” *Id.*

For Protestants in particular, the Reformation stands as one of the most consequential examples in human history of the essential nature of protesting as an expression of faith. The United Methodist Church, the United States’ largest mainline Protestant denomination, states in its Social Principles its “support [for] those who, acting under the constraints of moral conscience or religious conviction and having exhausted all other legal avenues, feel compelled to disobey or protest unjust or immoral laws. We urge those who engage in civil disobedience to do so nonviolently and with respect for the dignity and worth of all concerned.” United

Methodist Church, *Social Principles: The Political Community*, <https://perma.cc/3QLJ-RJ38> (last visited Sept. 9, 2025). The Southern Baptist Convention, the nation's largest evangelical Protestant denomination, similarly endorsed a resolution in 1993 opposing "the passage of any legislation which would have the effect of denying First Amendment freedom of speech rights, especially as a means of responsible, non-violent protest at abortion clinics." S. Baptist Church, *Resolution On The Freedom Of Choice Act, Hyde Amendment* (June 1, 1993), <https://perma.cc/9MDX-TCX2>.

B. Faith Communities Have Played A Central Role In Protest Movements

Reflecting these principles, faith communities and leaders have played a central role in protesting and resisting injustice in the United States and around the world. From early American abolitionists preaching against the sin of slavery to Tibetan monks leading calls for independence, countless examples could be catalogued. A few examples amply demonstrate the point.

The Civil Rights Movement. The civil rights movement of the 1950s and 1960s in the United States, largely led by Black churches and faith leaders, offers a prime example of the central role played by faith communities in protesting injustice. See, e.g., Wendell Bird, *Religious Speech and the Quest for Freedoms in the Anglo-American World* 296 (2023).

Religious beliefs inspired many of the movement's leaders, for whom nonviolent protest constituted an act of religious expression. Reverend Dr. Martin Luther King Jr.'s *Letter from a Birmingham Jail*, for example, analogized his own

exercise of “the First Amendment privilege of peaceful assembly and protest” to “the refusal of Shadrach, Meshach and Abednego to obey the laws of Nebuchadnezzar” and to “the early Christians, who were willing to face hungry lions and the excruciating pain of chopping blocks rather than submit to certain unjust laws of the Roman Empire.” Rev. Dr. Martin Luther King Jr., *Letter from a Birmingham Jail* (Apr. 16, 1963), <https://perma.cc/4HMY-GZ63>. Similarly, in forming the Southern Christian Leadership Conference, Dr. King and fellow ministers Reverend C.K. Steele and Reverend Fred Shuttlesworth wrote that they “ha[d] no moral choice, before God, but to delve deeper into the struggle—and to do so with greater reliance on non-violence and with greater unity, coordination, sharing and Christian understanding.” Press Release, Montgomery Improvement Association, *Bus Protesters Call Southern Negro Leaders Conference on Transportation and Nonviolent Integration* (Jan. 7, 1957), <https://perma.cc/8845-MP7D>.

Against that backdrop, religious speech was a hallmark of “each of the major campaigns of the modern civil rights movement that Dr. King led: the Montgomery bus boycott, the Birmingham marches to city hall, the March on Washington, the Selma march to the state capital, and the Memphis sanitation workers’ strike.” Bird, *supra*, at 316. And Congress recognized to the faith community’s moral leadership on civil rights issues. Senator Hubert Humphrey, floor manager of the Civil Rights Act of 1964, “felt that the churches were ‘the most important force at work’” supporting the passage of the law. James F. Findlay, *Religion and Politics in the Sixties: The Churches and the Civil Rights Act of 1964*, 77 J. Am. Hist. 66, 66

(1990). Passage of the Civil Rights Act followed in no small part from “[m]assive demonstrations in southern cities, orchestrated by Black religious leaders,” and other First Amendment activities undertaken by a broad coalition of church leaders and members. *Id.* at 71; *see also, e.g., id.* at 80 (noting the “round-the-clock vigil” held by “by Catholic, Protestant, and Jewish seminary students from all over the country” at the Lincoln Memorial leading up to the passage of the Civil Rights Act).

The South African Anti-Apartheid Movement. Faith communities and religious leaders also played an integral role in opposing the apartheid regime in South Africa. “Churches, mosques, synagogues and temples . . . spawned many of apartheid’s strongest foes, motivated by values and norms coming from their particular faith traditions.” 4 *Truth and Reconciliation Commission of South Africa Report*, ch. 3, ¶ 2 (Oct. 29, 1998), <https://perma.cc/7TQK-ZCZH>. In his Nobel Prize acceptance speech, Bishop Desmond Tutu explained the moral imperative underlying his protest of the injustice of apartheid: “God’s Shalom, peace, involves inevitably righteousness, justice, wholeness, fullness of life, participation in decision-making, goodness, laughter, joy, compassion, sharing and reconciliation.” Desmond Tutu, *Nobel Prize Lecture* (Dec. 11, 1984), <https://perma.cc/U6ZM-GU4G>.

Many other religious leaders and community members shared those beliefs and exercised their faith by participating in acts of protest. By the end of the 1980s, “mobilized Christians were in the forefront of the Anti-apartheid struggle.” Tristan Anne Borer, *Church Leadership, State Repression, and the ‘Spiral of Involvement’ in the South African Anti-Apartheid Movement* 126, in *Disruptive Religion: The Force*

of Faith in Social-Movement Activism (1st ed. 1996). The South African Council of Churches and the Southern African Catholic Bishops Conference, for example, treated political activity—including “leading protest marches” against apartheid—“as an integral part of their Christian mission.” *Id.* Clergy from the Anglican, Catholic, Methodist, and Lutheran churches similarly led Good Friday protests seeking the release of political prisoners in 1987. Michael Parks, *S. Africa Clerics, Marchers Pray for Detainees’ Release*, L.A. Times (Apr. 18, 1987), <https://perma.cc/W3VD-YPWJ>.

Polish Resistance to Communist Rule. The Catholic Church provided a locus of resistance to repressive Soviet-backed communist rule in Poland after World War II. The Catholic Church consistently supported freedom movements in Poland, including the 1968 student movement and anticommunist protests by coastal workers in 1970. Wladyslaw Sila-Nowick, *The Role of the Catholic Church in Polish Independence*, 6 N.Y. L. Sch. J. Int’l & Comp. L. 703, 706 (1986). Pope John Paul II’s 1979 pilgrimage to his native Poland and landmark Warsaw homily “pav[ed] the way for democratic changes” while “inspir[ing] future freedom fighters in other parts of the Soviet empire.” Filip Mazurczak, *First Visit to Poland Led to Iron Curtain’s Fall, Historians Say 45 Years After St. John Paul II Landmark Trip*, Detroit Catholic (May 31, 2024), <https://perma.cc/DA2M-EUVY>; *see also* The Holy See, *Homily of His Holiness John Paul II, Victory Square, Warsaw, 2 June 1979*, <https://perma.cc/X759-7UB4>. And as the communist regime imposed increasingly restrictive martial law to suppress the Solidarity movement in the 1980s, “people

looked more and more to the church hierarchy to speak for them, to give voice to their frustration and outrage.” Nina Darnton, *The Subtle Power of the Polish Church*, N.Y. Times (June 6, 1982), <https://perma.cc/D377-F85F>. The Catholic Church became the focal point of organized resistance to martial law and “the forum within which people gathered, manifested their opposition, [and] exchanged information.” Zdzislawa Walaszek, *An Open Issue of Legitimacy: The State and the Church in Poland*, 483 *Annals of the Am. Acad. of Pol. & Soc. Sci.* 118, 133 (1986).

The Church’s opposition to communist injustices was not costless. Father Jerzy Popieluszko “often preach[ed] about the intersection of moral duty and political activism in sermons sharply critical of the Polish Communist government and the political violence visited on communities by the notorious Polish Security Service.” Robert F. Kennedy Hum. Rts. Ctr., *Father Jerzy Popieluszko*, <https://perma.cc/WFE4-Q3JL>. After failing to intimidate or silence him, agents of the Polish Security Service murdered him in 1984. *Id.* For many Polish Catholics, Father Popieluszko “became a symbol of resistance—a symbol that became even more powerful when he was kidnapped, beaten and killed” for his faithful resistance to the abuses of the communist government. Voice of Am., *Popular Hero and Activist Priest Beatified in Poland* (June 6, 2010), <https://perma.cc/R24J-N7S4>. Those tragic events reveal the significance of peaceful political protest as an essential expression of religious faith in many traditions and the leadership of faith communities in advancing justice and democracy through protest movements around the world.

II. THE INJUNCTION PROTECTS THE FIRST AMENDMENT RIGHTS OF FAITH-BASED PROTESTERS IN CHICAGO

In keeping with these traditions, religious groups and leaders have been at the forefront of peaceful protests regarding the government’s immigration-enforcement activities in Chicago. As the district court noted, the Broadview ICE Facility has been the site of weekly prayer vigils for almost two decades. App. 36a. At those vigils, clergy and lay people have gathered to pray the rosary and to pray for detainees and their families as well as for ICE agents and employees of the Broadview facility. ECF No. 13-6 (Curran Decl. ¶¶ 2-3). As one Catholic priest attested in the district court in this case, those vigils served for him as an “expression of [his] Christian faith and its tenet that [he is] called to welcome [his] brother and sisters who are immigrants.” *Id.* ¶ 4; *see also id.* ¶ 5. Similar faith-led protests have occurred throughout the country. *See, e.g.,* James Queally, *A Curfew—and Faith Leaders’ Calls—Quiet the Night*, L.A. Times (June 10, 2025), <https://perma.cc/4CRN-7X76>; Melissa Gomez, *Faith Leaders Come Together to Defend Immigrant Communities Among Federal Raids*, L.A. Times (June 19, 2025), <https://perma.cc/DHH7-C9RT>.

The First Amendment contains multiple, mutually reinforcing protections for those protests as acts of religious expression. Religiously motivated political protests “lie at the heart of the First Amendment,” *Schenk v. Pro-Choice Network of W. N.Y.*, 519 U.S. 357, 377 (1997), which affords “double protection for religious expression.” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 540 (2022). The First Amendment’s Free Exercise, Free Speech, and Assembly Clauses are all implicated

when government actors suppress religiously motivated protest. *See id.* at 523. As this Court has explained, these overlapping protections for “religious speech” stemmed directly from “the framers’ distrust of government attempts to regulate religion and suppress dissent.” *Id.* at 523-24. The historical record illustrates that “government suppression of speech has so commonly been directed precisely at religious speech that a free-speech clause without religion would be Hamlet without the prince.” *Capitol Square Rev. & Advisory Bd. v. Pinette*, 515 U.S. 753, 760 (1995). Federal courts are thus frequently called upon to protect those interlocking rights in moments of public controversy. *See, e.g., Snyder v. Phelps*, 562 U.S. 443, 448, 455-60 (2011) (upholding First Amendment rights of Westboro Baptist Church members to protest at military funeral).

The First Amendment interests at stake here support the injunction against deployment of the National Guard in Chicago. As the record in this case confirms, the presence of federal agents in tactical gear has already disrupted peaceful prayer vigils outside the Broadview facility and chilled protesters’ protected religious speech and expression. Broadview’s Chief of Police attested below that ICE teams have interrupted protests and religious observances on multiple occasions, including during Friday prayer vigils, and removed protesters—at times through use of physical force and chemical agents. ECF No. 13-5, at 4-7. A Catholic priest attested to the severe chilling effect of the government’s actions:

I am now faced with a difficult choice of faithfully expressing my religious beliefs in the manner I have done so for nearly two decades and expose myself to violence and possible arrest, or stay away, which would stop me from participating in a regular prayer vigil that is an

expression of my faith and beliefs and that I have participated in regularly for nearly two decades.

ECF No. 13-6 ¶ 36. He further explained that he and others could no longer invite students to attend the Broadview vigil for prayer services “in light of the risk of violence they would likely encounter,” chilling his ability to provide religious education. *Id.* ¶¶ 38-40. As tensions have escalated, multiple clergy members participating in protests have been hit with tear gas and pepper balls, including at least one instance in which video footage indicates a Presbyterian pastor was targeted. *See* Esther Yoon-Ji Kang, *Clergy say religious rights are under attack inside and outside the Broadview ICE facility*, WBEZ (Oct. 23, 2025), <https://perma.cc/J3G5-DB25>. And when faith leaders organized a mass outside the Broadview facility in observance of All Saints Day and Día de los Muertos, ICE agents rejected their efforts to minister to detainees. *See* Gaby Vinick, *Faith leaders blocked by ICE from delivering Communion to immigrants speak out*, ABC News (Nov. 3, 2025), <https://perma.cc/A37B-7M3G>.

Deploying the National Guard would inevitably escalate tensions in this already-volatile situation and further threaten the exercise of First Amendment rights of religious speech and expression. As the district court aptly observed, the deployment of armed National Guardsmen in Chicago “w[ould] only add fuel to the fire” by increasing the risk of civil unrest and intimidation. App. 83a. That increased potential for violence and resulting chilling effect stems in part, the court explained, from the fact that soldiers are trained for combat; they are not trained to police civilian populations or deescalate conflict in a domestic context. *See* App. 82a-

83a; see also, e.g., *How Mass Deportations Will Separate American Families, Harm Our Armed Forces, and Devastate Our Economy: Hearing Before the Comm. on the Judiciary*, 118th Cong. 3 (2024) (statement of Ret. Maj. Gen. Randy Manner), <https://perma.cc/7P4K-4H34> (“[T]he vast majority of National Guard and virtually all active duty units are not trained for situations where they may be engaged in domestic law enforcement activities.”). And no matter how the soldiers conduct themselves, the mere presence of military forces, who are naturally associated in Americans’ minds with combat, is likely to intimidate many and discourage them from engaging in constitutionally protected protest activity. See *Bissonette v. Haig*, 776 F.2d 1384, 1387 (8th Cir. 1985) (“[M]ilitary enforcement of the civil law . . . may also chill the exercise of fundamental rights, such as the rights to speak freely and to vote, and create the atmosphere of fear and hostility which exists in territories occupied by enemy forces.”), *aff’d en banc*, 800 F.2d 812 (8th Cir. 1986). “First Amendment freedoms need breathing space to survive,” *Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 618-19 (2021) (internal quotation marks omitted), and even the “mere potential” for a military-civilian confrontation “casts a chill” on protected activity that “the First Amendment cannot permit if free speech, thought, and discourse are to remain a foundation of our freedom,” *United States v. Alvarez*, 567 U.S. 709, 723 (2012) (plurality opinion). The district court’s order protects that vital breathing space.

In contrast, the government’s broad reading of 10 U.S.C. § 12406 raises serious constitutional concerns with respect to the freedom of religious expression.

Of course, the First Amendment does not prohibit the government from taking action to restore public order in genuine emergencies. But the level of deference the government demands from this Court in invoking Section 12406 threatens to chill legitimate First Amendment expression in situations far beyond what the Constitution tolerates. The doctrine of constitutional avoidance thus counsels a narrower interpretation limiting Section 12406 to situations involving uncontrolled violence that broadly prevents the enforcement of federal law—conditions that the evidence simply does not substantiate. *See, e.g., United States v. Hansen*, 599 U.S. 762, 781 (2023) (“When legislation and the Constitution brush up against each other, our task is to seek harmony . . .”). Moreover, injunctions safeguarding the First Amendment are always in the public interest. The loss of First Amendment freedoms, even for minimal periods of time, works irreparable harm on the members of the public who would otherwise exercise those rights. *See Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020).

* * *

Protecting First Amendment rights is particularly critical when the government seeks to deploy the military inside our country. Americans have a “traditional and strong resistance . . . to any military intrusion into civilian affairs” that calls for courts to protect civil liberties against any “unlawful activities of the military.” *Laird v. Tatum*, 408 U.S. 1, 16 (1972). That is all the more so when the unlawful deployment of the military interferes with many Americans’ deeply held religious convictions that require them to speak out against injustice they perceive

in the world today. First Amendment principles strongly support the district court's injunction against the unjustified domestic deployment of the military, and this Court should uphold those values by denying the application for a stay.

CONCLUSION

The stay application should be denied.

Respectfully submitted.

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