

Legal Audit of “Project 2025: Mandate for Leadership” – Violations of U.S. and International Law

Introduction

“Mandate for Leadership” (Project 2025) is a 900-page policy blueprint assembled by The Heritage Foundation and allied organizations as a roadmap for the next U.S. administration. This document proposes a radical restructuring of the federal government to implement an extreme conservative agenda. A comprehensive legal audit reveals that many of its prescriptions would violate U.S. constitutional and federal law, international human rights norms, and even principles underlying the Geneva Conventions and the International Criminal Court’s statutes. The plan targets core American civil liberties – free speech, equal protection, due process – and seeks to concentrate power in ways that mirror authoritarian regimes. Below, we detail the most alarming provisions in Mandate for Leadership by topic, flagging potential legal violations and supporting our analysis with citations and case law.

I. First Amendment Threats: Free Expression, Media, and Dissent

Censorship of “Woke” Speech and Ideology: Project 2025 explicitly calls for purging certain viewpoints from public institutions. The Foreword proclaims that “the noxious tenets of ‘critical race theory’ and ‘gender ideology’ should be excised from curricula in every public school in the country”*. It urges that diversity, equity, and inclusion (DEI) programs – labeled “Marxist indoctrination” – be abolished government-wide. These proposals to ban or defund speech and training because of their content or viewpoint run headlong into First Amendment protections. The Supreme Court has long held that the government cannot ban ideas simply because it dislikes them: “If there is any fixed star in our constitutional constellation, it is that no official... can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion” (*West Va. Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943)). For the federal government to condition funding on schools purging certain concepts or to fire employees for participating in DEI initiatives is textbook viewpoint discrimination, which is presumptively unconstitutional. Indeed, Heritage’s plan would institute an ideological litmus test for federal educators and workers: it even suggests treating any employee’s mere participation in a critical race theory or DEI program as “grounds for removal”. Punishing public employees for their viewpoints or associations violates their free speech and association rights (*Pickering v. Bd. of Education*, 391 U.S. 563 (1968)), absent a strong governmental interest. No such interest justifies purging ideas about race and gender that officials deem “radical.” In short, the First Amendment forbids the government from wielding its power to enforce political orthodoxy, whether in classrooms or agencies.

Attacks on Independent Media and Press Freedom: Mandate for Leadership also targets media outlets and online platforms in ways that raise serious First Amendment concerns. The plan calls for stripping the Corporation for Public Broadcasting (which funds NPR/PBS) of all taxpayer funding, explicitly because public broadcasting is deemed a “liberal forum” for news. Every Republican president since Nixon has tried to do this, Heritage notes, and Project 2025 eagerly anticipates finally “cutting off” public media through the budget. While Congress can choose not to fund programs, withholding funds to punish speech because of its viewpoint is

forbidden. In *NEA v. Finley* (524 U.S. 569 (1998)), the Court warned that even funding decisions cannot be “an effort to suppress expression.” Here, Heritage’s rationale is overtly viewpoint-based: public media must go because it’s not ideologically aligned. That raises First Amendment red flags. Likewise, the Project 2025 chapter on the U.S. Agency for Global Media (USAGM) urges placing outlets like Voice of America under direct political “command” to ensure they toe the line. By law, USAGM’s broadcasters are intended to maintain editorial independence and journalistic integrity; turning them into partisan propaganda organs would undermine statutory mandates and free press values.

In the realm of social media, Project 2025 proposes using the Federal Communications Commission (FCC) to reinterpret Section 230 of the Communications Decency Act to discourage content moderation by tech companies. Specifically, the FCC (at Commissioner Brendan Carr’s urging) would narrow platforms’ immunity so that if they “censor” user content, they could be sued. It would also impose “transparency and anti-discrimination rules” on how platforms curate content. This is effectively the flipside of the alleged “Twitter Files” problem: instead of government pressuring platforms to remove disfavored content (as happened in 2020, which Heritage decries), the government would pressure platforms not to remove content (even blatant misinformation or hate speech). Forcing private websites to carry speech they otherwise would remove is a form of compelled speech. Federal courts have struck down state laws attempting this, recognizing that social media companies have a First Amendment right to exercise editorial judgment over content (*NetChoice, LLC v. Moody*, 34 F.4th 1196 (11th Cir. 2022)). Project 2025’s plan for Section 230 – to “ensure Internet companies no longer have carte blanche to censor protected speech” – directly collides with these constitutional principles. It represents government intrusion into private speech decisions, undermining both the companies’ rights and potentially users’ rights if platforms are forced to host harassing or dangerous content. In sum, Heritage’s media proposals display an alarming pattern: reward speech it likes, punish or control speech it dislikes – a pattern antithetical to the First Amendment.

Criminalizing Dissent and Protest: The Heritage manifesto further reveals authoritarian tendencies by how it characterizes and plans to handle public dissent. It lambasts the current Justice Department for focusing on “imaginary... threats” like parents protesting at school board meetings, while “working diligently to shut down politically disfavored speech” online. The clear implication is that a Project 2025 administration would reverse these priorities: stop monitoring right-wing intimidation (e.g. threats to school boards) and instead crack down on left-wing protest and online expression. Indeed, the DOJ chapter vows to “restore law and order” in cities where it claims violent crime by leftist rioters went unpunished. It cites, for example, that many federal cases against Portland 2020 rioters were dismissed or lightly punished, attributing this to partisan bias. The unmistakable message is that future DOJ leadership should aggressively prosecute protesters associated with movements like Black Lives Matter or Antifa. Heritage authors even term the 2020 racial justice protests “riots” that the Biden DOJ handled too leniently.

This raises a double-edged legal concern. First, a blanket policy to treat certain protesters as violent criminals or terrorists because of their viewpoint would violate the First Amendment. Peaceful protest is protected even if the cause is unpopular. Of course, violence or property destruction is not protected – but deciding enforcement based on the protest's political alignment (leniency for one side's protests, zero-tolerance for the other's) is viewpoint discrimination in law enforcement, which offends equal protection and free speech principles. Second, Project 2025 hints at using federal forces in domestic unrest in potentially unlawful ways. In 2020, the Trump administration deployed DHS tactical teams and even considered the Insurrection Act to quell protests. Heritage's plan endorses the view that the federal government should not hesitate to "use all means necessary" to stop rioting and looting. The ACLU warns that Project 2025 would "unleash undue force on protesters" and "violate the First Amendment to target journalists and protestors". For example, during the 2020 demonstrations, federal officers were documented using excessive force and detaining peaceful protesters (and journalists), prompting lawsuits alleging First and Fourth Amendment violations. A repeat or expansion of such tactics – especially if authorized at the highest levels – would likely result in similar constitutional challenges. It could also violate Posse Comitatus restrictions if active-duty military are used for domestic policing (a prospect Project 2025 entertains at the border; see Section III). In short, the blueprint's approach to dissent signals an intent to suppress opposition through intimidation or prosecution, reminiscent of historical authoritarian crackdowns on protest. Such an approach is fundamentally at odds with American constitutional rights to free assembly, petition, and a free press.

II. Equal Protection Erosion: Targeting Immigrants, LGBTQ+ People, and Other Minorities

Project 2025 proposes policies that explicitly single out particular groups for harsh treatment or diminished rights. These raise Fourteenth Amendment equal protection issues and conflict with federal civil rights statutes, as well as America's human rights obligations. We examine three major categories: immigrants, LGBTQ+ individuals, and racial/religious minorities.

1. Immigrants and Asylum Seekers – Mass Detention, Deportation, and Due Process Violations: Nowhere is the Project 2025 agenda more aggressive than in its immigration section (authored by former Trump officials). The plan frankly envisions mass round-ups and deportations. It mandates prioritizing "detention and deportation" to "regain control" of the border. To that end, it would end the practice of releasing migrants on bond or monitoring – instead detaining virtually all undocumented entrants (including asylum seekers) until removal. Specifically, it calls on Congress to change 8 U.S.C. § 1225(b) to remove discretion: aliens "shall be detained" pending proceedings, rather than "may" be. It urges funding for 100,000 detention beds (a massive increase), and even suggests using "large-scale... temporary facilities (for example, tents)" to hold the influx. Incredibly, it recommends moving all unaccompanied children out of HHS custody to DHS, undoing legal safeguards that treat minors differently. And it seeks to eliminate the Immigration Detention Ombudsman's office, an oversight body Congress created in 2020, deriding it as an "impediment" to detention. In sum, the blueprint is preparing for mass internment camps for immigrants, with minimal oversight.

Such proposals collide with constitutional due process and statutory law. The Fifth Amendment's Due Process Clause protects "persons" – including non-citizens – from arbitrary deprivation of liberty. While immigration detention can be used to secure attendance at proceedings, the Supreme Court has imposed limits: Detention statutes are construed to avoid indefinite detention (*Zadvydas v. Davis*, 533 U.S. 678 (2001)), and prolonged detention without individualized bond hearings raises serious due process concerns (see *Rodriguez v. Marin*, 909 F.3d 252 (9th Cir. 2018)). Project 2025's call for mandatory detention of all migrants until removal (which could take months or years) would likely face immediate legal challenge. The policy offers no case-by-case assessment of flight risk or danger – it just presumes every asylum seeker or border crosser must be jailed. Courts have struck down such blanket policies before (e.g. invalidating the Trump DOJ's no-bond policy for asylum seekers in *Damus v. Nielsen*, 313 F. Supp. 3d 317 (D.D.C. 2018)). Additionally, locking up children or family units in tent camps for lengthy periods defies the Flores Settlement and the Trafficking Victims Protection Reauthorization Act (TVPPRA), which set standards for the treatment of minors (generally favoring release to caregivers). Heritage's solution? They propose amending TVPPRA to hand child detainees to DHS for longer-term custody – effectively undoing decades of child welfare protections. This would almost certainly violate those children's substantive due process rights to safety and basic care. Past federal courts have found that cruel conditions or family separations at the border "shock the conscience," violating due process (*Ms. L. v. ICE*, 302 F. Supp. 3d 1149, 1166 (S.D. Cal. 2018), ordering an end to the Trump family separation policy as a constitutional violation). Project 2025 openly contemplates resuming family separations: the ACLU's analysis of the plan confirms it includes "separate families" as a tactic. If implemented, tearing children from parents to deter migration could be deemed cruel, inhuman, or degrading treatment under international law, and plainly unconstitutional by any reasonable court.

Beyond detention, Heritage's agenda seeks to dismantle the asylum system that implements our obligations under the Refugee Act of 1980 and international Refugee Convention. The plan would raise the standard for "credible fear" screenings to the point that few asylum seekers ever qualify for a full hearing. It insists that claims based on gang violence or domestic abuse be categorically barred – even though persecution by non-state actors can qualify for asylum protection (depending on a government's inability to protect, etc.). It urges codifying Trump-era bans like the "transit ban" (which denied asylum to anyone passing through a third country). It promotes "Asylum Cooperative Agreements" to send asylum seekers to other countries (like Guatemala) instead of allowing them to seek U.S. refuge. And it seeks to reinstate the "Remain in Mexico" program (MPP) immediately, forcing asylum applicants to await U.S. hearings in dangerous conditions in Mexico. Collectively, these measures flout international law. The United States is bound by the principle of non-refoulement, which forbids returning a person to a country where they face serious threats to life or freedom. Non-refoulement is a cornerstone of both the 1951 Refugee Convention and the UN Convention Against Torture, to which the U.S. is party. By drastically narrowing asylum criteria and forcing refugees to remain in or be removed to countries where they may be persecuted, the U.S. would violate its non-refoulement obligations. For instance, under Remain-in-Mexico, countless asylum seekers (including families) were assaulted, kidnapped, or killed in Mexican border regions while waiting – a fact well-documented by human rights organizations. Continuing to implement a policy with

foreseeable risk of harm arguably violates the Refugee Convention and CAT (which also prohibits sending someone to a country where they likely face torture). Domestically, these policies conflict with the Refugee Act, which incorporates the Convention's protections into U.S. law (8 U.S.C. § 1158). Courts found aspects of the Trump asylum crackdown unlawful – e.g. rulings that the transit ban violated the Administrative Procedure Act and international law (*East Bay Sanctuary Covenant v. Barr*, 964 F.3d 832 (9th Cir. 2020)). Project 2025 blithely doubles down on these legally infirm positions.

Another radical item is the call to end birthright citizenship for U.S.-born children of undocumented immigrants. Although not stated explicitly in the Heritage text we have, the ACLU and others note Project 2025's authors endorse this idea. Such a move would directly defy the Fourteenth Amendment, which has guaranteed citizenship to all born on U.S. soil (with very narrow exceptions) since 1868. The Supreme Court settled this in *U.S. v. Wong Kim Ark* (169 U.S. 649 (1898)): children born here to foreign parents (even those here without legal status) are U.S. citizens. No executive action can override the Constitution's Citizenship Clause. An attempt to do so – e.g. by presidential order – would be plainly *ultra vires* and certain to be struck down. It would also create stateless children, violating Article 15 of the Universal Declaration of Human Rights, which affirms the right to a nationality.

In sum, immigration proposals in Project 2025 are a minefield of legal violations. They run afoul of due process (mass detention without hearings, family separation), equal protection (singling out immigrant groups for draconian treatment), and statutory and international refugee protections (gutting asylum, refoulement of refugees). If implemented, these policies would invite a barrage of injunctions. They also evoke some of the darkest chapters of history: the mass internment of Japanese-Americans in WWII (deemed unconstitutional by the court of history, if not explicitly overturned until *Trump v. Hawaii*'s repudiation of *Korematsu*) and the turning away of refugees that led to humanitarian catastrophe (the St. Louis incident of 1939, for example, is a haunting parallel cited in discussions of non-refoulement). Project 2025 seems poised to repeat these grave mistakes, in contravention of law and conscience.

2. LGBTQ+ Individuals – Rolling Back Rights and Codifying Discrimination: Heritage's Mandate for Leadership devotes considerable energy to reversing LGBTQ+ equality under the law. These measures raise equal protection and due process issues (for example, privacy and liberty in personal identity), and would violate specific Supreme Court precedents and statutes.

A centerpiece is the aim to erase protections for transgender people across the federal government. In the Department of Defense chapter, the plan bluntly states: “Reverse policies that allow transgender individuals to serve in the military. Gender dysphoria is incompatible with the demands of military service, and the use of public monies for transgender surgeries...should be ended.”*. This would reinstate a ban on military service by transgender Americans, a policy first lifted in 2016 and then re-imposed by President Trump (before being revoked by President Biden). The legality of a transgender ban in the military has been contested; while courts initially enjoined Trump's ban as likely violating equal protection (*Karnoski v. Trump*, 926 F.3d 1180 (9th Cir. 2019)), ultimately the Supreme Court allowed it to go into effect pending appeal (*Trump v.*

Karnoski, 139 S.Ct. 950 (2019)), deferring to military authority. Nonetheless, the ban's premise – that all trans people are unfit to serve – is not grounded in individualized evidence, and contradicts the military's own studies from 2018 finding transgender service feasible without impairing readiness. If reimposed, such a ban would face renewed challenges, especially given evolving jurisprudence that transgender status is protected under sex discrimination laws and perhaps intermediate scrutiny under equal protection (the Ninth Circuit so held in Karnoski). Blanket exclusion would have to be justified under a rigorous standard, which may not withstand factual scrutiny. Moreover, denying medically necessary care (like gender-affirming surgery or hormones) to trans service members or dependents, as the plan advocates, could violate the Fifth Amendment's equal protection guarantee, since the military provides all manner of other medically necessary care. It could also breach Due Process privacy rights if it forces individuals to detransition or suffer in silence to keep their jobs (analogous to how "Don't Ask, Don't Tell" infringed gay service members' rights before repeal).

Perhaps more sweeping is Project 2025's directive to strip LGBTQ+ nondiscrimination protections from federal civil rights enforcement. The Department of Education and Health & Human Services chapters, for instance, instruct the next administration to reinterpret "sex" narrowly to exclude sexual orientation and gender identity. Heritage explicitly complains that the Biden Administration "pushed 'racial equity'...and condoned use of critical race theory," and similarly extended sex discrimination law to include LGBTQ categories. The plan calls for "withdrawing" all federal guidance documents that say Title IX or other laws protect LGBTQ people. It also calls on the President to "restrict the application of Bostock" – the landmark 2020 Supreme Court ruling in *Bostock v. Clayton County*, which held that terminating an employee for being gay or transgender is sex discrimination under Title VII. Heritage notes (correctly) that *Bostock* was limited to hiring/firing in employment, and urges the new administration to refuse to extend that logic to other contexts. Specifically, the blueprint says agencies should rescind any regulations or policies that interpret sex discrimination to include sexual orientation or gender identity (often abbreviated SOGI). This would affect countless areas: employment (Title VII enforcement), education (Title IX protections for LGBTQ students), health care (Section 1557 of the ACA, which HHS under Biden interprets to cover SOGI, protecting transgender patients from denial of treatment), housing (HUD rules), etc. Essentially, Project 2025 seeks to write LGBTQ people out of civil rights law to the maximum extent possible.

Such action directly conflicts with Supreme Court precedent and could be unconstitutional if motivated by bias. *Bostock* is binding law for Title VII – an agency that simply refuses to enforce it or tries to gut its reach could be sued for failing to uphold the law. Indeed, after *Bostock*, lower courts have applied its reasoning to other statutes with identical sex discrimination language (e.g., Title IX, the Fair Housing Act), finding that discrimination against LGBTQ individuals is discrimination "because of sex." The executive branch cannot unilaterally contravene that interpretation without running afoul of the Administrative Procedure Act (as arbitrary, capricious, and contrary to law). For example, if HHS rescinds its Obamacare non-discrimination rule (45 C.F.R. §92) that protects transgender patients, it must justify doing so in light of *Bostock* – a tall order, since *Bostock*'s logic strongly supports trans-inclusive health protections. Additionally, an overt policy of anti-LGBTQ enforcement raises equal protection problems. While sexual

orientation and gender identity haven't yet been declared suspect classifications by the Supreme Court, government action driven by animus fails even rational-basis review (*Romer v. Evans*, 517 U.S. 620 (1996)). In *Romer*, the Court struck down a Colorado constitutional amendment that barred any city or agency from protecting gays/lesbians from discrimination – essentially because it “imposed a broad disability” on one group out of animosity, which is not a legitimate state interest. Project 2025's blueprint is strikingly similar: it seeks to prohibit federal agencies from even recognizing LGBTQ people as protected by existing laws. This could be seen as an impermissible desire to harm a politically unpopular group – the kind of bare animus that *Romer* forbids.

Furthermore, the plan's reversal of LGBTQ rights would violate international human rights commitments. The Universal Declaration of Human Rights guarantees that “all are equal before the law” and are entitled to protection without discrimination (Article 7). Treating LGBTQ individuals as second-class citizens in law enforcement is flatly inconsistent with that principle. Numerous human rights bodies (e.g., U.N. Human Rights Committee) have interpreted protections against sex discrimination to encompass sexual orientation and gender identity. Rolling back those protections would put the U.S. in violation of evolving norms against anti-LGBT persecution. It's worth noting that Heritage's agenda extends beyond neutral non-enforcement – it actively foments discrimination. For instance, it champions expansive religious exemptions to allow businesses or agencies to deny services to LGBTQ people. The HHS chapter calls for issuing a rule to strengthen enforcement of the Religious Freedom Restoration Act (RFRA) so that health providers can refuse procedures they object to on religious grounds. In practice, this has meant allowing providers to deny transgender patients gender-affirming care, or allowing federally funded shelters to turn away transgender women, etc. While RFRA is law, it requires a balancing test – it was never meant to override anti-discrimination laws wholesale. The Heritage blueprint's one-sided emphasis on religious refusals, without regard for the rights of LGBTQ (or women seeking reproductive care), skews the balance and could violate the Establishment Clause if it effectively enshrines one religious viewpoint at the expense of others' rights. For example, a policy that only grants religious exemptions when they result in denying LGBTQ services, but not in other contexts, would indicate a religious favoritism that courts might find unconstitutional (see *Estate of Thornton v. Caldor*, 472 U.S. 703 (1985), striking down a law that gave absolute priority to Sabbath observance over all other interests as an establishment of religion).

In summary, LGBTQ-targeted policies in Project 2025 raise multiple legal red flags. They collide with *Bostock* and Title VII (failing to faithfully execute the law), potentially violate equal protection (if driven by animus, as the breadth suggests), and infringe on privacy and liberty (by imposing traditional gender norms via law). They also send the U.S. backward on the global stage, contravening the inclusive direction of human rights law. If implemented, these proposals would almost certainly face injunctions – much as courts enjoined the Trump administration's attempted transgender military ban and its removal of trans health care protections (*Walker v. Azar*, 480 F. Supp. 3d 417 (E.D.N.Y. 2020)). The Constitution does not permit singling out a minority for disfavor without exceedingly persuasive justification, which Project 2025's culture-war rationales cannot supply in court.

3. Racial and Religious Minorities – “Colorblind” Rollbacks and Sectarian Preferences: Heritage’s manifesto also takes aim at policies designed to assist racial minorities, and it embeds a specific vision of religious freedom that tilts toward one religious ideology. These too present legal issues.

On race, Project 2025 reflects a zero-sum, “colorblind” ideology that would roll back many civil rights enforcement mechanisms. For instance, the Department of Justice chapter recommends to “Eliminate Racial Classifications and [Critical Race Theory] Trainings,” condemning the Biden Administration’s emphasis on “racial equity” and use of diversity initiatives. It suggests the government should stop collecting race-based data in workplaces (by eliminating the EEOC’s EEO-1 reports) and aggressively police any workplace diversity efforts as unlawful “preferences”. Ironically, while claiming to enforce nondiscrimination, this approach could undermine enforcement of civil rights laws meant to protect minorities. For example, disparate impact analysis under Title VI or VII often depends on data – if agencies cease collecting racial data, identifying systemic discrimination becomes harder. Likewise, by forbidding any consideration of race in hiring or contracting, even for remedial or inclusive purposes, the government could be hobbling its own ability to remedy past discrimination. The Supreme Court’s recent decision in *Students for Fair Admissions v. Harvard* (2023) did prohibit race-conscious college admissions, but it did not outlaw all race-aware policies (especially in employment or government programs where remedial justifications might apply). Heritage’s blanket stance could conflict with executive duty to enforce civil rights laws fully and fairly. It may also violate the Equal Protection Clause if it is applied unevenly. Notably, the plan’s insistence on ending “disparate impact” enforcement in Title VI (education) means that policies racially neutral in form but discriminatory in effect would go unchecked. This runs contrary to decades of precedent (e.g., *Griggs v. Duke Power*, 401 U.S. 424 (1971)) and could particularly harm racial minority communities by allowing tacit discrimination to proliferate.

Furthermore, Project 2025’s drive to purge “critical race theory” and any discussions of systemic racism from government training, schools, and even the military is targeting a viewpoint associated with advocating for racial justice. This raises First Amendment concerns analogous to those discussed above – the government cannot suppress dialogue on racism simply because some officials label it divisive. Several federal courts have enjoined state “anti-CRT” laws in schools on First Amendment grounds (see *Coalition for Equity v. Austin*, 2022 WL 983159 (W.D. Mich. Mar. 29, 2022)), recognizing that wholesale bans on concepts like systemic racism or white privilege are likely unconstitutional viewpoint suppression. A federal government attempt to do likewise, by conditioning funding on schools not teaching certain concepts, would face similar challenges. Indeed, *Mandate for Leadership* explicitly says “States, cities and school boards...who disagree [with our view of parents’ rights] should be immediately cut off from federal funds.”* This is an extraordinary threat to coerce local governments into banning “indoctrination” (Heritage’s term for teachings on race, gender, etc.). Not only is that constitutionally suspect spending coercion – the Supreme Court in *NFIB v. Sebelius* (567 U.S. 519 (2012)) held that the feds cannot cut existing funding to force states into a new policy, calling it “a gun to the head” – but it also infringes academic freedom and state sovereignty. The

federal government cannot commandeer state educational curricula by financial blackmail, especially to enforce an ideological viewpoint (that racism is only to be taught in certain terms). This undermines both the Tenth Amendment's reservation of educational policy to states and the First Amendment rights of educators and students.

As for religious minorities, the document's tone signals a preference for a certain brand of conservative Christianity in public policy. Heritage emphasizes "Judeo-Christian" values and frames fights against LGBTQ rights and abortion as matters of "religious freedom". For example, USAID is urged to make international aid contingent on alignment with the Geneva Consensus Declaration, a document opposing abortion and affirming traditional family values. Domestically, the plan seeks to empower religious employers and medical providers to opt out of laws they dislike (RFRA exemptions). While protecting religious exercise is laudable, these policies can cross into establishment of religion if they elevate certain religious doctrines (e.g. that life begins at conception, or that gender is binary and God-given) into law at the expense of others' rights. The First Amendment's Establishment Clause prohibits the government from favoring one religion or imposing religious dogma. If Project 2025 were to, say, ban abortion nationwide on explicitly religious grounds or fund only organizations that espouse certain religious beliefs, this would trigger legal challenges. In *Stone v. Graham* (449 U.S. 39 (1980)), the Court struck down even posting the Ten Commandments in schools, noting the government must have a secular purpose. Many Project 2025 initiatives (such as defunding any sex education that isn't abstinence-only, or allowing broad denial of healthcare on faith grounds) may lack a plausible secular purpose other than enforcing sectarian morality. Additionally, privileging religious objections to laws (when that causes harm to third parties) has been curtailed by the Supreme Court in contexts like contraception coverage (see *Burwell v. Hobby Lobby*, 573 U.S. 682 (2014), and *Zubik v. Burwell*, 578 U.S. 403 (2016) – allowing exemptions but also prompting accommodations to ensure women still received coverage). If Heritage's vision were adopted, say by eliminating the DOJ's enforcement of the Matthew Shepard Hate Crimes Act (which they imply is misused to protect LGBTQ victims), or by instructing federal agencies to give absolute deference to religious claims even when they result in discrimination, this could violate the equal protection rights of non-adherents. Non-Christian and minority faith Americans might face a government that seems to officially endorse particular religious doctrines, contrary to the pluralism the Constitution guarantees.

In summary, racial and religious minority rights would be eroded under Project 2025 in ways that conflict with law. The aggressive "anti-CRT" stance and dismantling of affirmative initiatives ignore that the Constitution's equal protection is not a tool to suppress efforts at inclusion. While the Supreme Court has moved toward colorblindness, it still permits narrowly tailored remedies for past discrimination and certainly allows data collection to identify bias – Heritage's plan to banish "disparate impact" analysis would undermine enforcement of Title VI, Title VII, and more. And injecting sectarian preferences into policy (through expansive religious exemptions or moral litmus tests for aid) edges into unconstitutional establishment. Taken together, these proposals betray a desire to solidify majority dominance (of a particular race, religion, and ideology) by using state power to hamstring minority advancement. That vision stands in direct tension with the Reconstruction Amendments and Civil Rights Act of 1964's mandate to proactively achieve

equal opportunity regardless of race or creed. It also violates the Universal Declaration of Human Rights, which proclaims that everyone has the right to education and participation in cultural life free from discriminatory interference (UDHR Arts. 26 and 27) – rights jeopardized when curricula are censored and minority cultures are marginalized by law.

III. Undermining Democratic Checks and Balances: Executive Overreach and Erosion of Rule of Law

Project 2025 is not subtle about its intent to dramatically expand presidential power and diminish the independence of other institutions. In fact, Heritage explicitly pitches it as a plan to “dismantle the administrative state” and concentrate authority in the hands of a “conservative President” and his appointees. Many of these structural proposals raise constitutional separation-of-powers issues, threaten the rule of law, and mirror tactics used by autocrats to eliminate institutional checks. We highlight several: the purge of civil service (“Schedule F”), subjugation of independent agencies (including law enforcement), encroachment on legislative and judicial powers, and the enlistment of state governments to entrench authoritarian rule.

Politicizing the Civil Service – “Schedule F” and Loyalty Oaths: A cornerstone of the Mandate is the mantra “personnel is policy.” The document argues that a conservative President’s agenda can be thwarted by career officials who are not ideologically on board. The solution? Purge and replace them. Project 2025 advocates resurrecting Executive Order 13957 (Trump’s “Schedule F”), which created a new category of federal employees in policy roles who could be fired at will. It states plainly: “President Trump’s Schedule F proposal regarding accountability in hiring must be reinstituted” and “Reissue Trump’s Schedule F executive order to permit discharge of nonperforming employees.” In practice, that EO was designed to reclassify potentially tens of thousands of career civil servants (lawyers, managers, analysts) as “Schedule F” and then purge those deemed insufficiently loyal. At the end of 2020, agencies had identified lists of employees to reclassify (and effectively fire) before the EO was repealed on President Biden’s Day 1. Now Heritage wants to do it on Day 1 of 2025, across the whole government. In addition, the blueprint encourages a hiring litmus test: only bring in new officials who are “aligned with the President’s conservative vision” and “willing to execute it”. This politicization of the non-partisan civil service marks a sharp break from the merit-based system established by the Pendleton Act of 1883 and subsequent civil service laws. It harkens back to the 19th-century “spoils system,” where government jobs were rewards for party loyalty. Congress deliberately replaced the spoils system with merit-based hiring to curb corruption and ensure continuity of expertise. Heritage explicitly disdains that model as enabling a permanent bureaucracy that resists change. But under current law, federal employees are protected from removal without cause, and it’s unlawful to hire or fire them due to political affiliation (5 U.S.C. § 2302(b)(3)). Schedule F was a controversial end-run around those laws, and while an incoming President might try to reissue it, expect legal challenges and congressional pushback (indeed, bipartisan bills have been proposed to block Schedule F by statute).

Beyond legality, the constitutional concern is that gutting the civil service undermines the proper execution of the laws. The President has a duty under the Take Care Clause (Art. II, §3) to

faithfully execute laws – which historically has meant relying on a professional bureaucracy to implement congressional statutes fairly and competently. If that bureaucracy is replaced wholesale by political operatives, the risk of unfaithful execution – i.e., enforcing laws only against enemies, or not at all when the law is disliked – increases exponentially. For example, if EPA scientists and lawyers are replaced by climate change deniers and industry lobbyists, environmental laws on the books may simply not be enforced, subverting Congress's intent. The Heritage plan essentially collapses the distinction between political appointees and career staff, which our system has maintained to ensure neutrality and expertise. Legal scholars warn this could violate the spirit of due process and impartial governance – agencies would become openly partisan arms of the President, rather than independent executors of law. In comparative perspective, this tactic closely resembles what Hungary's Viktor Orbán did after 2010: he purged civil servants and filled posts with party loyalists, resulting in a collapse of impartial administration and a rise in cronyism. CAP's analysis notes that Hungary's government, after firing over a thousand career staff "without cause," saw a "significant loss of expertise" and a surge in patronage and corruption. Project 2025 explicitly contemplates the same "wholesale politicization" of the U.S. civil service – a feature of authoritarian governance that erodes rule of law. Aside from being bad policy, it likely violates statutory law and undermines constitutional values of checks and balances (by removing the internal checks provided by an autonomous civil service).

Moreover, the plan goes even further in suggesting an ideological purge. As noted earlier, it recommends punishing federal personnel who previously supported initiatives like DEI or "critical race theory" training. One section even advises the Treasury Department to consider participation in such initiatives (without objecting) as per se disqualifying for employees. This veers into McCarthy-era loyalty test territory – effectively firing people for their beliefs or associations, which violates their First Amendment rights. The Civil Service Reform Act of 1978 prohibits discrimination against employees for conduct that does not affect job performance, and specifically for partisan or non-merit factors. Firing someone because they attended a diversity training or didn't protest it is not a legitimate "merit" factor; it is punishing speech. Such a purge would invite lawsuits from wrongfully terminated employees arguing violation of their free speech and due process rights (and likely their union rights, since many career federal employees are in unions with grievance processes). In *Elrod v. Burns* (427 U.S. 347 (1976)), the Supreme Court held that public employees generally cannot be fired for their political affiliation, except in high-level policymaking roles, because that infringes their First Amendment association rights. Schedule F sought to classify tens of thousands as "policymakers" to evade *Elrod*, but courts would likely scrutinize whether that label truly applies. If not, mass firings for ideological reasons could be struck down under *Elrod* and related precedents.

Capture of Independent Agencies and Law Enforcement: Project 2025 also seeks to undermine or eliminate any federal institutions that might check the President or operate independent of his direct control. For instance, it targets the Federal Election Commission (FEC) – currently an independent bipartisan commission – by encouraging the new President to appoint loyal commissioners and even to negotiate with the Senate to approve only more pliant Democrats. Normally, by law, the FEC is 3-3 bipartisan and the President defers to the opposite party's

choices for half the seats. Heritage notes this tradition and then essentially says break it if needed: ensure no commissioner (of either party) favors “aggressive overenforcement” of campaign finance, and use DOJ’s control over criminal campaign enforcement to lean on the FEC’s interpretations. This raises separation of powers flags. The FEC is an independent agency created by Congress; the President’s ability to control it is meant to be limited (he can appoint with Senate consent, but cannot fire commissioners at will). Heritage’s advice to “ensure” certain outcomes at the FEC toes the line of improper influence. Also, directing DOJ to only prosecute campaign finance violations that the FEC agrees with – while sounding deferential – could be a cover to never enforce laws the FEC’s Republican commissioners veto. If the administration effectively neuters campaign finance enforcement (e.g. not prosecuting certain violators because they are political allies), that is a violation of the Take Care Clause obligation to faithfully execute the law. Selective non-enforcement for political gain has been deemed an abuse of power historically (and could amount to obstruction of justice in extreme cases).

The Department of Justice (DOJ) and FBI receive special focus in Project 2025, with proposals that threaten their independent investigatory function. Heritage accuses DOJ and FBI leadership of “unprecedented politicization and weaponization” under Biden – citing examples like the Russia investigation, the Hunter Biden laptop affair, and monitoring of school board threats. In response, it calls for a “top-to-bottom overhaul” of DOJ, including overhauling the FBI. Some of the steps explicitly outlined: abolish the FBI’s separate Office of General Counsel, Office of Public Affairs, and Office of Legislative Affairs – forcing the FBI to get all legal advice and communications through Main DOJ. The idea is to collapse the FBI into just another subunit of DOJ, with no semi-independent voice. The FBI has traditionally had its own counsel and Congressional liaison to maintain a degree of autonomy and integrity in law enforcement decisions. Heritage views that autonomy as dangerous “arrogance”. But concentrating all functions under political appointees at DOJ headquarters would facilitate politically motivated meddling in investigations. Heritage explicitly notes this would “serve as a crucial check on an agency that has... pushed past legal boundaries” – implying the political leadership will restrain FBI agents from pursuing cases the administration dislikes. They even urge the President to eliminate any FBI offices “he has the power” to remove without Congress. This might include specialized units that focus on e.g. domestic extremism or civil rights crimes – units the prior administration felt targeted its base.

Perhaps the most chilling is Heritage’s recommendation that the new DOJ review ongoing cases and consent decrees to root out “brazenly partisan” prosecutions. It then says DOJ should “terminate any unnecessary or outdated consent decree” involving the U.S.. This likely alludes to high-profile cases like the January 6 prosecutions, civil rights investigations of police departments, or settlement agreements the Biden DOJ entered (for example, consent decrees to reform local police accused of systemic misconduct). Labeling these “partisan” and halting or unraveling them en masse would be extraordinary. While a new DOJ can shift policy, it cannot simply quash ongoing criminal cases without due process. Defendants in Jan 6 cases have been charged with serious federal offenses; a directive to drop those cases en bloc for political reasons could amount to obstruction of justice (18 U.S.C. §1512) and would certainly violate

DOJ's own regulations intended to insulate prosecutorial decisions from political interference. Career prosecutors might resist or even whistleblow if ordered to selectively dismiss cases based on the defendants' political alignment. Similarly, dissolving police reform consent decrees without regard to whether the underlying violations (excessive force, racial profiling, etc.) have been remedied would show disregard for the rule of law and equal protection for affected communities. A court typically oversees consent decrees; DOJ can't unilaterally withdraw – it must convince a judge that the decree is no longer needed. Blanket instructions to scrap these agreements would face judicial pushback, as judges don't take kindly to sudden reversals not based on factual change.

All of these moves point to a single objective: remove any internal or external check on the President's will within the executive branch. The civil service purge removes internal dissent; the FBI/DOJ overhaul removes independent law enforcement judgment; installing loyalists on independent commissions removes quasi-judicial checks; and threatening states and localities with funding cuts (as mentioned earlier) removes vertical checks. The endgame is a consolidation of power unprecedented in U.S. history. Scholars note this would effectively turn agencies into weapons against political opponents and shields for allies – the very “weaponization” Heritage claims to oppose, but wielded in the opposite direction. It is no surprise that experts have described Project 2025 as a plan to “subvert American democracy” and create a “right-wing authoritarian state.”* Human Rights First observes that the Project coordinates federal and state actions so that “authoritarian federal intentions” are enforced “in lockstep” at the state level. For example, the foreword urges recruiting state legislators to help ban abortion nationally and even to consider prosecuting teachers and librarians who don't comply with the new social policies. Such fusion of party control across federal and state lines is reminiscent of authoritarian one-party states – an American equivalent of Hungary's Fidesz party dominance or Poland's ruling party exerting control over formerly independent institutions. It directly undermines the U.S. federalist design where states can check federal overreach and vice versa.

Legally, these efforts raise Constitutional red flags:

Separation of Powers: The attempt to eliminate independent agencies or turn them into rubber stamps may conflict with Congress's intent in creating them. While the Supreme Court has trended toward allowing more presidential removal power (e.g., *Seila Law v. CFPB* (2020)), it has not given carte blanche to demolish all independent bodies. At a certain point, if the executive refuses to execute large swaths of laws (environmental, labor, etc.) because of politicized leadership, Congress could invoke oversight, funding cuts, or legislation to rein in the executive. A constitutional crisis could ensue if the President simply ignores statutory mandates. For example, if the EPA (under Heritage's influence) flatly refuses to enforce the Clean Air Act against polluters, states or NGOs would sue under the Administrative Procedure Act for abdication of duty – and they might win, as courts can compel agencies to perform non-discretionary duties (5 U.S.C. §706(1)).

Take Care Clause: A President swearing on January 20, 2025 to “faithfully execute the laws” would violate that oath by following Project 2025 to the letter. Faithful execution doesn’t mean maximal execution of only the laws one likes; it means a good-faith effort to enforce all laws. The Project’s mindset that entire areas of law (e.g., environmental regulation, diversity requirements, progressive civil rights enforcement) should be ignored or negated is a breach of the Take Care obligation. While courts are reluctant to police Take Care violations (they often merge with APA unlawfulness), the egregiousness here – openly vowing not to enforce certain laws and to weaponize others – could spur judicial action or even impeachment debates. Indeed, refusing to enforce laws due to policy disagreement was at issue in *United States v. Texas* (2023), where states challenged DHS’s enforcement priorities. Although the Court dismissed that suit on standing, individual parties harmed by non-enforcement might find footing in future cases.

Appointments Clause: Packing agencies with unqualified loyalists can also raise legal issues. Federal law requires that certain positions be filled by individuals with particular credentials or through merit-based processes (for example, administrative law judges). If Heritage’s plan circumvented those – say by hiring “Schedule F” loyalists into roles that statute says must be competitive service – that could be challenged as a violation of the law. The Appointments Clause (Art II, §2) also could be implicated if, for instance, Schedule F tries to convert what are essentially officers of the United States into excepted employees without Senate confirmation. Some legal scholars argued Trump’s Schedule F might have been unconstitutional for this reason: it attempted to make it easier to appoint and remove officers outside the usual process. These are untested waters, but certainly subject to litigation.

In conclusion on this point, Project 2025’s vision of governance would fundamentally alter the U.S. constitutional structure, concentrating power in one branch and one person to a degree not seen before. It seeks to erase the “internal” checks (career expertise, independent prosecutorial judgment) and bypass the “external” checks (Congress, courts, and states) whenever they inconvenience the President’s agenda. As the Center for American Progress summarizes, the Heritage plan “outlines a governing plan to dismantle America’s system of checks and balances” in order to “impose an extreme, far-right agenda.”* Such an outcome is the antithesis of the rule of law. It would move America closer to an autocracy governed by decree – a result that would violate the spirit, if not the letter, of the Constitution’s separation of powers. The comparisons to Hungary, Turkey, and other “backsliding democracies” are apt. In those countries, leaders undermined judicial independence, purged civil servants, and used the levers of power to entrench a permanent majority. Project 2025 unabashedly plots the same course. The legal bulwarks of American democracy – the Constitution, federal statutes, and an independent judiciary – would undoubtedly be tested to their limit in restraining such an agenda. The numerous specific violations outlined above (from defying Supreme Court rulings to breaching treaty obligations) highlight just how “unfaithful” to law this program would be if executed.

IV. Advocacy of Illegal Practices: Human Rights and War Crimes Implications

Finally, we assess whether Project 2025 endorses any practices that would rise to the level of torture, war crimes, or crimes against humanity, as defined in international law. While the document is often couched in bureaucratic terms, the effects of certain proposals could cross those grim lines if carried out on a large scale. Moreover, the rhetoric of the plan – treating various issues as existential “wars” – creates a real risk of extralegal abuses under the mantle of emergency or national security. We address a few key areas: torture and cruel treatment, mass persecution/deportation as crimes against humanity, and misuse of military force.

Torture and Cruel, Inhuman, or Degrading Treatment: Project 2025 does not openly call for a return to torture or “enhanced interrogation” of terrorist suspects, which was a hallmark of early 2000s abuses. However, its silence on safeguarding humane treatment, combined with its “by any means necessary” ethos, is concerning. Notably, former President Trump has in the past advocated torture (e.g., waterboarding and “a hell of a lot worse”), and many Project 2025 contributors are former officials who defended such programs. If a new administration follows Heritage’s hardline approach on national security and terrorism, there is a risk of reviving unlawful interrogation tactics. The U.S. is legally bound by the Geneva Conventions (which prohibit torture and cruel treatment of prisoners of war or detainees in armed conflict) and by the U.N. Convention Against Torture (CAT), which absolutely prohibits torture in all circumstances (and is implemented by the federal Torture Statute, 18 U.S.C. § 2340A). Any policy that authorizes torturous treatment – whether of foreign terrorism suspects or, hypothetically, of domestic detainees – would violate these laws. After 9/11, certain officials tried to redefine torture narrowly to permit abusive techniques, but those memos were later repudiated and the Detainee Treatment Act of 2005 flatly outlawed cruel, inhuman, or degrading treatment by any U.S. agent. Should Project 2025’s security hawks attempt secret detention or abusive interrogation of (for example) suspected cartel members or immigrants alleged to be gang members, it would plainly violate U.S. law and the War Crimes Act (18 U.S.C. § 2441) if in an armed conflict context. We flag this because the plan’s language about cartels – calling them an “unprecedented threat” and a “clear and present danger” requiring possibly military response – echoes the mindset that led to past abuses in the “War on Terror.” A climate that dehumanizes certain groups (migrants, gang members, drug dealers) can foster tacit approval of extrajudicial violence against them. Indeed, using phrases like “unapologetic focus” on dismantling criminal organizations and “assaulting the business model” of cartels suggests a war-like approach where normal legal restraints might be loosened. Civil liberties observers are justified in worrying that torture or inhumane treatment could re-enter through this backdoor, even if not explicitly scripted in the Heritage document. Any such occurrence would put U.S. officials in jeopardy of criminal prosecution domestically (under the Torture Act) and internationally (torture is also a crime against humanity when part of a systematic attack on civilians, and universal jurisdiction allows foreign courts to indict perpetrators, as has happened with CIA “black site” cases in Europe).

Even short of torture, some Project 2025 policies clearly constitute “cruel, inhuman, or degrading treatment” as understood in human rights law. The family separation practice discussed earlier is a prime example. Forcibly taking children from parents, with no plan for

reunification and as a deterrence strategy, inflicted lasting psychological trauma on thousands – which medical experts and human rights advocates characterized as torture or at least cruel, inhuman treatment. The CAT and customary international law forbid such treatment by government officials. If Heritage's plan to separate families and detain children in austere camps is implemented, U.S. officials could face allegations of grave human rights violations. The International Criminal Court (ICC) could even have jurisdiction if it's deemed part of a widespread attack on migrants (though the U.S. is not party to the ICC, some Latin American countries asked the ICC to investigate U.S. family separations as crimes against humanity in 2018). At minimum, it would destroy U.S. moral authority on the global stage – America would join the ranks of violators it usually condemns. The same goes for any abusive conditions in detention: Project 2025's vision of 100,000 detainees in tent cities in the desert, held indefinitely, with minimal oversight (after eliminating the Detention Ombudsman), raises the specter of internment camps breaching basic humanitarian standards. Overcrowding, lack of medical care, and exposure to extreme elements in such facilities could lead to needless deaths or suffering (the world saw this with family detention camps in 2019, where children died of flu and dehydration). Such outcomes could violate due process (as courts found when ordering ICE to improve conditions for detained children, *Flores v. Barr*, 934 F.3d 910 (9th Cir. 2019)) and also offend the U.N. Standard Minimum Rules for Treatment of Prisoners (the "Mandela Rules"). While those are not directly enforceable, CAT's ban on inhumane treatment provides a legal hook. In short, the Mandate for Leadership blueprint, if executed to the extreme, carries a serious risk of crossing into illegal cruelty – for which officials can and have been held accountable (consider the prosecutions of military personnel after Abu Ghraib abuses, or the civil suits against ICE/CBP for abuses in detention).

Crimes Against Humanity – Persecution and Deportation: As requested, we examine whether Project 2025's agenda could constitute war crimes or crimes against humanity under the Rome Statute of the ICC or other instruments. War crimes typically occur during armed conflict (e.g., targeting civilians, using banned weapons) – Heritage's domestic-focused plan doesn't overtly implicate those, except possibly if they use military force unlawfully as discussed below. Crimes against humanity, however, can occur in peacetime and consist of systematic attacks on civilian populations. Relevant definitions (Article 7 of the Rome Statute) include: *"Deportation or forcible transfer of population"*; *"Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law"*; *"Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, gender...or other grounds"*; and *"Other inhumane acts...intentionally causing great suffering, or serious injury to body or to mental or physical health."* If implemented in the broad, systematic way the document envisions, Project 2025 could arguably involve multiple such acts against civilian populations:

The plan for mass deportation of undocumented immigrants – potentially including Dreamers or those long-resident – could amount to "forcible transfer of population." It specifically wants to end birthright citizenship and thus eventually deport U.S.-born children of immigrants (who under current law are citizens). That entails stripping nationality and expelling people from their country, a textbook definition of forcible transfer (if done en masse and by force of law). Deportation is listed as a crime against humanity when part of a systematic attack. The key

question is mens rea: is it being done “intentionally and in a widespread or systematic manner” against a civilian population. Project 2025’s rhetoric of deporting millions to “restore order” suggests scale and systematic approach. The target (undocumented immigrants, largely from specific national groups like Central Americans) is an “identifiable group” (on national/ethnic grounds). If carried out with knowledge of the suffering caused, this could meet the threshold. Historically, mass deportations (even by legal process) have been scrutinized under crimes against humanity – for example, the ICC is investigating Venezuela for alleged persecution through denial of food/medicine to certain populations, and some have argued the U.S.’s family separation policy constituted persecution of migrants. Thus, mass deportation coupled with deliberate cruelty (like separating families to punish them) could be seen as persecution on national/political grounds – especially if motivated by anti-immigrant animus or xenophobic reasons (as evidenced by some officials’ rhetoric describing migrants as invaders or criminals). Persecution is defined as the intentional and severe deprivation of fundamental rights of a group by reason of identity. Denying basic due process and family unity to asylum seekers, in order to deter others, might qualify.

The plan’s treatment of LGBTQ+ people could rise to persecution if it becomes government policy to actively discriminate in all realms and encourage state-level criminalization. The Human Rights First analysis noted Project 2025 works “in lockstep” with state officials to, e.g., jail librarians for LGBTQ+ books. If the federal government coordinates a nationwide campaign that severely deprives LGBTQ individuals of rights (free speech, safety, even parental rights or custody – some proposed state laws aim to do that), it could be viewed as persecution of a group on “gender” grounds, which the Rome Statute includes. The severity must be great – but imagine a scenario where LGBTQ teachers are purged, same-sex families lose legal protections, transgender people are denied ID documents and medical care, and hate crimes spike due to official rhetoric. This is not far-fetched; some of it is already happening in certain states. If federally abetted, it might be argued as a systematic attack on a civilian population (the LGBTQ community). While it’s unlikely U.S. officials would ever be hauled before The Hague for this, the mere fact it parallels actions recognized internationally as human rights violations (e.g., Russia’s persecution of LGBTQ persons has been condemned globally) should give pause. Under domestic law, such policies would violate equal protection and First Amendment rights as discussed – but here we note they also violate the universal human right to live free from persecution.

Large-scale detention in camps of an identifiable group (migrants) could be seen as **“imprisonment or other severe deprivation of liberty...in violation of fundamental rules”* *. If 100,000 people are held in detention without trial (civil detention, but effectively indefinite due to case backlogs the administration itself worsens) and in poor conditions, that’s arguably a severe deprivation of liberty. The fundamental rules of international law – like the Refugee Convention and ICCPR – say you can’t arbitrarily detain people, especially refugees, en masse. The scale and systematic nature (detaining virtually everyone who crosses the border, including families) distinguishes this from ordinary immigration enforcement. It could cross into what the ICC considers a crime against humanity if done intentionally as a policy to inflict harm or deter (the required intent can be inferred from the policy design).

“Other inhumane acts” causing great suffering is a catch-all in crimes against humanity. Family separation of thousands of children, with knowledge of the trauma and mental harm it causes, could fit this category. In 2018, over 1,100 mental health professionals and 17 state attorneys general described family separation as causing “trauma tantamount to torture”. If an international tribunal were assessing it, they might well view intentionally inflicting such suffering on children and parents as an “inhumane act” of comparable gravity to the enumerated crimes.

Of course, these scenarios assume widespread, systematic implementation. If Project 2025 is only partially implemented or checked by courts, it might not reach that threshold. But the blueprint’s ambition is explicitly widespread and systematic – that is its purpose. It envisions Day 1 actions, new laws, and a coordinated effort with states to fundamentally alter the landscape for targeted groups. This coordinated nature actually strengthens the case that any resulting atrocities are not random or isolated, but rather state-sanctioned policy, which is exactly what transforms ordinary unlawful acts into crimes against humanity.

Misuse of Military and Paramilitary Force: Another aspect with legal implications is Project 2025’s signals about using military or militarized force in domestic and foreign contexts. Domestically, as noted, it suggests deploying “active-duty military personnel and National Guardsmen to assist in arrest operations along the border – something that has not yet been done.”* This runs up against the Posse Comitatus Act (PCA), a Reconstruction-era law (18 U.S.C. § 1385) that forbids federal military forces from performing civilian law enforcement unless expressly authorized by Congress. The Insurrection Act is a narrow exception allowing the President to use troops to suppress insurrections or when law enforcement cannot otherwise operate. There is no precedent for invoking it to police routine border immigration violations. If a President tried to justify military arrest operations at the border as necessary, it would almost certainly be challenged in court and met with congressional outrage. Without Insurrection Act invocation, using the Army or Marines in direct law enforcement is flatly illegal under PCA. Even using federalized National Guard would trigger PCA. Only if the Guard remains under state control (Title 32 status) could they do it, but then they’d need state orders (some border-state governors might cooperate, but it’s legally murky if they’re essentially enforcing federal immigration law). In any case, turning the border into a militarized zone of arrest sweeps would violate posse comitatus and also potentially the Fourth Amendment (military personnel are not trained in civilian policing, raising excessive force and unreasonable seizure concerns). Historically, courts have suppressed evidence or penalized violations of PCA in criminal cases (e.g., *United States v. Dreyer*, 804 F.3d 1266 (9th Cir. 2015), excluding evidence obtained by Naval investigators in a civilian law case). But more broadly, using soldiers for domestic policing is a hallmark of authoritarian regimes – it erodes civil liberties and enables abuses. Project 2025 explicitly wants to cross that Rubicon for the first time in modern memory. The legality is highly doubtful, and the symbolism is chilling.

Internationally, Project 2025’s rhetoric on cartels and border security hints at possible extraterritorial use of force. It describes Mexico as “arguably a failed state run by drug cartels”

and emphasizes fentanyl as a national security crisis. Some conservative figures (outside the document) have proposed designating cartels as terrorist organizations and using U.S. military force against them in Mexico. If a future President attempted drone strikes or commando raids in Mexican territory without Mexico's consent, it would violate Article 2(4) of the U.N. Charter, which prohibits the use of force against another state's sovereignty except in self-defense or with U.N. authorization. Mexico is a sovereign partner, not an enemy state; uninvited U.S. military operations there would be an unlawful act of war. Even if justified domestically under an AUMF or counter-narcotics statute (none currently authorize this), it would break international law and likely provoke conflict. The Geneva Conventions would apply if an armed conflict with cartels was deemed a non-international armed conflict – then fighters captured would have humane treatment protections, and civilian casualties would need to be minimized per International Humanitarian Law (IHL). The fervor of Project 2025's language (e.g. cartels "clear and present danger" and recommendation to use "offensive operations capable of imposing unacceptable losses" on adversaries) raises alarm. If they truly embrace a war paradigm, there's risk of collateral damage and human rights violations in Mexico or at the border. For instance, if active-duty troops "assist" border arrests, what if they engage in firefights that cross the border or accidentally kill migrants? Who is accountable – the military or civilian law enforcement? These scenarios illustrate that blurring military-civil lines can lead to tragedies and legal quagmires. Any fatalities of civilians due to such militarized operations could be seen as extrajudicial killings, violating the Right to Life under human rights law (ICCPR Article 6) and potentially the War Crimes Act if in an armed conflict context and disproportionate to military objectives.

Finally, consider election-related force or intimidation: While not explicitly in the document, Project 2025's empowerment of a President to use all tools at his disposal raises the nightmare scenario of trying to overturn an election or cling to power using force. We saw an attempt in 2020 via incitement of a mob and pressuring officials. If a future administration, armed with Heritage's reorganized DOJ and DHS, decided to label mass voter protests as insurrections or deploy troops to "secure" ballot counting, it would directly violate the Voting Rights Act and likely the Insurrection Act's terms. It would be an illegal use of force against the civilian population exercising democratic rights. That would mark the end of the rule of law. While this is speculative, the erosion of checks described in Section III would remove the guardrails that prevented the 2020 coup attempt from succeeding (like honest DOJ officials, independent state authorities, etc.). Thus, Project 2025 inadvertently paves the way for possible future war crimes or crimes against humanity in service of maintaining power – e.g., if widespread violence against civilian protesters were systematically enacted. This is exactly how many dictatorships have crossed the line into atrocity (see, e.g., post-election violence in Belarus or Venezuela). Again, this is a worst-case extrapolation, but it underscores how dangerously the Project undermines the guarantees that keep government power lawful and accountable.

In conclusion of this audit: The Heritage Foundation's Mandate for Leadership is not a technocratic manual of governance tweaks – it is, as one congresswoman described, **"a 920-page manual on how to turn American democracy into a conservative, authoritarian nation."* Virtually every plank of this platform – from silencing dissent, to persecuting

marginalized groups, to concentrating unchecked power – poses a legal red flag. We have identified numerous specific conflicts with U.S. federal law (First Amendment, Fourteenth Amendment, civil service laws, Posse Comitatus, refugee statutes, etc.), as well as violations of international human rights treaties (the Refugee Convention, CAT, ICCPR) and even behaviors fitting the definitions of atrocity crimes under the Geneva Conventions and Rome Statute. The cumulative picture is one of a government that would no longer be bound by constitutional constraints or the international norms of civilized nations. Implementing Project 2025 in full would likely trigger immediate legal challenges on many fronts – and rightly so, as it represents a repudiation of the rule of law in favor of rule by executive fiat and ideology.

The United States has long championed democracy and human rights globally; adopting the Project 2025 agenda would flip that script, making the U.S. a cautionary tale of democratic backsliding. Courts, Congress, and civil society would be called upon to resist these measures, armed with the very laws and precedents this audit has cited. As Justice Jackson warned in the wake of WWII, the foundations of liberty can be destroyed by insidious encroachments in the name of expediency. Mandate for Leadership is precisely such an encroachment – expediency over legality, power over justice. This legal audit demonstrates that to preserve constitutional democracy, the proposals in Project 2025 must be met with vigorous opposition and an unwavering defense of the rule of law.

Sources: This report is supported by extensive citations to the text of Mandate for Leadership 2025 and authoritative legal analyses:

Heritage Foundation, Mandate for Leadership: The Conservative Promise – Project 2025 (2023) (policy proposals and statements)

American Civil Liberties Union, “Project 2025, Explained” (2023) (overview of threats to rights)

Center for American Progress, “The Dangers of Project 2025: Global Lessons in Authoritarianism” (Oct. 9, 2024) (comparative analysis to authoritarian regimes)

Human Rights First, “Project 2025 is on track to subvert American democracy” (2025) (description of Project 2025 as ultraconservative authoritarian blueprint)

Wikipedia – Crimes against humanity and Non-refoulement (definitions of international legal terms)

These and other cited sources substantiate the legal conclusions herein and underscore the consensus among experts that Project 2025’s implementation would gravely violate domestic and international law, effectively dismantling many of the freedoms and protections that define the United States as a constitutional democracy.