20 YEARS

THE TERROR TRAP

The Impact of The War on Terror on Muslim Communities Since 9/11







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THE IMPACT OF THE WAR ON TERROR ON MUSLIM COMMUNITIES SINCE 9/11

SPONSORING ORGANIZATIONS

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The Coalition for Civil Freedoms (CCF) is a survivor-led nonprofit organization dedicated to ending the abuses of the U.S. domestic "war on terror." Founded in 2010, CCF is a coalition of civil liberties and human rights organizations that challenges preemptive prosecution and the post-9/11 targeting, surveillance, and criminalization of Muslim communities. CCF's core areas of work include education and outreach, prisoner and family support, legal services, grassroots advocacy, policy, and research.

COALITION FOR CIVIL FREEDOMS

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The Bridge Initiative is a multi-year research project on Islamophobia housed in Georgetown University. The Bridge Initiative aims to disseminate original and accessible research, offers engaging analysis and commentary on contemporary issues, and hosts a wide repository of educational resources to inform the general public about Islamophobia.

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ICNA Council for Social Justice (CSJ) is a social justice/human rights organization that strives to systematically facilitate assertive Muslim involvement in the field of human struggle for the rights of the poor and oppressed in the United States.

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CAGE

CAGE is an independent advocacy organization working to empower communities impacted by the War on Terror policies worldwide. The organization highlights and campaigns against such policies in hope to achieve a world free from oppression and injustice.

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Muslim Justice League

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ACKNOWLEDGEMENTS

Our sincere thanks to the sponsoring organizations in bringing together this report, including the Coalition for Civil Freedoms, The Bridge Initiative at Georgetown University, the ICNA Council for Social Justice, the Center for Islam and Global Affairs, CAGE, Muslim Justice League, and United Voices for America.

Special thanks to the editors of this report, Prof. Sami A. Al-Arian, CIGA Director, Dr. Asim Qureshi, CAGE Research Director, and Leena Al-Arian, CCF Executive Director. We also thank Mubashra Tazamal for her editorial review of this report and Butheina Hamda for her assistance during the focused groups meetings and drafting of the recommendations section.

Our thanks are also to all the report contributors who worked diligently to provide excellent and scholarly insights into the Global War on Terror, reminding us of the need for thoughtful responses to the injustices we see in the world.

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EXECUTIVE SUMMARY

This report has brought together a group of international scholars who provide a critical assessment of the Global War on Terror, chiefly prosecuted by the United States of America and its allies. Although much of the emphasis of the report is on the U.S.-led response after the al-Qaeda attacks of September 11, 2001, the report seeks to situate the global response in a longer trajectory of the U.S. targeting minorities through practices of racist profiling, surveillance, detention and torture.

The structure of the report is broken into 5 distinct (albeit interconnected) sections:

- PART I – 9/11 and the Global War on Terror: A Reappraisal
- PART II – 9/11 and the Global War on Terror: Strategies and Tactics
- PART III – The Human Impact of the Global War on Terror
- PART IV – A Critical Rethinking and Community Guide to the War on Terror
- PART V – Recommendations

Through this approach, the report seeks to highlight the foundational bases for the Global War on Terror, the way in which it was instrumentalized by the US and its allies, and finally how those practices ultimately harmed communities who were placed under suspicion. The report then seeks to provide a new way of thinking about abolishing the War on Terror and providing a pathway for communities to reflect on opportunities in the past. Finally, the report will provide recommendations to those in government, the legal profession, media, civic organizations and communities around the world.

PART I – 9/11 AND THE GLOBAL WAR ON TERROR: A REAPPRAISAL

To begin the story of the U.S. response to the September 11, 2001 attacks through policies enacted after that date masks the history of racial injustice that has mired the U.S. justice system. The essays in Part I of the report provide a reframing for the War on Terror in a historical context outside of the immediacy of the World Trade Center attacks.

1. Adam Hudson's beginning essay provides a historical background to the way in which the tactics and abuses of the War on Terror, including mass surveillance, torture, and targeted killings were already set and practiced against Black communities, and how the law was used as a weapon of racist criminalization.
2. The racialized policing of minority communities was entrenched by the burgeoning development of a new discipline – that of 'terrorism expertise'. Lisa Stampnitzky provides an important back ground and intervention on the ways in which the discipline of terrorism studies has only reinforced false narratives on violence, ones that are deeply embedded in racism and Islamophobia.
3. The view of Muslims in the U.S. as suspicious is linked to a network of individuals and organizations, all of whom are invested in the perpetuation of the 'Muslim threat.' Mobashra Tazamal and John L. Esposito detail the links between these networks, and the extent to which they have been central to policymaking decisions in securitizing Muslims.
4. Bringing together many of the themes in the previous chapters, Farid Hafez provides an overview of the way that imperialism, racism and Islamophobia interconnect historically to produce the conditions for the Global War on Terror. His piece focuses on the production of the good Muslim/bad Muslim dichotomy, extending the argument by showing how Muslims themselves can perpetuate Islamophobia.
5. The final contribution in Part I by Akhil Gopal and Celine Qussiny, focuses on the ways Zionist groups in the U.S. have used the Global War on Terror in order to inhibit scholarship, organizing and activism for the rights of Palestinians. The essay shows how the narrative of the War on Terror is reinforced through claims of antisemitism being linked to 'extremism' and 'terrorism', perpetuating notions of threatening Arabs and Muslims.

PART II – 9/11 AND THE GLOBAL WAR ON TERROR: STRATEGIES AND TACTICS

Building on the more theoretical framings in Part I of the report, the second part seeks to understand the strategies and tactics that were employed by the U.S.-led response to the 9/11 attacks. Beginning with the expansion of the architecture of surveillance and disruption of communities domestically in the U.S., the essays move through to the prosecution of wars abroad – globalizing the ways in which the War on Terror manifested.

6. A Q&A with former FBI special agent Michael German sets the tone for the section in linking the activities of law enforcement prior to the War on Terror with the expansion of today's surveillance state. German's reflections provide a useful framing for the various policy decisions that were taken by the George W. Bush administration, and subsequently entrenched.
7. With an architecture of repression in place prior to the War on Terror, and cemented after its inception, U.S. law enforcement officials turned on American Muslim leaders, seeking to destabilize long established individuals and institutions. This was done through a range of soft and hard measures, as those hostile to the presence of American Muslims sought to use the narrative of the War on Terror to undermine those communities. Abdullah Al-Arian and Hafsa Kanjwal reflect on the witch-hunt against American Muslim institutions, and the ways in which they were systemically attacked.
8. Writing from their experience working with survivors as members of the Coalition for Civil Freedoms, Stephen Downs and Kathy Manley present a holistic view of the ways in which U.S. law enforcement agencies have detained hundreds of Muslim men on the basis of manufactured or non-existent plots. Their work highlights the extent to which a phantom menace was created, by detaining large numbers of Muslim men and a few women.
9. Amith Gupta's essay focuses on the ways in which surveillance as a specific tool of statecraft has been expanded beyond all reckoning. Revelations by whistle-blowers exposed various aspects of the way that surveillance has become entrenched in almost every aspect of public life, but with the encroachments by the state into the private sector, the connections between state surveillance and surveillance capitalism have become ever increasingly pernicious.
10. Of the most egregious policy decisions taken by the U.S. after September 11, 2001 was the Rendition, Detention and Interrogation (RDI) program that was conducted by the CIA and other agencies. Crofton Black, Ruth Blakeley and Sam Raphael provide a summary of their work detailing the ways that Muslim detainees were placed through an extensive and unlawful program of rendition and torture.
11. Shereen Fernandez and Rob Faure-Walker assess the ways in which states adopt Countering Violent Extremism (CVE) policies domestically, and the impact these policies have on the communities that they are directed towards. Their essay highlights the extent to which CVE has become embedded in the everyday experiences of Muslim communities and how it has ultimately become a form of depoliticization.
12. Conflict in Afghanistan and its connection to the Global War on Terror is often restricted to conversations around the attacks on the U.S. Anila Daultazai resets the clock on the way that the public understands conflict in the country, but in particular through the selective amnesia that U.S. policymakers have of their own role. The essay provides important ways to rethink how commentators present Afghanistan outside of reductive tropes.
13. Former President Barack Obama once referred to the 'unintended consequences' of the US-led war on Iraq – particularly in relation to the emergence of ISIS. What he did not acknowledge, was the extent to which the emergent violence by insurgent groups became a reflection of the brutality meted out by U.S. troops. Rizwaan Sabir reflects on the extent to which the violence of groups like ISIS became a mirror image of the violence that many of its members had encountered in U.S.-run detention camps, such as Abu Ghraib and Camp Bucca.

PART III – THE HUMAN IMPACT OF THE GLOBAL WAR ON TERROR

14. As a former Guantanamo Bay detainee and an outspoken advocate on behalf of those still detained, Moazzam Begg's contribution to the collection provides an overview of the history of the detention camps through the experiences of those detained there. The legacy of unlawful detention and torture continues to have resonance as former detainees are now occupying positions of authority in an Afghanistan under the control of the Taliban.
15. Melva Underbakke's essay provides insight into the history and use of the Communications Management Units (CMUs), utilized in a post 9/11 environment, specifically to deny Muslim political prisoners any effective capacity to communicate with the outside world. The essay traces the contours of harm by showing the everyday abuse and punishment of the CMUs – denying those detained any meaningful human contact, severely impacting their psychological state.
16. Reflecting on the human impact of the U.S. domestic War on Terror, Nada Dibas highlights the stories of the families impacted by the detention and political targeting and imprisonment of their loved ones. These stories are often the ones that remain untold and exploring their experiences presents the hidden traumas associated with the War on Terror.
17. The legacy of the Bush administration was supposed to have ended with the Obama administration signaling the end of Guantanamo as well as the rendition and torture programs. Instead, the unlawfulness of U.S. detention practices shifted in policy to the unlawfulness of an extrajudicial killing policy as Obama's administration increased the volume of unmanned aerial vehicle (UAV) or drone strikes in Afghanistan, Pakistan, Yemen and Somalia. Emran Feroz reflects on the legacy of this shift, euphemistically called 'drone' warfare.
18. Seeking to normalize counter-terrorism policies globally, the promoters of CVE have attempted to turn the narrative of CVE programs targeted at Muslims, towards the far-right as well. Fatema Ahmad dissects the flawed response by those who claim that this produces a fairer system of countering 'violent extremism.'
19. Asim Qureshi looks at the way in which the discourse of the Global War on Terror was utilized to allow those outside of the U.S. sphere of control to repress their own Muslim populations. Focusing on Bosnia, Syria, Kashmir, Palestine and East Turkestan, the essay presents the malignancy of the Global War on Terror as was instrumentalized outside of the scope of its genesis.
20. One of the most understudied aspects of the Global War on Terror is the long-term impact of communities under the scrutiny of the state. Sahar Ghumkhor and Tarek Younis assess the injury that has been done to communities, and what this means for them as they seek to understand their existence outside of bigoted expectations that are placed on them.

PART IV – A CRITICAL RETHINKING AND COMMUNITY GUIDE TO THE WOT

While the report aims to provide both short-and long-term recommendations to policymakers and communities in ending the Global War on Terror, the editors felt it important to provide some insights into bringing about shifts in ways that communities, activists and scholars can organize in order to end larger structural injustices in the U.S. and around the world. In that vein, Atiya Husain was invited to reflect on the philosophy of effecting change through the theory of abolition. Sami Al-Arian further provides guidance to communities by writing of how they might rethink their relationship with law enforcement agencies when normalizing relations with them, but also how the community might find alternative ways to hold those agencies to account.

PART V – RECOMMENDATIONS

The recommendations of the report are directed towards multiple groups and audiences, although there will be a great deal of crossover in the emphasis on ending the policies of the Global War on Terror.

The first set of recommendations is aimed at government and the legal profession. These recommendations focus on bringing about a significant change in the emphasis of the U.S. national security policymaking from ending the Authorization of Use of Military Force (AUMF) to the full or partial repeal of the USA PATRIOT Act. There are a number of short-term recommendations provided as well, but these recommendations are only emphasised as part of a larger strategy of ending the Global War on Terror.

The second set of recommendations is directed at the media, civic organizations, communities and individuals. The aim of these recommendations is to produce a larger cultural and political shift in the way that these stakeholders understand their relationship with the War on Terror, and ultimately, provide a means of bringing an end to the surveillance and profiling of Muslims.



INTRODUCTION

September 11, 2021 marked 20 years since the attacks by al-Qaeda on the U.S.Since those horrific attacks, the world saw a seemingly endless series of responses by the U.S. as it claimed to rid the world of 'terrorism' by declaring a global war on it.

Although the report focuses predominantly on the period post September 11, 2001, it is important to acknowledge that the history of repressive policies in the U.S. began long before the advent of the Global War on Terror.

The Terror Trap traces the story of the U.S. government's surveillance of communities from slavery to the Black Civil Rights struggle, in order to enforce systems of control.

Less known, however, is the decade of policymaking prior to the World Trade Center attacks, and the extent to which civil liberties were already being encroached on in the name of fighting 'terrorism.' In this introduction we set out some of this history by way of introducing the genesis of policies that would eventually go on to become global.

A HISTORY THAT PRE-DATES SEPTEMBER 11, 2001

During the waning years of the collapse of the Soviet Union, political activists associated with the Middle East and the Islamic World became primary targets. U.S. authorities and so-called national security experts were looking for new targets that they perceived as threats to U.S. policies in the Middle East, particularly those who opposed Israeli occupation policies in Palestine. One of the first cases against domestic political dissidents related to Arabs and Muslims took place in 1988 in Los Angeles, where eight activists were rounded up and

detained because of allegedly being associated with the Popular Front for the Liberation of Palestine (PFLP). This case was called the LA 8 and it took decades to be adjudicated, but it was clearly a political case targeting a disfavored group of individuals because of their politics, opinions, and associations.[1]

For a number of years prior to 1996, the FBI and other government agencies such as the Immigration and Naturalization Service (INS) were pushing Congress to pass a law that would criminalize First Amendment activities centered on support of political groups in politically hot areas like the Middle East and Northern Ireland.

In the aftermath of the Oklahoma City bombing in April 1995, these efforts accelerated, culminating in the eventual passage of a bill in the Senate with an overwhelming majority (91-8)[2]. This law was later named the "Anti-Terrorism and Effective Death Penalty Act." Although the law was facing some resistance in the House of Representatives, it passed overwhelmingly in the Senate because Sen. Bob Dole (the Republican majority leader at the time) had presidential aspirations. The law was quickly passed in 1995 in the Senate without much debate as its sponsors exploited the fear and high emotions engulfing the public following Oklahoma City.

In the summer and fall of 1995, there were several meetings by those concerned about this law to discuss what an appropriate response could be. Dr. Sami al-Arian was involved in these discussions along with Georgetown constitutional law professor David Cole, the Center for Constitutional Rights (CCR), and others including some Muslim and Arab groups who were concerned that they could become targets of this law because of their political beliefs and associations. The executive order issued by former President Bill Clinton in January 1995 precipitated the targeting of political activists, especially those who were critical of Israel and the Oslo process.

After some debate and in the heat of that year's presidential campaign, the legislation passed the House in April 1996. That same month the INS arrested an Egyptian Muslim named Nasser Ahmad during an immigration deportation proceeding and held him on secret evidence.

His case was the first time the government had invoked the use of secret evidence; basically a constitutional violation as it denied the defendant his sixth amendment due process rights. In essence, the government would meet with the immigration judge behind closed doors and without the presence of the defense, providing him with some evidence, which was in many cases hearsay or political associations hyped as support of terrorist groups. The judge would then ask the detainee to defend against it without telling him what the evidence was – clearly an impossible task.

After the passage of this law, this tactic was used more frequently. Between April 1996 and April 1998, there were 29 documented cases where defendants were held on secret evidence in immigration courts, 28 of which were Arabs and Muslims, including the elected Algerian political leader Anwar Haddam, who was arrested in December 1996.

In May 1997 Dr. Mazen Al-Najjar, a scholar and a Palestinian refugee without citizenship, who had been residing in the U.S. since 1981, was arrested and had become another casualty of secret evidence. Immediately, due to his residency in Tampa, Florida, a local group called the "Tampa Bay Coalition for Justice and Peace," was formed to lead the struggle to free him.

For the next two months and through the efforts of

[1] Cole, D. (2003) 9/11 and the LA 8, The Nation, https://www.thenation.com/article/archive/911-and-la-8/

[2] Dole, R.J. (1995) S.735 - *Antiterrorism and Effective Death Penalty Act of 1996*, 104th Congress (1995-1996), https://www.congress.gov/bill/104th-congress/senate-bill/735

many individuals and organizations, a national coalition was formed in July 1997 in Washington D.C. called the "National Coalition to Protect Political Freedom" or NCPPF. It included many local defense committees of the Arab victims of secret evidence in many cities and states around the country including Tampa, New York, New Jersey, Detroit, California, and northern Virginia. It also included Northern Irish defendants who were threatened with the state unconstitutional practices until all were freed as part of the political settlement of the Good Friday Accords in Northern Ireland in 1998.

Additionally, The coalition also included traditional civil and constitutional rights groups such as the Center for Constitutional Rights (CCR), the National Lawyers Guild (NLG), and First Amendment Foundation (FAF) as well as all the major Arab and Muslim groups including the American-Arab Anti-Discrimination Committee (ADC), the Arab American Institute (AAI), the American Muslim Alliance (AMA), the American Muslim Council (AMC), the Council on American-Islamic Relations (CAIR), the Muslim Public Affairs Council (MPAC), Muslim American Society (MAS), with more than 30 groups having joined.

The Coalition agreed to launch two national campaigns in its attempt to confront this challenge, one short term under the heading "Secret Evidence," and the other long term addressing the "Material Support" provision in the law. Indeed, it was the national coalition itself that coined the term "Secret Evidence," since the government was referring to it as "Classified Evidence." But by the year 2000 everyone was calling it "Secret Evidence" including politicians, journalists, judges, and even government agents and prosecutors.

The Coalition started its campaign against secret evidence for the next four years on many fronts: legal challenges, public education, community outreach, the media, support of victims and their families, eventually culminating in political lobbying and congressional legislation. In the campaign to challenge Material Support laws, there was much less effort because it had not been used much by the government at the time, but suffice it to say that the "Humanitarian Law Project" which was decided by the Supreme Court in June 2010, came out of NCPPF discussions when it was first filed in 1999.

After a long period of intense campaigning by the coalition, which included: a public education campaign, community outreach, media campaign, and legal and political campaigns, on September 26, 2000, the judiciary committee passed the Secret Evidence Repeal Act (HR 2121) by a margin of 28-2. Immediately, the coalition started working on the Senate side and introduced the same legislation, which was co-sponsored by then- Republican Senator Abraham of Michigan and Ted Kennedy, the late Democratic senator from Massachusetts.

Meanwhile, the Muslim political organizations were trying to engage both presidential campaigns and force them to take a position on secret evidence. While the Gore campaign was slow and reluctant, the Bush campaign was eager and responsive. Through negotiation between Dr. Sami Al-Arian and a high-level Republican insider, candidate Bush said publicly in the second presidential debate what was asked of him in order to receive the endorsement of American Muslims. Not only did he condemn the use of secret evidence and call for its ban, but 62 million Americans witnessed it on live television[3,4]

[3] Bush G.W. Jnr (2000) Bush vs. Gore: The second 2000 presidential debate, YouTube, https://www.youtube.com/watch?v=irzSo578gmg (min. 44:30)

[4] It must be noted that the endorsement of the Bush presidential campaign in 2000 by American Muslim groups was narrow and had been due to the community's premiere civil rights issue at the time (i.e. to ban the use of Secret Evi dence.) We certainly knew about other political positions of the Bush campaign that we disagreed vehemently about such as those on Palestine and Iraq. Our views on these issues were well-known to the campaigns and were never

In the next two weeks, a fast-track attempt to pass the legislation after the endorsement of Bush led to the support of then-House Majority Leader, Dick Armey. The coalition also received a major commitment from both the majority and minority leaders in the Senate. However, the legislation was stopped by the chairman of intelligence committee in the House at the time, Porter Goss. There was simply not enough time to pass it.

After the close and controversial presidential election of Bush, the campaign acknowledged the crucial endorsement and support of the Muslim groups in the elections, especially in Florida, where the elections were decided. Moreover, in 2001, the legislation to ban secret evidence was re-introduced and quickly attracted more than 100 co-sponsors in the House.

Meanwhile, the Bush White House called for a major review of the secret evidence practice and promised the coalition and the Muslim groups to announce its decision after the summer. In early September 2001, the White House wanted to invite all major Arab and Muslim organizations to declare a major announcement on secret evidence.

For the first time in the history of American Muslims, a major legislation that was their main concern would become a reality. American Muslim leaders gathered in Washington D.C. in anticipation of this major achievement. A new chapter was about to be written. A new emerging political power was about to take its rightful place in society. The date of this important announcement was set by the White House: 3:05 pm on September 11, 2001.

THE TERROR TRAP

This report brings together scholarship that seeks to address the impact of the U.S. response to the attacks on the world through the campaign known as the Global War on Terror. The formulation of former President George W. Bush to herald a 'forever' war against all forms of terrorism and political violence has had devastating consequences for communities in almost every single corner of the world – many estimates suggesting that more than a million people may have been killed as a consequence of this vicious war. The price that the world has paid in human life has been severe, particularly as cycles of violence continue to perpetuate the conflict in new ways, rather than seeing any form of de-escalation in global hostilities.

The wars waged on Afghanistan and Iraq may have been the most obvious examples of direct U.S. military action, but the presence of U.S. military forces in Africa, Central Asia, and other parts of the world have seen militarization take many other forms. Key to the new ways of war has been the use of unmanned aerial vehicles, euphemistically called drones, which have reigned down state terror on civilian populations in Afghanistan, Pakistan, Somalia, Yemen, and West Africa.

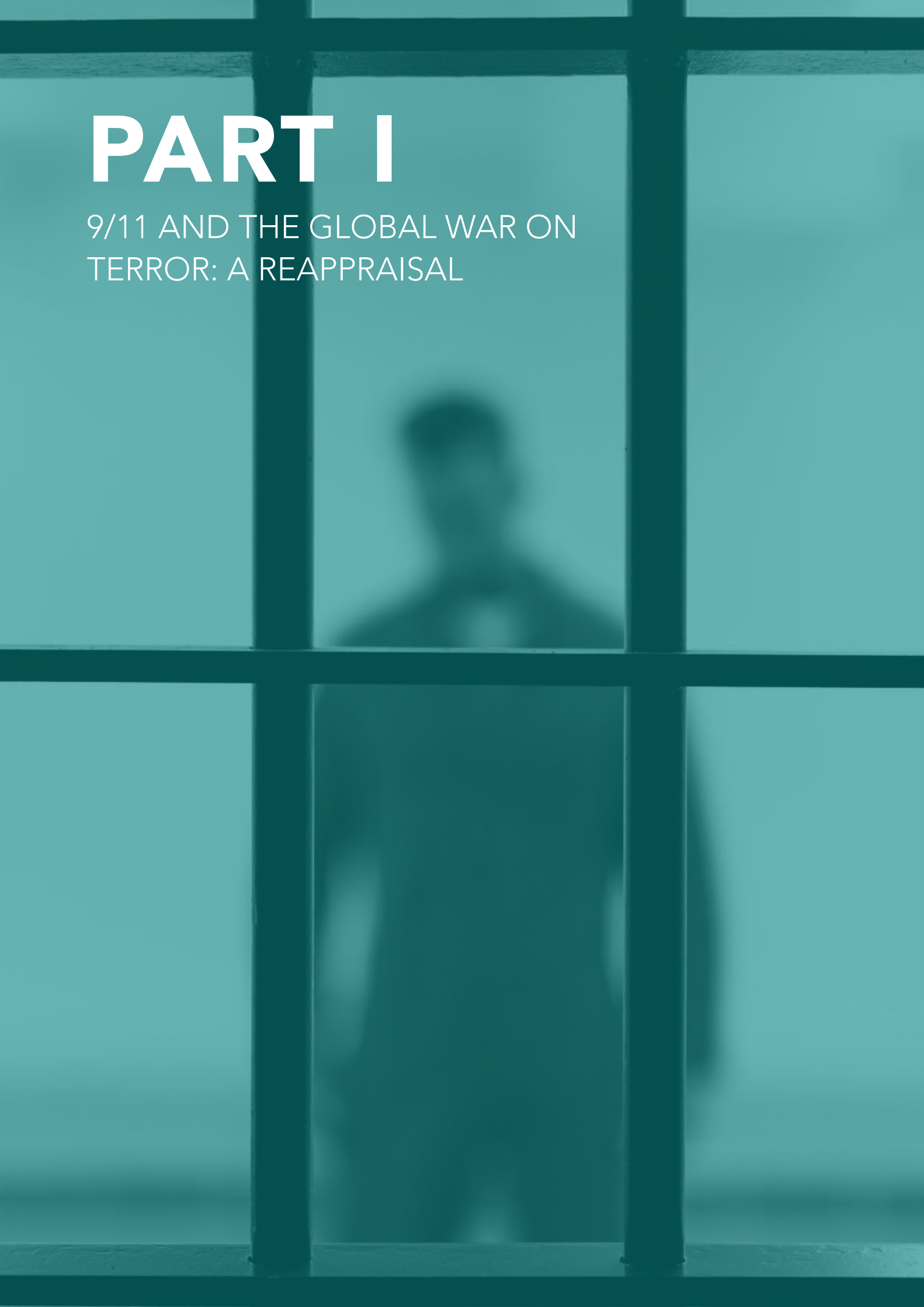
The faces of this conflict, however, have taken many

compromised or obscured. In other words, while we endorsed one campaign in exchange for a major issue impact ing our community, we did not compromise our values, and principles, or positions on any other issue. This is an im portant distinction since some people may argue that one might receive political support for a particular issue in ex change for compromising certain positions, principles or by crossing redlines. Both campaigns at the time knew our public and uncompromising positions on issues related to the Middle East, yet they were still seeking the endorse ment of the American Muslim community, which decided to give it to the candidate who was willing to address its most significant domestic issue at the time. It must also be noted that all major Muslim political organizations were on board on this decision except "Coalition for Good Government (CGG)," the group affiliated with Imam Wallace Deen Muhammad, which had typically endorsed the Democratic candidate like most African-American groups. How ever, CGG understood the reasoning behind the Bush endorsement and in a show of unity, CGG representatives had attended the announcement in the press conference in Washington D.C. that endorsed the Republican candidate.

other forms. The systematic and legalized use of rendition, unlawful detention and torture became ubiquitous globally as the U.S. set a tone for states to use these techniques in violation of the UN Convention Against Torture. The use of these tactics abroad could not explicitly be used in the U.S. domestically, and so a strong precedent was established by U.S. intelligence authorities to manufacture a terrorist threat, providing the political leverage to increase surveillance of communities at a rate that is unprecedented in history.

This report seeks to take stock of the role the U.S. has played and the consequences of its actions in order to provide a platform for policymakers to reassess the severe consequences of U.S. policies and actions globally.

The report also calls for communities to organize and mobilize against the policies of the Global War on Terror, and gives a thorough overview of the key issues that have been at stake for them in these last 20 years. It also provides recommendations and a pathway for direct action against the continued use of ill-conceived and detrimental policies and legislation.



PART I

9/11 AND THE GLOBAL WAR ON TERROR: A REAPPRAISAL

1

OVERSEERS TO THE FBI: THE RACIST HISTORY OF POLICING THAT BUILT THE ARCHITECTURE OF THE GLOBAL WAR ON TERROR

ADAM HUDSON

INTRODUCTION

On September 11, 2001, a coordinated terrorist attack killed nearly 3,000 people in New York City and Washington, D.C. Nearly two dozen terrorists affiliated with al-Qaeda hijacked four airplanes, with two flying into and destroying the World Trade Center in New York City, one flying into the Pentagon building and causing partial damage, while the other airplane crashed into a field in Pennsylvania after passengers tried taking the plane away from the hijackers.

The attack caused collective psychological trauma to the United States. Rather than treat the event as a terrorist attack requiring conventional police action, the U.S. government declared a "War on Terror." The enemy was not a specific country but, rather, any nation that harbored or supported "terrorism." The U.S. would be the final arbiter of who fit that broad definition through the 2001 Authorization for Use of Military Force (AUMF). This law gave the executive branch immense authority to launch military and other lethal operations in the name of counter-terrorism.

Some common and notorious practices that prominently and infamously rose during the War on Terror were mass surveillance, torture, and targeted killing or assassination.

The U.S. government used 9/11 and the specter of fighting terrorism to justify its use of torture in CIA black sites and Guantanamo, mass surveillance at home, and its global targeted killing program. But before those practices were used in the War on Terror, these practices were already inflicted on Black people in different forms, particularly in the form of slave catchers and the police. Because those practices already had some precedent in subjugating Black

people, it was not difficult for the U.S. government to turn them against Arabs and Muslims after 9/11 in the name of fighting terrorism.

U.S. POLICE ROOTS IN SLAVERY

Before discussing the historical roots of policing in slavery, it is crucial to understand who "Black people" actually are. African-Americans/Black Americans are people of African descent and a unique population, an ethnic group, within the context of the United States (Black Demographics). African-Americans are the descendants of enslaved Africans, from Western and Central Africa, brought to the United States, with the first ones arriving in the early 1600s. Their ancestors were the victims and survivors of the transatlantic slave trade and U.S. chattel slavery. Those enslaved Africans, preserving what they could from Africa through food and music, formed a culture and way of life within the context of the United States (Hudson, 2021). The nature of systematic racism against Black people rooted in slavery does not just impact African-Americans but any person of African descent in the United States, including Muslims of African origin (Shahid, 2020).

Modern U.S. policing traces its origins to chattel slavery and colonialism (Kappeler, 2014). In the late 1400s and early 1500s, Europeans, mainly the Spanish and Portuguese at first, started a massive, international trade in enslaved Africans to work on their plantations in the Americas. Once Spanish and Portuguese colonizers colonized the Americas, they used enslaved African labor to work on plantations and enrich their colonial empires. The British got in on the transatlantic slave trade later in the early 1600s.

The first English settlers arrived in what would become the United States in 1607, establishing the first permanent English colonial settlement — Jamestown Colony in Virginia. The first Africans arrived at Jamestown in 1619. As the English colonial system grew in North America, there was a need for a permanent, racialized class of slave labor to create a self-sustaining economy. Just like their European brethren the Spanish and Portuguese in Central America, South America, and Caribbean did, the English settlers placed Africans as the permanent class of slave labor. African slave labor was profitable because their skin color made them stick out, they didn't know the territory as well as Native Americans so it was easier to catch a run-away, and if one died, they could easily import a new slave from Africa. In the United States, the policy in dealing with Native Americans was to simply kill them off and take their land. That land would be cultivated by enslaved African labor to build the economy and enrich colonizers and slave-masters.

By the mid-1600s, English colonies in North America passed laws establishing slavery at birth, which meant slave status passed from generation to generation (Africans in America). In particular, one legal change occurred in 1656 when Virginia colonial law established that a mulatto child of an enslaved African woman and a European father would inherit the mother's unfree status. That institutionalized the idea of slave status being equivalent to Blackness or African lineage (Browne-Marshall, 2013). It was a form of racial control that preserved white/European social and economic privilege. Throughout the Americas, African lineage was equated to slave status because that maintained slavery and colonial order built on top of it.

What white people feared throughout the Americas were slave revolts and Indigenous rebellions against their colonial theft. Africans and Indigenous peoples did not take slavery and colonialism lightly.

There were numerous instances of slave revolts in the United States and throughout the Americas. Those revolts undermined the rigid colonial order that preserved and relied on the mass enslavement of Africans. Preventing those revolts and preserving slavery meant instituting a regime of racial violence and control.

To enforce slavery, laws were passed that stripped Africans in North America of their freedoms, such as to practice their culture openly, own firearms, possess liquor, read or write, freedom of movement, and political liberties; even free Black people had limited rights and freedoms (Ruane, 2019). Fugitive slave laws were also passed, which demanded the return of enslaved Africans who escaped from one state to another state or territory. Slaves were not considered human, they were considered "property" under U.S. law so an enslaved African running away for their freedom meant slave-masters were "losing" their "property." The U.S. Constitution's Fugitive Slave Clause required that "a person held to service or labor" (i.e., a slave) who flees to another state be returned to their master. The Fugitive Slave Act of 1793 was a congressional law that gave effect to the Fugitive Slave Clause. After that, the Fugitive Slave Act of 1850 not only mandated that escaped slaves be returned to their master but that citizens of free states must also participate; therefore, if enslaved Africans ran away to a free state, the citizens of that free state had to return them to their master.

Beginning in the late 1600s, American colonies, such as South Carolina, deputized local whites to apprehend and punish runaway slaves. However, deputizing local whites was not enough to enforce slavery. Slave patrols were also established to capture, punish, and torture runaway slaves. Rather than individual whites being encouraged to catch runaway slaves, the slave patrol was an organized police force whose function was to apprehend runaway slaves and return them to their owner, inflict organized terror to deter slave revolts, and maintain a form of brutal, vigilante-like discipline for slaves (Potter, 2013). On the plantation, if enslaved Africans disobeyed their master, they were subjected to brutal forms of punishment and torture, particularly lashings, even for the slightest and most trivial infraction.

Before the NYPD infamously had a massive stop-and-frisk dragnet that mostly targeted Black and Latino men to stop crime in New York City (which was largely ineffective and a form of racial profiling), there were "stop-and-frisk" practices during slavery. According to professor Gloria J. Browne-Marshall, "Slave catchers searched the woods for escaped Africans. Unless they carried a certificate allowing travel by night on a specific task, an African found away from his or her plantation after nightfall was considered a runaway and prime for capture. Bounty hunters were hired by slaveholders and paid to travel to distant states in search of escaped human property" (Browne-Marshall, 2013). Therefore, during slavery, torture and forms of mass surveillance were routine.

RACIALIZING "CRIME"

During and after slavery, police officers were also used to quash strikers, workers, and labor uprisings against economic exploitation. After the Civil War ended and slavery was abolished, the slave patrol system evolved into modern police departments. Slave patrollers became police officers. Even though slavery was abolished and the South lost the Civil War, it still wanted to keep a system of racial apartheid. The sharecropping system and racist apartheid "Jim Crow" in the South formed another form of oppression to keep Black people in a permanent, racialized under-class. According to Dr. Gary Potter, an expert on policing and crime, of Eastern Kentucky University, the new Southern police forces existed to maintain that apartheid system (Potter, 2013).

In Northern urban areas, the rise of modern police departments was a response to social problems caused by class inequality in growing cities. Urbanization in the 1830s and throughout the nineteenth century gave rise to growing poverty, public disorder, public drunkenness, prostitution, and a massive urbanized, industrial working-class with their own class consciousness. Some would argue that the rise of modern policing in urban cities was a response to rising crime amidst the growing pace of urbanization, as the United States rapidly transformed from a patchwork of small cities and rural towns to more modern cities. However, Potter argues that "evidence of an actual crime wave is lacking."

Policing, therefore, was not responding to rising crime in growing cities but, rather, it was a form of social control. The definition of "crime" was also racialized and defined in relation to class status; those definitions were crystallized in the late-nineteenth century. This can be seen as a predecessor to how "terrorism" in the United States after 9/11 became defined in relation to Arab identity and Islam, thereby racializing "Islam" as an identity. Potter explains,

"Defining social control as crime control was accomplished by raising the specter of the 'dangerous classes.' The suggestion was that public drunkenness, crime, hooliganism, political protests and worker 'riots' were the products of a biologically inferior, morally intemperate, unskilled and uneducated underclass…This underclass was easily identifiable because it consisted primarily of the poor, foreign immigrants and free blacks (Lundman 1980: 29). This isolation of the 'dangerous classes' as the embodiment of the crime problem created a focus in crime control that persists to today, the idea that policing should be directed toward 'bad' individuals, rather than social and economic conditions that are criminogenic in their social outcomes." (Potter, 2013).

American sociologists during the late-1800s manipulated crime statistics, exaggerated criminal behavior, and twisted other forms of data and research to argue that criminality was intrinsic to Black people and Blackness. The crime problem in cities was seen as a "Negro problem," in other words, a problem of too many Black people. African-American historian Khalil Gibran Muhammad, in his book The Condemnation of Blackness, explains that American sociologist Frederick Hoffman made a sociological case for Black criminality by arguing that Black people were inherently, by race, criminal and violent.

Muhammad quotes Hoffman in his call for action:

"In 1896 Hoffman sounded a national call to action. … the black neighborhoods in northern cities were 'as a rule…the most undesirable sections of the cities.' In Philadelphia's 'Africa' or Chicago's, New York's, Boston's, or Cincinnati's, wrote Hoffman, 'the colored population is found to be living in the worst section of the city' where 'vice and crime are the only formative influences.' The time was now for this 'most serious aspect' of the Negro Problem — its northern population growth. This increasing presence of 'undesirable characters' with their 'evil effect' on northern cities was a 'serious hindrance to the economic progress of the white race.' 'In the plain language of the facts brought together,' Hoffman warned, 'the colored race is shown to be on the downward grade, tending toward a condition in which matters will be worse than they are now'" (Muhammad, 2019, pp.53-54)

Essentially, the "crime problem" was a problem of too many Black people around. Hoffman's argument influenced many white academics, commentators, and the larger American discourse into believing in the myth of inherent Black criminality. Those scholars and commentators overlooked the link between crime and social condition to emphasize a link between crime and

race that didn't truly exist. But it is a lot easier to pin the problem of crime on a racialized group of people rather than the social conditions, such as poverty and economic inequality, that actually give rise to crime (Gilna, 2018). Indeed, one could argue that Hoffman's racist sociological argument still reverberates today in modern perceptions about Black people and Blackness.

PALMER RAIDS, COINTELPRO, WAR ON BLACK AMERICA

In addition to social control of "dangerous classes" of people, which often included Black people, policing grew in response to social and political uprisings. Rising class consciousness among a large pool of working-class and poor in urban cities sparked labor movements for greater economic justice. Those labor strikes, protests, and uprisings threatened the interests of moneyed elites. Urban police, working at the behest of economic elites, were used to crack down on strikes and other forms of labor protest (Potter, 2013b).

During the 1899-1902 Philippine-American War, former U.S. soldiers of that war joined police departments and brought war tactics to modern policing, particularly advancements in surveillance technology like wiretapping (Coyne and Hall, 74-78; 100-105). So not only were police in the United States urbanized and organized, they were also more "modernized" in terms of technology and practices.

In addition to technological development, another police agency was established in 1908 — the Federal Bureau of Investigation (FBI).

The FBI was created in response to presidential assassinations and government concerns of domestic "subversion." But the U.S. government's concerns about "subversion" were not just foreign spies in the United States, their concerns were mostly directed at domestic political disorder from militant labor organizing and Black activism. Essentially, the FBI is the United States' version of a secret police force since, from its very inception, it used tactics of political warfare and secret intelligence to undermine domestic political movements

— in a country where freedom of speech and political activity is enshrined in the First Amendment of the U.S. Constitution. J. Edgar Hoover, a young federal agent at the time, was the first FBI director and saw himself as a crusader against all forms of subversion, particularly Black liberation.

After the 1917 Russian Revolution and rise of the Bolsheviks to power in Russia, the United States was on high alert for the threat of Communism on U.S. shores. This was especially acute because of class consciousness among workers and issues of economic inequality and poverty. The 1917 Espionage Act targeted those who criticized the U.S. government, even if they were not Communist in ideology. The FBI and other police agencies used the Espionage Act to target unions, labor organizers, leftists, anarchists, and other activists through raids and mass arrests, even though such actions violated civil liberties (NCC Staff, 2021). This became known as the Palmer Raids, named after Attorney General A. Mitchell Palmer. Assisting

Palmer was J. Edgar Hoover (History.com, 2018). In addition to widespread economic inequality, there were lynchings, race riots, and other forms of routine racial terrorism against Black people in the late nineteenth and early twentieth century. There were civil rights organizations like the National Association for the Advancement of Colored People (NAACP) who agitated against it and pushed for racial integration but many Black people were so disgruntled that they felt that approach was too timid for the violence Black people faced. Marcus Garvey, a Jamaican journalist, businessman, and political activist had a different approach — Black nationalism and self-determination for all people of African descent. Garvey and his organization the Universal Negro Improvement Association (UNIA) stressed Black pride, connecting with Africa, supporting Black businesses and institutions, and militant opposition to white racism in the U.S. and European colonialism in Africa. The UNIA had chapters in the United States, Cuba, and other parts of the African diaspora.

Initially, Marcus Garvey, did not directly threaten the U.S. government. However, Garvey's movement of Black nationalism was global: it spread throughout the Caribbean, Latin America, and the African continent. At the time, most of Africa was colonized by different European countries — Great Britain, France, Germany, Belgium. The United States allied with Great Britain during World War I. After the war, the British government told the U.S. government it was concerned about Marcus Garvey because Black nationalism was spreading throughout Africa. That sense of Black nationalism appealed to Africans who were angry at British colonialism and fed their thirst for revolutionary change and independence, which threatened Britain's colonial rule in Africa. As a result, the U.S. government set its sights on undermining Garvey with J. Edgar Hoover, the head of the FBI, making it his personal mission to get rid of him. The FBI used surveillance and infiltration to undermine the Garvey movement, particularly hiring a Black FBI agent and paying Black informants. The FBI finally nailed Garvey on tax evasion and he was deported from the United States to Jamaica in November 1927.

The successful undermining of Marcus Garvey paved the way for the FBI under Hoover to go after other movements for Black liberation in the 1960s and '70s (Dokosi, 2020). From 1956 to 1971, the FBI established a series of covert and illegal intelligence projects called Counter-Intelligence Program or COINTELPRO. The aim of COINTELPRO was to disrupt domestic U.S. radical political organizations from the Communist Party USA to anti-war activists, the American Indian Movement, environmentalists, and civil rights and Black Power organizations. COINTELPRO's activities encompassed surveillance, infiltration, intimidation, harassment, and various forms of disruption and political warfare (NPR News, 2006). Sometimes FBI agents would spread false information about activists to undermine their movements. It even reached the point of assassination when on December 4, 1969, Chicago police, working with FBI agents, broke into Black Panther Party leader Fred Hampton's home and murdered him in his sleep (Taylor, 2014). COINTELPRO was eliminated in 1971, after congressional investigation through the Church Committee and backlash against its illegal activities. While the COINTELPRO program officially ended, its practices and tactics never truly went away. One could argue that the post-9/11 domestic surveillance powers are descendants of COINTELPRO.

After COINTELPRO came the War on Drugs in the 1970s (Lopez, 2016). The specter of fighting drugs and crime became another justification for further draconian policing of Black communities and the rise of mass incarceration (Cooper, 2015). As of 2020, the U.S. prison population is nearly 2.3 million (Sawyer and Wagner, 2020) and it rose 500 percent in the last 40 years (The Sentencing Project). SWAT

is also part of this. Special Weapons and Tactics (SWAT) was formed in the late 1960s after the 1965 Watts riots in Los Angeles, California, which occurred because of police abuse and economic injustice in Black communities, particularly poor housing, jobs, and schools. SWAT was largely the brainchild of Vietnam war veteran John Nelson who served in the special operations unit Marine Force Recon and brought war techniques, particularly in specialized reconnaissance and killing, to the Los Angeles Police Department (LAPD); Nelson had the support of LAPD Inspector Daryl Davis, a World War II veteran, who supported bringing aggressive war-like techniques to policing (Coyne and Hall, 105-107). Ostensibly, SWAT is used for high-risk and dangerous police operations, such as hostage rescue. However, their actual activity is far beyond that. Since the advent of the War on Drugs in the 1970s, SWAT has become an instrument of the drug war, often targeting Black and other non-white communities. SWAT police conduct around 20,000 no-knock raids a year (Lind, 2015). Nearly 80 percent of SWAT raids are to execute search warrants, often in the case of drug raids (ACLU, 2014). The War on Drugs also expanded U.S. government surveillance powers, such as GPS tracking device, aerial surveillance, and electronic surveillance, such as an increase in wiretaps (Stanley); in fact, nearly 90 percent of police wiretaps were for drug cases (Greenberg, 2015). Many of those techniques have become useful for and expanded during the War on Terror. In the realm of electronic surveillance, it expanded to the bulk collection of cell-phone metadata (Laperruque, 2019), which is also used for drone strikes overseas (Greenwald and Scahill, 2014).

Police violence, torture, and surveillance have long been used by the U.S. government to suppress Black communities since slavery. Before 9/11, the precedent for those policies were already set and practiced against Black people. After 9/11, with Arabs and Muslims as the designated racialized "Other" to be demonized, those policies expanded

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2

TERRORISM, THE SELF-VERIFYING DISCOURSE

LISA STAMPNITZKY

INTRODUCTION

This chapter provides an overview of how the problem of terrorism has come to be known within the context of the War on Terror. It argues that we should understand "terrorism" as the outcome of a socially constructed discourse, rather than a category that simply reflects objective reality. The chapter begins by presenting key aspects of the contemporary terrorism discourse that shape our understandings of terrorism. Following this, I present a brief overview of how this discourse on terrorism has been produced and reproduced, and the social forces that have shaped the production of knowledge on the subject. Finally, the chapter explains how terrorism discourse shapes what we can and cannot know about "terrorism", and what we can and cannot imagine as a possible response.

To begin with, "terrorism" is not a natural category, but one that arises from political and academic discourse . (Jackson, 2005; E. Said, 2001 (1988); Zulaika, 2009). This is not unusual: many of the most important concepts in contemporary political life, including democracy, dictatorship, capitalism, and socialism, just to name a few, can similarly be considered as social constructions rather than simple reflections of reality. To say that a problem or a concept is socially constructed is not to say that it is not real, only that the way we understand, and develop responses, is shaped by a social context of knowledge (Berger & Luckmann, 1966; Hacking, 1999). However, if we want to think seriously about any of these issues, we need to first consider where their key concepts came from, what discourses they are embedded in, and how they shape our understanding of both a problem and how we might respond to it.

We can point to several indicators as evidence in support of the claim that "terrorism" must be understood as a socially constructed category. First, the core meaning of the term has changed significantly over time: for example, while in contemporary use, "terrorism" is predominantly used to refer to violence committed by sub-state actors, but prior to the 1960s, the term was almost exclusively used to describe the violence of states

(Erlenbusch-Anderson, 2018; Stampnitzky, 2013). Second, we can point to the significant variations in how the term is used and understood both within and across countries. Third, we can point to the recurrent contestation over the meaning and applications of the term in both political / institutional and expert/academic spaces. For example, attempts to develop an internationally agreed upon policy towards terrorism failed in the 1970s due to an inability to agree upon whether violence in the service of anticolonial struggles should be included. And expert and academic spaces have been plagued by what has been referred to as the "problem of definition": the persistent inability to reach a consensus on how terrorism should be defined.

If we accept that "terrorism" is a socially constructed category, then it is crucial to understand the key features of the discourse through which this category emerged, and processes through which the discourse is produced and reproduced.

TERRORISM AS A DISCOURSE

A "discourse" is "a historically contingent social system that produces knowledge and meaning" (Adams, 2017). Discourses both enable and constrain how we can produce knowledge about, and interventions towards, particular problems.

The dominant discourse through which the events of 9/11 and the subsequent "War on Terror" have been understood can be traced to the 1970s (Stampnitzky, 2013). Although acts of political violence against civilians have a long history dating to ancient times, the particular discursive framework which shapes our contemporary understanding is a much more recent development. This makes it all the more crucial to both identify the specific features of contemporary terrorism discourse, to be aware of how this shapes our understandings of the problem, and to be conscious of the fact that this discourse is historically contingent, not a necessary or objective description of the problem.

There are several key aspects of the contemporary discourse on terrorism of which it is crucial to take note. First, "terrorism" is understood as violence committed by "terrorists": i.e. it is violence linked to a particular identity, rather than a tactic that any sort of actor (state or non-state, friend or enemy) might employ. Second, there are particular characteristics linked to this figure of the "terrorist": "terrorists" are evil, irrational, unpredictable, and may commit violence for its own sake, rather than as an instrumental means to an end. Although not always spoken explicitly, the clear resonances between the discourse of terrorism and orientalist understandings of Muslims and Arabs as irrational and uncivilised are all too present, and this acts to reinforce the common identification of terrorism with members of these groups (E. W. Said, 1978). As Abu-Bakare has put it more recently, "targets of counterterrorism are increasingly categorized as belonging to a transnational diaspora of political actors who in their essence are irrational, corruptible, apolitical, but still non-white." (2020, p. 82)

Third, "terrorism" is fundamentally linked to a friend/enemy binary. Terrorism is the violence of the enemy and the other, while violence of those identified with "us" is generally seen to not fit the category. The fundamental nature of this binary to the concept is illustrated in the often cynically proclaimed cliché that "one man's terrorist is another man's freedom fighter." Although in its most commonly used sense the phrase is used primarily to indicate the fungibility of the "terrorist" label, more significantly, it indicates that this fungibility is built upon a friend/enemy distinction.

One further central aspect of the terrorism

discourse is that it produces "terrorism" as a fundamentally "anti-political" concept. What this means is that, in different ways, the discourse produces resistance to making sense of terrorism through deep, situated understanding of its causes and context. Elsewhere, I have described this as a process of "anti-knowledge", or resistance to certain forms of expertise that aim to understand the motivations of terrorists, which are instead discredited as a "sympathy" for terrorists (Stampnitzky, 2013). Darryl Li has similarly argued that contemporary discourses on "jihad" tend to fall into a "secularized form of demonology" which "shuts down serious thinking about politics" and precludes deep understanding of the causes of terrorism, which would require "taking radicalism seriously as a political orientation, whether its idiom is Islamic, communist or anarchist" (Li, 2015, pp. 12, 15).

THE PRACTICE OF TERRORISM 'EXPERTISE'

We can also look at how terrorism designations operate in practice. Research finds that state designations of organizations as "terrorist" are not purely based on the level of violence, or even primarily upon whether a group targets that country's citizens, but are significantly influenced by the sites targeted – with groups that target aviation more likely to be so labelled, as well as ideological leaning – with Islamist groups more likely to be given the label while white supremacist violence is less likely to be labelled as terrorism (Beck & Miner, 2013; Meier, 2020). Groups are also less likely to be designated as "terrorist" the more they look like "legitimate contenders for political power" (Chou, 2016, p. 1129). Similarly,

> *studies of how the general public understands the concept of terrorism have found that Americans are more likely to classify events as terrorism if they are more violent, but are also more likely to classify certain types of violence, such as bombings, as terrorism, than shootings or hostage-takings, irrespective of the number of casualties, and are more likely to classify an incident as terrorism if the perpetrator is Muslim*

(Huff & Kertzer, 2018, pp. 64, 69).

Although "terrorism" is often defined as political violence against civilians, in practice, it is not consistently applied as such, in large part because each of these terms (political, violence, civilian) are quite malleable. We commonly see states label as terrorism attacks on property or even boycotts or economic sanctions,[1] as well as attacks on soldiers or military bases[2]. Violent attacks motivated by animosity towards racial, religious or other identity groups have frequently been dismissed as "not political" (as when the FBI director assessed the mass shooting of nine black churchgoers by white supremacist Dylann Roof as not a "political act") and therefore not terrorism (Husband, 2015). Studies have also consistently found that whether an incident is classed as terrorism is significantly impacted by the perceived identify of the perpetrator (e.g. Rao & Shenkman, 2018). Who produces knowledge about terrorism, and

[1] For example, the President of Israel recently called a decision of an ice-cream company to boycott the settlements a "new form of terrorism" (Lis, 2021)

[2] To give just one example, prior to 9/11, the 1982 attack on a U.S. military compound near the Beirut airport which killed 241 service members was frequently cited as one of the most notorious incidents of terrorism in U.S. political discourse.

under what conditions? Academic research into terrorism has been, and continues to be, plagued by what is known within the field as the "problem of definition." The inability to arrive at a consensus on how to define terrorism is not only a problem for the political and media spheres, it also plagues the field of terrorism studies (Stampnitzky, 2013). A 1988 survey of terrorism researchers found more than 100 distinct definitions in use (Schmid & Jongman, 1988), while a 2001 article described a "perverse situation where a great number of scholars are studying a phenomenon, the essence of which they have (by now) simply agreed to disagree upon" (Brannan, Esler, & Strindberg, 2001, p. 11), and there is little reason to think the situation has substantially improved in the intervening time.

Some of the key points of contention preventing the reaching of consensus echo aspects of the discourse highlighted above. Experts differ on questions including can states commit terrorism, or is it only violence by non-state actors? Are terrorists irrational (a view largely espoused outside academia), or does terrorism have identifiable, rational motivations? Is terrorism a tactic available to all, or an activity of solely "terrorist" groups? Is terrorism defined by being considered "illegitimate", and if so, is this a neutral judgment, or one that is necessarily political? I have argued elsewhere (Stampnitzky, 2017) that if we have been collectively unable to reach a satisfactory stable definition of terrorism, this is in large part because the concept incorporates within it three questions that are central to politics: who is the enemy, when is political violence legitimate, and what is political? Who can be the target of terrorism: only civilians, or also soldiers? And where does the line between civilian and combatant lie? And all of these questions can only be answered politically, not objectively/scientifically. In other words, the question of how to define 'terrorism'/ what is and is not terrorism is always, necessarily, a site of political struggle. To call something terrorism is fundamentally an accusation. To label an incident as "terrorism" is not just to describe it as a particular type of violence, but to repudiate it, and its perpetrators, as absolutely illegitimate.

IS 'TERRORISM' KNOWABLE?

The terrorism discourse shapes what we can and cannot know about "terrorism," as well as what we can and cannot conceptualize and enact as a response to terrorism. I have suggested above that discourses are both enabling and constraining. In practice, this means that the discourse makes some kinds of claims easier—because they fit with its existing presuppositions. For example, states commonly make use of "terrorism" to label their enemies (internal or external). Around the world, from the U.S. to China, to India, to Turkey, to Israel and beyond, we see states using the term to delegitimize challenges to centralized state authority, and attempt to legitimate state violence and crackdowns upon entire ethnic and religious groups in the name of fighting terrorism.

But the terrorism discourse also constrains—makes some kinds of claims more difficult. It is not that these kinds of claims cannot be made, but that they are less likely to be accepted, to have traction, and to spread. Relevant here is the implied understanding of terrorism as violence which threatens the status quo: consequently, incidents that when viewed actor-neutrally might appear quite similar, are judged differently depending upon whether the perpetrators are viewed as acting in line with, or towards ends that threaten, dominant structures of power (Abu-Bakare, 2020; Meier, 2020). Consequently, attempts to apply the "terrorism" label in ways that do not fit this implied

understanding are likely to meet resistance, and to encounter a sense of lack of "fit". We can see a pertinent illustration of this in the recurrent attempts to label right-wing and white supremacist violence as terrorism. Despite the growing evidence that right-wing and white supremacist groups pose perhaps the greatest threat of political violence within the United States, those who have aimed to raise the alarm (including when such warnings have come from the FBI and the Department of Homeland Security) have been minimized or dismissed (Illing, 2015; Kurzman & Schanzer, 2015; Shane, 2015; Ybarra, 2015). Furthermore, it means that once one does use the discourse of terrorism, one's claims must be fit into the framework of "friend/enemy" and violence as delineated primarily by legitimacy/illegitimacy---even if these are not the most useful ways of *explaining* or *preventing* political violence.

CONCLUSION

This brings us to how the terrorism discourse shapes counter-terrorism policies in the War on Terror. First, insofar as "terrorists" are understood as both evil and irrational, this leads states to favor pre-emptive approaches, and often precludes alternate approaches such as deterrence or negotiation. The pre-emptive approach to counter-terrorism reasons that insofar as terrorists are understood to be irrational, they cannot be reasoned with or deterred, and insofar as they are understood to be evil, they are liable to enact such drastic harm that it must be prevented at almost any cost. This logic of pre-emption can be seen across a wide range of policies and practices in the War on Terror, ranging from pre-emptive war (as in the 2003 invasion of Iraq), to widespread surveillance and monitoring or those deemed suspicious or "at risk" of becoming entangled in terrorism (de Goede, 2008), and even the widespread practice of sting operations and entrapment of "potential terrorists" (W. E. Said, 2015). One could even link here the widespread use of pre-emptive detention and torture against terrorist suspects in American-run prisons at Abu Ghraib, Guantanamo Bay, and elsewhere, justified by the need to gain intelligence that would enable the US to pre-empt a potentially devastating terrorist attack (Kearns & Young, 2020; Sanders, 2018).[3]

I will note here two further ways in which the dominant terrorism discourse shapes the practices of the War on Terror. First, insofar as it instantiates and supports a racialized understanding of terrorism, this has the effect of both producing racist equations of Arabs and Muslims with "terrorism", along with the framing of these groups as "suspect communities" and subjects them to various forms of harassment and deprivation of rights (Awan, 2012; Kapoor, 2018). Conversely, both these racialized understandings of the terrorist, and the focus on sub-state groups more generally, leads to a lack of attention to forms of political violence, including severe political violence against civilians, that do not fit this framework, including state violence and right-wing extremism (Blakeley, 2009; Meier, 2020).

[3] Although the so-called "ticking time bomb" scenario has been widely cited as a justification for the need to engage in torture of suspected terrorists, there has never been a proven case where such use of torture successfully prevented a terrorist attack (Luban, 2014). Further, it is now known that many of those held at Guantanamo and Abu Ghraib had little or no connection to al-Qaeda.

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3

THE ISLAMOPHOBIA INDUSTRY: HOW THE POST-9/11 ENVIRONMENT CULTIVATED A NETWORK OF FORCES THAT FEED, SUSTAIN, AND CAPITALIZE ON ANTI-MUSLIM BIGOTRY

MOBASHRA TAZAMAL & JOHN L. ESPOSITO

WHAT IS THE ISLAMOPHOBIA INDUSTRY?

The Islamophobia industry is a structureless network of individuals, organizations, donors, politicians, and think tanks that promote discriminatory and harmful views about Islam and Muslims.

Over the past two decades these groups and individuals have influenced public sentiment and discourse on Islam and Muslims, framing the religion and its followers as uniquely tied to violence. The industry's access to mainstream media and relationships with leading politicians has resulted in the mainstreaming and normalization of anti-Muslim racism in the United States.[1]

In 2011 and 2015, the Center for American Progress produced two detailed reports on the Islamophobia industry in the U.S. The reports meticulously outlined the inner workings of this industry that organically developed following the 9/11 attacks. In addition to the personalities and think tanks, the industry has been supported by a network of anonymous donors, private foundations and donor-advised funds, funneling dark money to finance right-wing groups and voices (Ali, Clifton, Duss, Fang, Keyes, & Shakir, 2011; Duss, Taeb, Gude, & Sofer, 2015).

[1] This report is limited to the United States but it is important to note that the Islamophobia industry is not unique to the United States alone. Anti-Muslim voices and organizations have flourished across the globe, a testament to the global rightward shift. Anti-Muslim agitators and organizations have networked amongst themselves across the globe, incorporating each other's successful tactics to influence public opinion in their respective countries. Similarly to what occurred in the U.S. with the mainstreaming of Islamophobia with the Trump administration, many other gov ernments too have adopted Islamophobia as part of their political agenda, instituting discriminatory policies aimed at their respective Muslims citizens. Examples of this include but are not limited to the governments of Austria, Hun gary, France, United Kingdom, Sri Lanka, and India.

The voices of the Islamophobia industry work to influence public sentiment by characterizing Muslims as inherently violent and untrustworthy, and Islam as a religion that promotes violence and terrorism to justify discriminatory and harmful policies aimed at Muslims. Aside from promoting anti-Muslim racism, these groups and individuals often share similar viewpoints on other issues including advocating for hawkish neo-conservative foreign policy measures, restricting the immigration of Black people and people of color to the United States, and calls for a small government. For some, Islamophobia has been the central motivating ideology in their work, while others have incorporated anti-Muslim racism into their larger political agenda.

In the immediate aftermath of the 9/11 attacks, the public response largely consisted of questions of 'why?,' namely, 'why do they hate us or why did they do this?' In his now infamous speech to Congress, then-President George W. Bush in his address to Congress emphasized that "The terrorists practice a fringe form of Islamic extremism that has been rejected by Muslim scholars and the vast majority of Muslim clerics; a fringe movement that perverts the peaceful teachings of Islam…. The terrorists are traitors to their own faith, trying, in effect, to hijack Islam itself." However, media networks often featured anti-Muslim voices, such as Daniel Pipes ("Factsheet: Daniel Pipes," 2018) of the Middle East Forum ("Factsheet: Middle East Forum," 2018) and Steve Emerson ("Factsheet: Steven Emerson," 2020) of the Investigative Project on Terrorism ("Investigative Project on Terrorism," n.d.), who maintained that religion, specifically Islam, was the cause and reason for the 9/11 attacks. This opened the floodgates for self-styled experts on Islam and terrorism in the ensuing years to capitalize on rising hysteria and profit from anti-Muslim hate. The dehumanizing rhetoric was that Muslims who engaged in violence did so because their religion called on them to do so, and that all Muslims had this inherent potential to engage in violent behavior.

It must be noted that prejudice towards and stereotypes about Muslims existed long before 9/11. In the United States, depictions of Muslims historically have often fallen into a number of caricatures including the 'violent barbaric Muslim man' and the 'oppressed and submissive Muslim woman.' The media's orientalist depictions exploited the American public's lack of contact with Islam and Muslims, despite the presence of Islam and Muslims in America dating back hundreds of years. With the media's representation of Islam and Muslims as foreign, often conflating it with the Middle East and/or Arabs, Americans' general understanding and interaction with Muslims has been curated through the lens of foreign policy. Thus, even before 9/11, orientalist characterizations of Muslims, as the violent and untrustworthy "other," shaped public discourse on Islam.

In the years following the September 11th attacks, leading voices of the Islamophobia industry such as anti-Muslim activist and far-right blogger, Pamela Geller ("Factsheet: Pamela Geller," 2018) activist, blogger and author, Robert Spencer ("Factsheet: Robert Spencer," 2018), anti-Muslim conspiracy theorist and the founder of the Center for Security Policy (CSP) ("Factsheet: Center for Security Policy," 2017), Frank Gaffney ("Factsheet: Frank Gaffney," 2017), conservative writer, president of the David Horowitz Freedom Center and editor of FrontPage Magazine, David Horowitz ("Factsheet: David Horowitz & The Freedom Center," 2017), and the academic and founder of the Middle East Forum and Campus Watch (Parry, N. & Abunimah, A., 2002), Daniel Pipes, were routinely platformed by

media networks who gave these individuals ample airtime to promote their discriminatory and racist views. Through articles and interviews, these individuals painted Muslims abroad as uncivilized, violent, and barbaric and American Muslims as an untrustworthy and dangerous segment in society. Such characterizations of Muslims significantly influenced public opinion, and those in power used this discourse to justify the invasion of Iraq and sell the larger War on Terror to the public.

Such commentary sold fear to the American public. Many of these anti-Muslim voices found a home on right-wing news stations like Fox News and began working closely with right-wing Republicans around the time of the 2003 invasion of Iraq (Duffner, 2021). The negative depictions of Muslims and the threat of terrorism were needed by those in power to sell a war to the American public and the international community, as well as to garner support for increased and unchecked government power. The argument went that all of these measures both domestically and abroad were needed to protect Americans from the threat of violence and Muslims were the ultimate suspect (Esposito, 2010).[2]

Over the past two decades, Islamophobic voices have helped influence and generate public support for restrictive and illegal policy measures, including the unconstitutional surveillance and monitoring of American Muslims, the prison at Guantanamo Bay, the No-Fly list, and the Muslim Ban to name a few.[3]

The workings of this industry can be seen from several events that occurred during the past two decades. These include the election of Barack Hussein Obama, the "Ground Zero Mosque" controversy, and the election of Donald J. Trump. Each episode illustrates how donors, the media, politicians, and leading anti-Muslim voices all worked together to sustain each other's agenda.

THE ELECTION OF BARACK HUSSEIN OBAMA

In 2008, the American public elected Barack Hussein Obama, a Black American, for President: a historic moment that generated an extreme response from the political right and media establishment. While much of the backlash was a result of white nationalist underpinnings of American society, anti-Muslim animus too played a role. In the lead up to the election, right-wing media outlets harped on Obama's name, specifically Hussein, and circulated a picture of him in a turban to support the claim that the Senator from Illinois was Muslim. While Obama consistently stated he was a practicing Christian, commentators and bloggers, like Geller and Spencer, claimed Obama was a secret Muslim (Baumann, 2010). They

[2] A 2006 USA Today-Gallup poll found that fewer than half of the respondents believed U.S. Muslims were loyal to the United States. See (Esposito, 2010) for data.

[3] In the two years following 9/11, Georgetown Law School Professor David Cole reported that the government locked up over 5,000 foreign nationals in preventative detention (Cole, 2008). Additionally, the ACLU of New York reported that between 2001 and 2002, the FBI questioned a total of 8,000 Muslim and Arab men ("NYCLU requests informa tion," 2004). Further in 2002, the Department of Justice (DOJ) initiated the National Security Entry-Exit Registration System (NSEERS) or "special registration," which "served as a tool that allowed the government to systematically tar get Arabs, Middle Easterners, Muslims, and South Asians from designated countries for enhanced scrutiny," (Penn State Law, 2012). More than 80,000 men were called in for special registration and photographing, and thousands were subjected to interrogations and detention. Not a single individual questioned or registered by the authorities was convicted of terrorism-related acts.

cited as evidence a picture of Obama wearing a turban, promoted the debunked claim that he studied in a madrassa as a child in Indonesia, and pointed to his Kenyan Muslim father as proof (Geller, 2010; "CNN Debunks," 2007). These false allegations from the industry had resounding impact on the American public, so much so that an August 2010 survey by the Pew Research Center found that nearly one in five Americans believed Obama was a Muslim, with the number increasing to 34 percent amongst Republicans ("Growing Number of Americans, 2010).

This manufactured allegation even made its way to 2008 town hall when an audience member told the late Senator John McCain she couldn't "trust Obama," because "he's an Arab," (CNN/AP, 2018), (this individual later told reporters she believed Obama was a Muslim) (Davich, 2018). McCain responded, "No ma'am, He's a decent family man, citizen." The response, while correctly pointing out that Obama was not Arab/Muslim, however communicated to the American public that being Muslim and/or Arab and being a good person were mutually exclusive, again painting the minority religious group in the country as a dangerous other.

A July 2008 *New Yorker* cover (Garafoli, 2008) further fanned the flames of racism and Islamophobia during the 2008 election (Patel, 2009). The cover was an illustration of Obama in a turban and shalwar kameez, clothes often worn by Muslims in South Asia. He is seen fist-bumping Michelle Obama, who is portrayed with an afro, camouflage pants, combat boots, and carrying an assault rifle. They are standing in the oval office with a portrait of Osama Bin Laden in the background and the American flag burning in the fireplace. The imagery merged together racist and anti-Muslim messaging, portraying Michelle as a militant and Obama as a secret Muslim, both painted with mischievous looks on their faces as if they were planning to overthrow the country (Blitt, 2008). The portrait of Bin Laden further drove home the right-wing talking points that all Muslims followed and supported the head of al-Qaeda. Such imagery from a widely read magazine went hand in hand with years of messaging generated by the anti-Muslim ecosystem.

The secret Muslim claims merged with the concocted hysteria around then-President Obama's birth certificate creating the racist birther conspiracy theory, peddled not only by anti-Muslim voices but also more mainstream republicans (Serwer, 2020). The individual who arguably nurtured and sustained (Barbaro, 2016) the conspiracy theory was none other than Donald J. Trump ("Factsheet: Donald Trump as Presidential Candidate," 2019), who was brought on air by Fox News, The Today Show, and The View, where he called on the President to release his birth certificate, suggesting that the first Black President was not legitimate (Reyes, 2016; Perry, 2019).

From the claims of secret Muslim to the birther conspiracy theory, we can see how the views of fringe individuals like Geller, Gaffney, and Spencer were mainstreamed via right-wing politicians and media networks (Gaffney, 2009). It's also important to note that the views of these anti-Muslim actors were incorporated and utilized by the right-wing, especially the newly-formed Tea Party, in an effort to discredit the first Black president and appeal to the white nationalist underpinnings of the country. The 2008 presidential elections served as the pinnacle point at which the political establishment, primarily the right-wing, adopted Islamophobia into its discourse.

2010 MIDTERM ELECTIONS: THE RISE OF THE TEA PARTY AND THE "GROUND ZERO MOSQUE" EPISODE

Racist and anti-Muslim viewpoints were adopted by the Tea Party movement, a conservative revolution that saw a wave of new representatives enter Congress in 2010 (Peters, 2019). This movement changed the American political establishment via its politics of outrage and direct appeal to ethno-nationalism; it would serve as the ideological predecessor to Trumpism (Kabaservice, 2020). Fearing increased government regulation of industry, mega-donors like the libertarian Koch brothers sought to protect their interests and pumped millions of dollars into the conservative movement following the 2008 election of Obama (Mayer, 2010). Politicians and donors capitalized on the Islamophobia and anti-Muslim hysteria as it was an electorally beneficial strategy. For bloggers, writers, and organizations who peddled disinformation, promoting anti-Muslim racism became a lucrative career. Thus developed a web of "nefarious forces that both fed and capitalized off Islamophobia" (Duffner, 2021, pg. 9).

The 2010 so-called "Ground Zero Mosque" controversy can be pointed to as one of the major events that brought the fringe voices of the Islamophobia industry to the forefront (McGreal, 2010a). The event was the perfect convergence of the various players of the ecosystem: personalities like Geller and Spencer, politicians, funders, and the media. It was also the year of the midterm elections and many Republican candidates, such as Allen West (Clips 6, 2010), Peter King (Wyatt, 2010), and Rick Scott (Gura, 2010), adopted anti-Muslim rhetoric into their electoral strategy. This proved successful as Republicans ended the unified Democratic control of Congress by winning a majority in the House of Representatives.

Park51 was envisioned as a 16-storey high Muslim community[4] center housing a pool, childcare facilities, library, auditorium, and a prayer space whose facilities would be open to the broader community. While opponents decried it for "looming" over the "hallowed ground" of the 9/11 attack, the site of the center was blocks away from the site of the World Trade Center (Moore, 2010). Geller and Spencer were the organizers of a June 2010 protest that gained widespread media attention and used their websites to disseminate disinformation about the proposed community center, tying it to terrorism ("Protesters descend on Ground Zero," 2010). In an election year, this false narrative spread like wildfire across the media and anti-Muslim hysteria reached fever pitch. A number of mainstream Republicans (Saletan, 2010), including Representatives Peter King ("Factsheet: Peter King," 2020) and Newt Gingrich (Brown, 2010), and New York Mayor Rudi Giuliani, added their voices to the opposition, with Gingrich even claiming that having a mosque near Ground Zero was akin to Nazis putting up a site next to the

[4] A number of politicians and government officials did support the right of the Muslim community to build Park51, including New York Mayor Michael Bloomberg, Democratic Congressman from New York Jerrold Nadler, and former solicitor general for President George W. Bush, Ted Olson. (See: "Republicans Attack Obama," 2020. Wing, 2010)

[5] Shortly after the manufactured hysteria around the Park 51 community center, members of the Islamophobia industry focused their efforts on generating fear around the claim that Muslims in the United States were seeking to imple ment Sharia, or Islamic law, and would overthrow the Constitution. Thus, the industry led by David Yerushalmi (see: "Factsheet: David Yerushalmi," 2017) , a lawyer who represented Geller and other anti-Muslim figures and described by the Southern Poverty Law Center (SPLC) as the "father of the anti-Sharia movement," focused their attention on local state efforts, targeting so-called foreign laws. The campaign introduced anti-foreign law bills in state legis latures across the country, with the intended target being Sharia. This movement was based on an "unfounded fear of 'creeping Sharia,' proliferated by fabrications, lies, and intentionally misconstrued information surrounding Mus lims in the United States" (see: Islamophobia, n.d).

Holocaust Museum in Washington, D.C. (Davis, L. & Dover, E., 2010)
By August 2010, a Time poll found that 61% of respondents opposed the construction of Park51, and more than 70% agreed with the premise that proceeding with the plan would be an insult to the victims of the attacks on the World Trade Center (Altman, 2010). This episode also triggered (McGreal, 2010b) widespread anti-mosque activities[5] across the country from opposition to building mosques to vandalism and desecrations (Gowen, 2010).

This period also witnessed the rapid growth of anti-Muslim influencers and groups, such as ACT for America, the largest grassroots anti-Muslim organization in the country ("Factsheet: Act for America," 2018). As the media focused on the opposition to Park51, some outlets welcomed these new voices giving them access to millions of Americans. For example, Sean Hannity invited the founder of ACT, Brigitte Gabriel ("Factsheet: Brigitte Gabriel," 2018), to his show in 2010 where she warned about "radical Muslims," a Muslim Brotherhood takeover, and decried the "insensitivity" of building a mosque near ground zero as if the 9/11 attacks were directly connected to American Muslims and Islam (Hannity, 2010).

THE ELECTION OF DONALD J. TRUMP AND MAINSTREAMING OF ISLAMOPHOBIA

Only seven years later Gabriel was at the White House meeting (Beinart, 2017) with then-President Donald J. Trump ("Factsheet: Donald J. Trump as President of the United States," 2019). The 2015-2016 presidential campaign and subsequent 2016 election of Trump serves as a clear case study in the workings and impact of the Islamophobia industry.

Many of the individuals that were viewed as fringe voices in the first decade of the 21st century were brought into the mainstream with the Trump campaign, with some directly influencing and/or making policy (A New Era in American Politics, 2017). The trajectory of the growth and influence of the Islamophobia industry led it to finding a direct seat at the table in Trump's administration.

During his campaign, Trump repeatedly made anti-Muslim comments, even stating "Islam hates us" in a CNN interview (CNN, 2016), and promised to institute discriminatory policies such as a national registry of all Muslims, shutting down of mosques, and banning Muslims from entering the United States, all propositions that won him ample support from the Islamophobia industry. To support his December 2015 call for a "total and complete shutdown of Muslims entering the United States" (Taylor, 2015), Trump cited a deeply flawed poll commissioned by the CSP, Gaffney's anti-Muslim organization ("Factsheet: Center for Security Policy," 2017). Gaffney, a long time anti-Muslim conspiracy theorist who claimed there was a deep-rooted Muslim infiltration of the government and that Muslims wanted to impose Sharia in the country and overthrow the Constitution, was reportedly also advising (Nguyen, 2016) the Trump transition team following the November 2016 election (Bump, 2016). The Trump administration's relationships with the Islamophobia industry were not limited to Gaffney as the White House staffed individuals who held discriminatory, prejudicial, and even hateful views of Muslims and Islam.

These included but were not limited to chief strategist Steve Bannon ("Factsheet: Steve Bannon," 2016), senior policy advisor Steven Miller ("Factsheet: Steven Miller," 2018), Attorney General Jeff Sessions ("Factsheet: Jeff Sessions," 2017), National Security Advisor Michel Flynn ("Factsheet:

Gen. Michael Flynn," 2018), Director of the CIA and then Secretary of State Mike Pompeo ("Factsheet: Mike Pompeo," 2017), and Sebastian ("Factsheet: Sebastian Gorka," 2018) and Katharine Gorka ("Factsheet: Katharine Gorka," 2017), etc. These individuals were directly affiliated with the industry, accepting awards from and speaking at events held by prominent anti-Muslim organizations such as CSP and ACT. Some, like the Gorkas and Bannon, were themselves part of the industry as they had advanced defamatory and dangerous allegations against Muslims, calling for policies that would curtail the civil rights and liberties of Muslim Americans. Bannon had a long history of propping up and working alongside many anti-Muslim voices including Gaffney, Geller, and Spencer (Harkinson, 2016). Further under his leadership, Breitbart, a far-right media platform, produced articles claiming Muslims in the U.S. were a fifth column, promoting the debunked "no-go zones" and "creeping Sharia" conspiracy theories, and warning of an Islamic infiltration of the U.S. government ("Factsheet: Breitbart," 2019). It was no surprise these voices found a home in Trump's White House given the former President himself made Islamophobia part and parcel of his campaign and tenure.

Trump's campaign was financed by a number of right-wing voices, including the reclusive hedge-fund billionaire (Mayer, 2017), Robert Mercer (Tazamal, 2018). Mercer not only pumped millions into the real estate mogul's campaign but his daughter Rebekah, also played an instrumental role in advising and recommending individuals, such as Bannon and Kellyanne Conway, who headed Trump's 2016 presidential campaign, ("Factsheet: Kellyanne Conway," 2018), for the Trump White House. Mercer's financing of Islamophobia, which included owning Breitbart, was not a new venture as his earliest funding of the industry came in 2011 when he gave a reported one million dollars to the conservative party to be used on a series of television ads against the so-called Ground Zero mosque (Tazamal, 2018).

CONCLUSION

The Islamophobia industry functions like a circuit board, with one actor powering the other, each carrying an anti-Muslim current to strengthen the other's agenda. Together they work to advance and sustain Islamophobia amongst the public. Following the 9/11 attacks, there was a burgeoning of anti-Muslim voices and groups who told the American public that it was Islam, a faith practiced by over 1.8 billion across the planet, that was responsible for the deadly attacks, and that followers of this religion were inherently violent. Politicians adopted this framework, even playing a role in constructing it, in an effort to expand government powers. Using a narrative of protecting Americans from any future attacks, this industry argued for policies that curtailed the civil rights and liberties of Muslims at home, and supported wars, particularly the ill-defined War on Terror, to target Muslims abroad.

As the years went on, the Islamophobia industry magnified its reach through the financial support of anonymous donors and private organizations who sought to protect their own self-interests. Right-wing media outlets platformed fringe anti-Muslim voices whose fear-mongering and dehumanizing commentary about Muslims entered the homes of millions of Americans. As anti-Muslim sentiment seeped into the public, politicians adopted Islamophobic positions, which proved electorally successful. The strength and influence of the industry culminated with the election of Donald Trump, whose campaign and administration mainstreamed anti-Muslim racism in the United States, and emboldened Islamophobes around the globe.

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4

THE MUSLIM 'WAR ON TERROR'

FARID HAFEZ

THE EXPANSION OF A RACIAL HIERARCHY

The so-called War on Terror has confirmed a new era of global politics that had ended the Cold War and the divide of the world in a good free world vs. a bad communist, socialist world led by the Soviet Union. The proclamation of an age of 'a clash of civilizations', as theorized by Samuel P. Huntington, was finally legitimized by the destruction of the Manhattan twin towers and the subsequent proclamation of the War on Terror by President George W. Bush. The demonization of Saddam Hussein with the false allegations that he possessed nuclear weapons in order to invade Iraq,

> *the declaration of the War on Terror to mobilize many Western countries in its fight against the Muslim enemy, the invasion of Afghanistan to free women from oppressive Muslim men: all of this happened with the help of an Islamophobic discourse that allowed the US to intervene, kill, and destroy while representing itself as free, enlightened, and freedom-seeking.*

As Stephen Sheehi has argued, Islamophobia was deployed primarily to keep the U.S. empire relevant. For him, "Islamophobia is an ideological construct deployed to facilitate U.S. presence and, in fact, make U.S. domination seem necessary" (Sheehi 2011) in those countries that were torn by war after the U.S. invasions. He argues further that As Stephen Sheehi has argued, Islamophobia was deployed primarily to keep the U.S. empire relevant. For him, "Islamophobia is an ideological construct deployed to facilitate U.S. presence and, in fact, make U.S. domination seem necessary" (Sheehi 2011) in those countries that were torn by

war after the U.S. invasions. He argues further that *"the parallax of American power is such that it must convert its vision into reality if it is to remain relevant in the Arab world, in Iraq and Afghanistan. In fact, remaining relevant, not oil or the spread of democracy, is the United States' primary raison d'etre for its presence in the Middle East. [...] a more effective strategy in maintaining relevance in Iraq and the region is to maintain a state of tension and conflict intense enough to make local allies need Washington's military, political and economic assistance, but also sufficiently low-grade that it does not call for the presence of American boots on the ground. The United States profits from instability just as it benefits from fear. Instability activates the militaristic, patriotic, if not jingoistic tendencies in the population that easily justify what otherwise seems like boldfaced aggression or occupation" (Sheehi 2011, 25).*

On one side, Islamophobia was able to spread due to the works of some academics, researchers, pseudo-scholars and advisors of the U.S. political elite, who have informed both the U.S. public and foreign policy. Another important factor that has helped Islamophobia to become engrained in American culture and its political unconscious is that Islamophobia operates in a society with its own troubled history of racism: "The United States has a sustained history not only of the dehumanization, disenfranchisement and occupation of Blacks, Native Americans, and Asians but also of transforming this racist hate into political action, witch hunts and pogroms to control dissent and discontent. Islamophobia has now been interwoven within this same history," (Ibid). In a way, Islamophobia has been used a means of gaining, stabilizing, and widening power for the U.S. empire in its foreign policy.

At the same time, Islamophobia is everything but a new phenomenon restricted to the United States. With the colonial expansion of Western powers in the world, Islamophobia has on one side been at the cradle of Western civilization with the expulsion of Jews and Muslims from the dominant Catholic, white Spanish ruling elite in then-Andalusia. On the other side, Islamophobia is an extension of an already existing global racial hierarchy that positions white normativity at the center of power. Walter Mignolo describes this Europeanization of the world as an offensive process that colonizes any sphere of the 'being' and that deeply reshapes the colonized's approach to the world, namely his understanding of ontology (definition of human being and of its relation to the inner and supra-worlds), of psychology (subconsciousness, self-representation), of linguistics (discourse, use of certain concepts), of epistemology (definition of knowledge, divine and secular knowledge), to politics (state, nation, secularism), of economy (capitalism, industry, centre-periphery) etc. At the end of this destructive process, the colonized is not allowed to 'be' outside the Europeanized world. Put differently, Mignolo draws an intrinsic link between Europeanism (i.e. Western colonial design of the world), Orientalism (i.e. Western approach to the non-Western world), and self-orientalism (i.e. the adoption of an Orientalist approach by non-Westerners/natives/indigenous).

In a similar vein, Ramón Grosfoguel, argues that Islamophobia takes root in Western imperialism at the global scale, leading to self-valorization' of Western epistemological tradition and rising it up to the rank of 'universality,' 'neutrality,' 'rationality,' and 'philosophy'. Starting from the 15th century (the destruction of Al-Andalus and the conquest of the American continent) onwards, the 'West' claimed intellectual superiority over other civilizations following its growing political domination (slavery, colonization, westernization,

etc.) (Grosfoguel, 2012). The development of the 'world order' goes hand in hand with this global racial hierarchy.

In this definition, globalization does not only involve 'international division of labor and a global inter-state system' but also 'as constitutive of the capitalist accumulation at a world-scale, a global racial/ethnic hierarchy (Western vs. non-Western peoples), a global patriarchal hierarchy (global gender system and a global sexual system), a global religious hierarchy, a global linguistic hierarchy, a global epistemic hierarchy, etc.'. (Grosfoguel, 2006). This epistemic racism/sexism is the underlying discourse of the world we live in.

THE GOOD AND THE BAD MUSLIM

In this context, the Islamic civilization's knowledge, values, and way of life are automatically dismissed as 'particularistic,' 'provincialist,' 'subjective,' 'undemocratic.' 'irrational,' and 'non-universal'. From this perspective, the westernized political, cultural, etc. elites in Muslim-majority countries can either be regarded as part and parcel or as operating within the epistemological framework of a racial structure. The broad context in which elites are involved represents itself in the European local experience that became hegemonic on a global scale. This intellectual 'dependency' or 'captive mind' (Alatas, 2005) is particularly obvious for those cultural, political, and other elites who were educated outside of their native homelands in Western universities. With this hegemony of knowledge production in the centres of the Global North, a non-Muslim perspective on Islam has become the starting point for many Muslim thinkers and policy-makers, consciously as well as unconsciously.

With Mignolo, we can argue that the roots of epistemic Islamophobia in Muslim societies are especially to be found in what Quijano calls the 'coloniality of power' (Quijano, 2000). This concept assumes a hierarchical structure of the whole world between the dominating-made product (from the white Western man) and the dominated-made product (from any non-white Western man) in every social sphere (ontology, epistemology, language, sign, economy, politics, etc.). The coloniality of power 'presupposes the colonial difference as its condition of possibility and as the legitimacy for the subalternization of knowledges and the subjugation of people' (Mignolo, 2000, 16). Hence, there was simply no space for any Muslimness. This way, the Islamic civilization's knowledge, values, and way of life are dismissed as 'particularistic', 'provincialist', 'subjective', 'undemocratic', 'irrational' and 'non-universal'.

But this does not mean that every kind of Muslimness is per se framed as an enemy. Part and parcel of every racial hierarchical system is the imagination of a dual identity, be it the house-N***** next to the field N*****, the conspiratorial Jew next to the court Jew, or the good Muslim next to the bad Muslim. The submissive other that subordinates himself to the power is always tolerated unless s/he rebels.

In regard to Muslims, Mahmood Mamdani argues that this dichotomization produced a message according to which "unless proved to be 'good', every Muslim was presumed to be 'bad'." All Muslims were now under obligation to prove their credentials by joining in a war against 'bad Muslims' (Mamdani, 2005: 15). While Bush had declared that Islam was a religion of peace following the 9/11 terrorist attacks, a securitization of Muslims took place within the U.S. An

'Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States' was installed reminiscent of previous programs from the 1960s such as COINTELPRO (Counter Intelligence Program), which especially targeted Black communities (Hill, 2015). CVE programs were introduced under Obama's presidency (Office of the Press Secretary, 2015). But even before this, spying programs targeting Muslims had existed in some areas of the U.S. such as New York City, as was revealed by the *New York Times*.[1]

With the War on Terror, the first 'de-radicalization' programs were introduced in European countries, followed by several European Union member states. The United Nations followed suit by adopting resolutions aimed at Countering Violent Extremism (CVE). UN Resolutions 2178, 2354, and 2396 were introduced to implement CVE projects across member states. These programs and resolutions were articulated in neutral terms, not explicitly mentioning the threat of terrorism, political violence, or extremism of any specific ethnic or religious groups. However, they flourished in the aftermath of the War on Terror and have disproportionately targeted Muslim communities globally (Kundnani & Hayes, 2018). Hence, the War on Terror has literally become a global undertaking. While the notion of 'radicalization' had not existed prior to 2004, today it has become normalized and has found its way into everyday parlance (Kundnani & Hayes, 2018). Every nation state could implement a program fighting whatever 'extremism' they identified. And many countries inhabited by a Muslim-majority also implemented policies that were legitimized by the so-called War on Terror.

MUSLIMS FIGHTING 'TERRORISM'

Not only have many of the most vocal Islamophobes within the Global North been Muslims, but they have been regularly relied on in order to provide their insider perspective to further support Islamophobic discourses. This is also true when it comes to Muslim-majority countries. For decades,

> *Muslim elite supporters of authoritarian governments continually argued to Western leaders that free elections would bring Islamists to power. They portrayed themselves as defenders of secular regimes. This rhetoric has legitimized political violence against the Islamic conservative opposition in many countries.*

As critical scholars like Edward Said argued, "The problem is that use of the word 'terrorism' was a political weapon designed to protect the strong" (Said, 2001). Postcolonial theorists have emphasized the centrality of race and imperial power in forming normative understandings and meanings of terrorism (Stump and Dixit, 2013). The broadening of the notion of 'terrorism' has been one consequence in the attempted struggle to fight what has been named 'Islamist terrorism,' *'Jihadism'* or the like, following the War on Terror (Kundnani, 2014).

One of the recent examples is the massacre of supporters of the first freely elected Egyptian president since its independence in 1952 in the summer of 2013. Following the military coup, domestic elites such as the Egypt's former Mufti,

[1] Muslims were spied on in mosques and cafes, and the police protocolled conversations about personal beliefs of Muslims. Following a trial against the NYPD, the spied on Muslims won their cases (Moynihan, 2018).

Sheikh Ali Gomaa, called for the murder of the supporters of Muhammad Morsi, especially the Muslim Brotherhood, who became depicted as 'heretics and traitors' and 'dogs of hellfire' (Osman, 2013; Asad, 2014), thus using a rather 'religious language.' Imogen Lambert (2017) underlines the paradox between the Western liberal approach to secularism and its authoritarian implementation in Muslim countries. By discussing the notion of 'liberal Islamophobia,' the author first shows how European liberals/leftists are condemning racism in the West (including anti-Muslim racism) while supporting authoritarian Islamophobic regimes in the Middle East. She then demonstrates that this ambivalent position corresponds to the aversion of Islam among liberal intellectuals in Muslim countries:

"Of course, Egyptian liberals are not alone in their hostility to social and political groups with connections, however remote, to Islam. The Syrian and Lebanese secular left are guilty of much of the same. They similarly opposed the Muslim Brotherhood, were unapologetic about their support for the 2013 coup, and slandered the Raba'a martyrs. While some claim to support the Syrian revolution, for example, they continually disown Islamist factions such as Ahrar Al-Sham, Jaysh Al-Islam, and other mainstream "Muslim groups" in the Free Syrian Army (FSA) for no clear reason other than their Islamic orientation." (Lambert, 2017)

According to Hatem Bazian, Islamophobia in Muslim-majority nation-states has to be understood with regard to two important historical incidents in the nineteenth and early twentieth century. First, the political elite shifted away from Islam as an epistemological foundation for their societies, which went along an embracing of anti-Islamic modernity and secularity. Second, colonialism to Bazian was not only about the control and domination of territory and resources, but also about "developing an internalized sense of inferiority in the colonized population and constituting the supremacy of Eurocentric epistemology" (Bazian, 2019). According to Bazian,

"the Muslim Islamophobe posits himself/herself as the spokesperson of the pristine, uncorrupted, abstract and idealized Islam, i.e. the perfect Islam facing the wrong and corrupted Islam of the people or at least those who take Islam seriously and seek social justice through it. […] The affirmation of a sect, brand or approach to Islam by state actors is a double-edged sword and is never lasting since the scope of acceptability is constructed around state priorities […] Thus, the only Islam that is permitted by the modern nation-state is that which affirms the unconditional power and authority of the state, nothing more and nothing less is demanded." (Bazian, 2019: 34-5)

While the post-colonial political elite positions itself as the guardians of 'democracy', 'modernity' and 'rationality', Orientalist and Islamophobic tropes are used to delegitimize any contestation coming from oppositional forces. In this imagination, Islam is a relic, anti-progress and not fit for the modern nation-state. While the abstract Islam is framed in positive ways by the urban political elite, the practiced and lived Islam – especially in the rural area – is seen as unfit for a Western-like (post-)modernity. While everything that challenged state authority, from secular to Islamist, was portrayed as conspiring against the state and thus deemed enemies, the discourse was based on an Islamist threat.

Part of this program is also to reform Islam. President Abdel-Fattah El-Sisi shut down 20,000 mosques during the year of 2018, cameras were

installed to monitor preachers in mosques and a hotline service was established to report complaints about immoderate discourse from citizens. Also, religious service was even more disciplined by banning 'unregistered preachers' and introducing standard-drafted sermons (Kosba, 2019: 119). Following the international mantra in the War on Terror to push back extremism becomes the legitimation for oppressive policies implemented in Muslim countries.

These policies are then mirrored in Western nation-states, who cooperate with dictatorships like El-Sisi. The Austrian Chancellor Sebastian Kurz welcomed the "revolution of Islam" (APA, 2015), for which El-Sisi supposedly strives following a meeting in Egypt. In July 2020, during the presentation of the Documentation Center for Political Islam in Austria, a state-funded institution, Muslim theologian Mouhanad Khorchide endorsed authoritarian oppression in the name of fighting political Islam. He referred to a meeting with the Egyptian minister of religion and claimed that the rulers in the Middle East and North Africa "have a problem with political Islam in other Islamic countries" (Hafez, 2020b). The theologian claims that the Documentation Center will be a pioneering project not only for Europe, but also for "the Islamic world." According to Khorchide, who heads the advisory board of this center, political Islam is "wrapped with a cloak of democracy" suggesting that the proponents of political Islam would engage in taqiyya—dissimulation or denial of religious belief in the face of persecution—by masking their "inwardly" values (Hafez, 2020b).

As these examples from various places of the globe reveal, the War on Terror has become a global hegemonic force reproducing global racial hierarchies and forming the map of the defense and opposition to power structures that especially involves a contestation of Muslimness that either reproduces structures of injustice or challenges them.

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5

ZIONIST INSTRUMENTALIZATION OF THE GLOBAL WAR ON TERROR

AKHIL GOPAL & CELINE QUSSINY

INTRODUCTION

On January 7, 2021, the day after an armed takeover of the U.S. Capitol with many off-duty law enforcement and military personnel among the mob's ranks, President-elect Biden publicly labeled the rioters "domestic terrorists." News articles amplified Biden's long-stated intentions to enact new federal laws against "domestic terrorism" and to increase funding to combat "violent extremism." Liberal supporters of the new president cheered these moves to use the surveillance, law enforcement, and counterterrorism machinery of the state to fight white supremacy. These proposals however had long been in the works- and are rooted in a legacy of the United States' policing and national security efforts to neutralize political organizing and movements for racial justice, liberation and self-determination.

Weeks earlier, the Anti-Defamation League (ADL), a prominent Zionist organization with a history of racism and surveillance of civil rights organizations, had met with Biden (Levine, 2020) to give him recommendations for combatting "domestic terrorism" in his upcoming administration. At around the same time, the state of California had begun to launch their "Education to End Hate" initiative, which involves grants to educational institutions and community partnerships, ostensibly to "confront the hate, bigotry, and racism rising in communities across the state and nation" (Thurmond, 2020). This initiative features the California Department of Education (CDE) partnering with the Simon Wiesenthal Center, a right-wing Zionist organization that labeled protesters rising up against police murders of Black people as "domestic terrorists" (SimonWiesenthalCntr, 2020). This group has long been an established institution for "anti-bias" education for law enforcement officials and school districts.

There has been a critical intervention in the wake of the January 6 takeover of the Capitol by anti-racist and abolitionist scholars, activists, and

organizations, arguing that the inclusion of white supremacist violence into the category of "terrorism" or "extremism" and the use of counterterrorism programs and policies to fight white supremacy will not provide real protection to marginalized and racialized communities. Instead, as organizations like CAGE (Faure Walker, 2021) warn us, this domestic "War on Terror" supposedly targeting white supremacists will only expand the powers of the inherently white supremacist police/surveillance state, inflicting even more violence on communities of color.

However,

> *one underappreciated aspect of this political moment is the foundational role that Zionist institutions and lobbies have been playing in collaborating with politicians and law enforcement in order to create and expand criminalization and policing programs based on the frameworks of "hate", "extremism", and "terrorism."*

Muslims, through the rubric of counterterrorism is a fundamental aspect of Zionism, as a settler colonial and imperialist project (Qutami, et al 2021). Zionist groups like the Anti-Defamation League (ADL), American Jewish Committee (AJC), and Simon Wiesenthal Center have not only supported legislation on "domestic terrorism" and "violent extremism" but have also participated in and supported policing and counterterrorism programs like Countering Violent Extremism (CVE), Preventing Violent Extremism (PVE), and Targeted Violence and Terrorism Prevention (TVTP):

- The ADL was present at the 2015 White House Summit on Countering Violent Extremism and has been an official partner in Countering Violent Extremism programs in several cities and local school districts and universities, including in Los Angeles, Houston, Boston, and Colorado.
- The AJC partnered with the "Islamic deradicalization group" Muflehun on their TVTP grant focused on "teaching people how to identify individuals displaying concerning behaviors... and how to intervene with them, including potentially referring them to law enforcement" (Panduranga, 2021).
- The Simon Wiesenthal Center accepted a "Preventing Violent Extremism" (PVE) grant from the state of California in 2018 and a "Targeted Violence and Terrorism Prevention" (TVTP) grant from the Department of Homeland Security (DHS) in 2020.

Understanding the relationship of Zionism to CVE frameworks illuminates and resolves apparent contradictions; for example, why is Simon Wiesenthal Center, an organization with a long history of anti-Muslim, anti-Black, and anti-Palestinian bigotry, whose dean and founder literally blessed Donald Trump's inauguration in 2017, being tapped to do anti-bias trainings? Why were Israeli flags seen among the antisemitic and white nationalist imagery of the white supremacist Capitol rioters? Investigating this relationship between Zionist organizations and the proliferation of "hate", "extremism", and "domestic terrorism" legislation and programs also highlights the role that the colonization of Palestine plays in the global industry of policing and reaffirms that abolitionist approaches to ending the violence of white supremacy must also be anti-Zionist.

Central to counterinsurgency (Glueck Jr, 2014) is the battle for "legitimacy" and the portrayal of the settler-colonial state and its occupying forces as neutral, rational actors. In order to cultivate this false veneer of legitimacy, especially after moments in which the horrors of state violence are exposed, the settler-colonial state -including law enforcement- attempts to distance itself from the white supremacy that is at the heart of the institution of policing, instead portraying themselves as guarding the neutral center from the "extremes" of right-wing and left-wing "violence," "hate," "terrorism," or "extremism." But none of those terms have collectively agreed-upon definitions, or at least their definitions have always been politically produced to meet the needs of white supremacist policing.

Countering Violent Extremism, as a framework of policing and form of counterinsurgency, conflates the actions of people attempting to oppress and enforce institutional and state violence with the actions of communities resisting oppression, fighting for self-determination and well-being. In the name of preserving an oppressive status quo, the Countering Violent Extremism framework also attributes vague terms like "hate," "violence," "terrorism" and "extremism" only to individuals, hiding the structural, systemic violence enacted in board rooms, courtrooms, legislative sessions, and police oversight meetings. This sleight of hand allows the state and the ruling class to hide the fact that their very existence and maintenance are the result of ongoing violence, most of it racialized. As the PYM writes in their statement on "Zionism & Domestic Terrorism", this "precludes the state from ever being accountable as a producer, enabler, or repressor of the context from which political violence emerges". Finally, equating left-wing and right-wing "hate," "extremism," "terrorism," etc. omits any kind of power analysis and portrays resistance to oppression as a conflict between ideologies, or worse, a debate between ideas. As Palestinian freedom fighter and writer Ghassan Kanafani famously stated about peace talks between the state of Israel and Palestinian freedom fighters, the "debate" driving these counterinsurgency and counter-radicalization initiatives is a "kind of conversation between the sword and the neck".

"Hate," "extremism," and "terrorism" are all fundamentally political categories, and when the state is in charge of determining their meaning, they inevitably are utilized to criminalize and repress political activity and organizing. In the U.S. this will mean the targeting of Black and Indigenous communities, Muslim communities, and communities of color more broadly. In Utah, a woman has been charged with a hate crime for stomping on a "Back the Blue" police sign (Chappell, 2021). Domestic terrorism charges have been levied against activists for combatting the Dakota Access Pipeline (Swan, 2021). A Black community activist in Dallas was imprisoned for "Black identity extremism" for Facebook posts critical of the police (Levin, 2018).

In this environment, in which "hate crime" and "domestic terrorism" laws are already being weaponized against movements for justice, Zionist institutions are functioning as an arm of the state, pushing local legislation and working to train local educators, service providers, faith leaders and law

enforcement to surveil and report "hate groups" and instances of "hate" and "extremism."

As the ADL put it last year, their goal is "doing the policing work without needing to have a warrant" (ADL Event at UC Irvine 2020). The Program on Extremism at George Washington University, a major academic arm of CVE, published a report on antisemitism and violent extremism heavily pushing the conflation of antisemitism and anti-Zionism, even recommending that policymakers and legislators consider anti-Zionism an indicator of extremism.

These efforts to conflate anti-Zionism with racism flare most heavily when we see the growth of mass mobilizations, campaign wins, and popular support for the Palestinian struggle in the face of escalated Zionist violence. In the past few months, with organizations like the Palestinian Youth Movement (PYM) leading mass mobilizations across North America in response to the uprisings in Palestine and brutal violence perpetrated by Israel, we have seen Zionist institutions falsely claim an "uptick in antisemitism," and call for law enforcement agencies, municipal, state and federal entities to partner with them to "identify" and "prevent extremism". These "increased antisemitism" statistics however, consist largely of reports of protest chants at Palestinian solidarity rallies as "hate crimes" allowing Zionist institutions like the Anti-Defamation League, the Simon Wiesenthal Center, and the American Jewish Committee to not only further entrench a definition of "hate" and "extremism" that includes any criticism of Israel, but to integrate this conflation into legislation and legal consequences of what gets constituted as a "hate crime" or as "domestic terrorism".

It is clear that a US state-sanctioned crackdown on "domestic terrorism" will neither condemn the state for perpetrating violence against the people nor deter white supremacist movements who uphold the state's interests of curtailing our pursuit for self-determination, liberation, and reparations. Instead, as has been borne out time and time again, it will be individuals and movements advocating for the end of settler-colonialism and white supremacy - including Zionism - who will be targeted by these revamped surveillance and policing powers as "domestic terrorists". It is clear that the intent of and the expansion of policing paradigms like Countering Violent Extremism - as well as the false narrative that the state is going after "right wing extremism" - is to neutralize political activity and repress movements, as well as any attempts to self-sustain communities and build autonomy.

By disingenuously and falsely equating anti-Zionism with antisemitism – as well as conflating Israel with the Jewish people – Zionist organizations strategically position themselves as neutral arbiters of "hate," "violence," "terrorism," or "extremism" from both left-wing and right-wing sources. Because principled leftists, Palestinians, and their allies oppose Zionism, and because many white supremacists are truly anti-semitic (while often in fact supporting Zionism), Zionist organizations can claim to be "oppressed" by all sides. Never mind the fact that Zionist organizations have had cozy relationships with anti-Semites and white supremacists - or at the very least have harsher words for liberation movements than they do for fascists. The dean and founder of the Simon Wiesenthal Center even stated that the Nazis, including Eichmann and Mengele, "revere life" as opposed to "Hamas terrorists "who" revere death."

In *Israel's Dead Soul*, Steven Salaita argues that by the ADL's own standards for identifying "hate", the organization would have to classify itself as a hate group. Salaita exhaustively details: "(1) the ADL's resolute support of American imperialism and Israeli colonization, and (2) "the ADL's persecution of academics and public figures whose politics do not express adequate fealty to Israel". Exposing these contradictions clearly points to contradictions at the heart of these terms, and how they are infused with the position, power, and ideology of the institutions that wield them. That Zionism itself is not more widely accepted as a form of hate - or more accurately a colonial ideology and form of racism, is a reflection of the power disparity between Zionists and Palestinians/anti-Zionists, as well as the usefulness of Zionism to ongoing U.S. and Western imperialism. As Joe Biden famously said, Israel is "the best $3 billion investment we make. Were there not an Israel, the United States of America would have to invent an Israel to protect her interest in the region" (Candidate Research, 2019).

The collaboration between U.S. law enforcement agencies and Zionist organizations on programs combatting "hate," "extremism," and "terrorism" is strategic and mutually beneficial: law enforcement agencies get to rehabilitate their reputation by presenting themselves as saviors of marginalized communities against white supremacy, while Zionist organizations get to embed Zionism firmly as a stand-in for the entire Jewish community within the criminal justice infrastructure of the U.S., criminalizing anti-Zionism and Palestinian resistance as a form of discrimination, hate crime, or terrorism. The partnership also deepens popular support for the "War on Terror" as a whole, serving U.S. imperial interests as well as the interests of the U.S. and Israeli arms and surveillance industries. Just as the U.S. empire uses the Israeli colonization of Palestine as a laboratory for counterterrorism technology and tactics that then get exported all over the world, it also develops methods of domestic repression and exports them to other populations and settings. Countering Violent Extremism, a program that most overtly has targeted and stigmatized Muslim, Arab, and Palestinian communities, has been adapted for other communities as well. For example, the Minneapolis CVE program that focuses on Somali youth has expanded to target Native youth (Mauleón, 2018).

The Biden administration recently released a revamped "Domestic Violent Extremism" framework, justifying the expansion of Countering Violent Extremism under a different name. According to this Domestic Violent Extremism framework, anyone from environmentalists to anti-capitalists to Puerto Rican anti-colonial activists is an "extremist". The framework also focuses on "racially or ethnically motivated violent extremists," which is the continuation of the FBI's "Black Identity Extremism". The cause for 'violence' and 'racially motivated violence' provides little mention of white supremacy as a structure or a system. Of course, the revamped CVE framework relies on the individualization of violence as well as the complete erasure of systems or structures of oppression against which our peoples are mobilizing and organizing to further advance carceral logics and legislation, criminalizing our peoples' resistance and community-building efforts. In addition, language in the recent framework focuses heavily on "personal grievances" and "ideological agendas" derived from "perceived" economic, social, or racial hierarchies, or any opposition to capitalism or the U.S. government; a continuity with the concept of Radicalization Theory - the belief that certain individuals are on a predictable pathway to violence - that underpinned the original

CVE program. Despite its rebranding, Biden's Domestic Violent Extremism framework will continue to identify the political mobilization, organization, and mutual aid of Black, Palestinian, Muslim, Indigenous, and Immigrant communities as an indicator of radicalization or violent extremism that must surveilled and criminalized.

Biden's "Domestic Violent Extremism" framework also relies on the individualization of violence as well as the complete erasure of systems or structures of oppression against which our peoples are mobilizing and organizing to further advance carceral logics and legislation, criminalizing our people's resistance and community-building efforts. Furthermore, cooperation with law enforcement and emphasis on concepts of "peace" and "unity" are central to the formation of notions of "public safety" and "national security" throughout the Biden administration's framework, which are the same notions that maintain the prison system and infrastructure of the War on Terror. Although the word "safety" is not explicitly mentioned, the criminalization of "radicalized" Black, Muslim, Palestinian, Indigenous, Puerto Rican and immigrant youth throughout the report is structured by a carceral logic that uses notions of "safety" and "hatred" to justify policing and surveillance of communities of color. 'Safety' is thus constructed in opposition to "radicalization," which suggests that notions of safety and security are also racialized, as indicators of extremism and radicalization are attributed to marginalized peoples who disrupt white "security" by mobilizing politically or by resisting white violence in any manner.

CVE, now under a different name, continues to function as a form of counterinsurgency and repression of political organizing, following in the legacy of criminalization of community power and support for the oppressed. Given the intimate relationship between Zionist organizations and law enforcement - especially in the domain of counterterrorism - we maintain that the fight against CVE, the domestic terrorism framework, and the War on Terror more broadly must be grounded in anti-Zionism and commitment to Palestinian liberation, and that this issue must remain central to our resistance to the War on Terror. We urge community organizations to refuse to join coalitions (even benign sounding ones that purport the fight "hate") that include Zionist organizations. Furthermore, CVE must be understood and fought as a threat to political organizing and liberation movements, rather than simply an invasion of privacy of a targeted marginalized community Thus, "reforms" that purport to safeguard civil liberties, or false promises by the state to combat "all forms of extremism" (or even to focus on white supremacy) should not placate us. We demand the complete abolition of CVE as a framework of policing, as an integral part of the complete abolition of the War on Terror.

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PART II

9/11 AND THE GLOBAL WAR ON TERROR: STRATEGIES AND TACTICS



6

THE RESTRUCTURING OF THE NATIONAL SECURITY STATE

AN INTERVIEW WITH MIKE GERMAN

1) AFTER 9/11, HOW WAS THE U.S. NATIONAL SECURITY RESTRUCTURED TO PREVENT NEW ATTACKS? WAS THE PREVIOUS SYSTEM ADEQUATE OR DID THIS RESTRUCTURING BUILD ON ALREADY PROBLEMATIC STRUCTURES? KINDLY ELABORATE.

After the 9/11 attacks the Bush administration engaged in an effort to distract from their failures to respond to blinking red warnings about al-Qaeda's efforts to attack the U.S. by mischaracterizing what the intelligence community knew and when. Multiple officials, including specifically Attorney General John Ashcroft and newly-appointed FBI director Robert Mueller, falsely claimed there were no intelligence warnings and leveraged the public fear to claim broad new authorities and demand new resources to expand their ability to gather intelligence. In fact, as they knew at the time, the FBI, CIA, and NSA all had picked up and reported warnings.

The 9/11 attack was not an intelligence failure. Law enforcement and intelligence agents picked up warnings and reported them up the chain of command. 9/11 was an intelligence management failure. Yet rather than reform intelligence management at these agencies, the false portrayal of the problem led to an expansion of collection by authorities and a reduction of independent oversight. Later intelligence failures including the Iraq WMD, the torture scandal, the Boston Marathon bombing, all the way to the January 6th, 2021 attack on the U.S. Capitol were caused by the same problem of intelligence management. And these failures were predictable because we never fixed the real problem, which was mismanagement of intelligence agencies.

2) DESCRIBE IN WHAT WAY THIS POST-9/11 RESTRUCTURING OF THE U.S. NATIONAL SECURITY WAS SIMILAR TO COINTELPRO. HOW WERE THE U.S. GOVERNMENT AND THE COURTS PERSUADED TO LEGITIMIZE METHODS OF COINTELPRO THAT PREVIOUSLY HAD BEEN REJECTED BY THE U.S. CONGRESS AFTER THE CHURCH COMMITTEES FINDINGS IN THE 1970S?

COINTELPRO was one FBI counter-intelligence program that used a lot of different, intrusive tactics that targeted people because of their First Amendment activities, specifically to suppress their speech and political activism. The tactics, as the Church Committee described them, were those designed for use against hostile foreign agents during wartime. Turning them against Americans agitating for social change had no business in a representative democracy. (I think there is a good argument for why they shouldn't be used against enemies either – mostly because they are ineffective and counterproductive). The exposure by the Church Committee ended the program, but the tactics remain, and have continued to be used by the FBI and other law enforcement and intelligence agencies.

Attempts were made to narrow domestic intelligence activities but the FBI and other law enforcement intelligence agencies, which have strong supporters in Congress, bristled against these perceived restrictions and immediately began slowly pushing back over time. And when the 9/11 attacks demanded wholesale changes at these agencies, they blamed the Church-era reforms for their failure. By the time the 9/11 Commission report came out in 2004, the reforms had been all but dismantled, opening a new era of abuses that use the same tactics as COINTELPRO, with the added collection capabilities available with the remarkable advances in computer technology.

3) WHAT PRECEDENT WAS THERE FOR THE DEPARTMENT OF HOMELAND SECURITY TO USE AGGRESSIVE TACTICS SUCH AS MASS SURVEILLANCE, MANUFACTURING CRIMES AND ENTRAPMENT, AND PRE-CRIME TARGETING OF INDIVIDUALS AND ORGANIZATIONS? AND TO WHAT EXTENT DID IT PRESENT A STRUCTURAL SHIFT AMONG LAW ENFORCEMENT AGENCIES?

The Department of Homeland Security, which was established a few years after 9/11, has certainly engaged in abusive intelligence collection and investigations, particularly regarding Americans' travel and immigration, but it was the FBI and Justice Department which developed and implemented these tactics most aggressively. DHS participates in the FBI Joint Terrorism Task Forces, so it is a participant, but the FBI leads terrorism investigations. The JTTF sting operation technique changed significantly from when I was doing this work in the 1990s.

The FBI now targets people who are not terrorists, and coaxes them with money or other promises into engaging in some kind of terrorist plot, often providing all the weapons and resources, simply so its agents can claim they prevented the plot. Unfortunately, as it pertained to the mostly Muslim or otherwise marginalized people who the FBI targeted with these stings, judges and juries went along. Because the FBI successfully prosecuted their targets using this technique it became widely adopted by JTTFs around the country and the tactic proliferated.

4) DID THE FBI AND OTHER AGENCIES ADOPT A NEW PREVENTIVE MODEL, AND WHERE MIGHT THEIR FOCUS HAVE BEEN DIRECTED AFTER 9/11? AND IN MOVING TO A PREVENTATIVE MODEL, DID THE U.S. NATIONAL SECURITY MOVE AWAY FROM A CRIMINAL MODEL?

Yes,

> *the FBI, DHS, and Justice Department said their primary mission would be to prevent terrorism. In practice that meant mass surveillance, racial, ethnic, and religious profiling, approving abusive interrogations and torture, selective prosecutions, watchlists, informants manufacturing plots in sting operations – all of which the FBI calls disruptions, resurrecting the tactics and language of COINTELPRO.*

If the FBI was really interested in preventing terrorism it would have a comprehensive database of all terrorist crimes committed in the U.S. over the last twenty years, documenting each attack and each fatality. But it doesn't, in part because the types of groups that kill the most people in average years look more like the predominately white, male FBI agents than the Black and Brown suspect the bureau prioritizes as threats.

The FBI can't tell you how many people white supremacists killed last year, or in any previous year, because it doesn't track these attacks. That way it can allow the counterterrorism program to target groups whose politics it doesn't like, rather than the groups that attack and kill more people but whose politics don't offend FBI managers. By focusing on criminal acts, by enforcing criminal predicates, the ideology of a particular terrorist becomes less important, so this kind of biased targeting can be reduced.

5) WHAT METHODS WERE UTILIZED WITH THE EXCUSE OF PREVENTING ANOTHER 9/11 ATTACK BOTH DOMESTICALLY AND ABROAD? AND WHAT AGENCIES WERE AUTHORIZED TO USE METHODS DESCRIBED ABOVE? WERE THESE METHODS USED CONSISTENTLY ACROSS ALL COMMUNITIES? WERE THESE AUTHORIZED METHODS LEGAL UNDER U.S. LAW, AND UNDER THE CONSTITUTION?

The idea that law enforcement agents should be preventing terrorism gave them broad leeway to abuse people based on bias rather than evidence of wrongdoing. Any one of us might commit a terrible crime in the future, but it is extremely difficult to determine which one of us will. When agents are allowed to investigate people without evidence of wrongdoing, bias in one form or another, takes the place of evidence in justifying investigative or suppressive actions. Restoring effective guidelines and laws requiring criminal predicates before law enforcement agents can collect intelligence or conduct investigation will improve their ability to focus on real threats. But the guidelines don't enforce themselves. We also need strong independent oversight and public accountability.

6) DOES THE PRESENT EDIFICE OF NATIONAL SECURITY LAWS AND PROCEDURES MAKE AMERICA SAFER? WHAT IS THE EFFICACY OF SUCH MEASURES IN A 'FOREVER WAR'?

No, these war on terrorism tactics have not made the U.S. or the world safer. Al-Qaeda is bigger and more widespread across the globe, with multiple affiliates and offshoots that pose a persistent threat. Meanwhile, the anti-Muslim sentiment reflected in FBI, DOD, and DHS counterterrorism training put many in the military and law enforcement in the same ideological space as white supremacist and far-right militant groups. So when we saw current and former law enforcement and military officials participate in an attack on the U.S. Capitol, it should have surprised no one. While white supremacy has always been part of U.S. law enforcement, I believe the war on terrorism played a role in mainstreaming racism in a way that threatens our democracy.

7) WHAT INCENTIVE DID LAW ENFORCEMENT AGENCIES RECEIVE FOR PERPETUATING THE THREAT OF TERRORISM? KINDLY DISCUSS THE ECONOMICS OF THE NATIONAL SECURITY STATE.

We are a fortunate country in that there is very little terrorism committed here, and an even smaller number of attacks committed by foreign terrorists. But the FBI and intelligence agencies realized that they could exploit the fear and racism in the general public to gain more power and resources. Once preventing international terrorism was named as the top priority, and agents were assigned to find the terrorists lurking among us, they couldn't just report that the threat was actually small.

An agent assigned to a JTTF in some remote field office couldn't just say there was no terrorism this month. So they get pressure to investigate Muslims or Arabs, or Black people, like the Liberty City 7 case, who aren't terrorists but they think they can trick into participating in a plot, or find some other minor violations that wouldn't be prosecuted except for their biased opinion that this person might someday commit a crime, in order to produce statistical accomplishments for the counterterrorism program.

Then those cases are exaggerated to make it seem as if the threat is bigger than it actually is. We're currently seeing the same kind of contrived, selective prosecutions of Asian scientists as part of the Justice Department's China Initiative. As people have wearied on the war on terrorism, the intelligence establishment is finding a new all-powerful global menace to fight by hyping the threat from China.

8) HOW CAN COMMUNITIES EFFECTIVELY RESPOND TO GOVERNMENT OVERREACH AND ABUSE OF POWER THROUGH BOTH POLITICS AND LAW?

Organize, organize, organize. When the government demonizes one group – Muslim Americans after 9/11, Asian Americans more recently with the Cold-War rhetoric regarding threats from China, Black Americans with regard to urban crime – we have to band together to protect them from law enforcement and security overreach, and demand that policy makers reign them in.

7

ON THE FRONT LINES: AMERICAN MUSLIMS AND THE WAR ON TERROR

ABDULLAH AL-ARIAN & HAFSA KANJWAL

INTRODUCTION

An often-overlooked element of the United States-led Global War on Terror (GWOT) concerns the impact of the war's domestic policies on American Muslims. In the face of global practices that have included rendition, torture, black sites, military occupation, and drone strikes, the fate of American Muslim political, social, and religious life may appear mild by comparison. Nonetheless, the mass securitization of the Muslim community in the U.S., coupled with the criminalization of free speech, and the targeting of community leaders and institutions by law enforcement agencies, collectively demonstrate that U.S. domestic policies represented a crucial component of the broader Global War on Terror and served to advance many of its most notable goals.

The domestic response to the attacks of September 11, 2001 signaled a major escalation in state securitization policies toward American Muslims. However, it is worth noting that many of the practices which came to be identified with the post-9/11 era, including mass surveillance, curtailing of free speech rights, harassment of community leaders, indefinite detentions, and so on, had roots in earlier periods. As American imperial engagement in the Middle East region assumed a more prominent place in the post-Cold War foreign policy agenda, U.S. officials grew increasingly concerned over possible domestic opposition to American intervention in the region. During Operation Desert Storm in 1991, law enforcement agencies monitored American Muslim statements concerning the decision to send U.S. military forces to roll back Iraq's occupation of Kuwait. Then, following the signing of the Oslo Accord in 1993, the community's activism on behalf of Palestine became subject to increased scrutiny and harassment, particularly as American Muslims voiced deep concerns over the acceleration of Israeli colonization of Palestinian land in the wake of the unending "peace process".

These political developments were bolstered by

the emergence of a robust Islamophobia industry that sought to depict Muslims in the U.S. as a fifth column that threatened American values, suggesting that they should be subject to intense scrutiny and surveillance. In 1996, the U.S. Congress passed into law an immigration bill that included counterterrorism measures which threatened to erode civil liberties and constitutional rights. By 2000, over two dozen immigrants, nearly all of them Muslim, were imprisoned under the law, which allowed "secret evidence" to be admissible in immigration proceedings to detain individuals indefinitely. That same year, in one of the most high-profile senate races in the country, Hillary Clinton returned more than $50,000 in political contributions by American Muslim organizations after her Republican opponent referred to the donations as "blood money" (Murphy, 2000).

Rather than signify a break with an idealized past, the post-9/11 era in fact ramped up approaches and practices that had already been well underway. As we aim to demonstrate in the course of this chapter,

> *the Global War on Terror has had a dual impact on American Muslims: on the one hand securitizing the community's longstanding social, political, and spiritual commitments under the guise of combatting terrorism, and on the other hand establishing incentivization schemes to develop emerging leaders and institutions whose political priorities and ethical values are more likely to fall in line with those of U.S. imperial interests.*

Together, these strategies have had the added effect of making the American Muslim community a front line in the Global War on Terror.

SECURITIZING AMERICAN MUSLIMS

In 1990, George H. W. Bush declared a "new world order" that put the Cold War rivalry with the now fallen Soviet Union in the past and heralded the emergence of American hegemony across the globe. Before long, security agencies would declare "international terrorism" the foremost threat to U.S. interests and reconfigured state policies to confronting it directly. In the aftermath of 9/11, the alarmist voices within government, policy think tanks, and media argued fervently in favor of an all-out strategy to combat terrorism on a global scale, and emphasized that the United States itself was not immune from the tentacles of international terrorism. They maintained that civil liberties protections would need to be lifted in order to empower state officials to deal with the threat of terrorism in the U.S. (Kertzer, 2007).

Many of the policies pursued in the early months after 9/11 targeted American Muslims directly. The USA PATRIOT Act, passed by Congress in October 2001, vastly expanded surveillance powers and eroded civil liberties in unprecedented ways. Thousands of immigrants from Muslim-majority countries living within the U.S. were subject to interviews by federal agents and required to enroll in a national registry. Mosques and Islamic centers were targeted for infiltration by FBI informants while leaders of Muslim institutions were subject to

interrogation. American Muslims also endured discrimination, hate crimes, and media harassment, spurred on in part by the bellicose tone of public officials whose comments cast the entire community in a suspicious light.

While the immediate aim of these policies ostensibly was to uncover potential terrorist cells operating within the American Muslim community, their broader objectives concerned silencing dissenting viewpoints and neutralizing political opposition at a time when the U.S. was launching large scale invasions of two Muslim-majority countries and pursuing a strategy of regime change and combating terrorism throughout the world, impacting primarily Muslim populations. The chilling effect produced by these anti-terrorism policies irrevocably altered the landscape of American Muslim communal life. From ritual worship and charitable giving to public advocacy and political engagement, anti-terrorism policies spared no element of the community's basic functions and activities.

In 2014, an *Intercept* investigation based on leaked documents revealed that federal authorities had been spying on a number of prominent American Muslim figures that included an attorney, a political lobbyist, an academic, and leaders of two of the most prominent American Muslim civic organizations going as far back as 2002 (Greenwald and Hussain, 2014). Indeed, soon after 9/11 the FBI and the Department of Justice began systematically targeting a number of American Muslim leaders and institutions for prosecution in high-profile terrorism trials. The 2003 arrest and subsequent trial of Sami Al-Arian, a university professor, Palestine activist, and civil rights advocate sent shockwaves across the American Muslim community due to his prominent role in promoting civic engagement, lobbying, and electoral politics. In 2004, authorities brought terrorism charges against the Holy Land Foundation for Relief and Development (HLF), the largest American Muslim charity, and arrested five members of its staff. Following a retrial in 2008 after prosecutors initially failed to convict the charity, the HLF officers were sentenced to up to 65 years in federal prison, despite the government never providing any evidence that the charitable donations were used to fund violence.

The fallout from the HLF case continued well beyond the trial. In an unorthodox move, the Department of Justice released the names of 246 unindicted co-conspirators, normally kept anonymous due to the fact that uncharged entities have no means of defending themselves against serious allegations such as support for terrorism. The list of names included several of the most prominent American Muslim organizations, from the Islamic Society of North America (ISNA) to the Council on American-Islamic Relations (CAIR). The intentions behind leaking the names were clear: to cast a cloud over the entire community, delegitimizing its institutions and treating its members with suspicion. Similarly, the 2005 case against Ali Al-Tamimi, a Virginia-based imam sentenced to life in prison for allegedly providing a fatwa (religious opinion) to some community members regarding the ongoing U.S. military action in Afghanistan, contributed greatly to the chilling effect among American Muslims, as imams across the country feared their words could be used to put them in prison. In this way, the early years after 9/11 became notable for the mass targeting of American Muslim leaders and institutions. While some organizations were criminally charged in highly politicized cases, others shut down due to government and public pressure, and many others were forced to shift their limited resources to defending themselves against the cloud of

suspicion, greatly impacting their ability to serve the increasingly vital needs of community members.

In the next phase of the domestic War on Terror, law enforcement agencies seeking to justify the exorbitant material resources and permissive legal terrain they enjoyed began to rely increasingly on paid informants to entrap unsuspecting Muslim youth into terror plots that those federal authorities would then foil. In fact, according to a 2015 study, more than half of all alleged terrorism cases involved the use of paid informants who were usually responsible for concocting the plots in collusion with the FBI (Norris and Grol-Prokopczyk, 2015). Sensationalistic media coverage of the most high-profile cases almost never made mention of the fact that these terrorist conspiracies were the work of FBI informants. Instead, stories of foiled terror plots like those of the Newburgh Four or the Fort Dix Five provided cover for the continued stigmatization of American Muslims.

The wholesale targeting of American Muslims through the prism of the GWOT had a cascading effect whereby traditional forms of protection in the form of the community's leadership and institutions safeguarding its rights were marginalized, paving the way for the predatory policing embodied in the community's infiltration by law enforcement agencies.

Over time, this disciplinary function was internalized within segments of the community to such a degree that it became represented in newfound ethical commitments and political priorities, producing new community spaces and institutions that reflected the profoundly destabilizing realities of the post-9/11 era.

IMPACT REWARDED

The impact of the GWOT on American Muslim leaders and institutions has been instrumental in enabling an atmosphere of fear and criminalization. Combined with media attacks and a rising Islamophobia industry, Muslims were positioned as the new domestic (and foreign) threat. Not only did the prosecution of the organizations and individuals mentioned above impact those who were directly targeted, but it also cast a broader net of suspicion across the breadth of the American Muslim community, which one could argue was the purpose of such targeting in the first place. Those who were singled out were intended to serve as an example to the rest: in order to survive in the American political landscape, American Muslims had to moderate their political stances and fall in line with established political discourses. As a result, leaders and institutions were either silenced or forced to self-police in order to protect their interests in the broader American political landscape and ensure that they would not be targeted.

The GWOT led American Muslims to be increasingly perceived through the lens of securitization and contested political loyalties. One had to prove one's patriotism by buying into the American exceptionalism project or risk being seen as an enemy of the state. This disciplining effect led to a politics of pragmatism. Instead of critiquing the GWOT, the extension of the national security state and surveillance of American Muslim communities,

and the expansion of American imperialism across the Muslim world, American Muslim leaders and organizations spent most of their energies focusing on combating societal Islamophobia that arose in the wake of 9/11. They created or further expanded a number of initiatives and organizations that were meant to help the broader community better understand 'true' Islam, and also to help American Muslims assert their sense of civic belonging in the U.S.[1] While these initiatives might have contributed to combatting misinformation about Islam and Muslims, they largely avoided articulating the state and American imperialism as the largest purveyor of Islamophobia and anti-Muslim racism globally, and also domestically. Emphasis was instead placed on a smaller group of right-wing foundations and groups that promoted anti-Muslim discourses (Ali et al, 2011). A liberal veneer of discourses of tolerance and American Muslim model-belonging pervaded the public sphere, with limited analysis of structural oppression and historical reckoning of state violence and persecution.

Meanwhile, establishment think tanks and institutions, such as the RAND Corporation, carefully crafted the boundaries of what acceptable American Muslim political formations the U.S. should engage with and amplify, focusing primarily on "liberal and secular Muslim academics and intellectuals, young moderate religious scholars, community activists, women's groups engaged in gender equality campaigns, and moderate journalists and writers" (Rabasa, 2007, p.xxii). The emphasis on the cultivation of a "moderate Muslim" became reminiscent of centuries-old civilizational campaigns in which Western colonizers could "tame" Muslim subjects without accounting for the violence that undergird such projects.

Subsequently, for American Muslims, there became very little room to confront the abuses of the GWOT and American imperialism, and the most negatively impacted were largely reliant on non-Muslim institutions and civil rights groups for support. The idea of a principled or ethical political engagement became increasingly undermined, especially as a number of individuals and institutions utilized the securitization of Muslims to advance their own careers or effectively serve as native informants, accommodating the logics of empire and the national security state to serve as interlocutors with or representatives of the Muslim community.

Elsewhere, we have called these individuals "professional Muslims": figures whose career trajectory in an atmosphere of Islamophobia and the GWOT relies largely on the utilization and profession of some part of their Muslim identity. They were, in many respects, the counter to those leaders and institutions that were targeted in the weeks and months after 9/11 for their critical stance toward American empire. Professional Muslims emerged through a variety of avenues: Countering Violent Extremism (CVE) initiatives, mainstream media talking heads, State Department-sponsored tours that sent prominent American Muslims to the Muslim world, dinners hosted by the White House and other government agencies, as well as an incorporation of American Muslims into the defense and security structures of the U.S. (The Brennan Center, 2019). This trend became especially evident during the Obama presidency. The message to the rest of the Muslim community was clear: one could be a "player" in shaping American Muslim politics and civic belonging if one was willing to make huge compromises and abandon core issues. Those who were able to do this were then rewarded by being deployed as the "representatives" of the community at large (GPA). Furthermore, not only was a particular American Muslim subjectivity constructed for domestic

[1] See, for example, the American Muslim Civil Leadership Institute, based out of the University of Southern California. (https://crcc.usc.edu/events-and-training/amcli/) as well as the Islamic Networks Group (www.ing.org).

consumption; it was also meant to serve as a model for Muslims around the world--a civilizational projection that ironically a number of American Muslim leaders were all too eager to endorse (al-Marayati and Hathout, 2014).

One of the primary issues that professional Muslims and a number of other Muslim organizations compromised most heavily on was the struggle for Palestine. Seen as being out of step with the American "mainstream", various American Muslims made attempts to normalize Zionism and Israeli settler-colonization for American Muslim audiences (Saeed, 2020). Subsequently, a compromised position on Palestine became a ticket for more opportunities in the policy and media world (Salaita, 2020). In this fashion, the politics of respectability created by the disciplining effect of the GWOT's policies attempted to cement new leaders and institutions capable of redefining issues at the core of American Muslim identity.

CONCLUSION

Two decades after the Global War on Terror, American Muslim institutions and leaders remain confined within its binaries and projection onto the world. Nevertheless, the recent Black Lives Matter protests as well as the broader Palestine solidarity movement have made some inroads into the American Muslim community, forcing it to contend with its recent handling of questions of race and empire. There are small glimmers of hope; however, the overwhelming mode of engagement still relies on a respectability politics whereby a minority community has to prove its sense of belonging and benefit to the nation. If long established activists were targeted for their activism, large segments of the Muslim community have been led to believe that their purchase into the American exceptionalism narrative will protect them. This has been proven to be simply not the case, as it is clearly not how anti-Muslim racism operates. It seeks to demobilize Muslim agency and create suspicion or doubt about those Muslims who do not fall in line. This in turn creates an environment where members of the Muslim community itself are policing and mainstreaming the political demands of the community. In this manner, American imperialism remains untouched, taking on new iterations overtime.

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8

MANUFACTURING TERRORISM: THE MISUSE OF PRE-CRIME, INFILTRATION AND ENTRAPMENT

STEPHEN F. DOWNS & KATHY MANLEY

INTRODUCTION

After 9/11, the FBI was charged with preventing future terrorist attacks by focusing in part on "ideology" . Any hint of Muslim ideology sympathetic to "terrorism" would be used to interpret innocent acts as material support for terrorism, and a pretext for criminal charges.[1] If pretext charges were not available, the FBI engaged agents provocateur to entrap targets into saying or doing something illegal. Terrorism trials were often characterized by the inclusion of secret evidence, excessive security to intimidate juries, questionable governmental "experts"[2], mistranslations and mischaracterizations of the defendant's words, and other unfair tactics that create highly un-level playing fields. Many defendants were sentenced to extraordinarily long prison sentences[3], often served at special, mostly Muslim, prisons,[4] or in solitary confinement, in a process that created hundreds of political prisoners, essentially incarcerated for being Muslim.

Prosecuting Muslim ideology terrorized Muslim communities into silence in the face of

1 The FBI has not defined the kind of "ideology" that would trigger an investigation or a sting. Evidence of "ideol ogy" may come from the targets' friends or associates; their religious practices; postings on social media; or informa tion about them from other suspects.

2 The government cultivated one so-called expert on terrorism, Evan Kohlmann, who was not connected with any aca demic institution, whose work was not peer reviewed, who did not speak a foreign language, who did all of his re search on the internet, and who always parroted the government's point of view that the defendant was part of a vast network of disloyal Muslim-Americans.

3 Terrorism convictions are typically much longer than a similar non-terrorist conviction because of a sentencing rule called the "terrorism enhancement" which effectively triples or quadruples a normal sentence.

4 Communication Management Units, or CMUs, are two special, mostly Muslim, prisons in the mid-west, (Terre Haute, Indiana, and Marion, Illinois), designed to keep the prisoners isolated from outside society to the greatest extent possible.

American aggression in the Middle East. The fake "terrorists" manufactured by the FBI stigmatized Muslims as disloyal Americans, and unfairly blamed them for 9/11. They were used to justify massive illegal civilian surveillance, torture, suspension of civil rights, and the undermining of the rule of law - all claimed to be necessary to win the War on Terror.

The FBI's focus on ideology follows a long shameful pattern of illegally using ideology, and fear of "others", to persecute minority communities in the past, including the Palmer Raids against the Communists (1919-1920); the Japanese Internments during World War II; the McCarthy Communist Witch Hunts (1950s); and the illegal COINTELPRO persecution of African Americans, American Indians, Vietnam War Protesters, and other marginalized groups, (1960s and 1970s). The COINTELPRO tactics, which included massive surveillance, infiltration, disruption, false charges, and even assassinations, have been used in the War on Terror against Muslim Communities in a process known as "preemptive prosecution".

DEFINING "PREEMPTIVE PROSECUTION"

After 9/11, many people across the country perceived the terrorist prosecutions of Muslims as unjust, and protested individual convictions. The FBI itself described its tactics as "preemptive," to prevent crimes from happening, rather than for crimes committed. For example, at a December 13, 2009 press conference, the FBI, in its own words, gave the following explanation as to why its agents entrapped the defendant Yassin Aref[5] :

*US Attorney Glenn Suddaby: … Well, obviously, you know, after 9/11, the world changed dramatically and law enforcement has a new responsibility which I think we all expect and that's to prevent the next one. And that's what this case is about. *** An opportunity was provided to these individuals [Aref and his co-defendant], an opportunity, a test, there is no question it [the sting] was a test. And these individuals failed that test, dramatically.…*

FBI Agent Timothy Coll: Did [Aref] actually himself engage in terrorist acts? Well, we didn't have the evidence of that, but he had the ideology.… Our investigation was concerned with what he was going do here, and in order to preempt any, anything else, we decided to take the steps that we did take [the sting] ……

Special Agent Greg West: Your question, [whether Aref was a real terrorist], fails to recognize that the terrorist organizations send people to countries in advance to lay the ground work. They have a vast, vast network of people that they trust who can carry out whatever part of the operation necessary at whatever time they are asked to do that. Our job is to figure out who all of these people are in the United States and prevent that from happening…

FBI Agent Timothy Coll: I would say that there is concern that he, (Aref,] is one of those people… and that the sting preempted anything that might have happened later on.[6]

[5] In 2006, Yassin Aref, the imam in an Albany Mosque, was convicted of money laundering, and material support for Terrorism, in an FBI sting involving a fake loan transaction. Although Aref was the target, he had only a minor role as a witness to the loan (similar to a notary,) which on its face was a perfectly legitimate loan. See https://en.wikipedia.org/wiki/Yassin_M._Aref

[6] This description of preemptive prosecution, in the FBI's own words, is filled with inaccuracies. There has never been any evidence of a "vast vast network" of disloyal Muslim-Americans, ready to help the terrorists. Just the opposite All evidence indicates that the Muslim-American community is overwhelmingly opposed to terrorism. Aref himself never had any "ideology" of supporting terrorism.

STATISTICAL REPORT ON PREEMPTIVE PROSECUTION - INVENTING TERRORIST

Project SALAM was one of the groups formed to protest "preemptive prosecution". In 2014, (and up-dated in 2019), Project SALAM and CCF[7] first described "preemptive prosecution" as the FBI's preventive approach to terrorism, and published reports entitled *Inventing Terrorists: The Lawfare of Preemptive Prosecution*, based on governmental lists of a total of 608 defendants that the government claimed had been convicted of terrorism since 2001. Inventing Terrorists, analyzed this claim, and concluded that 70% of the 608 convictions were pure preemptive prosecution, and 23% contained elements of preemptive prosecution (i.e., Crimes that started as non-terrorist crimes like smuggling cigarettes, but were pushed into terrorist crimes by the FBI). Thus 93% of all the terrorist cases claimed by the DOJ involved preemptive prosecution in whole or in part.[8]

TACTICAL PATTERNS OF PREEMPTIVE PROSECUTIONS

Preemptive prosecutions can be identified by the pretext charges that the government uses. These include:

MATERIAL SUPPORT FOR TERRORISM CHARGES

Material Support for Terrorism laws direct people not to give any support (including money, food, anything of value and even advice) to organizations placed on a list of designated terrorist organizations (DTO). The unfair catch is that the Material Support laws do not require that the target intended to support terrorism. Many defendants, who donated to a charity in good faith, believing in the charitable cause, have been convicted of Material Support on the government's theory that some unforeseen consequences of the donor's actions might have helped a DTO in some way, even though the defendant had no intent to support terrorism.

Perhaps the most unfair preemptive prosecution has been that of the Holy Land Five, where leaders of the largest Muslim charity in the U.S. were convicted for providing desperately needed charity to civilians in the Palestinian occupied territories in Gaza and the West Bank, where one of the popular organizations is Hamas[9], a U.S.-designated terrorist organization. The U.S. government conceded that the HLF did not give any money to designated terrorist groups like Hamas, but instead gave its charity in Gaza and the West Bank through "Zakat Committees", in the same way the U.S. Agency for International Development (USAID) supports civilians in Gaza and the West Bank. However, an anonymous Israeli agent testified in the HLF trial that he could "smell Hamas" on the Zakat Committees, and the prosecution successfully argued that because of Hamas alleged "control" of some Zakat Committees, the HLF donations raised the prestige of Hamas and thus were Material Support. In 2008, a Texas jury convicted the five defendants, who had been locked up since 2004. Two directors, Ghassan Elashi and Shukri Abu Baker, were sentenced to 65 years each, essentially a life sentence, their appeals long exhausted.

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[7] Project SALAM (Support And Legal Advocacy for Muslims) was founded in 2008 by people, including the authors, who were upset by the injustice of the Aref case and other cases. In 2010, Project SALAM, joined other groups to form the National Coalition to Protect Civil Freedoms (now known as the Coalition for Civil Freedoms or CCF), an organization that studies and documents preemptive prosecution, profiling, and prisoner abuse in the War on Terror.

[8] It should be noted that the number of 608 cases does not represent the total number of preemptive prosecutions – only the total number that DOJ has claimed. Other preemptive prosecutions not claimed by the DOJ are listed on CCF's website.

[9] In 2006, HAMAS even won the largest number of seats in the legislative elections.

- Constitutionally protected free speech. In Holder v. Humanitarian Law Project (2010), the Supreme Court held that material support charges cannot be used to prosecute free speech unless the speech is "coordinated" with a designated terrorist organization (DTO). However, in practice the government has ignored this limitation and has repeatedly brought material support charges against targets simply for what they said, even without evidence that the speech was coordinated with any DTO. The term "coordination" has never been defined legally, leaving journalists, NGOs, and other groups vulnerable to what speech might trigger a material support charge.[10] The government has even suggested that lawyers would be guilty of material support for filing briefs on behalf of DTOs asking to be removed from the terrorist list.[11]

- Free association and Conspiracy. The government has repeatedly brought charges against individuals simply because they were friends of, or "associated" with a target. The government often calls these friendships "conspiracies", but a conspiracy must be based on an agreement to engage in criminal conduct, and friendship or "association" is not the same as a specific criminal agreement. If one member of a group of friends happens to be engaged in criminal activity, that should not make all of his friends guilty by association. But in preemptive prosecution, the government uses guilt by association to bring conspiracy and material support charges. Under conspiracy law, as long as the conspirators have an overall agreement to engage in crime, all defendants charged in the conspiracy are considered equally culpable, even if they do not know the full criminal plan. For this reason, prosecutors love to include conspiracy charges. The government often convicts friends of engaging in conspiracies by assuming that friends share a common ideology and therefore a common agreement to commit crimes. The logic is faulty but juries have convicted on this reasoning.[12],[13]

- Charitable giving and management. The government has repeatedly brought charges (such as in the Holy Land case cited in footnote 11) for engaging in charitable activity even where there is clear proof that the targets did

[10] See Hedges v. Obama, where the journalist/plaintiff complained that journalists could not write freely because they could not determine where journalism stopped and "coordination" began. In July 2013, the Second Circuit Court of Appeals overturned a District Court decision for the plaintiff, saying plaintiff lacked standing. (Chris Hedges, "Fighting the Militarized State", Truth Dig (March 30, 2014)

[11] See Solicitor General Kagan's oral argument in the Humanitarian Law Project case, 130 S. Ct. 2705. Even worse, in some cases the government has brought charges without even suggesting that a DTO was involved; instead, it has claimed that the speech was simply supportive of terrorism generally. For example, Tarek Mehanna was convicted of Material Support when he posted on his website translations of historical Arabic documents, and the government claimed that some unknown terrorist organization, in some unknown way in the future might be able to use the translations to promote terrorism.

[12] For example, in the Ziyad Yaghi/Raleigh 7 case, the government claimed that some young men, including Yaghi, knew an older man named Daniel Boyd, who advocated protecting Muslim communities in Bosnia. When Boyd helped buy tickets for Ziyad to visit the Middle East to see relatives, the government claimed that they were actually looking for targets to attack, even though there was no evidence of this. Their "association" with Boyd implied a common ideology, and the common ideology allowed the jury to infer that innocent actions like visiting relatives in the Middle East were actually cover for illegal intentions in furtherance of the common ideology. Yaghi received 32 years in prison.

[13] For example, in the Fort Dix Five case, the three Duka brothers were convicted of planning to attack Fort Dix, and sentenced to life in prison, even though the government's witness conceded that the three brothers knew nothing about a plan to attack Fort Dix; it was a plan that a friend, Shnewer, had been discussing with an FBI informant, but not with the Dukas. However, the friendship between the Dukas and Shnewer, and their common "ideology" of an obligation to defend Muslim communities under attack, supposedly permitted the inference of a conspiracy between Shnewer and the Dukas, even though the three brothers knew nothing about any actual criminal plan to attack Ft. Dix.

not know they were benefiting a DTO and had no intention to do so.[14] Absent proof that the target intended to promote violence against civilians or governments, all charity cases should be considered preemptive prosecutions.

- Social hospitality. Loaning someone a cell phone[15], or allowing him to store a bag of clothes[16] should not be considered terrorism, when the persons providing the social hospitality did not intend to engage in terrorism or violence. The government has typically argued that the defendant had a "radical" ideology, and so any social hospitality was intended to help a DTO. The argument is unfair, but juries often convict Muslim defendants anyway.

- Training camps. The U.S. has a long history of permitting young Americans to fight against dictators and tyrants, such as against Franco in the Spanish Civil War. There is also a long tradition in America of permitting groups like the Ku Klux Klan to hold training camps in rural areas to indoctrinate individuals and give them firearms training. Such activities are protected by the First Amendment right to free speech and association, and by the Second Amend ment right to bear arms. The law is clear that as long as the individuals in these groups do not agree to specific criminal plans, simply talking politics and doing physical training are not illegal. The line is crossed only when members agree to engage in a specific criminal activity.[17]

By contrast, since 9/11 the FBI has consistently brought material support charges against Muslims for even discussing attending a training camp at home or abroad, on the theory that a publicly expressed a desire to attend a training camp constitutes material support for terrorism[18].

Groups of young men go into the woods to practice physical fitness and discuss their religious and political beliefs. The FBI infiltrates the group and knows that no criminal plans are being developed. Prosecuting such a group is clearly preemptive prosecution - prosecuting the group before a crime has been committed or agreed to. Even worse, inserting an agent provocateur into such a group to steer them into committing prosecutable crimes is clearly preemptive prosecution. Most of the prosecutions of domestic groups fit this pattern.[19] Prosecution for travel abroad to seek military training should also be considered preemptive unless the target has decided to engage in terror.

STINGS (OR ENTRAPMENT CASES)

The government uses agent provocateurs to target

[14] See for example, the case of Kifah Jayyousi, who ran a small charity during the Bosnian war to help the same Muslim community that the US government was supporting. After the war the government charged him with terrorism for the work he had done during the war.

[15] Ali Asad Chandia was convicted of loaning a friend from overseas (who was associated with a terrorist organization) his cell phone and computer to order some paintballs.

[16] Sayed Fahad Hashmi received a sentence of 15 years for storing a bag of clothes for a week in his apartment, at the request of a friend. The bag was eventually delivered to a DTO by someone else, and there was no evidence that Hashmi knew of its final intended destination.

[17] Mohammed Salah, was approached one day by a group of FBI informants pretending to be jihadis who wanted Salah to contribute money to a plot to blow up the Lincoln Tunnel in NYC. Salah was so scared of these apparently dangerous terrorists that to get them out of his store he said, "I will extend my capabilities". He did not actually contribute anything to the plot, but was convicted anyway based on his 5-word response which was interpreted as an agreement to be part of a conspiracy he did not know anything about. See also the Ft. Dix 5 case; and the Yassin Aref case.

[18] See for example, Ehsanul "Shifa" Sadequee, who was convicted for simply taking a trip to Dubai. The government conceded that it had no evidence that Sadequee was planning to join a training camp or do anything illegal, but concluded from postings on the internet with his friends, that Sadequee was trying to find terrorists abroad to contact, and that alone was material support.

[19] See, for example, the Houston Taliban case, where some young men went for regular excursions in the woods to do physical training and to discuss their religious obligations as Muslims. The FBI infiltrated the group. Because the group was not yet planning any illegal activities, the FBI informants pushed the group to engage in jihad abroad, and eventually virtually all of the young men were convicted of material support for terrorism.

individuals who express dissident ideologies and then provides those provocateurs with fake (harmless) missiles, bombs, guns, money, "religious" advice, encouragement, friendship, and specific plans to see if the target can be manipulated into agreeing to participate in a plot. Ordinarily the law prohibits the government from entrapping innocent citizens into crime (Jacobson, 1992), but the law provides an exception when the target is "predisposed" to commit the crime (Mathews, 1988). The government has successfully argued in terrorism cases that defendants who "readily respond" to the entrapment inducement are "predisposed" and thus created an exception that is bigger than the rule, essentially destroying the entrapment defense. As a result, no Muslim defendant has been able to successfully raise an entrapment defense in a terrorism sting.

The targets are often mentally ill[20]. Or the targets may be poor and are offered large amounts of money to engage in criminal conduct[21]; or the government may use the targets' ideology to pressure and shame them into doing something illegal,[22] or the FBI provocateur may use his close friendship with the target to persuade him to engage in criminal conduct.[23] The targets are essentially tested to see whether they can withstand the FBI's formidable pressure to engage in illegal acts.[24]

USE OF CLASSIFIED EVIDENCE

Under the Classified Information Procedures Act (CIPA), any relevant classified information must be given by the prosecution to the trial judge, ex parte, for the trial judge to determine if any of the material is helpful to the defense. This creates a dangerous loophole, which prosecutors can exploit in terrorism cases, to poison the mind of the trial judge with false and prejudicial classified information against the defendant, which the defense cannot refute because they are not permitted to see it.

For example, in the case of Yassin Aref, highly prejudicial classified evidence was apparently given to the judge, but not to security-cleared defense counsel, resulting in many significant biased rulings against the defense. This evidence was also

[20] Rezwan Ferdaus, a mentally ill young man from Boston, was targeted for entrapment even though the FBI knew Ferdaus was suffering from hallucinations, and could not even control his bladder.

[21] In the Newburgh 4 case, the defendants had served sentences for low level crimes in the past and were jobless and living in poverty when the FBI came into their lives. There was absolutely no evidence that any of the four had any predisposition to terrorism, or any ideology whatsoever

[22] Shahawar Matin Siraj was diagnosed as intellectually disabled (IQ 78) and was extremely vulnerable to suggestion; he was entrapped in an FBI sting operation by an NYPD informer who befriended him, became his mentor, and per suaded him to bomb a NYC subway station by showing Siraj photos of Abu Ghraib and inciting him that it was Islamically permissible to "Kill the Killers".

[23] FBI confidential informants are trained to develop close friendships with the targets so as to manipulate the targets into illegal activities out of friendship. In the case of Nicholas Young, the only Muslim police officer then in the District of Columbia, he raised suspicions of "radicalization" when he asked his superiors for a religious exemption from the prohibitions against police officers growing beards. The FBI sent informants to become his "best friend" over a period of six years and unsuccessfully attempted to get him to engage in terrorist crimes. Finally, one of the inform ants, pretending to go abroad and join ISIS, sent emails, begging Young to send him money so he could buy food and survive the horrible camp conditions. When Young sent several hundred dollars to his friend, he was convicted of material support, even though the money was obviously to save his friend and not to support ISIS. In the case of Tarik Shah, the informant, claiming to have lost his apartment, actually moved into the home of the target, supposedly his best friend, and followed him around with a secret tape recorder for months, trying to induce him to say something illegal so he could be charged. Eventually he got Shah to say that he would train anyone in martial arts, even a member of Al-Qaeda, and that was enough for a conviction.

provided secretly to the appellate court, which held a secret discussion with the prosecution after oral argument.[25] Secret evidence and proceedings in terrorism trials destroys confidence in impartial justice.

UNFAIR USE OF PRESSURE TO OBTAIN INFORMATION OR COOPERATION; PERJURY CHARGES

One goal of preemptive prosecution is to pressure an unwilling target into cooperating or giving information. To increase the pressure, the government may indict the target using unfair perjury or material support charges. Or the government can use a target's immigration status, or the status of a loved one, or preemptive deportation to get leverage over the target. Often the FBI charges a defendant with lying to agents, which is a federal offense. The FBI has an official policy of not recording formal interviews; instead, oral interviews are typically conducted with two or more FBI agents present, so that if the target is charged with lying it will be the latter's word against two or more FBI agents. Under such conditions, targets have little chance to defend themselves because the FBI can then threaten to accuse the target of lying to agents during a voluntary conversation unless the target cooperates.

USE OF PRE-TRIAL SOLITARY CONFINEMENT AND SPECIAL ADMINISTRATIVE MEASURES (SAMS)

The government often places targets in solitary confinement, or imposes Special Administrative Measures (SAMs) pre-trial, based on the claim that the defendants are too dangerous to be in the general prison population, as evidenced by the as-yet-untested charges themselves. This isolation of prisoners at a time when they are presumed innocent can be devastating psychologically and put enormous pressure on defendants to plead guilty.[26]

THE ENTRAPMENT AND GOVERNMENTAL OVERREACH RELIEF ACT (EGO RELIEF)

[24] One of the best signs of a preemptive sting is that the targets were either uninterested in or unable to develop any plot without the government's involvement. In many such cases, the government provided not only the resources but also the plans themselves. In the Aref-Hossain case, the FBI included a (dummy) missile in the sting (a weapon of mass destruction) in order to trigger enhancements in the sentencing. But the FBI failed to show the missile to Aref, because they were afraid that if Aref saw the missile it might "spook" him and he might refuse to continue witness ing loans, thus ruining their frame-up.

[25] Years after Aref was convicted, the defense learned that an otherwise redacted FBI file had a visible label that said "Yassin Aref a/k/a Mohammed Yassin – Al Qaeda". The only possible way to read the label is that the FBI believed that Aref was actually an al-Qaeda member named Mohammed Yassin. There actually was a al-Qaeda bomb maker name Mohammed Yassin who was missing two fingers from one hand. He was killed a few years after the Aref trial concluded. Aref is still alive and has all his fingers, so he could not possibly be Mohammed Yassin. The defense be lieves the secret information given to the trial judge was that Aref was in fact Mohammed Yassin, the al-Qaeda bomb maker, which the defense could have easily refuted if it had known.

[26] Mohammed Warsame returned to the U.S. from Afghanistan after 9/11 and told the FBI what he knew about Islamic groups there. The FBI was so impressed with his information that they asked him to work for the agency. Warsame refused, and the FBI threatened to make his life hell if he didn't cooperate. Warsame still refused, so the government indicted him for material support and for lying to the FBI and kept him in solitary confinement for five and a half years pretrial in order to break him, claiming that he was so dangerous that only by keeping him in solitary confine ment could security be guaranteed.

The Coalition for Civil Freedoms (CCF) has proposed a simple common-sense bill, The EGO Relief Act, that would block many of the abuses of the FBI in their preemptive prosecution campaign. The bill has three parts:

1. Create for the first time a codified entrapment defense that would defeat any entrapment prosecution unless the target had already taken substantial steps toward committing the relevant crime prior to the entrapment. This would ensure that the crime originated first with the defendant and not with the government.

2. Provide that nobody can be convicted of Material Support for Terrorism unless they intend to support terrorism or violence. Nobody should be convicted of a terrorism crime they never intended.

3. All information shown to the trial judge pursuant to the Classified Information Procedures Act, must also be shown to security cleared defense counsel. This would close the loophole that allows the government to poison the judge's mind with false and prejudicial information which the defense cannot see or challenge.

The EGO bill would not only stop some of the most unfair aspects of preemptive prosecution, but would allow old unjust cases to be brought back into court and reconsidered in light of the new law.

CONCLUSION

Preemptive prosecution mocks the rule of law and the Bill of Rights. It destroys confidence that the courts can protect minority communities.

> *Inspired by COINTELPRO, the FBI after 9/11 launched assaults on minority communities, punctuated by arbitrary charges, phony show trials, wrongful convictions of innocent Muslims, and absurdly long prison sentences. Hundreds of innocent Muslims, sentenced to decades in prison, left shattered families and communities behind. The Muslim community was stigmatized as disloyal and treated like terrorists.*

For what purpose? Terrorizing innocent Muslims did not make America safer. Disregarding the Bill of Rights did not make America more just. Destroying its reputation for fairness did not make America more successful. After two decades of Muslim baiting, preemptive prosecution is a litany of failed policies, disregarded laws, and injustice which needs to end.

WORKS CITED

Holder v Humanitarian Law Project, 130 S.Ct.2705 (2010)

Jacobson v. US, 503 US 540 (1992)

Mathews v. US, 485 US 56 (1988)

9

THE ENDLESS EXPANSION OF THE SURVEILLANCE STATE

AMITH GUPTA

INTRODUCTION

The history of modern U.S. surveillance structures is fundamentally tied to the advance of capitalist industry, which has historically dictated the real-world limits to efforts by governments to access, control, and manipulate data using methods that could be standardized and replicated in order to monitor populations perceived collectively as subversive – including Muslim communities. The release of the Snowden leaks nearly a decade ago and their close relationship to "Surveillance Capitalism," discussed below, indicate the contemporary continuation of this trend. Among other revelations, the Snowden Leaks indicated that the NSA and other intelligence agencies were using their broad and secretive authorities to target prominent Muslims, including individuals who had received high-level security clearances (Greenwald and Hussain, 2014). At the same time, the NSA worked closely with intelligence operations pertaining to U.S. wars in predominantly Muslim countries (Koebler, 2016)[1] and used its technological capabilities in close concert with other agencies that have made little effort to hide that they were profiling whole Muslim communities as hotbeds of terrorism (Torres et al, 2015).

This (very brief) summary of the modern surveillance state and its relationship to technology is necessarily non-comprehensive. Nonetheless, it discusses:

1. What the Snowden leaks revealed.
2. The technological changes that underpinned its expansiveness.
3. Some concluding remarks on corporate regula tion and the effort to rein in surveillance abuses by the government.

I do not argue that there is anything inherently repressive about technology in the abstract. Rather,

[1] See also, Snowden Archive, Dispatch from NIST Baghdad: Life in the Palace, THE INTERCEPT (Aug. 10, 2016) (a leaked document discussing the NSA's involvement in attempting to hunt down individuals that the U.S. considered high-value insurgent targets in Iraq).

technological advancement dictated by a largely unequal playing field between firms and the government on one hand and the wider public on the other has created the asymmetry that results in an abusive surveillance capitalism that in turn underpins and enables the extent of U.S. government surveillance overreach.

1. WHAT THE SNOWDEN LEAKS REVEALED

Nearly a decade ago, a Booz Hamilton national security contractor revealed to investigative reporter Glenn Greenwald the existence of NSA spying programs that were not only the most expansive in U.S. history, but the most technologically sophisticated spying apparatus ever known to man. No regime in human history had ever achieved what the National Security Agency had built.

The National Security Agency, created in 1947 as part of the National Security Act, had a lengthy pedigree of involvement in unlawful domestic spying. The Church Committee, established in the aftermath of the COINTELPRO mass spying scandal of the Cold War, noted that between its creation in 1947 until 1975, the NSA operated under a secret arrangement with U.S. telegraph companies to obtain millions of private telegram messages (Church Committee Report). The NSA under Michael Hayden continued to carry out extensive international technological surveillance well through the September 11th attacks – notably, detecting al-Qaeda radio chatter and obtaining evidence of al-Qaeda's 9/11 planning logistics while nonetheless burying the information and insisting after the attacks that additional spying powers were necessary (Bamford, 2008).

In the post-9/11 era, the NSA began to see other agencies as its "customers", The sheer expansiveness of the programs that the NSA built for its customers – far greater than necessary to intercept plots like the 9/11 attacks and whose efficacy has ranged from useless to malicious – were the subject of Edward Snowden's leaks. Those leaks indicated that among other brazenly abusive practices, the NSA tapped into Yahoo and Google internal servers and accessed the personal information of hundreds of millions of customers, including e-mails, instant messages, address books and contact lists; gathered hundreds of millions of text messages and mined contacts, location data, and credit card details; gathered webcam images – including intimate sexual ones – from Yahoo and possibly other companies' servers; intercepted mobile phone and satellite data throughout Lebanon, Palestine, and various other Arab countries; intercepted GSM phone data to geo-locate targets for drone strikes in Afghanistan and Iraq; recorded every single domestic and international phone call in several countries, including the Bahamas and Afghanistan; gathered the telephone metadata of millions of domestic phone calls; tapped into the internet infrastructure through direct partnerships with telecommunications companies to access and store millions of e-mails, including those "incidentally" connected from U.S. citizens; harvested user data from Google Maps and even the game "Angry Birds"; developed tools allowing remote access to a person's phone microphone, camera, and location; intercepted exported routers, servers and other computer networking devices to implant backdoor surveillance tools in them; and set up programs like X-KEYSCORE that provide a Google Search-like interface allowing NSA agents to search through the massive quantities of data they obtained, as well as many others forms of surveillance.[2]

These programs were carried out secretly, first with only Executive Branch knowledge but later with extremely limited oversight by the secret FISA

[2] A full catalog of the leaks themselves can be found at https://www.lawfareblog.com/snowden-revelations.

Court that did not require individualized warrants about whose data would be gathered or how it would be used or shared. Specific targets of NSA data interception included human rights organizations, journalists, diplomats, heads of state, and others. Following the leaks, public outcry, and several limited internal reviews commissioned by the Privacy and Civil Liberties Observation Bureau, Congress implemented some limited restrictions on the NSA's phone records gathering program, which was ultimately scrapped (Franklin, 2019). Congress renewed the authorizations that provided the remainder of the NSA's data interception authority under FISA Section 702 which enabled most of its domestic internet and data surveillance (Butash and Taylor, 2020). No changes were made to Executive Order 12333 which continues to permit virtually unlimited mining of data located outside of U.S. borders – an increasingly irrelevant distinction as even wholly domestic communication data may travel back and forth between servers across borders (Toh, Patel and Gotein, 2016; and Goldberg, 2017). And while these legal authorities permit the government to tap into mass surveillance databases created and maintained by other tech and financial companies in secret, existing but obsolete court doctrines largely limit the ability of individuals to succeed in suits even when surveillance is revealed.[3]

2. TECHNOLOGICAL CHANGES AND SURVEILLANCE

Attempts at sprawling, unlimited and legally questionable surveillance is not a new phenomenon. However, even relatively recent surveillance efforts in previous eras of American history, such as the notorious COINTELPRO efforts of the FBI and similar programs by the Army, CIA, and NSA, were necessarily more limited by technology: while the government took advantage of wiretapping phones, much of its surveillance efforts involved burglaries, confidential informants, and physical mail interception. While the U.S. government continues its extensive use of in-person covert informants (Aaronson, 2015) to infiltrate virtually any area of public life, the government now has easy access to a far greater troves of information about virtually all of human society through its electronic surveillance capabilities.

To understand the difference, it is important to consider the close ties between government surveillance and the economy.

During the formative period of the U.S. surveillance state in the late nineteenth century, the U.S. government honed its surveillance practices from those of newly-created private security firms that operated to control and discipline labor.[4] As large industrialists took advantage of new technologies to establish economies of scale, the age of

[3] Aside from various explicit carve-outs for "national security", including both the court-created foreign intelligence exception and the statutory Foreign Intelligence Surveillance Act themselves, courts continue, with occasional limits (see Carpenter v. United States, 138 S. Ct. 2206 (2018)) to uphold doctrines like the Third Party doctrine – permitting surveillance of data that is incidentally revealed to third parties during transmission, including to telecommunications companies, under the assumption that such information is not intended to be private – and the Laird standing doc trine which holds that information that is publicly available can be gathered by the government even where it is politically sensitive provided it is not separately misused for retaliatory purposes. Laird v. Tatum, 408 U.S. 1 (1972).

[4] For a discussion on the continuity between surveillance practices during the Industrial Age and the "War on Terror ism," see Ward Churchill, Pinkertons to the PATRIOT Act. For an in-depth explanation of industrial surveillance and repression and comparisons to other eras of U.S. surveillance, see Robert J. Goldstein, Political Repression in Modern America: From 1870 to 1976.

mass production – and with it, standardized practices of controlling labor – became staples of American and other advanced industrial economies.

But just as the new industries exercised extensive, scientifically calculated methods of control over production, they also exercised control over virtually every aspect of the mass producers' lives. On the history of Industrial Age political repression, Robert Goldstein notes that until the passage of New Deal-era reforms in the 1930s, industrialists maintained virtually complete control over the lives of their workers through the:

"usurpation or voiding of what are normally thought of as governmental functions and guarantees – the ownership or effective domination of entire communities, the denial by fiat of the right of workers to freedom of speech, freedom of assembly, freedom of organization, and even freedom to read and to buy what goods where one wished, and the employment of private police answerable to no one but [the industrialists] to enforce "their" laws" (Goldstein, 2001, p.9).

Industrialists set up "company towns", in which industrialists in fact if not by law, owned all buildings, including schools, churches, and implemented all regulations and controlled entry and exit, often excluding union organizers or other unapproved spokespersons, even sometimes requiring advanced permission for workers to invite family or guests (Goldstein, 2001, p.10). Industrialists used private police who would frequently use lethal force and indiscriminately attack strikers, as well as women and children bystanders, and use infiltrators to disrupt any organized dissent. As a matter of naked corruption, state and federal officers would join private police in shutting down strikes and repressing labor disturbances, often using indiscriminate and lethal force (pp.13-18). Local courts would enforce increasingly right-wing interpretations of existing law, holding that labor unions were illegal conspiracies and lending legal credibility to government repression (p.19). In 1915, the Commission on Industrial Relations remarked that company towns presented "every aspect of feudalism except the recognition of special duties on the part of the employer" (p.11).

It was during this period that the dominant private policing agency, the Pinkertons, were able to come up with standard intelligence practices that would later become staples of the burgeoning surveillance state, absorbed by the federal government directly and indirectly from the Pinkertons themselves: the Bertillion biometric indexing system, centralizing photographic records, creating local and state "subscribers" to continuously feed and disseminate data to a central command, creating standardized methodology developed in the private sphere through academic publications, the use of agents provocateur to infiltrate and even create crime, and a general association between political radicalism and criminality (Churchill, 2004, p.45).
While Industrial Age-era repression was inordinately abusive, the record indicates that the climate of repression was boosted by industrialists' ability, coordinating with corrupt government officials, to control production (and much consumption as well). Taking advantage of the ability of mass-producing firms to effect undue control over the economy, the industrialists were able to engage in surveillance – and political sabotage – largely by flexing their control over production.

In contrast, the post-COINTELPRO era of increasingly digital surveillance taking place in the 1980s onward and culminating in the near all-seeing-eye levels of surveillance of the Snowden era were not outgrowths of monitoring or disciplining production. Rather, the driving force behind the rise of the new surveillance of this era was the increasing need of firms to gather data about their consumers. While the prior methods of surveillance reflect new forms of mass production and associated forms of discipline, the new surveillance of the digital era is driven by attempts to corner the market on behavioral information about potential buyers operating well outside the factory. What is most significant about this distinction is that unlike the industrial surveillance tactics of the prior era, these new information-gathering efforts have become increasingly aggressive as they are pushed forward by market forces.

In her lengthy study Shoshana Zuboff traces the rise of this new form of surveillance, dubbed "surveillance capitalism", to the era of the dot-com bust (Zuboff, 2019). One of her eight definitions of this form of surveillance is: "A new economic order that claims human experience as free raw material for hidden commercial practices of extraction, prediction, and sales". Pointing the finger squarely at Google, Zuboff traces the process by which the once minimalistic search engine changed its business model in order to accommodate investors and eventually become a tech behemoth. Amalgamating significant amounts of data from search inquiries, Google originally used this so-called "digital exhaust" or, in Zuboff's terms, "behavioral surplus", to begin making its searches more relevant and to increase the utility of its product. Feeling the heat during the dot-com bust, however, Google began using this massive informational surplus to provide predictive advertising:

"...Google chose to reinvent its business around the burgeoning demand of advertisers eager to squeeze and scrape online behavior by any available means in the competition for market advantage. In the new operation, users were no longer ends in themselves but rather became the means to others' ends" (Zuboff, 2019, p.117).

Combined with highly permissive neoliberal regulatory frameworks and the FTC's reticence to implement data privacy regulations in the aftermath of the 9/11 attacks, argues Zuboff, Google's data-hording business model would be egged on by national security hawks eager to exploit new mass surveillance capacities (Zuboff, 2019, pp.145-160). The "extraction imperative" driving this new business model at Google – and its competitors, including Facebook – resulted in Google drastically expanding its supply chains from its search function to: "everything in the online milieu: searches, e-mails, texts, photos, songs, messages, videos, locations, communication patterns, attitudes, preferences, interests, faces, emotions, illnesses, social networks, purchases, and so on" (pp.145-160). This process would include geolocation data, real-world mapping of the entire world, obtaining movement and location information, and logging every wi-fi router in the world. Zuboff discusses Google's process for protecting its "supply routes" and the various obstacles it faces (and conquers) in its efforts to extract increasing amounts of data. Google would aggressively seek to monopolize a series of varying internet services in order to protect its ability to use their information for data extraction (p.178).

While Zuboff's focus is on Google, some have traced the underlying processes she describes back

even further.[5] In their 2014 article following the Snowden revelations, also titled "Surveillance Capitalism", John Bellamy Foster and Robert McChesney trace surveillance capitalism to the earliest stages of the internet and point to a convergence of factors in the postwar era as its cause (Foster and McChesney, 2014). Per Foster and McChesney, the physical destruction of much of the world market wrought by World War II combined with the aggressive production of the U.S. economy resulted in massive overproduction. Over the following decades, high levels of military spending (including research and development efforts that would eventually spawn the internet), the aggressive promotion by businesses of consumerism and advertising, and the financialization of the economy through credit would address this surplus. Discussing the role of financial speculation in the incentivization of high-tech data-hoarding well before Google, the scholars summarize existing research:

'Financialization was spectacularly enhanced by high-speed computer networks, which became critical mechanisms for the newly created speculative markets, and no small amount of financial chicanery. But financialization's encouragement of surveillance capitalism went far deeper. Like advertising and national security, it had an insatiable need for data. Its profitable expansion relied heavily on the securitization of household mortgages; a vast extension of credit-card usage; and the growth of health insurance and pension funds, student finloans, and other elements of personal finance. Every aspect of household income, spending, and credit was incorporated into massive data banks and evaluated in terms of markets and risk. Between 1982 and 1990 the average debt load of individuals in the United States increased by 30 percent and with it the commercial penetration into personal lives. As Christian Parenti wrote in his 1991 book, The Soft Cage, "the records produced by credit cards, bankcards, discount cards, Internet accounts, online shopping, travel receipts and health insurance all map our lives by creating digital files in corporate databases." By 2000, as Michael Dawson reported in The Consumer Trap, nearly all major corporations in the United States were building huge databases, and were linked to data mining enterprises.

"Symmetrical Research was advertising services such as its Advanced Analytic Solutions, which promised corporate clients 'the power of one of the world's most advanced marketing data analytics teams, with proprietary tools enabling the statistical analysis of…[data of the size of] the 35 terabyte Mastercard data set.' (Foster and McChesney, 2014)

3. THE BATTLE AGAINST NEOLIBERAL REGULATORY REGIMES IS PART AND PARCEL OF THE FIGHT TO DEFEND CIVIL LIBERTIES FROM CURRENT AND FUTURE MASS SURVEILLANCE EFFORTS

In the aftermath of the Snowden leaks, the public demanded a number of reforms. Some called for an end to various statutory directives from the NSA. Some questioned why – and to what extent – corporations collaborated so closely with the NSA. Some corporations attempted to mollify the public by adding end-to-end encryption to some of their services.

[5] At least one theorist has criticized Zuboff's analytical framework regarding surveillance capitalism by questioning the significance of Google's form of surveillance capitalism as a sociological break from prior forms of capitalism. Eugeny Morozov argues for greater continuity between surveillance capitalism and prior forms of capitalism, rejecting Zuboff's distinction between surveillance capitalism and other data-heavy business models as unnecessarily apologetic of managerial capitalism and of being excessively functionalist and tautological in nature. See Eugeny Morozov, Capitalism's New Clothes https://thebaffler.com/latest/capitalisms-new-clothes-morozov

Ultimately, none of these efforts significantly dented the U.S. surveillance state, whose operations continue both domestically and abroad. In my view, this is because these reform efforts largely focused on the role of the government itself.

As in previous eras, surveillance tactics flow out of their relationship to the economy rather than in reverse. As such, a meaningful effort to rein in the surveillance effort will likely be unsuccessful without addressing the economic roots of the surveillance apparatus. Secret surveillance projects – even when they are revealed – face few meaningful political or legal challenges, and even fewer that can be effectively monitored.

Furthermore, efforts to restrain the government do little to challenge the market-driven arms race for information-gathering that underpins the surveillance tactics and methods that governments have adapted from corporations.

Instead, the underpinnings of the digital surveillance age should prompt us to reconceptualize efforts to rein in out-of-control capitalism and the neoliberal regulatory regimes that built them as part of the struggle to defend civil liberties from mass surveillance. Just as previous eras of corporate-government collusion in political repression were fought by efforts to impose economic regulations (at least), this era of mass surveillance should be challenged through (at least) a corporate regulatory regime on both tech companies and the larger financial and advertising industries that triggered their rise.

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10

UNREDACTING CIA TORTURE

SAM RAPHAEL, CROFTON BLACK & RUTH BLAKELEY

INTRODUCTION

With two decades since it was authorized by President George W. Bush in the immediate aftermath of 9/11, much has been written about the CIA torture program.

Referred to by the CIA as the Rendition, Detention and Interrogation (RDI) program, it ran from September 2001 until January 2009, and formed a central plank of the Bush administration's 'War on Terror'. It was global in scope, and shocking in its depravity, representing one of the most profoundly disturbing episodes of recent U.S. and allied foreign policy. The program resulted in multiple violations of domestic and international law, encompassing a global network of kidnap operations, indefinite secret detention at numerous locations, and the systematic use of brutal interrogation techniques which clearly amounted to torture.

Conditions at some of the sites were dungeon-like, with prisoners held in either complete darkness or constant light, and subjected to continual loud noise, harsh temperatures and a number of 'conditioning techniques' designed, in the words of one CIA memo, to reduce them 'to a baseline, dependent state.' These required 'little to no physical interaction between the detainee and the interrogator,' and were important 'to demonstrate

to the [prisoner] that he has no control over basic human needs' (CIA, 2004, pp.4-5). Such techniques, which were applied throughout an individual's detention, and were separate from the interrogations under torture, included sustained nudity, sleep deprivation through vertical shackling, diapering, and dietary manipulation.

As part of the program, scores of terror suspects were swept up by the CIA in the months and years after 9/11, with capture operations taking place across Europe, Africa, the Caucasus, the Middle East, and Central, South and Southeast Asia. Foreign security forces often played a role in the capture, either jointly with the CIA or acting on the basis of U.S. and allied intelligence. Prisoners were held for days or weeks in foreign custody, and were often interrogated under torture. CIA officials were present during many of these interrogations. For example, Majid al-Maghrebi was held in Pakistani custody for several weeks before his transfer to a CIA prison in Afghanistan. Throughout this period, he was interrogated and tortured repeatedly, including many times via electric shocks until he lost consciousness, as well as beatings (including with a leather whip) and the use of stress positions and positional torture (including tying him to a frame and 'stretching' him). He could hear the screams of others being tortured at the facility, as well as their pleas for mercy: 'I can still hear the voice of one of the guys in my head asking them to stop, saying blood was coming out of his mouth' (Human Rights Watch, 2012, pp.61-62).

A NETWORK OF CIA PRISONS

After this period of initial detention, prisoners were transferred to CIA custody, either formally or otherwise. At this stage, most were rendered – transferred between states outside of the law – to secret detention at one of a number of facilities around the globe. Some of these facilities were themselves secret; others were acknowledged to exist but yet held some prisoners 'off the books'. A number were owned and run by another foreign security service – in particular, Afghanistan, Egypt, Jordan and Morocco – while others were operated by the U.S. Department of Defense (DoD) in Iraq and Afghanistan.

The CIA itself built and operated at least ten of its own secret prisons. Four of these so-called 'black sites' were located in Afghanistan, with others in Thailand, Poland, Romania, Lithuania and within the grounds of the U.S. naval base at Guantanamo Bay. At least two others, one in Morocco and a second site in Lithuania, were built but never used. Agreements were also reached with two further countries to establish black sites on their territory, although these plans were not enacted (SSCI, 2014, p.6).

CIA detentions and interrogations also took place at a number of informal 'safe houses' and ad hoc locations. Khaled el-Masri, for example, was held by the CIA for 23 days in January 2004 in a hotel room in Skopje, Macedonia, before being rendered to an Afghan-run prison in Kabul (Khaled el-Masri, 2006, para.14-23). Both CIA records and prisoner testimony make clear that there was an evolving network of secret detention sites in Afghanistan and the CIA made extensive use of Afghan-run facilities and safe houses to hold detainees before, during and after their time in the official black sites.

The black sites and other prisons did not exist in isolation from one other. They formed, rather, a network of secret detention facilities which operated across four continents, with individual sites operating for varying periods within the overall program. Rendition aircraft – civilian aircraft

operated by or on behalf of the CIA – flew hundreds of flights to connect the sites, and were used to transfer prisoners, interrogators and other US officials between prisons. These flights were undertaken in secret, and where they carried CIA prisoners they entailed multiple violations of international law. This was the case, not least, given the treatment to which they were subjected. Prisoners were drugged, shackled, hooded and strapped to stretchers by rendition teams dressed entirely in black and communicating only in sign language. Some were placed in coffins during the flight; others were beaten repeatedly during their transfer. This procedure was designed, in the words of one memo, to create 'significant apprehension in the [detainee] because of the enormity and suddenness of the change in the environment, the uncertainty about what will happen next, and the potential dread [they] might have of U.S. custody' (CIA, 2004, p.2).

Some men were rendered multiple times. For example, the CIA's first formal prisoner, Abu Zubaydah, was rendered at least seven times during his four-and-a-half years of secret CIA detention: from Pakistan to Thailand, then to Poland, Guantanamo Bay, Morocco, Lithuania, Afghanistan and finally to US military detention at Guantanamo Bay (where he remains).

Prisoners were held secretly within the program for months or years on end, always incommunicado (without access to legal representation or other contact with the outside world.) All were held in continuous solitary confinement, under conditions designed explicitly to dehumanize and exert control, and which in themselves clearly amounted to cruel, inhuman and degrading treatment. Many were also subjected to multiple and sustained forms of torture, either during interrogation sessions or as part of a generalized regime of detention.

This torture was brutal. Men were subjected, variously, to water boarding to the point of unconsciousness, repeated beatings, the use of ice baths and hoses to induce hypothermia, sleep deprivation for more than a week at a time, painful stress positions for months at a time, prolonged confinement in extremely small boxes, and sexual assault by forced feeding through the rectum. Others were subjected to mock execution, electro-torture, genital mutilation, mock burials, rape, and stress positions so severe that, in one case, observers were concerned that the prisoner's arms would dislocate from his shoulders (CIA (OIG), 2004, p.44). Suspects detained in these prisons were subjected to an interrogation regime designed, in the words of one interrogator, to take them 'to the verge of death and back again' (ICRC, 2007, p.17).

The psychological impact of extended secret detention in isolation from human contact, sensory deprivation, stress positioning and interrogation under torture, was extreme. Many detainees became suicidal, and used blankets, toothbrushes and other objects to harm themselves. Others rammed their heads against their cell walls in an attempt to lose consciousness. Men experienced severe hallucinations and paranoia, and many have continued to suffer significant post-traumatic stress.

BRITISH COMPLICITY

Our investigation has established beyond reasonable doubt that Britain was deeply and directly involved in post-9/11 prisoner abuse, including as part of the CIA's torture program. This is true despite a consistent narrative emanating from government officials that Britain neither uses,

condones nor facilitates torture or other cruel, inhuman or degrading treatment and punishment. Such denials are untenable. We have, elsewhere, argued that it is possible to identify a peculiarly British approach to torture in the 'War on Terror', which is particularly well-suited to sustaining this narrative of denial. As part of this, U.K. officials have had to operate within a set of constraints – a rhetorical, legal and policy 'scaffold' that has enabled them to demonstrate at least procedural adherence to human rights norms and legal commitments. On the ground, the U.K. intelligence and security agencies have been guided by a very particular approach, driven by two fundamental principles: the avoidance of formal legal custody of prisoners; and the avoidance of direct abuse of prisoners. However, participation in detention, rendition and interrogation operations formally operated by partners, regardless of whether or not abuse was known to be taking place (or where it was common sense to assume that abuse would take place), was deemed legitimate by British intelligence and security officials. Adhering to these principles ensured that the U.K. could remain full counterterrorism partners of the U.S. and other allies, while at the same time insulating itself from allegations of abuse.[1]

Our analysis of the evidentiary material now in the public domain suggests that the U.K. has been implicated in abuse on a number of levels. First, British intelligence and security agencies worked hand-in-glove with counterterrorism partners, including the CIA, to identify and apprehend suspects and disappear them into secret detention where torture was endemic. The British role in this context was either to supply the intelligence needed for the apprehension, or to take part in capture operations as formal secondary partners, ensuring that they were not directly responsible for prisoners.

In the case of Bisher al-Rawi and Jamil el-Banna, for example, the passing of U.K. intelligence to the CIA regarding the men's whereabouts was central to their capture, rendition to Afghanistan, and secret CIA detention before transfer to U.S. military custody. Crucially, documents show that both men had been detained in the U.K. in early November 2002, several days before their disappearance, with MI5 providing to the CIA details of the men's detention and their travel plans to Gambia (MI5, 2002).

British involvement was widespread. The U.K. parliament's Intelligence and Security Committee (ISC) found that, in at least three cases, British intelligence paid, or offered to pay, for rendition operations, all of which they found 'amounts to simple outsourcing of action which they knew they were not allowed to undertake themselves' (ISC, 2018, pp.88-90). In at least 28 other cases, these agencies 'suggested, helped to plan, or agreed to, a rendition operation proposed by others,' while in 22 cases they 'enabled renditions to go ahead by providing intelligence (for example, on the location of the individual)' (ISC, 2018, pp.88-90). Although

[1] For a fuller account of our argument in this regard, see: Ruth Blakeley and Sam Raphael, British Torture in the 'War on Terror', European Journal of International Relations, vol. 23, no. 2.

ministerial approval was granted in a number of these cases, this did not always happen. And regardless, many of these renditions were to countries where the risk of torture or other mistreatment was significant (The Detainee Inquiry, 2013, pp.34-36).

Although none of the official inquiries into Britain's role in abuses have published full details of specific cases, documents obtained by Human Rights Watch from a government building in Tripoli in September 2011, in the immediate aftermath of the fall of the Gaddafi regime, provide compelling evidence of British involvement in a number of these operations (Human Rights Watch, 2012). In one such operation, Sami al-Saadi and his family, including his four children, were rendered from Hong Kong to Libya in March 2004. One memo from the CIA to its Libyan counterpart, dated 23 March 2004, was clear that they were 'aware that your service had been cooperating with the British to effect [al-Saadi's] removal to Tripoli', and offered to step in to 'render [him] and his family into your custody' (CIA (Abu Munthir), 2004). Once in Libya, al-Saadi was detained for six years, during which time he was subjected to beatings with ropes and sticks, as well as electric shocks to the neck, chest and arms (Human Rights Watch, 2012, p.108).

In a similar operation, Abdel Hakim Belhadj (also known as Abu Abdullah al-Sadiq) was rendered with his wife, Fatima Boudchar (who was pregnant at the time), from Malaysia to Libya. MI6 were aware of their initial detention in Malaysia, and took an active role in organizing their rendition back to Libya (MI6, 2004). This involved passing the intelligence to the CIA, which subsequently took the lead (CIA (al-Sadiq), 2004). That Britain played a key role in the operation was confirmed by a memo from Mark Allen, then Director of Counterterrorism at MI6. Sent to his counterpart in Libya, Musa Kusa, the memo explicitly congratulates Kusa on the 'safe arrival' of Belhadj and discusses securing direct British access to the detainee's interrogations:

> *'Most importantly, I congratulate you on the safe arrival of Abu Abd Allah Sadiq [Belhadj]. This was the least we could do for you and for Libya to demonstrate the remarkable relationship we have built over the years. I am so glad. I was grateful to you for helping the officer we sent out last week. Abu 'Abd Allah's information on the situation in this country is of urgent importance to us. Amusingly, we got a request from the Americans to channel requests for information from Abu 'Abd Allah through the Americans. I have no intention of doing any such thing. The intelligence on Abu 'Abd Allah was British. I know I did not pay for the air cargo. But I feel I have the right to deal with you direct on this and am very grateful for the help you are giving us' (MI6 (Musa Kusa), 2004).*

Once suspects were in secret detention, British intelligence and security agencies were, in many

cases, intimately involved in the torture that took place, either by participating in the interrogations, by providing the intelligence that formed the basis of the torture, or by receiving intelligence gained through torture. The ISC found that, in at least 232 cases, UK officials supplied questions or intelligence to partners after they knew, or suspected, that mistreatment of the detainees in question was taking place. Binyam Mohamed, for example, was tortured in Moroccan detention on the basis of intelligence and questions supplied by British agencies (Reprieve, 2005. Pp.7-8 and ISC, 2018, pp.40-41). In a further 198 cases, British intelligence received information from partners when it was known, or suspected, that such intelligence came from interrogations under torture. The agencies clearly knew of the existence of CIA black sites, with internal memos referencing '"black" facilities' and 'other centres where the chances of complaint from allied representatives are slight.' Regardless, intelligence and questions continued to be passed to the CIA, including in the case of Khaled Sheikh Mohammed during his detention and torture at the Polish site, and Abu Zubaydah during his detention and torture in Thailand (ISC, 2018, pp.42). In the latter case, British police have opened an investigation into possible violations of U.K. law as a result of this cooperation (Bowcott, 2019).

The role played by the U.K. in the CIA torture programme is also highlighted by the degree to which British territory was used by CIA aircraft as refuelling stops while undertaking rendition operations. Collation and analysis of flight data associated with CIA rendition aircraft, and the correlation of this with data concerning prisoner transfers, has allowed us to establish that U.K. involvement in the rendition programme was much more extensive than previously thought. British territory was central to the rendition of at least 28 prisoners between secret prisons, some of whom were subjected to torture. These include the two prisoners acknowledged to have passed through Diego Garcia in 2002 (Miliband, 2008), who we have established as likely being Mohammed Saad Iqbal Madni and Umar Faruq. Likewise, mainland U.K. was used to facilitate the rendition of so-called 'high value detainees' to secret detention in Poland, including Abu Zubaydah, Abd al-Rahim al-Nashiri, Ramzi bin al-Shibh and Khaled Sheikh Mohammed, all of whom were tortured at the site. Others were taken to CIA black sites in Afghanistan, Romania and Lithuania. Still more were rendered to proxy detention in Egypt, Jordan or Morocco on aircraft that used U.K. territory as a staging post.

This chapter is adapted from Black C, Blakeley R & Raphael S. (2019) CIA Torture Unredacted: An Investigation into the CIA Torture Programme, The Rendition Project and the Bureau of Investigative Journalism, https://www.therenditionproject.org.uk/documents/RDI/190710-TRP-TBIJ-CIA-Torture-Unredacted-Full.pdf

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[2] For early reporting of our findings, see: Iain Cobain, UK Provided More Support for CIA Rendition Flights than Thought — Study, The Guardian, 22 May 2013.

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11

MIND CONTROL: SURVEILLANCE OF IDEAS AND BELIEFS ON COMMUNITIES SUBJECT TO COUNTERING VIOLENT EXTREMISM (CVE) POLICIES

SHEREEN FERNANDEZ & ROB FAURE-WALKER

THE EMERGENCE OF "EXTREMISM"

Anyone under the age of 20 has lived their whole life in the shadow of 9/11. They have not known a world without the Global War on Terror. Yet, the networked world that we now live in allows us all to rewatch and reread contemporary news footage from September 11th, 2001. This footage reveals a profound shift in global politics since then. Contemporary commentary rarely, if ever, refers to "extremism" or the corresponding process of "radicalization" in relation to 9/11. Besides newsprint and news footage, there is also a lack of the word 'extremism' used in politicians' contemporary comments on 9/11, both in the U.S. and in the U.K. By 2005 everything had changed as 'extremism' became the go to explanation for any act of political violence.

On July 7th, 2005, the G7 leaders were being hosted in the Gleneagles Hotel in Scotland by Prime Minister Tony Blair for their annual summit. The previous day's news had been dominated by a story that accident-prone President George W. Bush had crashed into a policeman and fallen off his bike on the grounds of the hotel. This was soon forgotten when a series of bombs were detonated across London during the morning rush hour. As chaos ensued in London, Blair addressed the world from a press conference in Gleneagles and insisted that the bombers would not impose their 'extremism' on us.

Flanked by his fellow heads of state as he said so, marked a discursive shift for both the U.K. and the rest of the world. By looking through the rare instances of 'extremism' being used by politicians and the press before the London bombings, we can see that it was always described as emergent from political failure and not as the cause of political violence. Following this use, contemporary commentators did not elicit "extremism" as a cause of 9/11. By 2005, Blair did not hesitate to draw on "extremism" as a cause of the London bombings. Blair's lack of hesitation in citing the bombers' "extremism" appears to show that plans to police

this newly identified threat were already afoot in 2005 and we now know that they were being proposed at the highest levels of government soon after 9/11.

> *Since 2005 it has become common sense for politicians and police around the world to label any threat to their government's agenda as "extremism," even using it to police anti-racism and environmental campaigners, anti-fascists, and other elected politicians. This imposition of normative political positions might be seen as an extension of the neoliberal logic that has come to dominate global politics over the last 40 years since the leadership of Regan and Thatcher.*

That governments now cast any position that stands in the way of perpetual growth, environmental destruction, and secular dominance as 'extremism' reveals quite how hegemonic neoliberalism has become.

Philip Mirowski, who has written extensively on the global expansion of neoliberalism, suggests that from a neoliberal perspective, "The Government, beyond its proper sphere ought not to have any power; within its sphere, it cannot have enough of it" (Benjamin Constant in Mirowski 2013). It is this logic that underpins the "unchecked expansion of the penal sector" and that justifies the expansion of the "pre-criminal" counter-extremism approaches that are so characteristic of neoliberalism.

While the development of counter-extremism strategies has been remarkably similar in the U.K. and the U.S., the global export of these strategies via U.K. government sponsored conferences and exporting of policies around the world has seen the targeted oppression of Muslims from Kashmir to Xinjiang or East Turkestan (Privacy International, 2019). This makes our understanding of the ways in which "extremism" interacts in the lives of individuals and destroys the possibility of democratic government an issue of global importance.

OUT OF SIGHT, OUT OF MIND? CVE AS PANOPTICON MEASURES

While Countering Violent Extremism (CVE) measures gained prominence in the aftermath of the 7/7 bombings in London, CVE is often likened to Foucault's theory of the panopticon because of their disciplinary powers which encourage forms of self-censorship through self-surveillance. As Fahid Qurashi (2018, p. 3) writes, the panopticon aimed "to transform individuals so that they monitored their own behaviour in line with prescribed social norms, to the extent that there was a realignment of the boundaries between the 'acceptable' and 'unacceptable', and the 'normal' and 'abnormal'". The panopticon derives from Jeremy Bentham's model of surveillance in the 18th century, in which spaces are constructed in a circular fashion to maximize the potential of being watched (Browne, 2015). This model extends to all spaces in which individuals need to be monitored, ranging from factories, hospitals to schools. However, it is the model of the prison that is most famously associated with the panopticon, where a watchguard is positioned in the centre in order to maximize their visibility of the prisoners. In doing so

however, the watchguard "sees everything whilst remaining unseen" (Browne, 2015, p. 32). Due to the way that the guard is obscured from sight, the prisoners are unaware if and when the guard leaves their station, thus encouraging "a certain self-discipline under the threat of external observation, as was its intended function" (Browne, 2015, p. 34). The panopticon ensures that out of sight is not out of mind.

With the expansion of the War on Terror, this panopticon gaze has now permeated our everyday spaces as CVE measures strengthen in their approach. The logic that acts of violence associated with terrorism can be intercepted through so-called pre-criminal interventions has meant that CVE measures are often described as safeguarding within policymaking circles or to draw on Foucault, as pastoral forms of power. Such depictions not only characterize state power as being one of welfare and wellbeing, but in associating CVE in this way, state violence is concealed. In the U.K., the creation of the Prevent Duty has seen it rolled out in schools, where teachers, since 2015, are legally obliged under safeguarding regulations to report colleagues and students they feel are at risk to 'extremism' and 'radicalization'. CVE measures like Prevent have the power to designate individuals as potential 'radicals' or 'extremists' and very little is known yet about the long-term consequences of such referrals. Furthermore, rather than suggest that these powers extend to all of the population, as the term panopticon alludes to, we argue that such policies have an intended demographic in mind, that of the 'Islamist'.

The term Islamist has a long history which pre-dates the War on Terror and is one that is intricately tied to colonial administrations who used the term to describe, 'seditious', 'deviant' and 'unruly' Muslim populations. In the U.K., the word 'Islamist' was only used to describe 'extremism' and terrorism a handful of times prior to 9/11. In a parliamentary debate on the Prevention of Terrorism in 1999, Jack Straw, who would go on to be the Foreign Secretary during the invasion of Iraq, denounced the term 'Islamist terrorism', claiming that, "we [should] avoid implying that the religions followed entirely lawfully by the vast majority of people are somehow a cause of terrorist activities". At the time, the U.K. was mired in conflict in Northern Ireland, known broadly as 'the Troubles', and Jack Straw made a point that the ongoing conflict did not warrant the use of the terms 'Catholic terrorism' or 'Protestant terrorism' to describe the violence.

As the nature of the threat changed in the War on Terror, so too did the language used to describe the 'new enemy.' Suddenly, Islamist extremism/terrorism was considered by governments and policymakers to be the best label to describe the spate of violence occurring in the West by those who identified as Muslim.

The graph below taken from Hansard, which records all Parliamentary debates, shows how often the word 'Islamist' has been used, with the highest frequency recorded between 2014-16 during the emergence of the so-called Islamic State. Both in the U.S. and in the U.K., policies that emerged to tackle the supposed threat of 'extremism' were overt in their reference to targeting Islam.

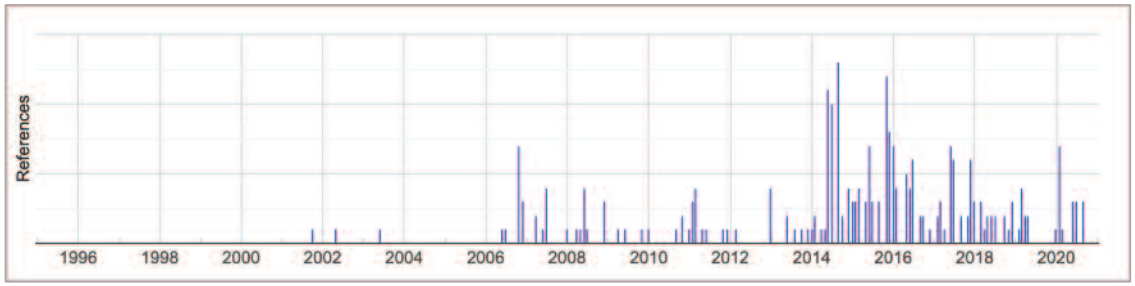

Figure 1: Graph showing how frequent the term 'Islamist extremism' has been used my MPs in the Houses of Parliament (Hansard, 2021)

An interest in the behavior and mindset of the 'Islamist' was not just confined to the U.K. but also shaped global approaches to CVE. Despite attempts by governments to suggest that CVE programs are about "all forms of extremism and terrorism", as Nadya Ali (2020, p. 580) makes clear in relation to the U.K.'s Prevent Duty, that "claims of treating right-wing extremists and 'Islamists' as equivalent are...impossible" due to "racialized understandings of radicalization and extremism". Ali (2020, p. 580) further argues that the refusal of governments to see Prevent as racist is due to "structures of white ignorance [that is] linked to colonial amnesia...leaving whiteness as unseen and unspoken within security discourses." It is for this reason that CVE measures will always impact communities racialized as Muslim, despite attempts made by policymakers and state officials to suggest otherwise.

'FEELING' CVE MEASURES: ENCOUNTERING THE 'STATE' IN EVERYDAY SPACES

This intense gaze felt by Muslim communities globally as a result of CVE measures has shaped the way in which they interact and engage with the 'state'. The War on Terror has expanded the security state and enabled it to permeate everyday spaces in mundane ways, from train stations making announcements to 'keep vigilant' to healthcare professionals, monitoring patients for signs that they could be extremists. For this reason, it is argued that the War on Terror is 'felt' acutely by those racialized as Muslim (Qureshi, 2020). Furthermore, we put forward the argument that it is not necessary for there to be direct engagement with CVE measures in order to feel its terror and experience trauma. In the U.K.'s case for example, one does not need to be referred onto the Prevent Duty to feel its presence and fear its capabilities in designating individuals as extremists. Little is known yet about what the long-term implications are of being referred to the program.

The experiences of Muslims caught up in the web of counter-extremism is indicated in the experiences of Muslim professionals working in the state sector. As Tarek Younis and Sushrut Jadhav (2019) write of Muslim professionals working in British healthcare settings, their fear of rejecting Prevent publicly in case they are cast as 'bad' practitioners, and worse, 'terrorist sympathizers', has led to them self-censoring their behaviors and speech. In one example, a trainee Muslim psychiatrist cites the Royal College of Psychiatry's statement (2017) against Prevent during her mandatory Prevent training session which generated a short discussion with her colleagues. Several weeks later, she is told that the Prevent trainer lodged a formal complaint against her, despite not being the only person to raise concerns about the policy, although she states that she was the only Muslim present at the training (Younis and Jadhav, 2019, p. 410). This encounter was enough for this Muslim professional to construct a "boundary of acceptable speech", which is one that does not rock the CVE boat (Younis and Jadhav, 2019, p. 410). This one case demonstrates how the encounter between the CVE trainer and Muslim professional is one fraught with unequal power and generates fear because of the proximity of the trainer to the state. We see here how not everyone who is required to implement CVE measures are treated equally, and that those racialized as Muslim are treated with suspicion more than others.

This encounter and self-regulation of Muslim staff throws into question whether their workspaces can be considered as 'safe spaces'. Ultimately, there is

an element of distrust among the Muslim professionals who cannot be sure that their colleagues will not refer them onto CVE programs because they suspect that they could be 'extremists'. This is largely due to how the Prevent training offered to professionals and broader CVE measures differentiates so-called 'Islamist extremism' from normative Islamic practices and beliefs. This is not to say that 'better' Prevent training will lead to a more trusting environment where those racialized as Muslim are not cast as suspicious.

Associations between Islam, Muslims and terrorism is now deeply entrenched globally. What we envisage is that not only will this suspicion towards Muslims remain and lead to further forms of self-regulation, but the definition of what an extremist is will widen in its scope to include those critical of government policy.

THE SILENCING OF CRITICS

As a case study in policy-led evidence, you'd be hard pressed to find a better example than the emergent threat of 'extremism' and corresponding counter-extremism policies. The British Home Secretary branding critics of counter-extremism as 'on the side of extremists' ensures that all but the most committed critics are silenced (Hymas 2018). The funding and support of fake civil society groups by governments and well-funded advertising agencies, such as the Building a Stronger Britain Together partnership between the UK Government and MC Saatchi, ensures that even the most committed critics are drowned out by those whose funding relies on the promotion of the threat of 'extremism' and the expanding budgets to counter it (Iqbal, 2019). Think tanks calling for environmental protest groups to be labelled as 'extremist' justify policymakers' calls for the expansion of counter-extremism policies, even after it has emerged that the supposed 'research' behind these calls was funded by oil companies (Hughes, 2019).

At a more local level, counter-extremism has inferred new professional duties on public sector workers such as teachers and doctors. Even where their complying with counter-extremism is a statutory duty, such as the U.K.'s Prevent Duty, policymakers have used this compliance as proof of professional support and justification of the continued expansion of counter-extremism.

All of this leads to the extraordinary situation where governments continue to expand counter-extremism in the face of almost universal opposition from researchers and academics who are independent of government (Ross, 2016). A situation that will be familiar to anyone frustrated by the lack of government action to challenge climate change over the last few decades.

That counter-extremism is silencing political dissent is not only a concern for advocates of freedom of speech, but actually makes us less safe. It is the very act of speaking out and feeling heard that creates democratic citizens who accept the outcomes of elections and the decisions of democratically elected governments. It may be imperfect, but it is the act of the ability to speak out in a democracy that may inhibit acts of political violence. Attempting to police views that governments

perceive to be 'extreme' silences dissent, and in doing so, invites more political violence (Faure Walker, 2019).

Though counter-extremism has expanded out from its early focus on the policing of domestic Muslim populations, this still remains a predominant focus around the world, a situation highlighted by the recent targeting of Muslim students for their pro-Palestinian activism in British schools (Fernandez & Younis, 2021). This denunciation of the Palestinian struggle against Israeli colonization harks back to the emergence of 'extremism' as a tool used by Western politicians to denounce calls for independence from the British Empire throughout the 20th Century. Thus, we can see that 'extremism' continues to be rooted in imperialism and racism. Like other forms of policing, counter-extremism crept home from the fingers of the British Empire by creating an enemy within from Western Muslim populations, before expanding to police other dissenting voices.

Not only does the silencing of dissent make violence more likely in a democracy, but co-opting doctors and nurses to report 'extremism' has resulted in an impossible job for the security services as they have been swamped by false positive reports of pre-criminal activity. The disastrous impact of this was seen in the 2017 Manchester bombing that killed 23 people and injured hundreds more. While the inquiry into the bombing has initially focused on the failings of the police and security guards on the night, little has been said of the failure of counter-extremism before the event. This is of particular note since the bomber was referred to counter-terrorism police by his mosque when other worshipers become concerned that he presented a violent threat. The thousands of false positive referrals that had been solicited to the police by the U.K. government's efforts to police 'extremism' meant that the police did not take action on these genuine referrals before it was too late. As counter-extremism continues to expand to police Muslims and political dissidents around the world, this should give policymakers pause for thought before they sign off the next round of budget increases for countering the supposed threat of 'extremism'.

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12

AFGHANISTAN: SERIAL WAR AND THE CUNNING OF IMPERIAL TIME

ANILA DAULATZAI

So for the next few days I did Dawood's homework. It was easier that way……we just randomly went over words…. "Sad?" "Khafa." "Anger?" "Qar.""Rifle?""Toopac.""Tank?" "Tawnk.""War?""Jang.""No, jang is like a fight. War is bigger." Dawood looked to Gul. "What's the word for 'war'?" "I don't know if there is one," he said. "Zia, can you think of the Pakhto word for 'war'?" "Woor? Like a fire." "No," Dawood said, "war like . . ." And Dawood took up a stick and turned into a club, into an ax, into a sword, into an AK, and he picked off targets on the road—the steer in the fields and the kids in passageways and the sleeping donkey and the wasps in the mud and the dust on the road and the birds and the leaves and whatever else passed us by—and we were so impressed with his demonstration, we didn't think to stop him until he accidentally took a shot at someone Gul thought might've been a T[1] ." – Kochai (2019)

INTRODUCTION

It is remarkable that as the U.S. performs its ground war[2] withdrawal from Afghanistan, the war in Afghanistan, or more accurately, the war on the people of Afghanistan is spoken of with such certainty by everyone else, while Afghans struggle to even find language for it. "…Jang is like a fight, War is bigger…what's the word for 'war'?" (Kochai, 2019). The struggle to find a word, words, that would capture the range of effects or magnitude of death dealing in contemporary Afghanistan is not a linguistic deficiency of Pashto/Dari[3] but an inability for words, in any language, to capture the work of violence in the space of Afghanistan.

The war on the people of Afghanistan is a racist war. James Baldwin speaking on the Vietnam War puts it simply: "A racist country cannot but fight a racist war". I will unpack two signature formulations

1 Kochai uses the letter T to denote a Talib or Taliban

2 I use U.S. ground war withdrawal to distinguish it from 1) the aerial war, primarily drone strikes, that will continue war indefinitely, and 2) and CIA trained Afghan death squads who were trained as part of efforts to Afghanize U.S. practices of terror making, and will continue their brutalities, on the ground, indefinitely.

3 I am only familiar with Pashto and Dari and thus do not know if Uzbek, Turkmen, Balochi, Pashayi, Nuristani and Pamir languages have a word that captures the enormity of serial war.

– the 'forever war' and the 'Graveyard of Empires' – meanwhile disrupting them, perhaps to signal contempt for the ways sensibilities were disciplined all along about the war on the people of Afghanistan, how Afghans were racialized all along. Additionally, I reflect on disclosures from The Afghanistan Papers that reveal U.S. Empire's casual admissions of the complete lack of knowledge about Afghanistan that I argue are attempts at a turn toward innocence, inculpability and even redemption for an illegal criminal war and occupation, that came to also be known as the good war of the post-9/11 era, the war in which the War on Terror found much of its sustenance, politically and culturally.

'FOREVER WAR'

The war on the people of Afghanistan is referred to as the 'forever war' by pundits as well as the general public. Yet the 'forever'[4] in 'forever war' refers exclusively to U.S./NATO time in Afghanistan, starting the clock conveniently from September 11, 2001 when the U.S. was attacked, and not October 7, 2001 when Afghans were violently invaded and attacked. Twenty years, they say. America's longest war, they say. Imperial time has its own timekeepers.

Rarely, if ever, do we see the 'forever war' denote Afghan experiences with war, Afghan experiences with Empire(s), an Afghan accounting of time. If this account centred on Afghan experiences, 2001 is not where we begin. We would go back at least to the 1970s (and maybe even before, given U.S. and Soviet presence in Afghanistan since the 1950s), to the mass graves from the Communist regime.

Mass graves have a way of saying everything, for those who are attuned to listen. Instead, what we hear are imperial accounts of war, imperial anxieties of security, and allow imperial time to tell us what time it is, and how long it has been. Tick tock (tick tock is used to represent imperial time). Americans have been in war for twenty years, and they didn't even know it…until now, that is, as they clumsily scramble to end it.

Afghans have been in war for forty-three years, and every Afghan knows it. Serial war for over forty years. Tak tak (tak tak is being used to represent the onomatopoeia a clock makes in Dari/Pashto, used here to connote Afghan time). In April 1978, twenty months prior to the Soviet invasion of Afghanistan, a military coup, known as the Sawr Revolution, brought Soviet-backed Nur Mohammad Taraki to power. The Taraki regime disappeared 50,000-100,000[5] high-school students, farmers, nomads, teachers, intellectuals, and others. Afghans were subject to imprisonment, routine torture, and rape. Pul-i-Charki Prison in Kabul was overcrowded with Afghans from every walk of life – the site of serial executions and mass graves. Afghan families are still haunted by the brutalities and violence of the

[4] I am using 'forever war' precisely as it is deployed by military establishment, and now the general public, to describe national security counter-insurgency campaigns from Afghanistan to Iraq, Pakistan to Somalia, and beyond. I am not using 'forever war' critically to capture U.S. forever wars since its creation, for example U.S.' longest war with Native populations, as I have done elsewhere.

[5] Although only 4785 of the disappeared have been identified in a list by the Dutch government prosecutor's office in September 2013, a UN Conflict Mapping Report estimates that between 50,000-100,000 Afghans were forcibly dis appeared (Clark, 2013).

Taraki regime. Until today, families are awaiting acknowledgment for the deaths of their family members. Tak tak. The Soviet invasion and ten-year occupation followed, from 1979-1989, which killed between 1.5 to 2 million Afghans, and turned more than seven million into refugees[6]. By 1987, almost 9% of the Afghan population had been killed by war (Sliwinski, 1998).

Anthropologist Mahmood Mamdani, wrote on the Soviet Occupation of Afghanistan:

"Perhaps no other society paid a higher price for the defeat of the Soviet Union than did Afghanistan. Out of a population of roughly 20 million, a million died, another million and a half were maimed, and another five million became refugees. UN agencies estimate that nearly a million and a half have gone clinically insane as a consequence of decades of continuous war. Those who survived lived in the most mined country in the world." (Mamdani, 2002)

For the seven million plus Afghans who became refugees, they faced discriminatory refugee regimes in Iran, Pakistan, Europe, the U.S., Australia, and elsewhere which continue to this day. Afghans, after Palestinians, are the longest standing refugee population in the world. Afghans remain at the top of every asylum-seekers roster. Tak tak. Following the Soviet withdrawal from Afghanistan, in the early 1990s there was a mad scramble for power between several warring militias. Afghans killed Afghans with weapons and money from the U.S., Pakistan, the formerly constituted Soviet Union, Saudi Arabia, China, Israel, and elsewhere. Whoever was willing to trade in death, came to their aid. Every one of the factions vying for power murdered and massacred Afghans, destroying the capital city Kabul. Tak tak.

In 1995, the Taliban appeared – a product of the chaos of, at that time, seventeen years of non-stop war, including a ten-year brutal foreign occupation, and Pakistani choreographies of violence and deceit.

Human rights organizations extensively documented the violence of the Taliban regime against Afghans, particularly the restrictions on dress and work for women that made headlines throughout the world. Meanwhile, the targeted brutalities against minority Hazara Shia communities got less coverage than the clothing restrictions placed on women. The Taliban and its opposition in the newly consolidated Northern Alliance continued active war and violence as civilian Afghans continued to be subject to the, by now, routine violence. Tak tak. The Taliban ruled until October 2001.

The U.S./NATO invasion and twenty-year occupation began with the 7 October 2001 invasion of Afghanistan. The Costs of War Project conservatively estimates the death toll for Afghan civilians, only over the past twenty years, as close to 47,600 civilians and more than double that number injured in Afghanistan during the 20 years of war since the U.S. invasion. Ordinary Afghans were surveilled, serially humiliated, and made forever disposable by both the U.S./NATO forces and the re-consolidating Taliban. Tick tock. Tak tak.[7]

Four decades of war (and still counting) – serial war, serial occupations, serial killing would only begin to approach an Afghan accounting of time. While two decades as the invading, occupying power gets the distinction of 'forever' in imperial time.

Yet this twenty plus years discrepancy between an Afghan accounting of time and an imperial

[6] For more detailed information on the demographic consequences of the Soviet War in Occupation, please see: Khalidi, N.A., 1991.

[7] I use tick tock as the Costs of War project has estimated the civilians killed using imperial time, twenty years. I use Afghan time (tak tak) as well, as an Afghan accounting would necessitate a count of the civilians who have been killed and injured even if only calculating the deaths using imperial time.

counting is not just bad arithmetic. The discrepancy is a deliberate miscalculation by U.S. Empire, with Pakistan as a more than willing partner, to distance itself from the material, and other support it provided (billions in money and weapons) to various groups under the broad umbrella of mujahideen in the 1980s, and thereafter. There is little question that the weapons and support were critical for the mujahideen to robustly counter the sheer horror of the Soviet Occupation. Yet those weapons and that financial support, and investments had further trajectories, afterlives. They were so significant that they fundamentally altered the social-political landscape. Those machinations need a social accounting. While many insurgencies receive financial and material support from elsewhere, an erasure of the global transfers and material support by registering them as routine is simultaneously dehistoricizing, revisionist, and deathly consequential – particularly for Black and Brown bodies in the Global South. Imperial time restarts the clock when needed. The cunning of imperial time feigns the precision of a finely tuned Swiss watch when declaring twenty years. Yet as I show below, imperial time telling fixes violence as local and organic to the geographical terrain of Afghanistan, and inherent to the people. Imperial time obscures the global terrains of racialized militarization that decades earlier collectively conspired to designate Afghans as disposable. The 20 years that imperial time counts exclude Empire's prologue. Tick tock.

Obscuring the global origins of terror not only enabled a global War against Terror. By unhinging the global from 'Terror's' origins, it became possible to provincialize it, localizing culpability for 'Terror' into discrete bomb-able sites/zones, as was the case for Afghanistan – the inaugural invasion of the Global War on Terror. The invasion was an event and yet is also an entire global architecture. It was designed as a military intervention that legitimated the invasion and subsequent occupation of Afghanistan, all future illegal invasions anywhere (i.e. populations of Brown and/or Black people), including drone strikes, and surveillance apparatus that permanently marks bodies. Regardless of whether Afghans stay in Afghanistan, migrate to Pakistan, or Greece, by way of example, all harassment, violence and even death are forever marked as justifiable. Violence racializes Afghans, and thus an Afghan accounting of time would certainly calculate for this permanent distinction. Additionally, the architecture of the Global War on Terror offers permanent exemption status for state violence and state practices, conduct, embodied behaviors, and philosophies of terror, exclusively targeting non-state actors as authors of 'Terror.' Since the Taliban have been legitimated through the negotiations with the U.S. government from 2020 (and not by Afghans), I fear that even the Taliban will now get the permanent exemption status for their violence that is accorded to state actors and state practices of violence elsewhere.

'GRAVEYARD OF EMPIRES'

The evergreen "graveyard of Empires" description suggests that U.S. Empire's failures in Afghanistan were pre-ordained, inevitable, and little to do with the faults of U.S. Empire. The description "graveyard of Empires" also centers Empire while neglecting the obvious – that Afghanistan is also a graveyard for dead Afghans. Counting only Afghans who died over the past 20 years as a direct result of war is 169, 918[8] - a conservative estimate that does not carry nearly the precision that it is needed. The formulation at once acts as erasure for the brutalities of the war and yet humanizes Empire, portraying Empire as the victim. Afghanistan as a natural state of exception haunts

[8] I am using the Costs of War Project data. However, their data does not focus solely on Afghan dead, thus I sub tracted the dead U.S. Military, DOD, and Military Contractors, Other Allied Troops, and Foreign Media Workers from the total. I am not able to extrapolate out from their data Afghan NGO/Humanitarian workers or Afghan Opposition Fighters, thus I am using the estimates that include foreigners in these two categories.

this description. What exactly is being implied when calling Afghanistan a 'graveyard'? Is it full of dead people? Ghosts? Spooky things? Afghans who have managed to somehow navigate the destruction of serial war, the dehumanizing violence of foreign occupiers and the accompanying humanitarian savior complex, and still manage to craft livable lives for themselves and others, are being rendered discursively dead? Or have Afghans who we know had already been rendered killable by racializing logics created and finessed by Empires, been dead all along? If so, then who were the imperial invaders and saviors here saving?

As the expression "graveyard of Empire" conveys, the British Empire tried to conquer Afghanistan three times and failed. The Soviet Empire occupied Afghanistan from 1979 to 1989 and collapsed shortly thereafter. Can we just skip to the part about the death of U.S. Empire, and get to burying it? Who shall we ask to author its obituary? I certainly have a few millions of Afghans (and Iraqis, Yemenis, Somalis, Libyans) in mind whom I can propose as the collective scribes for this obituary. In the qabrestan (gravesite) designated for foreigners in Kabul? Or maybe we not disturb that qabrestan that has been so lovingly tended by the inhabitants of Kabul for literally forever (not Empire's forever), and find another place. Perhaps Bagram – Empire's former playground and torture site? Bury it in Bagram under the several metric tons of trash left behind by the US troops serving Empire who vacated Bagram like a band of ill-behaved entitled frat boys.

Or maybe we should stop altogether trying to think with Empire or as Empire and instead wrestle this formation away from its imperial origins, 'decolonize' it, as the liberals now say. We can re-invest 'Afghanistan as graveyard' with meaning for Afghans, as a gesture towards honoring the millions of dead officially declared and unofficial shaheed (martyr) who are witnesses to Afghanistan's serial war. Afghanistan as graveyard can be re-signified to capture the essence of the space of a graveyard for Afghans. Graveyards are not spooky, creepy places that cause fear. They are an integral part of everyday life for Afghans. Graveyards literally, and otherwise, come alive on Thursdays and Fridays (the holy day), as Afghan families flock to graveyards, spending hours there on a picnic as they visit the graves of loved ones. Given the lack of space in Kabul, entire families have also taken to live in graveyards. Official graveyards compete with space for those who are still in this world. Unofficial graveyards pop up throughout Kabul, out of necessity. The space of graveyards and shrines emit baraka – blessings for the living, and protection from harm. In poetry, there is a strong connection between graves, and gardens. Afghanistan is a graveyard not of Empires, but for Afghans still in this world to be with those who left this world, to receive baraka, to offer prayers, to sit with the unseen yet present, and to offer protection from future evil doers and the mal-intentioned.

IMPERIAL INNOCENCE

The release of The Afghanistan Papers, a trove of over 2,000 internal documents from the Special Inspector General for Afghanistan Reconstruction (SIGAR) obtained by The Washington Post in December 2019 coupled with the announced ground troop withdrawal by US President Joseph Biden has presented ample opportunity for the architects and minions of Empire to reflect on US failures in Afghanistan. The architects/minions have been in confessional mode since the release of The Afghanistan Papers, and even more so now with the ground troop withdrawal. In an interview with PBS Newshour's Foreign Affairs correspondent Nick

Shifrin, National Security Advisor Douglas Lute who served both the Bush and Obama administration (2007-2013) reflected on the US failures in Afghanistan thusly:

"We did not fully appreciate…we did not have sufficient expertise on Afghanistan, understanding the politics, the economics, the neighborhood (Afghanistan lives in a very tough neighborhood, prominently with Pakistan), we did not understand the ethnicities that made up the Afghan people, the demographics well enough to craft a meaningful strategy. It has to start with expertise, and we were short on that from the outset." (Matern, 2021)

The *Afghanistan Papers* include an interview with SIGAR and Lute in February 2015: "I bumped into an even more fundamental lack of knowledge; we were devoid of a fundamental understanding of Afghanistan – we did not know what we were doing." Lute further acknowledges that the U.S. created a war economy, and "inflamed" corruption with the massive (yet simultaneously and comparatively miniscule), amounts of money being poured into the country. We are left to believe, after reading The Afghanistan Papers that the key architects of the war in Afghanistan really had no idea what they were doing. The U.S. illegally invaded and occupied a country and the National Security Advisor for two administrations so irreverently claims that he "bumped into a fundamental lack of knowledge" on Afghanistan.

Lute's words are stunning on several accounts. I present three, albeit inter-connected. One, Lute reveals the classic casual racism that has been the bedrock of the United States, and that shepherds U.S. Empire and the violence it enacts. Two, National Security Advisor Lute acknowledges that what Afghanistan is and who the Afghan people are, were unknowns to both the Bush and Obama Administrations. Yet Afghanistan and the Afghan people were always already imagined and delineated. It did not matter who Afghans actually were, it mattered who/what they had already been imagined to be. Three, what makes it possible for U.S. National Security to be able to claim that it did not have a fundamental understanding of Afghanistan? The claim is disingenuous and telling of imperial preoccupation with mastery over knowability. U.S. Empire has played a 'fundamental' role in Afghanistan since the 1950s. What could then constitute this 'fundamental understanding of Afghanistan' that they claim they did not have? Lute, Chuck Hagel (the former Secretary of Defense under the Obama Administration), and others speak of a lack of understanding of Afghanistan now as if it was merely a college history exam they were ill prepared for and failed, and not an entire war on innocent people.

Furthermore, is Lute presenting Afghans as tribal, primitive, and thus radically unknowable? The racist trope of unknowability emerges as Afghans are delineated to be so radically different from who they are (i.e. white, or western, or non-Muslim)? We must see Lute's seeming admission as an attempt not only to erase U.S. Empire's history in Afghanistan, but also an attempt toward innocence. We did not know better, we could not know better. Afghans are primitive, so radically alter to who/what we know, they exceed knowability. Forgive us, for we know not what we do.

The U.S. Empire has done the work to make it appear that by remaining in Afghanistan, the twenty-year occupation, was a gesture of care, humanitarian,

'nation-building' at the expense of an increasingly frustrated, fed-up population in the U.S. The classic white-man's burden story is a resilient one. A racialized subject, the Afghan, is produced through the violence, as well as through the self-exoneration from that imperial violence by seminal architects of the war, such as Lute. Ugly things happen in war, they say. We did our honorable best, they say. Now, we must leave for Afghans to sort it out for themselves, they say.

Khak da saret, Afghans say[9].

Tak. tak.

Author's editorial note: I am writing this editorial note on 1 September 2021, seventeen days after the Taliban seized Kabul. The essay that follows was written in July 2021. The points raised herein before the Taliban takeover have not lost, but rather gained urgency. While the Taliban regime poses a seemingly insurmountable existential threat, particularly to minority and vulnerable populations, thinking about Afghanistan through the spectacular lens of the past two weeks (or for that matter, the past twenty years of the global War on Terror) somehow misses the scale of the dread. Instead, in what follows, I advance an accounting of the durational nature of serial war and serial failure that Afghans have endured for the past forty three years (and counting).

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13

THE IRAQ WAR AND THE MIRROR OF VIOLENCE

RIZWAAN SABIR

INTRODUCTION

Hindsight, they say, is twenty-twenty. If you are the U.S. and U.K. governments, you could perhaps make this point to counter any criticisms being directed your way for the decision to take your country into the war in Iraq of 2003. But, anybody who followed the build-up to the Iraq war in the media and policy circles will recall with some degree of clarity that there was a very strong sense of scepticism and doubt about the entire military campaign the U.S. and U.K. were about to embark upon. The United Nations' weapons inspectors were frustrated that they were not being given enough time to finish their task of finding the 'Weapons of Mass Destruction' that both the U.S. and U.K. were convinced Iraq possessed. Neither were those who understood the history and affairs of the Iraqi nation buying into the links that were claimed to exist between Saddam Hussein's secular Ba'athist regime and al-Qaeda to justify the war.

The global public was suspicious of the official reasons being cited for the war and took to the streets in their tens of millions to pressure the U.S. and U.K. into not starting a war with Iraq. But, their cries of "stop the war" fell on ears that had already been deafened by the sound of beating war drums. This paper discusses two of the seen and unforeseen outcomes of the U.S.-led Iraq war: the emergence and amplification of Muslim militancy and the creation and implementation of the U.K.'s countering violent extremism policy 'Prevent'.

CONSTRUCTING AL-QAEDA IN IRAQ

The invasion and occupation of Iraq, and the deposing of Saddam Hussein, was done on two grounds. First, Iraq was claimed to possess Weapons of Mass Destruction (WMD) and secondly, that Ba'athist regime of Saddam Hussein and al-Qaeda were alleged to be working jointly to execute political violence targeted at the west, including through the use of Chemical, Biological, Radiological, and Nuclear (CBRN) attacks. On 5 February 2003, the U.S. Secretary of State Colin

Powell made a speech at the UN Security Council to drum up support for the impending war by highlighting Iraq's links to al-Qaeda. "Every statement I make today is backed up by sources" he claimed, "solid sources." Powell then told the UN that "what we're giving you are facts and conclusions based on solid intelligence … from human sources" (The Guardian, 2003).

One of the 'human sources' Powell was referring to was a man named Ibn al-Shaykh al-Libi who had been captured in Pakistan in November 2001 and rendered to Egypt (Qureshi et al, 2016; University of Kent, 2021). During the course of his detention, al-Libi was tortured and waterboarded and told his interrogators that Saddam Hussein and al-Qaeda were working together to launch attacks against the West using CBRN weapons (Qureshi et al, 2016; University of Kent, 2021). Colin Powell then used this false confession tortured out of al-Libi to connect Iraq and al-Qaeda and justify the invasion of Iraq. Of course, by the time it emerged that Powell's source was a man who had given false information after being tortured, the U.S. and U.K. war-horses had already bolted from their stables and it was too little and far too late.

But those with some knowledge of the history and affairs of Iraq at the time were deeply sceptical of the veracity of the alleged link between Saddam Hussein and al-Qaeda (Gerges, 2016). Ba'athism, which is a secular Arab-nationalist ideology, is vehemently opposed by Muslim militant groups such as al-Qaeda. Though Saddam Hussein adopted more Islamic rhetoric in the 1990s and pulled stunts such as commissioning the writing of the Qur'an using his blood, these were attempts at seeking credibility amongst a disgruntled population living with the effects of crippling U.S. sanctions more than anything else.

Osama bin Laden was also on record as opposing Saddam Hussein. He publicly criticised Saddam's use of chemical weapons in the 1980s and compared his violence that was targeted at "our Kurdish brothers in the name of odious nationalism" to the brutal massacre the U.S. military engaged in the Iraqi city of Falluja in 2004 (MEMRI, 2004). When Saddam Hussein annexed Kuwait, Osama bin Laden is also reported to have told the Saudis to permit him to build an army of 100,000 mujahedeen-fighters who would liberate Kuwait from the Iraqis; a request that was denied by the Saudis in favor of the U.S.-led Gulf War of 1991 (Jehl, 2001).

ABU MUSAB AL-ZARQAWI: A MILITANT MASTERMIND?

Despite this historically precedented and documented condemnation of Saddam Hussein, a link was still being made between the two by the U.S. But this link was not focused on Osama Bin Laden directly. It was being made through Abu Musab al-Zarqawi; a militant who would earn notoriety because of the importance and significance the U.S. was placing on him. "What I want to bring to your attention today is the potentially much more sinister nexus between Iraq and the al-Qaeda terrorist network," the U.S. Secretary of State Colin Powell told the UN Security Council. "Iraq today harbors a deadly terrorist network headed by Abu Musab Al-Zarqawi, an associate and collaborator of Osama bin Laden and his al-Qaeda lieutenants" (The Guardian, 2003).

Until the 9/11 attacks, Zarqawi was unknown to western security agencies, including the CIA. He only emerged on their radar after Kurdish and Jordanian intelligence agencies flagged him as a threat to their regional interests (Napoleoni, 2005).

His name was also largely peripheral in the world of Muslim militancy and largely unknown outside of his native Jordan (Napoleoni, 2005). But the need to concoct a link between Iraq, al-Qaeda, and the 9/11 attacks in order to build a case for war with Iraq needed a figurehead. Through the profile and commentary around Zarqawi, the U.S. had found a man for the job. In a very short space of time, Zarqawi had been transformed into an al-Qaeda mastermind.

This helped to secure both Zarqawi's legitimacy and followers, and eventually, led to his appointment as leader of al-Qaeda in Iraq by Osama Bin Laden. "The warrior comrade Abu Mus'ab Al-Zarqawi is the commander [Amir] of the al-Qaeda organization in the land of the Tigris and the Euphrates" is how Osama Bin Laden put it in a video-recording that was released to Al-Jazeera (MEMRI, 2004). This granted Zarqawi further legitimacy amongst Sunni fighters in Iraq and the region. The multiple groups and factions who had emerged to resist the U.S. occupation had found a figurehead and leader to organize their resistance around. Al-Qaeda was also benefiting from the PR coup it had secured thanks to the U.S. government. Its image was strengthened as a resilient and organized armed group who, despite facing losses in Afghanistan and being on the run, were fearlessly operating on the front-line of the second-front the U.S. had opened in Iraq.

CAMP BUCCA AND THE SEEDS OF ISIS

As the U.S. occupation and counterinsurgency campaign was in full swing, thousands of Iraqis were being arrested and detained by the U.S. military in specially created prison-camps such as Camp Bucca in preventative detention. Among the Iraqis taken into custody were hardened militants and Saddam loyalists who began to plant the seeds for a new organization that would have revised objectives: to fight the U.S. occupation, to cleanse Iraq of its Shia population, and to establish something resembling an 'Islamic State.'

The world would come to hear of this group a decade later in 2014 through a whole host of names and acronyms including ISIS, ISIL, Islamic State, and Daesh.

Abu-Bakr al-Baghdadi, the now deceased leader of ISIS who oversaw the group's capture of territory in both Iraq and Syria with a precision and speed that was quite unprecedented, had spent five years incarcerated by the U.S. military at Camp Bucca (Chulov, 2014). Other senior figures such as ISIS's second-in-command, Abu Muslim al-Turkmani and Abu Qasim, who oversaw and managed the influx of 'foreign fighters' from around the world, were also incarcerated at Camp Bucca (Chulov, 2014). Mixing freely with them were Saddam loyalists and Ba'athists. "We could never have all got together like this in Baghdad, or anywhere else. It would have been impossibly dangerous" is how Abu Ahmed, who had been detained in Camp Bucca, described the significance of the mix of inmates at

Camp Bucca. "Here, we were not only safe, but we were only a few hundred metres away from the entire al-Qaeda leadership" (Chulov, 2014).

The leadership of the Iraqi wing of al-Qaeda, however, was soon to become ISIS thanks to the help and influence of the ex-Ba'athists who brought a very detailed and tested suite of military, bureaucratic, and administrative skill-sets to the table. When matched with the dedication of the Muslim militants, the seeds for a formidable and brutal force had been laid right under the nose of the U.S. military.

The dark irony of the story of armed Muslim groups such as ISIS is that without the U.S. launching its war, the circumstances that saw its formation and rise would never have existed. Had the U.S. not played an active role in constructing a link between al-Qaeda and Saddam Hussein through the figure of Abu-Musab al-Zarqawi as a way of justifying its invasion, al-Qaeda and later ISIS would never have been able to incorporate various insurgent groups that had organically emerged under its banner with the speed and effectiveness it did. Without the invasion of Iraq, a power vacuum would not have surfaced that would spark a civil war in Iraq. But, to justify and launch the Iraq war, the U.S. had side-lined the outcomes, consequences, and warnings that had been predicted out of a mix of ignorance, arrogance, and hubris.

WE DO WHAT YOU DID TO US

One of the consequences of the brutality and arrogance of the U.S. is the way both were soon replicated by groups such as ISIS that emerged as a result of the invasion of Iraq. The mirror of U.S. violence is perhaps no more visible than through the use of torture and confinement used by ISIS.

There was a morbid irony and symbolism in ISIS's parading of hostages and prisoners such as the British engineer Ken Bigley, the British aid worker Alan Henning, and U.S. journalists James Foley and Steven Sotloff in black hoods and orange prison uniforms in slickly produced propaganda films made using high-definition camera technology. Anybody who has seen these videos and images will be able to see the striking similarity to the way Iraqi and Muslim prisoners were dressed by the U.S. military in internment camps such as Guantanamo Bay and U.S. military-prisons in Afghanistan and Iraq. This has perhaps been one of the more underreported legacies of the so-called 'Global War on Terror' and the Iraq War; how an entire group of people subjected to the violence of the U.S. through torture and its numerous variants such as mock executions, hooding, and beatings (euphemistically and legally referred to as 'Enhanced Interrogation') went on to mirror their use.

But this mirroring did not just stop with how captives were treated. It also operated in the cultural sphere. Militants belonging to groups such as ISIS, for example, went on to produce propaganda material that co-opted and employed messaging styles and themes that the U.S. had created to reproduce its military superiority and strength. Through slickly produced social media campaigns, for example, images and posters relating to the first-person-shooter game "Call of Duty" were doctored and used as a way of recruiting new members, especially from Europe and America who would have familiarity with the game, to ISIS. Military manuals such as "How to Survive the West" told readers to learn about spying and counter-surveillance techniques by watching Hollywood films such as the "Bourne" trilogy series starring Matt Damon.

Through these very simple examples, we can see how military power and its supporting culture that was created and used by the U.S. came to be replicated in deeply dark ways. But, rather than seeing this replication of violence as a signal to perhaps reflect and consider how their military and foreign policies contribute to creating and strengthening the very things the west claim to be fighting against, the U.S. and U.K. turned their blame to Islam and religious ideology for the depravity and extreme violence used by some militants and groups. The west would rather deal with the symptoms of a problem they have contributed to creating rather than addressing their own role in the globalization of militancy and political violence. This concept of diverting attention away from yourself onto the other is glaringly clear in the debate around 'radicalization' and the policy that has been created to address it; "Countering Violent Extremism" or "CVE".

"RADICALIZATION" AND THE MILITANCY BOOMERANG

In the days and weeks leading up to the Iraq War, the U.K.'s Joint Intelligence Committee, a parliamentary body which oversees the U.K.'s intelligence agencies MI5, MI6, and GCHQ, issued a 'Top-Secret' judgment highlighting the consequences of invading Iraq. The report, now de-classified, noted:

"The threat from al-Qaeda will increase at the onset of any military action against Iraq. They will target Coalition forces and other Western interests in the Middle East. Attacks against Western interests elsewhere are also likely, especially in the U.S. and U.K., for maximum impact. The worldwide threat from other Islamist terrorist groups and individuals will increase significantly." (National Archives, 2003).

A year after the Iraq war, in 2004, another report produced jointly by the U.K.'s Foreign Office and the Home Office noted that British foreign policy was causing resentment and radicalization within Muslim communities and could lead to terrorism in the U.K. (Foreign & Commonwealth Office/Home Office, 2004).

On 7th July 2005, for the first time in U.K. history, four British-Muslim men boarded trains and buses in London during the morning rush-hour and detonated homemade explosive-laden backpacks they were carrying. This was the first suicide bombing to have been executed on U.K. soil in which 52 civilians were killed. What was remarkable about the attack is not that it was unprecedented in its method and style but that it had been predicted. But, rather than acknowledging the role that foreign policy and wars such as Iraq had played in the arrival of 'home-grown' militancy and political violence, the blame was placed on Islamic ideology. "Strip away their fake claims of grievance and see them for what they are", the Prime Minister Tony Blair claimed, "terrorists who use 21st century technology to fight a pre-medieval religious war" (Blair, 2005). Convinced that it was 'their' religious ideology rather than 'our' wars and foreign policies that had driven some people into executing political violence on the streets of the U.K., the government and its security establishment went into overdrive in trying to create and implement the 'Prevent' CVE policy.

DON'T MENTION THE WAR

The aim of the Prevent/CVE policy is to counter the ideology that 'radicalizes' young Muslims and drives them to become militants and engage in political violence. The thinking behind the policy is that if people can be spotted and profiled who

pose a potential militancy-risk by public sector workers such as teachers, doctors, and nurses, and reported to the authorities, the state will be able to launch some form of pre-emptive intervention that will stop violent attacks from happening before they are executed. The policy sounds reasonable but, in practice, it contains multiple problems.

First, the behavioral and ideological indicators it relies upon to determine if somebody poses a future terrorism risk are based on entirely legitimate, legal, and ordinary behaviors, activities, and beliefs. The policy therefore plays a role in constructing Muslims as a 'suspect community' and criminalizes Muslim identity. Secondly, the policy securitizes the domain of the public sector and converts public sector workers into extensions of the security and surveillance state. Since reporting potential terrorists to the authorities is a duty enshrined within British law, it also increases the risk of people being referred who have done nothing wrong since public sector workers oftentimes prefer to over-report than not report somebody and run the risk of falling foul of the law themselves. Thirdly, the piercing of the public sector, especially the health service, creates a situation whereby people cannot speak about their mental health issues, oftentimes triggered by state violence and fears around surveillance, in a safe and secure space; leading to an increase in social and political exclusion and inequality. And finally, the policy places the blame on religious and ideological belief systems rather than looking at the role that politics and war play in 'radicalization' of young Muslims and their militancy. The creation of Prevent, and CVE more broadly, addresses the symptoms of political violence undertaken by Muslim militants and armed groups; not the role the state, powerful governments, and their policies play.

There seems to be a broad consensus that terrorism is not caused by religion and/or ideology but by a combination of socio-economic and political factors, including conflict and war. "Whilst religion can justify and intensify terrorist violence," observes Richard English (2009, p.39), "the point is that this does not occur in isolation from other social and political forces and factors." Religion and ideology, in other words, have an ability to justify and legitimize terrorism but they operate in conjunction with other socio-economic and political factors. This is similar to what the war-sociologist Sinisa Malesevic (2010, p.83) notes: "ideological power is not the only, and not necessarily the primary, generator of social action but its social significance lies in its legitimizing capacity." Again, ideology is not the cause of militancy. It is the justifier.

CONCLUSION

The view that religious ideology is the foundational driver of Muslim militancy and political violence around the world is a way of diverting attention away from the role that powerful western countries such as the U.S. and U.K. have contributed to the political upheaval and insecurity that have created the conditions that have significantly contributed to the emergence of groups such as al-Qaeda and ISIS. It is a way of distracting the attention of the world from the

fact that the depravity and torture used by groups such as ISIS oftentimes draws upon and mirrors the depravity and torture the U.S. has been employing since launching its Global War on Terror in 2001, and more specifically, the invasion of Iraq in 2003.

By refusing to look inward and reflecting on the role that western foreign policies and wars have played in the rise of Muslim militancy and political violence, it becomes inevitable that both will be pathologized and seen as a mix of irrationality and evil rather than a symptom and outcome of state violence. Constructing and placing your enemy beyond the realm of reason, debate and negotiation makes conflict and confrontation the only solution since evil can never be negotiated with. It must be fought wherever it is found. Muslim militancy has a political and historical context to it but western policies and practices strip it of this context. They erase the contributing role that state terror and torture have played in its emergence and globalization. The most effective way for powerful western states such as the U.S. and U.K. to stop political violence, terror, and torture therefore, is to perhaps consider not using it.

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PART III

THE HUMAN IMPACT OF THE GLOBAL WAR ON TERROR

14

DETAINED: THE UNENDING LEGAL BLACK HOLE OF GUANTANAMO

MOAZZAM BEGG

DETAINEES

In 2001, I left the U.K. to work on humanitarian projects to build schools and construct wells in Afghanistan. When the U.S. bombing began following the September 11 attacks, I evacuated with my family to Islamabad, Pakistan. The events that followed were to change my life forever.

On the night of 31 January 2002, unidentified officers of Pakistani Inter-Services Intelligence (ISI) accompanied by CIA agents forced their way into my home and took me away in front of my wife and children. I was taken to a secret location and held for several weeks. The interrogations, however, were carried out by the CIA and British MI5 agents. This was the start of my journey as a "detainee" of the USA.

The ISI told me that I was being "illegally detained". When I asked them to explain what that meant they told me bluntly that they were holding me outside of the law and no one could do anything about it. I was to find out soon just how widespread that belief and practice was.

Within days I was handed over to U.S. military custody and taken to U.S. detention facilities in Kandahar and Bagram - where I remained for almost a year before being sent to Guantanamo.

From the moment U.S. soldiers described us as "detainees," I challenged them. Considering I was taken from my house by unidentified gunmen in the middle of the night and kept in secret locations, I told my captors that I was an abductee, a victim of kidnap and false imprisonment.

As children, we learn that detention is a power available to schoolteachers in order to discipline

unruly pupils, but "detainees" know they'll be going home after detention. As we grow older, we discover that the power to detain lies in the hands of the state. And, while it's a more serious affair when police are involved, we know that they cannot hold us arbitrarily and indefinitely.

HABEAS CORPUS

The right of habeas corpus is found in the constitutions of many former British colonies. For example, when I was taken from my home in Pakistan, my family issued habeas proceedings against the Pakistani government - although by that time I had been handed over to the U.S.

When nations like Britain, Canada, Australia and USA laud their higher "values", they often cite the Magna Carta. For example, in the attempt to assert a hitherto undefined national identity, British Prime Minister Cameron referred (2014) heavily to the Magna Carta as a core ideal behind a belief in commonly held "British values." He said this even as it was discovered that the British island of Diego Garcia was used in the U.S. rendition programme and British agents interrogated prisoners held without charge or trial and faced charges for torture complicity (Begg, 2017). In May 2018, Libyan dissident Abdel Hakim Belhadj and his wife received an unprecedented apology from Prime Minister Theresa May after evidence emerged which proved that MI6 had "gifted" Belhadj to Libyan intelligence in the knowledge that torture and human rights abuses were prevalent in the country. The evidence was not provided by British sources but discovered by Libyan rebels who stormed the offices of Libyan intelligence during the 'Arab spring' and handed the incriminating documents to lawyers.

Elsewhere, Article 1, Section 9 of the U.S. constitution forbids the suspension of habeas corpus without legal cause. In other words, suspects should be charged and tried, or released. There is no third option. In truth, however, this civilizational ideal has repeatedly been ignored - long before Guantanamo.

During World War II, over 120,000 Japanese Americans were held in internment camps on U.S. soil on the basis of national security. During the Irish 'Troubles,' Britain interned nearly 2000 Irish republican prisoners without charge. Most recently, several Middle Eastern and North African Muslims were interned for three years in 2001 as a precautionary response to the September 11 attacks in what became known as "Britain's own Guantanamo" at HMP Belmarsh (Begg, 2017).

ENEMY COMBATANTS

When I first arrived at the U.S. facility in Kandahar, Afghanistan, built to hold Taliban or al-Qaeda suspects, the argument that it was only a temporary measure may have justified the concept of 'detainees.' However, at the start, we were all issued Enemy Prisoner of War (EPW) identity cards, seemingly in accordance with U.S. military regulations on the treatment of prisoners. This meant clearly that

> *the U.S. understood its obligations towards us under the Geneva Conventions. Realizing their mistake and the rights it would afford us, the cards were promptly taken away. From then on, the U.S. referred to us as*

"unlawful belligerents" and "enemy combatants."

The International Committee of the Red Cross (ICRC) says these terms are not defined in any international agreements and have "no legal meaning outside armed conflict" (ICRC, 2011).

U.S. government lawyers carefully reinterpreted laws to argue that we were not entitled to any protections under the Geneva Convention (CSHRA). By doing so, they could avoid scrutiny whilst violating our basic human rights. Around the same period, three men including U.S. citizens Yaser Hamdi and Jose Padilla, alongside Qatari national Ali Al Marri, were held on U.S. soil as enemy combatants. For several years they were held in incommunicado detention and denied legal rights and subjected to treatment akin to the Guantanamo prisoners - until they were charged with crimes in Federal courts (AI, 2004). Impunity at Guantanamo was the reason it was selected as a prison.

The 45-square mile patch at Guantanamo Bay has been controlled by the U.S. Navy for over 100 years and is currently under a disputed lease agreement with Cuba. Despite this, Bush's legal advisers argued that U.S. laws would not apply to detainees because it was technically outside U.S. legal jurisdiction. With its close proximity to the U.S. mainland, Guantanamo served as the best place to hold captives while ensuring they could not access U.S. laws. One U.S. official described it as the "legal equivalent of outer space" (Packard, 2013).

While U.S. military personnel and civilian workers (U.S. and foreign) are subject to U.S. laws on Guantanamo, the prisoners are wilfully denied. This is even more surreal when compared to animal rights on the island.

NO FREEDOM DESPITE SUPREME COURT WINS

Iguanas are omnipresent at Guantanamo and protected under the Endangered Species Act (1973). One prison camp was even named after them. Camp Iguana was used to hold several of the 22 children in Guantanamo like 15-year old Canadian, Omar Khadr, and 12-year old Afghan, Mohammed Jawad. Later, despite being designated "no longer enemy combatants" Guantanamo's Uyghurs were held there. But the camp's namesakes had more rights than its inmates.

In legal terms, the Guantanamo prisoners have less rights than iguanas. Despite winning a series of Supreme Court rulings against the U.S. government's denial of habeas rights, no one has been freed from Guantanamo directly as a result. What these cases have shown, however, is just how often America has been willing to violate its own sacred constitution.

- *Rasul v. Bush (2004)* ruled that the Supreme Court could hear cases of Guantanamo prisoners despite the government's insistence that they had no rights to challenge their incar ceration.
- *Hamdi v. Rumsfeld (2004)* found that a U.S. citizen detained early on in Guantanamo had constitutional rights to petition courts to review his imprisonment.
- *Hamdan v. Rumsfeld (2006)* ruled that courts had jurisdiction to hear petitions which had been filed before Congress and that Com batant Status Review Tribunals (CSRTs) created by the U.S. government in response to Rasul vs Bush violated the Geneva Conventions as well as its own Uniform Code of Military Justice.
- Boumediene v. Bush ruled that the Military

- *Commissions Act (2006)* could not remove the right for Guantanamo captives to access the legal system despite government attempts. It added that all previous Guantanamo captives' petitions were still eligible despite government attempts to reject them.

Instead of accepting these rulings as a means to follow due process, the U.S. administration has gone to extraordinary lengths to ensure that no one could meaningfully challenge their imprisonment.

KANGAROO COURTS

The Detainee Treatment Act of (2005) was passed in order to remove prisoners' abilities to make habeas claims by asserting that U.S. courts did not have jurisdiction over "enemy combatants" detained in Guantanamo. However, Boumediene found that the government had acted unconstitutionally in denying prisoners' habeas rights.

Combatant Status Review Tribunals (CSRTs) came about in response to the 2004 court judgments by attempting to present some semblance of "due process" where none existed. CSRTs determined whether prisoners were correctly designated as "enemy combatants." Much of the process was based on classified evidence that prisoners could not see or challenge, lack of counsel, due process or protections. Like many, I refused to take part.

CSRTs were later replaced by Administrative Review Boards (ARBs) which sought to mitigate concerns of indefinite detention following decisions in the CSRTs. ARBs were yearly reviews to determine whether a person could be released following security assessments. In 2006, the ARB cleared three men for release and another 107 for repatriation to the custody of their home country.

The majority, ironically, remained in prison for many more years - based on concerns that they could face torture or execution on their return, because they had once been imprisoned by the U.S. in Guantanamo. That is one of the legacies of Guantanamo that still exists.

I was one of the very first prisoners designated for military trial in Guantanamo (BBC, 2003). The fact that juryless U.S. military tribunals, where evidence through duress and hearsay was admissible and where prosecutors could seek the death penalty, placed enough pressure - alongside a high profile campaign mounted by my father - for the British government to intervene. Senior British judges described the idea of Guantanamo trials as a "kangaroo court" (Dyer, 2003). That's essentially how I came home in 2005 but, for others, the process was just starting.

The only court that exists for prisoners at Guantanamo was borne out of the attempt to deny them rights in the first place. The Military Commission Act (2006) allowed "trial by military commission for violations of the law of war" against "enemy combatants". The impotence of the military commissions becomes clear with statistics. Of a total of 779 prisoners held at Guantanamo a total of eight have been convicted (Rosenburg, 2016). Some resulted from plea bargains while other convictions were annulled upon release. Only two of those convicted remain in Guantanamo.

The U.S. only charged seven others with crimes. These cases remain entangled in protracted pre-trial hearings. Among them is Khalid Sheikh Mohammed, the alleged mastermind of the September 11 attacks. After almost 20 years of torture, interrogations and legal proceedings, the military commissions are no closer to securing a conviction against him. The inability to successfully

prosecute Mohammed lies in the fact that he was subjected to waterboarding (a medieval drowning technique) and denied basic due process. Evidence obtained under torture is not admissible in U.S. courts.

PERIODIC REVIEW BOARDS

In 2011, the Obama administration set up the Periodic Review Board (PRB) in order to determine whether prisoners could be freed or remain incarcerated based on security assessments (Office of the Press Secretary, 2011). The announcement was made at the height of the prisoner hunger strikes which drew global attention to the plight of the prisoners (Beale, 2013). As a result, many prisoners were repatriated or resettled in different parts of the world. The numbers eventually whittled down until only 41 remained.

No one in Guantanamo, however, has been released because they were found not guilty of a crime in a court of law. Releases have occurred following a combination of negotiations and agreements with foreign governments and assessments made at Guantanamo and various U.S. government departments.

When Donald Trump took office he reversed Obama's decision to close Guantanamo and all but halted all the releases, including those cleared under PRBs. While most of those convicted under the military commissions have gone home, those with no charges, like Moroccan, Abdul Latif Nasser, who was "cleared for release in 2016," inexplicably remained in prison until 19 July 2021 when he became the first Guantanamo prisoner to be freed under President Joe Biden. The day after his return home, Nasser told the press:

"I have no words to describe my overwhelming sense of happiness and joy. It is like a miracle after 20 years to be home and celebrate Eid together with my family." (Davies, 2021)

ABU ZUBAYDAH AND THE TORTURE PROGRAMME

The majority of the prisoners in Guantanamo have been dubbed "forever prisoners" following PRB assessments. This renders men too innocent to charge but "too dangerous to release". They include one of the most well-known prisoners in Guantanamo.

The CIA torture program, euphemistically called Enhanced Interrogation Techniques (EIT) was primarily designed for Zayn al-Abidin Muhammad Husayn (aka Abu Zubaydah). U.S. intelligence believed Zubaydah was a high ranking member of al-Qaeda and knew about future attacks. After his capture, Zubaydah was taken to CIA "black sites" around the world where he was subjected to a series of torture techniques designed by U.S. psychologists (Borger, 2020) and authorized by U.S. government lawyers who argued that if it didn't cause "death, organ failure or serious impairment of body functions" it wasn't torture (L.A. Times, 2010).

As such, Abu Zubaydah was subjected to nudity, sleep deprivation, confinement in small dark boxes, deprivation of solid food, stress position and physical assaults.

In 2002, CIA operative Gina Haspel was dispatched to direct a CIA site in Thailand, code-named Cat's Eye (Goldman, 2018). It was in this place that Abu Zubaydah was kept in coffin-sized boxes and waterboarded according to the U.S. government 83 times. In 2018, Haspel became the first woman to head the CIA.

Abu Zubaydah was eventually sent to Guantanamo but not until he'd suffered an odyssey of rendition and torture. While in Guantanamo, however, he won damages against Poland, Romania and

Lithuania in the European Court of Human Rights which ruled they had been involved in his abuse (BBC, 2018). U.S. allegations against Abu Zubaydah also began to crumble after details of his own diaries evidenced that he was neither part of al-Qaeda nor involved in plots against the USA (Marguiles, 2018). In almost two decades, Abu Zubaydah has never been charged with a crime.

LEGACY OF TORTURE

In 2002, General Geoffrey Miller was tasked with running Guantanamo. With EITs at his disposal, Miller ensured that torture and Guantanamo would become synonymous in the eyes of the world. Sensory and sleep deprivation, physical and sexual assault and isolation are documented in the case of Mohamedou Ould Slahi (Slahi, 2013) - who was freed in 2014 - and Mohammed al-Qahtani - still in Guantanamo. These are just two examples that detail Miller's direct role in the torture of prisoners (Golden & van Natta Jr, 2004).

In 2003, Miller went to Iraq 2003 where began "GTMO-izing" prisoner interrogations at Abu Ghraib. Shortly after, shocking details of prisoner abuse rocked the world. The link between EIT and the war in Iraq, however, went much deeper.

After the invasion of Afghanistan, the U.S. had been desperate to prove that Saddam Hussein possessed Weapons of Mass Destruction (WMDs) and was supplying them to al-Qaeda. What the U.S. didn't declare was that it had actually provided Iraq with chemical weapons during its 8-year long Iran-Iraq War - which left over one million dead (Fernholz, 2014). However, Iraq had destroyed its chemical weapons stockpile long before the U.S. invasion in 2003 (Sanders, 2016).

The evidence the U.S. was looking for came from a close associate of Abu Zubaydah. When he was captured by the U.S., just like Abu Zubaydah, Ibn al-Sheikh al-Libi was touted as one of the highest ranking members of al-Qaeda.

Like Abu Zubaydah, Al-Libi was also sent on a torturous world tour. In Egypt, Al-Libi gave the confession America had been looking for: that Saddam Hussein was supplying al-Qaeda with WMDs. This information was passed back to the U.S. Secretary of State, Colin Powell, who presented it as "credible" evidence. It became one of the key justifications to invade Iraq. The only problem was that Al-Libi's confession was made under duress and was completely untrue. He was sent to Libya and turned up dead in his cell in 2009 in the infamous Abu Salim prison (Begg, 2009). As for his confession, not only were there no WMDs in Iraq, al-Qaeda had no connection to Saddam Hussein. That only happened after and because of the U.S. invasion.

Miller was in charge of Camp Bucca in Iraq, the prison that became the birthplace of Islamic State (IS) (McCoy, 2014). In a cruel twist of fate, IS captives accused of torturing U.S. citizens are currently facing trial in America. Amongst other things, they stand accused of waterboarding their victims and dressing them in Guantanamo-style orange jumpsuits - before executing them (Goldman & Tate, 2014).

END OF AN ERA

Freedom from Guantanamo doesn't automatically mean an end to persecution. In 2014, 23 prisoners - 18 Yemenis, 4 Afghans, and a Russian - were transferred to the UAE as part of the U.S. resettlement program. Upon arrival, they were all

imprisoned without charge (Swart, 2021). Six years later, they remain incarcerated - except for the Afghans who were released in 2020. Hamidullah Tarakhail, who'd also spent 5 years imprisoned by the Soviet Union during its occupation of Afghanistan, said the UAE prison was worse than what he'd experienced (Saif, 2020).

In 2014, five senior Taliban members imprisoned at Guantanamo were freed and resettled in Qatar as part of a historic prisoner exchange between the U.S. and the Taliban. The five helped set up the Political Office for the Islamic Emirate of Afghanistan and played a key role in negotiating the U.S. withdrawal from Afghanistan with American leaders (Marshal & Shah, 2018).

In February 2020, the U.S. and Taliban signed a peace agreement which would lead to full U.S. and allied troop withdrawal. In April, U.S. President Joe Biden announced that all U.S. troops would leave Afghanistan by the twentieth anniversary of the September 11 attacks, adding that it was "time to end America's longest war" (Marcias, 2021).

Many of the prisoners were first held at The Bagram Theatre Internment Facility before being sent to Guantanamo. I was there for almost a year and witnessed the murder of two Afghan prisoners by U.S. soldiers (Robinson, 2008). By July 2021, U.S. troops quietly abandoned the Bagram Airbase - by slipping away in the middle of the night without telling the new Afghan commander. It was a fitting end.

Most of the Guantanamo prisoners had never been to America, but America came to them. They came from over forty different countries and saw something no one else did. While nine prisoners never left Guantanamo alive and 39 remain imprisoned, the rest of us told the world what we saw and made sure the world's most infamous prison was never forgotten.

As the current U.S. administration announces its intention to close Guantanamo - once more - it is inevitable that future generations will look back and grapple with the ideals the USA espouses and the dark legacy of imprisonment and torture at Guantanamo Bay.

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15

THE REPRESSION OF MUSLIM POLITICAL PRISONERS: THE USE OF THE COMMUNICATION MANAGEMENT UNITS (CMUS)

MELVA UNDERBAKKE

INTRODUCTION

In the atmosphere of fear after the events of September 11, 2001, harsh measures were instituted against Muslims, including rounding up thousands and requiring them to register in a search for potential terrorists. (None were found.) It was believed that large numbers of terrorists would have to be convicted and held in prison in order to keep America safe. Non-Americans accused of terrorism overseas were designated to be held in Guantanamo under brutal and virtually lawless conditions, but supposed terrorists arrested and convicted in the U.S. would have to be held in U.S. prisons.

THE ESTABLISHMENT OF THE COMMUNICATION MANAGEMENT UNITS (CMUS)

On April 3, 2006, the Bureau of Prisons (BOP) presented a preliminary plan for a Communication Management Unit (CMU), ostensibly to counter criticism that the BOP had failed to adequately monitor prisoner communications, "permitting several terrorists convicted for the 1993 World Trade Center bombing to send letters to other terrorists overseas" (Eggen, 2007). The need for the CMUs was ostensibly based on past cases of prisoners who were able to run criminal enterprises from prison by communicating with colleagues on the outside, or order hits on potential witnesses. The proposal claimed that a CMU would permit the concentration of resources to "greatly enhance the bureau's capabilities for language translation, content analysis and intelligence sharing". Although not part of the official plan, CMUs would also have the effect of silencing Muslim voices of dissent during a period of war in the Middle East and injustice at home.

Under the proposal, prisoners in CMUs would be restricted to one 15-minute telephone call a week, which would be monitored and recorded by government translators and special agents (as

opposed to 300 minutes of phone time given to other prisoners). Letters to and from inmates would be closely read, resulting in weeks of delay in delivery. Incarcerated men would be prohibited from contact visits, even with their wives and young children, and could communicate only through a phone and plexiglass window, while the conversations were secretly monitored by government agents. All conversations had to be in English, unless special permission to change languages was obtained weeks in advance. Persons whose first language was not English would have great difficulties communicating.

Strong arguments were continually raised against the CMU proposal. Muslim Americans would be the targets, and it was presumptively unconstitutional to create an especially harsh and restricted prison only for one religious minority. Moreover, a special Muslim prison suggested the U.S. was engaged in a War on Islam, and stigmatized the entire Muslim American community as disloyal traitors. It represented a repression of free speech and a quashing of dissent against an increasingly unpopular war. After blistering criticism, the BOP appeared to withdraw the CMU proposal. But then in December 2006, without complying with normal requirements under the Administrative Procedures Act, the BOP quietly opened the first CMU in Terre Haute, Indiana. Later, in 2008, a second CMU was opened in Marion, Illinois. The two CMUs were quickly dubbed "Little Gitmos" for their similarity to the lawless prison at Guantanamo. In 2021, a third CMU was opened in USP Lewisburg, Pennsylvania, but was soon moved to the newer and more secure USP Thomson in Illinois.

THE CMU AS AN EXERCISE OF CONTROL

According to the BOP (Samuels Jr, 2015), a CMU is a "general population housing unit where inmates ordinarily reside, eat, and participate in all educational, recreational, religious, visiting, unit management, and work programming, within the confines of the CMU". The purpose is to enable the staff to "more effectively monitor communication between inmates in CMUs and persons in the community" which the BOP says is necessary for the "protection of the public".

It is unclear why the public would need protection from any of the prisoners that the Coalition for Civil Freedoms (CCF) has supported over the years. For example, Dr. Kifah Jayyousi was a professor at Wayne State University, an executive engineer, formerly the chief facilities officer at the Washington, D.C. School Board, a U.S. citizen, and an honorably discharged Navy veteran. At trial, no incriminating evidence was presented, and even the judge noted that the case was "very light on facts". The judge dismissed the major terrorism conspiracy count, but none-the-less, Jayyousi was convicted of one count of conspiracy to murder, kidnap and maim overseas. He was sentenced to over twelve years and spent five of those years in a Communications Management Unit.

Numerous studies confirmed that there were very few American Muslims engaged in political violence in the U.S.; the American Muslim community was overwhelmingly law-abiding, and not a source of heightened security concern even within the National Security agencies. As investigative journalist Trevor Aaronson describes (2018), under the guise of engaging in counterterrorism since 9/11, the FBI has built a network of more than 15,000 registered informants whose primary purpose is to infiltrate Muslim communities to create and facilitate phony terrorist plots so that the Bureau can then claim it is winning

the War on Terror (Aaronson, 2018). Because the FBI had been given a huge budget and a loose mandate to prevent the next 9/11, it had been engaged in a witch hunt, convicting hundreds of Muslims on pretext terrorism charges, even though the government knew that the defendants were not in communication with international terrorists, had not injured a single person or piece of property, and had no means to carry out a terrorist attack even if they wanted to.

For the government to tell the truth about the convictions would have undercut their own prosecutions, and exposed hundreds of Muslim convictions for the sham they were. No matter how innocent the government knew the defendants to be, it apparently decided that they had to publicly treat the defendants as the worst of the worst, or lose the fear factor which they had used so effectively to enact harsher laws, procure larger budgets, and take liberties with civil rights. The CMUs increasingly became a useful tool for the government.

CONDITIONS OF CONFINEMENT

Like Guantanamo, the CMUs repressed prisoners with what seemed to be deliberate cruelty without acknowledging that most of the prisoners were either innocent or entrapped on pretext charges. For example, in the summer of 2007, CCF Chair, Steve Downs, who was a lawyer for Yassin Aref, brought Aref's two young sons, both under the ages of 10, to visit him in the Terre Haute CMU. Aref was considered to have been innocent and framed by the FBI (For more information, see Downs, 2007).[1]

Arriving at the prison, the children talked briefly with their father on a telephone, and through a plexiglass window while the lawyer made some notes with a pen. Suddenly the guards rushed in and cancelled the visit, claiming the lawyer had lied. The lawyer had previously affirmed that he was not carrying any explosives, guns, contraband or recording devices. Now the guards claimed that the pen was a recording device! This ridiculous interpretation banning pens is nowhere written; but as the prison poorly explained later – the lawyer should just have known anyway.

A 5-day trip was unnecessarily ruined, and two small children were deprived of a visit in a family struggling to survive without a breadwinner. And to what purpose? To uphold a non-existent rule against pens? The government knew that Aref was not in touch with overseas terrorists. They had illegally monitored him for years before the entrapment, and had created an entirely fake sting from the beginning, so they knew that Aref had no connection whatsoever to any terrorist organizations. Why was he even in a CMU? The same questions could reasonably have been asked about most of the inmates there.

It seemed more likely that the cancellation was intended to humiliate the prisoner with an arbitrary use of power, and to discourage further visits. There were daily examples of such repression used on the political prisoners in the CMUs.

[1] It required five days to make the round-trip prison visit from Albany NY to Terre Haute Indiana – a physical and econ omic challenge that few Muslim families could afford to make regularly.

The Coalition for Civil Freedoms (CCF) has received many other reports of great hardships from families of prisoners. The CMUs are located in rural areas of Illinois and Indiana, and so a visit often requires a very long and expensive trip. When they arrive, the family is in one small cubicle and the prisoner is in another. They look at each other through a plexiglass window, and family members talk to their husband, father or brother over a telephone. Since there is only one phone, family members have to take turns talking to their loved one. They are never allowed any physical contact at all, and so children go home without being able to hug their fathers.

Other families have not even been this lucky. All communications over these telephones are monitored, and if the phones are not working, the visit is not allowed to happen. For example, one family reported to us that they drove almost 1000 miles to visit their loved one, but when they arrived the visit was cancelled because of a snow storm in the East. Due to the storm, the marshals were unable to get to work and therefore were unable to monitor the conversation. Any time the phones are not working or the monitoring is not possible, the visits are cancelled. This family, and many others who made a long and expensive trip, had to return home without seeing their loved one.

CCF has also received many complaints from prisoners about conditions in the CMUs, particularly the CMU in Terre Haute, Indiana. This CMU was the old death row housing unit, and prisoners report that the cells are "unsanitary and infested with fungus, mold, dust mites, decayed concrete and asbestos". The cells are very small, with just enough room to walk and they are full of large rats and cockroaches.

"In the summer we would bake. In the winter we would freeze." There are no temperature controls and in the winter, temperatures can go "below 40 degrees and in the summer, above 110 degrees". Because there is no air circulation, one prisoner reported that he has passed out several times from heat stroke. He also describes "sound torture" from useless exhaust fans that are very loud, and when turned on have decibel levels of over 120.

Medical care was also very poor with long waits to visit a doctor. Three prisoners have been diagnosed with cancer in the last few years, "probably from the asbestos".

Other prisoners have reported physical abuse. One writes that it's "an awful feeling to wake up every day not knowing what kind of harassment, persecution, and various violations one will have to endure. I've been extorted, robbed, threatened with physical violence, given fabricated incident reports, and sent to the SHU [solitary confinement] twice with no just cause. When staff here threaten someone with violence it isn't merely a threat, rather this prison is notorious for severe assaults on inmates by staff with impunity."

Any connection to the outside world is also greatly restricted in the CMUs. CCF has a weekly News Digest that is sent to our mailing list, and we also send a copy to the prisoners for whom we advocate through the Corrlinks e-mail system that is available for federal prisoners to use. This News Digest simply consists of excerpts of current news items that have been published in the media (such as The Washington Post). We have sent this News Digest without any problem to many prisoners in various prisons, and it is only the CMUs that have blocked our access to prisoners via Corrlinks because of this News Digest. The reason given is that the News Digest "jeopardizes the safety, security, or orderly operation of the correctional

facility, or the protection of the public". It is not at all clear how this would happen.

THE CENTER FOR CONSTITUTIONAL RIGHTS LAWSUIT "AREF VS. HOLDER"

In March 2010, the Center for Constitutional Rights (CCR) sued the U.S. government to close the CMUs, using Aref as lead plaintiff and including a number of other plaintiffs[2]. The lawsuit claimed that the CMUs had been illegally and secretly opened without following proper procedures and public comment as required by law. The lawsuit also claimed that there were no clear criteria for who would be sent to the CMUs, that selection and the ability to transfer out was arbitrary, that there was no meaningful appeal or review process, and that the vast majority of inmates were Muslim which demonstrated an unconstitutional bias against Islamic prisoners.

As stated in a CCR publication:

"Many CMU prisoners have neither significant disciplinary records nor any communication-related infraction. However, bias, political scapegoating, religious profiling and racism keep them locked inside these special units." (CCR, 2016)

Under pressure from the lawsuit, the BOP began to belatedly recreate the proper legal process for opening a new unit. In June 2010, the BOP asked for public comment about the establishment of two CMUs, almost 4 years after they were supposed to have done it. A second comment period was opened in 2014.

The BOP also dealt with the allegations of an Islamically segregated prison by sending non-Muslim "balancers" to the CMUs to reduce the percentage of Muslim inmates from close to 100% at the beginning to about 60% (CCR, 2021). Although Muslim inmates represent only 6% of the general federal prison population, the Muslim percentage in the CMU was still very high compared with their general prison population, although substantially less than the near 100% Muslim population that had existed in the CMUs at the beginning.

Under the government's new theory, anyone who was convicted of a terrorist crime was eligible for a CMU, including non-Muslims convicted of economic or environmental terrorism; plus prisoners who were convicted of drug offences, prisoners who tried to recruit or radicalize others, and prisoners who harassed victims, judges and prosecutors.

CONCLUSION

As I write this article, 29 of the prisoners that we support are being held in a Communication Management Unit. A number of others spent years in a CMU, but have since been moved to the general prison population.

[2] See originally Aref et al. v. Holder. https://ccrjustice.org/search/site/Aref%20v%20Holder. The caption has been changed several times to reflect the change of administrations and plaintiffs.

None of them were convicted of any act of violence, and none of them were even accused of committing any violence. These men were convicted pre-emptively – before a crime took place. The rationale for holding them in such a restrictive environment is that they may commit a crime in the future.

Prisoners in the CMUs remain under very harsh conditions in which they are largely isolated from their families and the world. Although under scrutiny since their inception, the CMUs remain a stain on our criminal justice system.

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16

THE IMPACT OF THE WAR ON TERROR ON FAMILIES OF POLITICAL PRISONERS

NADA DIBAS

INTRODUCTION

In September 2001, the United States launched its so-called "War on Terror" (WOT) that would go on to devastate millions of lives across the globe. From the destabilization of countries in the Global South, to proclaiming the targeting of Muslims, Arabs, and South Asians as "victories'' against fictitious domestic threats, the human suffering that came from this war is far too vast and deep to quantify. At the center of understanding the global WOT is learning about its victims and their struggles. The writer of this essay has directly witnessed the impact of the WOT through her own family[1] as well as her professional role in working with its domestic victims targeted by preemptive prosecution: Muslim political prisoners victimized by preemptive prosecution and their affected family members.

Every aspect of the War on Terror is intentional, and its impact is meticulously calculated. The injustice experienced by these families was not a matter of chance, nor was it collateral damage. That might be the case if it were not for the FBI's very elaborate targeting methods in which they strategically handpick the cast for their creative productions—foiled "terror" plots—which they entirely script, direct, finance, and execute.

These screenplays have wrecked lives and families. It is this shattering that is the subject of this essay. Through the testimony of former political prisoner,

[1] Nada Dibas is the Prisoner and Family Support Coordinator of the Coalition for Civil Freedoms, an advocacy and legal support organization that defends victims of preemptive prosecution targeted in the domestic "War on Terror." Her cousin, preemptively prosecuted as a part of the so-called "Toronto 18," is serving a life sentence.

Asif Salim, and his wife, Farah Nizamuddin, this essay illustrates some of the most common systemic impacts frequently encountered by families of Muslim political prisoners. These impacts can be organized into four categories: familial, social, economic, and health. Even though this essay is not a comprehensive outline of all the impacts the WOT has had on its domestic victims[2]; it is nevertheless an overview and partial analysis which aims to leave readers with a sense of urgency to learn more and take action.

FAMILIAL IMPACT

A sentiment that is regularly echoed by incarcerated people, both inside and outside of the WOT context, is that incarceration is more difficult for family members on the outside than it is for the incarcerated loved one. The traumatic loss of a loved one to incarceration will often result in strains on, or even the breaking of, family ties. The trauma of incarceration is life changing and irreversible for everyone involved, but especially for children. The presence of children in a family adds a harsh layer of hardship, as is usually the case when children are harmed by injustice. Losing a father or mother to incarceration has major impacts on the development and future of a child.

Farah, a dedicated wife and mother of four, was given no warning or explanation when her husband was violently kidnapped from his workplace in Sharjah, UAE, where they were living at the time. Asif Salim, an American born-and-raised Muslim of South Asian descent, was arrested in 2015 as part of a politically-motivated case after years of relentless FBI harassment and, according to him, at least three failed entrapment attempts. He was held in a black site for weeks before being extradited to the U.S. and detained on alleged material support charges.

Initially, Farah did not know what happened to her husband. After receiving a brief and confusing phone call from Asif, she called the U.S. embassy in a state of shock to report Asif as a missing person. She recalled that the tone of the agent at the embassy changed when she provided Asif's information, after which she was abruptly told, "Someone will get back to you." Farah had no idea where her husband was taken and what had happened to him. She and her four children packed only what they could carry in their luggage and left for her parents' house in Atlanta, GA. It would take two weeks for Farah to hear from Asif and receive news of his whereabouts. Her children would ask, "Where is Baba?" and "What's happening?" regularly, but Farah remained at a loss for words. She herself did not know the answers to their questions, as she was also dealing with the panic, fear, and trauma of not knowing why her husband was taken, and whether he was dead or alive. Farah explained to me what it was like for her and their four kids:

"My kids were young. I had two that were in diapers and suddenly, in the matter of one night, I became a single parent. And that's just not the kind of family we were, Asif has always been a very involved father… everything, from [changing] diapers to [preparing] bottles, cooking if I wasn't feeling good… and we home-schooled [our older kids] and he would be at work creating lesson plans. We actually just found an old email where he made their spelling worksheets. So, for him to not be there for even a day was very obvious and the kids were just asking and confused […] So I became a single mom for the next five-ish years, more than five years. I'm parenting, doing their school, trying to make them happy and distracted and healthy… but at the same time I'm fighting this legal case while having news vans and reporters at our doorstep camped outside our house taking videos

[2] Many prefer the term 'survivor' as opposed to 'victim' as a way of reclaiming power and narrative. For this specific discussion, I will be using the term victim since many of the people being discussed are yet to survive the WoT.

of us and putting our address in the paper. And I'm just telling the kids, 'No, whatever they're saying isn't true and baba will be home soon' […] There was obviously a huge missing piece, I had an older boy who was growing up. I didn't know what I was supposed to do with a boy and he was missing his father. I tried to do the stuff he [Asif] would have done for them. I tried to go to the park and run around with them, and I'm not that type of person. I put them in sports, and I laugh about this, but I didn't know when I was supposed to cheer because I didn't know the rules for basketball and I kept cheering when it was the wrong team doing something... I just wanted to be Baba for them."

Farah's pain was apparent as she recounted the events, as was the deep loss the family – particularly the children – suffered throughout their father's case and imprisonment. "For a long time, the kids expected that [Asif] would come on a plane, I guess, because we came on a plane, so when they heard planes in the sky they would run out thinking Baba was on one of those planes, for years that's what they would think when they saw a plane in the sky," Farah said through tears. Asif, a loving husband to Farah and father to his four children, was robbed of five essential years with his family. Asif's entire prison sentence was served without once being able to see his family. Like Farah and Asif, the overwhelming majority of families struggle to visit their loved ones in prison due to barriers such as distance, the prohibitive cost of travel and lodging, and the varying visitation restrictions in the federal prison system. Farah and her children could only receive calls from him or write to Asif. I asked Farah how often she was able to speak with Asif over the phone and she said,

"When he was in the county [jail], it was easier to talk to him on the phone. It was expensive, it was very expensive, but we were able to talk. Then as he moved to different facilities it would be once a day, then he was in the hole [solitary confinement] for months and that was one phone call a month and it would be a 10-minute call. I would have all the kids lined up and I made them practice what they would say beforehand because they each only had a minute and a half to talk so that I would have 3 minutes to talk. And they would fight over 'I'm going to tell Baba this' 'No you said that, now it's my turn'. Then by the time he got to the [Communications Management Unit] he was there for like 8 months or something and we got one call a week. We would still do the same thing; we would still practice and rehearse but it was once a week, so it was a little better."

Asif intended to go to trial and prove his innocence until it became evident that he had every odd stacked against him and his only way home was to forfeit his right to a trial and plead guilty.

Asif explained:

"[…] my family was telling me on the phone: 'you can make a stand for principle [go to trial] and get your 15-30 years, but we're probably never going to see you again [...].' The only chance that you have to get home is you just have to agree to a lie [plead guilty] and that's what I did. My only motivation for that was so that I can come back and be with my family again."

From our database of 1,262 preemptive prosecution cases, 239 of them went to trial. That is 18.9% of the cases which is overwhelmingly higher than the 2% national average of federal cases that go to trial (Gramlich, 2019). Anyone who has the misfortune of experiencing the U.S. criminal legal system is put in a hopeless situation where they lose regardless of

whether they go to trial or take the deal, and that decision becomes a matter of which choice might give them a chance at being reunited with their family sooner – usually the plea deal.[3] The reality is, if the government is after an individual, it will not stop until it gets them and, unlike these families, the government has virtually unlimited resources. We see this from the few cases of alleged terrorism charges that go to trial, resulting in acquittals or mistrials, and are then continuously tried for a second and even third time until the government can obtain a conviction. Victims of the WOT are then made to face ongoing incarceration even in cases where they have succeeded at trial. Therefore, preemptive prosecution victims are forced to pick between forfeiting their innocence for the sake of eventually being reunited with their families or risking decades, even life, behind bars.

SOCIAL IMPACT

While already struggling with a devastating familial loss, the families' relationship with their community is often a source of added struggle. In cases like these, it is very common for the community to turn a blind eye, leaving the family with no backing or social support. Community support is critical in combating the FBI's attacks since strong, united communities can often allow for more favorable outcomes in these cases. The FBI deliberately and strategically orchestrates this abandonment by means of threats, harassment, and surveillance to instill fear in the hearts of the Muslim community and create an atmosphere of guilt by association. For example, following the arrest of Dr. Sami Al-Arian, the FBI spent the next several years paying visits to almost every member of his mosque community, asking them what stance they take on his case, and insinuating grave consequences if they attempted to get involved. The FBI is notorious for its predatory presence in Muslim communities, and these methods are well known and regularly encountered. Whether it is visibly going door-to-door, using intimidation tactics, or stealthily sending undercover informants – many of whom are members of the community that have been coerced and/or paid large sums (Bazian, 2012, p.184) – the FBI holds a presence in most, if not all, Muslim communities. The FBI's intimidation tactics include exploiting vulnerabilities like immigration status, economic hardships, legal jeopardy, etc. to coerce cooperation.

This clandestine yet constant presence of the FBI in Muslim communities creates what French philosopher, Michel Foucault, calls the Panopticon effect, where visible, but unverifiable power assures its automatic functioning, even when it is discontinuous in its presence, causing the community to become the principle of their own subjugation (Foucault, 1995, p.201). In Asif's case, the community readily aided and facilitated the FBI's quest. Asif asserted, "The whole case was solely built upon people from the community who were going to come in and testify against me. For one individual, [the FBI] actually had an indictment over his head if he didn't cooperate but every other individual that agreed to cooperate, [the FBI] posed no threat to them and they agreed to cooperate…'out of the goodness of their hearts', I guess." Living under the fear of being a suspected community, traditional dynamics of care can be subverted under the threat that families may be subjected to the same egregious policing that one member of their community is being subjected to – so in many cases, cooperation is better understood as self-preservation (Bazian, 2012, p.199).

Another dimension of social impact is the reluctance of "progressive" social justice movements and advocates to name and grapple

[3] Immense prosecutorial discretion causes what is called the "trial tax," where the prosecution elects to impose a harsher punishment if a defendant exercises their right to a trial, oftentimes as a tactic to compel the defendant to accept a pre-trial deal which would potentially carry a lesser sentence if offered (Nutini, 2019).

with WOT criminalization and convictions – a struggle uniquely faced by prisoners convicted of terrorism. All incarcerated people face neglect and lack resources, but while other prisoners benefit from the advocacy of progressive movements, WoT prisoners are rarely mentioned and face a distinctive scarcity in organizational and movement support. Over time and with the rise of mass incarceration, liberal discourse began to distinguish between violent and nonviolent crimes, pleading for the humanity of "nonviolent criminals". In recent years, movements for justice have successfully pushed back on this by claiming that a person's humanity must be recognized, regardless of whether the crime they have been convicted of is violent or not. But unfortunately, people convicted of terrorism-related charges often go unnamed in this rhetorical shift, with even the most progressive thinkers remaining silent on the issue. Whether it is due to internalized anti-Muslim beliefs or fears of facing backlash, this leaves targets of preemptive prosecution defenseless.

ECONOMIC IMPACT

In U.S. preemptive prosecution cases, there is a pattern of the FBI targeting vulnerable and marginalized people: youth with absent fathers, people with mental disabilities, people with substance issues, and/or economically disadvantaged families. Although that is the pattern, functional and financially stable families are not outliers in the FBI's targeting schema; each target is methodically selected and relentlessly pursued. It took six years for the FBI to arrest Asif after his alleged terrorism-related crime, prior to which, Asif, Farah, and their four children lived in comfort, happiness, and safety. Farah and her family were forced to leave their lives behind in Sharjah and lost everything. Their wedding albums, the children's home-schooling books, and everything that made their house a home was gone, losing all sentimental and valuable items. Farah could not even withdraw cash as their bank accounts in the UAE were frozen and soon after, their assets were seized – all of which are funds and assets they will likely never recover. Farah's friends went to collect whatever belongings they could recover from their home, only to find that their apartment was mysteriously flooded with all the faucets left running. In addition to losing all their belongings, Asif lost his job which was the only source of income for the entire family. Asif explained the progression of their financial loss,

"We lost everything, that's what happened when the case hit. But then I lost my career. I'm in IT, so I 'go away' for five years and my field is constantly developing, constantly moving forward. It's very, very progressive. [...] I come back and they are talking about all kinds of different things that I have no idea about. Things are being updated every couple of months, and I've been gone for five years so it is very, very difficult for me to get back into my field just on a technical level. Then of course, what kind of HR person is going to look at a person who has a five-year gap that he can't explain on his resume. And then, if anyone does the most minimum background check, if you just do a google search on me all these 'fun' articles would pop right up. So I can't even get my foot in the door and, believe me, I've tried on several occasions and I am going to continue to try but the reality is what it is."

A majority of families face job loss and loss of income when their loved one is taken, in addition to the seizure of bank accounts and assets and loss of housing. Some family members, while not the ones facing charges, will still lose their jobs just because of what is viewed as their close proximity

to a terrorism case. Many of the prisoners were targeted and arrested in their youth and some of them were college students pursuing education and careers at the time of their arrest. On top of losing everything, incarceration is also very costly. With a majority of prison services and operations being outsourced to greedy, for-profit companies, prisoners are charged outrageous prices to make phone calls, send emails, and purchase basic essentials like hygiene products and supplemental food (Raher, 2018). Prisoners are charged for services that come at virtually no cost to the company, or would otherwise be free on the outside. Yet, they yield an outrageous profit for the company and even the prison, known as a kickback.[4] Companies providing prison telephone services enjoy a state-sponsored monopoly with no incentive to make prices affordable to the "consumers" since they are competing for the government contract and not the "consumer's" business.

In addition, prisoners are prevented from having any sense of financial independence by being subjected to slave labor. According to the Federal Bureau of Prisons, prisoners are required to work if they are medically able. They are then paid between 12¢ and 40¢ per hour for jobs serving the prison, or 23¢ and $1.15 per hour for jobs in the Federal Prison Industries (UNICOR) factories, where 50% of their pay can be forcibly taken and put toward outstanding fines/fees that the prisoner may owe because of their sentence. Therefore, the financial burden often falls on the family members of prisoners, many of whom come from vulnerable and economically disadvantaged communities.

HEALTH IMPACT

People in prisons and jails are disproportionately more likely to develop chronic illnesses, including psychological illnesses, while having low-quality healthcare which is unreasonably difficult to access. Federal prisoners are charged $2 medical co-pays which, when adjusted for the wage differential, is equivalent to a $120.83 co-pay for people on the outside (Sawyer, 2017). Additionally, the trauma that these families endure has a lasting impact on their mental and physical state. Farah explained that Asif's case most severely affected their psychological health and that those scars will always be there. Researchers found that the incarceration of any family member is associated with lower well-being and a 2.6 year reduction in life expectancy when compared to people who experience no family incarceration (Sundaresh et al., 2021). One example is Hatem Fariz who was incarcerated for his fundraising efforts and charitable support for impoverished Palestinians as part of the U.S. v. Al-Arian case. Hatem's 55-year-old father died of a heart attack in Palestine while Hatem was awaiting sentencing. Hatem is certain that the stress, pain, and trauma of his trial is what triggered his father's heart attack. To make a difficult situation even worse, the judge denied Hatem's request to attend his father's funeral in Palestine.

Furthermore, a majority of WOT prisoners are subjected to solitary confinement – many for months, and some even years, at a time, and in many cases before trial – which is proven to have irreparable harm and shortens lives even after release (Herring, 2020). Asif, who spent three months in solitary confinement, explained to me what it was like:

"You're very sedentary because you're literally stuck inside a cell for twenty-three hours a day, and even the one hour you get out you go out to a cage which is maybe 10 ft. x 10 ft. or something. So you just walk around in these tiny little circles [...]

[4] Kickbacks are commissions or benefits given to the prison by the service providing company as incentive to contract the company- which in turn cause the prison to prioritize higher commissions over lower cost for prisoners (Wagner and Jones, 2019).

You're really not able to do much, you're not able to exercise, or do any of the things you were doing before…"

The UN defines prolonged solitary confinement as anything longer than 15 consecutive days without meaningful human contact, and regards it as a form of torture. We have seen cases like that of Alexander Ciccolo, who endured over ten months in solitary confinement while also being subjected to severe abuse and mistreatment by the prison guards. Alexander, who has since been transferred and is now held in the general prison population, suffers from severe PTSD. The trauma and stress of incarceration, as well as the physical conditions prisoners are subjected to, will either exacerbate pre-existing conditions or cause illnesses that would otherwise never exist, resulting in decreased quality of life and even premature death. Research in the field has overwhelmingly demonstrated that prisons are a public health crisis, even beyond prisoners and their families.

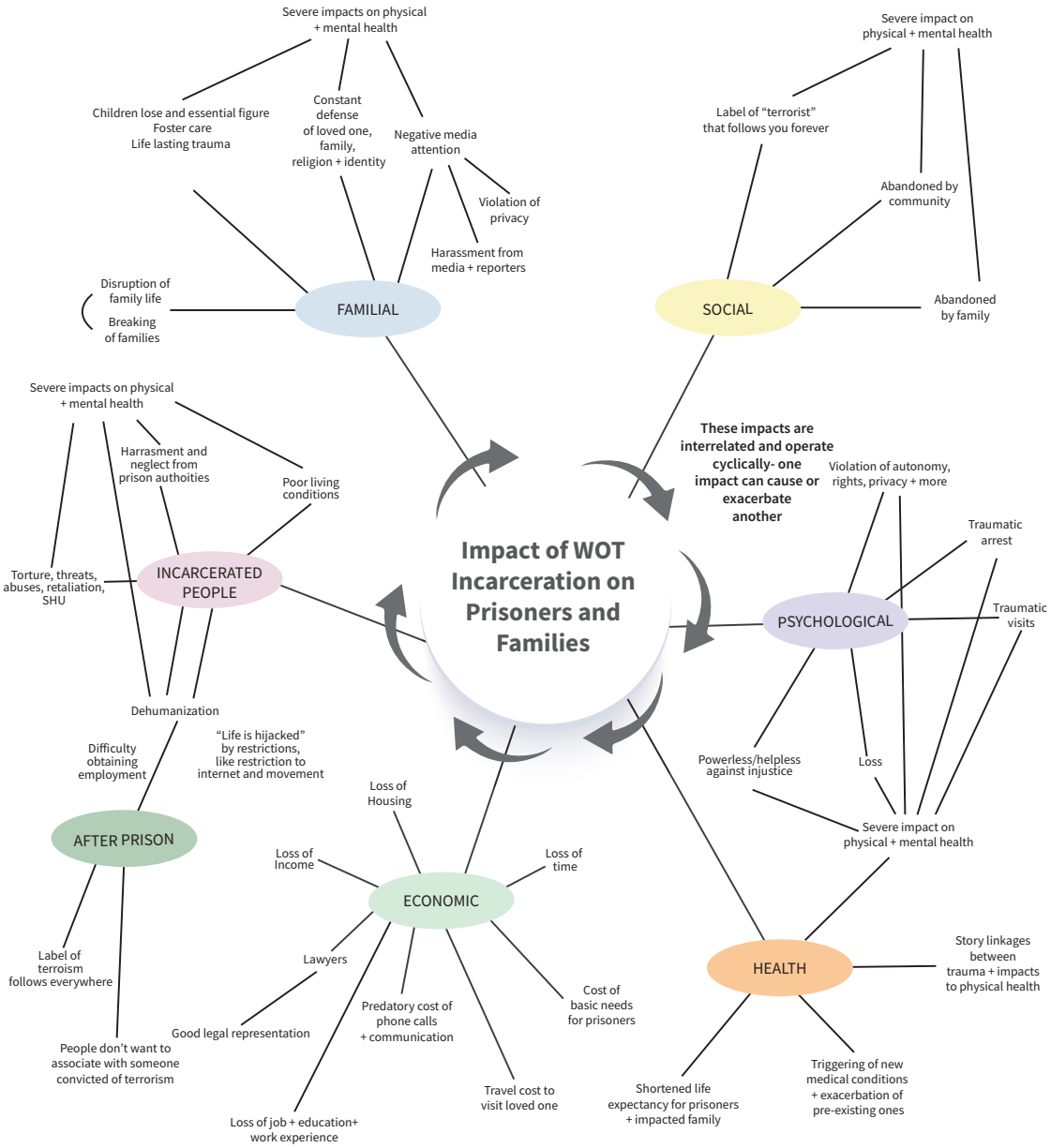
CONCLUSION

The impacts of the Global War on Terror seep into one another, causing a cyclical effect, and make it impossible for families to avoid any single impact. The financial impact affects the family impact, the health impact is affected by the financial and family impacts, and so on. Each preemptive prosecution case is intended to rob families of their ability to protect themselves, support themselves economically and socially, and preserve their health and time together.

Even if the U.S. WoT were to end today, these impacts will be endured for generations to come. Some impacts are life altering and will never entirely go away. Asif, though released and reunited with his family, is facing a lifetime of supervised release with restrictions that completely and intentionally block his ability to successfully reintegrate into society and regain his financial stability. Other impacts are impossible to remedy. How does one provide restitution for lost time with loved ones or permanent health damages?

In my role as Prisoner and Family Support Coordinator at the Coalition for Civil Freedoms, I am constantly engaging family members and prisoners who are struggling with each of these impacts and many more that could not be condensed into this essay. These prisoners and families are parents, spouses, sons, daughters, siblings, grandparents, grandchildren, uncles, aunts, nieces, and nephews – each struggling with their own set of similar and varying impacts. As the FBI continues to target Muslims in this malicious war, it is essential that we continue to educate ourselves about the lived experiences and struggles of preemptive prosecution victims and their families, and take action to support their dignity and wellbeing.

IMPACTS OF WoT INCARCERATION ON PRISONERS AND THEIR FAMILIES



Disclaimer

Victims / survivors of WoT incarceration cannot avoid these impacts.They are forced to experience each of these impacts. There is nothing that they "could have done differently" to avoid enduring such a huge tragedy.

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17

"NOBODY CARED AFTER THE ATTACK": U.S. DRONE WARFARE AND ITS BLOWBACK

EMRAN FEROZ

INTRODUCTION

The failure of America's longest war was foreseeable because the empire's brutal way of warfare mainly killed civilians, and a large portion of them were seeking revenge.

When the United States and its allies invaded Afghanistan twenty years ago, many Western media outlets broadcast jubilant scenes of celebrating men and women from Kabul. They cut or even shaved their beards and took off their burqas, dancing to music once banned under the Taliban regime. This was, however, just one side to the story. Whilst many, especially those in urban areas were indeed happy about the fall of the Taliban, a lot of Afghans in the country's rural heartlands did not have time for or the luxury of celebration. They soon experienced the suffocating embrace of war. They were hunted down by B-52s, drones and American-backed death squads who already knew in the very first days of the Global War on Terror that their era was just beginning.

Yet for two decades, we did not hear very much about these developments. Indeed, some reporters and investigative journalists did focus on the dark sides of the War on Terror in Afghanistan, but overall, many media outlets played their part in painting a positive picture of the "good war." They portrayed it as "just" and "legitimate" while, mostly, they showed the world a very tiny part of Afghan reality.

THE TALIBAN RETURN

In mid-August 2021, many Western audiences were overwhelmed by the dominating but largely ignored realities on the ground. Within a few weeks, the Taliban were able to capture most parts of Afghanistan, including its provincial capitals. When the CIA predicted that Kabul might fall within the next 30 to 90 days, it just took the insurgents 24 hours to enter the nation's capital as conquerors. There were many reasons for this. The Western-

installed and backed governments of both Ashraf Ghani and his predecessor Hamid Karzai were flimsy; their pillars were brittle and lacked a strong foundation within Afghan society at large. Many of its dominant figures were notorious warlords, drug barons and other deeply corrupt individuals who were not interested in creating a functioning state. Instead, they did everything to undermine the newly created state apparatus, especially through the generous siphoning of aid money that they wasted no time in reinvesting into luxury properties abroad and other similar dirty business which happened in front of the eyes of international donors who preferred to ignore such developments for the sake of fighting the greater evil, the Taliban.

Inevitably, Afghan security forces were hampered by corruption too. The last time I met Afghan soldiers on the frontlines, it was spring in the northeastern and picturesque province of Kunar. They had neither enough ammunition nor proper nutrition and water. Back then, it was also known that many did not receive their salaries regularly. At the same time, their corrupt superiors enriched themselves during the last two decades. For example, thousands of so-called "ghost soldiers" existed solely on paper; high-ranking officials pocketed the salaries of these imaginary soldiers. The very same officials were also highly engaged in intense war-mongering to keep milking the cow of war that had fed their corruption for years.

These developments and the psychological warfare of the Taliban played a significant role in the collapse of the Afghan government, or as some observers already call it, "the regime in Kabul."

Another aspect, that might be much more important, is the war itself, which killed tens of thousands of Afghans within the last twenty years.

A war which was often not in the focus of international media since it did not take place in the country's urban areas but, as earlier described, in Afghan villages – places which were mainly haunted by American drones, often described as "bungak", "bungay" or "Azrael", the Islamic angel of death, by local Pashtuns.

After the Taliban took over Kabul, a man named Khalil ur-Rahman Haqqani appeared in the city. He visited different political factions and even talked at a famous mosque during Friday prayers. Khalil ur-Rahman is not a nobody. He is a senior Taliban leader and part of the infamous, so-called Haqqani Network, which has been prominent in the insurgents' military-wing for years. Several of their top members like Khalil ur-Rahman or his nephew Sirajuddin (the Taliban's Deputy Leader), have been declared as dead multiple times during the last years after American drones allegedly killed them. The same was the case with his notorious nephew and the Taliban's military leader, Sirajuddin Haqqani, with a $10 million bounty on his head.

Both Haqqanis and many others became known as "ghosts," often reappearing alive and well.

Today, both of them are part of the newly formed Taliban government. But almost nobody asks the obvious question: who were the people being killed instead of them?

THE HUMAN COST OF DRONE WARFARE

"Many of them were civilians," Abdul Hadi, a young man in his mid-twenties, told me when I met him for the first time in 2017 in Afghanistan's southeastern Khost province. In 2014, Hadi's father, Hajji Delay, was killed by an American drone strike in a district named Alisher. He used to work as a cabdriver. Four other Afghans, all of them civilians, were killed by the attack. Since then, Abdul Hadi has been the sole caretaker of his family. In mid-2021, I revisited Abdul Hadi with a local colleague of mine from Khost. He appeared to be more mature than during our first meeting four years ago, and, unsurprisingly, he belonged to those Afghans who favored the U.S. withdrawal from his home country. "They killed many civilians like my father. I don't want them to be here," he stated.

While Western media outlets were focusing on the "democracy mission" of their governments in Afghanistan, the victims of drone strikes have largely remained invisible, nameless and faceless. In 2014, the British human rights group Reprieve revealed that between 2002 and 2014, attempts to kill 41 men through armed drones resulted in the deaths of an estimated 1,147 people. These numbers just included mostly innocent people in Pakistan and Yemen and not Afghanistan: by then the most drone bombed country in the world.

One can imagine what the situation on the ground looked like. People like Abdul Hadi described them in much detail. "The drones are gone for now, but many children in our area still fear the sky. Many Afghans were traumatized by these attacks," Abdul Hadi said. He believed that during the last two decades, four to five civilians were killed for every so-called "terrorist," and like many other drone victims I met, he was aware of the fact that contrary to the Taliban, most civilians were not able to hide themselves from "Azrael," the angel of death.

According to the London-based Bureau of Investigative Journalism, at least 13,072 drone strikes took place in Afghanistan during 2015 and early 2020. The strikes decreased after the Trump-administration signed a withdrawal deal with the Taliban, and while many observers expressed their skepticism and anger, many Afghans like Abdul Hadi were just happy that aerial operations against their population stopped.

Researchers and journalists proved that operations such as drone strikes which caused massive civilian casualties actually further fueled alienation and anger within targeted areas. Taliban commanders often repeated that they benefited from the War on Terror in many ways, including finding new recruits after drone strike massacres. During my own research in Afghanistan's rural areas, I came to the conclusion that many Taliban fighters were capable of hiding themselves successfully from drone attacks while the average Afghan civilians, such as farmers, vendors or cab drivers, were not. "After such attacks, many people join the Taliban. It's a natural behavior. They are forced to act like that, it's about revenge," a local from Nangarhar province told me during an interview in 2021. His uncle and cousin were killed during a night raid conducted by American special forces while his father was apparently murdered by the Taliban. "At the end, the war is pushing you to one side," he resumed.

Indeed, drone operations were just one part of the War on Terror in Afghanistan. Other brutal developments such as night-raids, conducted by Western NATO soldiers and their Afghan allies, or mass torture in CIA black-sites, or in the notorious Guantanamo Bay prison also led to the blowback we are now witnessing. After the Taliban conquered

the presidential palace in mid-August, and talked to the press, one of their commanders even underlined his custody in Guantanamo. The Taliban fighters I had met in the past regularly claimed that their families were bombed or, as one young militant (probably a teenager) told me four years ago, that drones murdered my family by the hands of those who promised us peace and freedom. Last but not least, the newly formed Taliban government includes several former Guantanamo prisoners. This is not a coincidence but rather a loud message to the perpetrators of the so-called global War on Terror: Your victims have triumphed over your oppressive war.

Such realities were largely ignored by both policymakers, analysts, and journalists. Yet since the Taliban takeover, their narrative is collapsing rapidly.

Like in the 1980s when Afghanistan was invaded by the Soviet Union, another superpower at the time, such crimes led to the taking-up of arms of large parts of Afghan society – but while the Western world highlighted them during the Cold War because of its own political agenda, it preferred to stay silent and ignore its own excesses during its invasion for the last twenty years. But why? The answer is simple. This time, it was Washington and its allies themselves who carried out this devastating war while they were trying to convince the rest of the world that they were "the good guys."

"What's the difference between a drone strike and a suicide attack?" Pasta Khan, another drone victim I met in 2017, asked me. In June 2015, drone strikes in Khost province killed his brothers, his father and other members of his nomadic tribe. In total, they were forced to mourn a total of 14 victims.

"My brothers and my father were not Taliban fighters," Khan recalled. Since the massacre, the whole nomadic tribe has suffered from post-traumatic stress disorder and paranoia. He still lives in constant fear that American drones are watching him and could obliterate him at any time.

"Nobody visited us. Nobody cared after the attack. They declared us as 'terrorists' and that was the end of the story," Khan said.

18

THE CVE & WHITE SUPREMACY: THE TRAP OF EQUAL OPPORTUNITY SURVEILLANCE

FATEMA AHMAD

INTRODUCTION

In the second decade of the Global War on Terror, the U.S. initiated a counterinsurgency strategy targeting Muslims in their domestic borders - Countering Violent Extremism (CVE) based on its forebear, Prevent in the United Kingdom. Western governments and government-funded researchers claim that CVE is a community-led alternative to traditional counterterrorism that will address "all types of violence." Despite the thorough and consistent rejection of CVE by community-based organizations, academics, and legal advocates; the trend has expanded globally and continued in both the U.S. and U.K.

The foundation of CVE is the theory of "radicalization", a concept that took off post 9/11 with attempts from academics and law enforcement to retrofit a model onto incidents of violence from Muslims.

As Arun Kundnani details in *Radicalization: The Journey of a Concept*, this model focuses on individual social behaviors and minimizes or erases any political factors. The theory spread quickly after *Radicalization in the West: The Homegrown Threat* was prepared and distributed by the New York Police Department in 2007 – a law enforcement agency notorious for racist targeting of individuals. That report covered eleven case studies and was laser-focused on Muslims, but resulted in the NYPD's bold claim of identifying a model by which someone "unremarkable" can become a jihadist through four stages of radicalization.

In the following years, Countering Violent Extremism developed in both Europe and the United States, with the poorly constructed and

deeply Islamophobic radicalization theory as its foundation. CVE's core premise is that community members can prevent violence by identifying someone on the path (or conveyor belt or staircase, pick your favorite) to radicalization by spotting certain behaviors. Suddenly everyone was in the business of creating lists of "indicators" of future violence. From ERG22+ to TRAP-18, a plethora of academics and law enforcement agencies developed their own profiles of social factors, while simultaneously noting that these indicators, neither individually nor combined, actually indicate that someone will commit violence.

"The subtle and non-criminal nature of the behaviors involved in the process of radicalization makes it difficult to identify or even monitor from a law enforcement standpoint. Taken in isolation, individual behaviors can be seen as innocuous; however, when seen as part of the continuum of the radicalization process, their significance becomes more important. Considering the sequencing of these behaviors and the need to identify those entering this process at the earliest possible stage makes intelligence the critical tool in helping to thwart an attack or even prevent the planning of future plots." (New York Police Department, 2007, p.10)

CVE is the tool for enacting this theory - convincing community members, particularly in Muslim organizations and social services to consistently scrutinize Muslims using a CVE profile. Through this, law enforcement can cast a much wider net of surveillance and get a step ahead of their typical tools with a predictive policing model embedded in the community.

Today, CVE has expanded within the U.S. and globally, despite Muslims rejecting and organizing against it at every step of the way. The most frustrating aspect of this for Muslim organizations is that it is so-called progressives who are ignoring the Islamophobic context of CVE and demands from our communities, and instead are rebranding it.

The Obama administration launched CVE in the U.S. in 2015 with a three-day summit alongside pilot programs in Boston, Los Angeles, and Minneapolis through the Department of Justice (DOJ). From there, the framework expanded rapidly through the Department of Homeland Security (DHS), providing grants and a range of CVE programs across the country (DHS, 2021). At every step of the way, Muslims resisted and rejected the initiative. Despite caveats from the administration that CVE would look at all types of violence, it was always crystal clear that Muslims were the target - the theory was built solely on Muslim subjects, the lists of indicators were obscenely Islamophobic, and now the programs and grants were almost exclusively aimed at Muslim communities.

RESISTANCE TO CVE OVER THE PAST YEARS HAS BEEN MET WITH TWO TACTICS: REBRANDING AND EXPANDING

Rebranding: Rather than address the demands to end CVE, federal and local governments have used renaming and rebranding to make cosmetic changes and claim that somehow these programs are different from CVE.

- The Boston pilot of CVE initiated by the DOJ was implemented by the U.S. Attorney's Office of Massachusetts and pulled in the Massachusetts Executive Office of Health and Human Services (EOHHS). In response to a Muslim Justice

League petition with 1000 signatures demanding that EOHHS pull out of CVE, they insisted that "EOHHS's engagement is key so that this can be framed as a public health issue" (Donini-Melanson, 2016). EOHHS went on to release the first set of grants in 2017 under the name PEACE Project (Promoting Engagement Acceptance and Community Empowerment).

- Similarly in Minneapolis, the pilot CVE initiative was framed as "community-led" despite its top down implementation and was named Building Community Resilience (U.S. Attorney's Office, 2015).
- After a one year disappearance of the CVE department, DHS relaunched the same depart ment as Targeted Violence and Terrorism Prevention (TVTP) in early 2020. Muslims reiterated in a letter to DHS (Joint Letter, 2020) that no rebranding would solve the fundamental concerns with CVE.

EQUAL OPPORTUNITY CVE

In response to concerns that CVE is grossly anti-Muslim, government agencies have claimed to expand CVE's targets rather than lay the framework to rest. This is predominantly the tactic of the Democratic administrations. The Obama administration consistently claimed that CVE was intended to address "all types of violent extremism." In stark contrast, the Trump administration considered renaming CVE to Countering Islamic Extremism and Trump's Islamophobic rhetoric even caused a number of organizations to reject CVE grants.

During the 2020 presidential elections, the Biden campaign promised to end the current CVE department under DHS (note, there are many CVE initiatives under DOJ, DHS, and other federal agencies but the DHS program has received the most attention).

"A Biden-Harris administration will confront discriminatory policies that single out Arab Americans and cast entire communities under suspicion. Additionally, the new administration will work to protect communities that are under siege from the growing threat of violence from white supremacists and incitement to violence by far-right extremists. Biden will end the Trump Administration's Targeted Violence and Terrorism Prevention Program, and, before developing new prevention programs, he will conduct a thorough review of past programs and regularly consult with leaders from historically targeted communities, including Arab Americans, to ensure that civil rights are protected. He will ensure that programs are properly oriented towards actual threats based on data. This will include creating a dialogue with Arab American community leaders on issues of surveillance, policing, and counterterrorism, in tandem with other communities historically affected by securitized relationships with the U.S. government." (Biden, 2020)

Biden's promise to end TVTP was bookended with a pledge to protect communities threatened by white supremacist violence and to work with those same communities historically targeted by surveillance. Despite this acknowledgment that indeed, the same communities targeted by individual white supremacists are the communities harmed by surveillance initiatives like CVE, the Biden administration has both rebranded and expanded CVE in 2021. What was initially CVE, and then TVTP, is now the Center for Prevention Programs and Partnerships (CP3).

PATHOLOGIZING WHITE SUPREMACY

The current rebranding and expansion of CVE is not simply a dismissal of the concerns brought forth by targeted communities. Rather it is a misdirected and misguided solution to two issues: that CVE is anti-Muslim and that white nationalist and white supremacist violence is visibly increasing.

The election of Donald Trump and his years in office have included a number of high profile moments of violence from a range of white supremacist and white nationalist movements. The Unite the Right Rally in Charlottesville, Virginia in 2017 is the first major incident and resulted in the death of a young woman, Heather Heyer. The response from progressive and liberal organizations, media, and politicians to this violence was a call for expanding CVE to address white supremacy. The voices of Muslim communities were drowned out and ignored, though they did continue to demand an end to the framework (AMEMESA, 2017).

As these violent incidents continued, liberal demands to do something, really anything, about this grew. The culmination of this misplaced anxiety was the January 6, 2021 attack on the Capitol building. Justified concerns about violence from the right were funneled towards an expansion of policing and surveillance, including the launch of CP3 (CVE 3.0).

Now, the thoroughly flawed framing of CVE is expanding in an attempt to both erase the concerns of CVE targeting only Muslims and to allay concerns about white supremacist violence. The lists of indicators are now overly broad and vague, such that they can be applied to the far-right, but also can apply to anyone and everyone.

Potential Risk Factors Associated With Engaging or Attempting to Engage in Terrorism Among Both Group-Based and Lone-Actor Terrorists in the U.S. (Smith, 2018):

- Having a History of Criminal Violence
- Having a Criminal History
- Having Been Involved With a Gang or Delin quent Peers
- Having a Terrorist Friend
- Being a Member of an Extremist Group for an Extended Period
- Having a Deep Commitment to an Extremist Ideology
- Having Psychological Issues
- Being Unemployed
- Having a Sporadic Work History
- Having Less Education
- Having a Lower Social Economic Status
- Failing to Achieve One's Aspirations
- Having Trouble in Romantic Relationships
- Having Trouble in Platonic Relationships
- Having Been Abused as an Adult
- Being Distant From One's Family

CONCLUSION

CVE in the U.S. has come full circle, from retrofitting a behavioral theory to justify surveillance of Muslims, to now applying that model more broadly to avoid surveilling only Muslims. And yet,

> *CVE was never shown to prevent violence by anyone – as repeatedly said by both proponents and opponents of the framework. It is a method of*

individualizing and pathologizing political violence, while avoiding any analysis of the political context for that violence.

The most perverse example of this is announcements by the Department of Defense to address "extremism" with a CVE working group and a one day "stand-down" where everyone under all arms of the Pentagon receives CVE training. While Muslims have faced an unimaginable level of violence globally from military adventures and aggressive policies, are targeted by CVE policies of DHS and DOJ, and impacted by individual acts of white supremacist violence – these agencies avoid their culpability at every level of that violence while patting themselves on the back for implementing CVE.

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THE MALIGNANCY OF THE US GLOBAL WAR ON TERROR ON COMMUNITIES GLOBALLY

ASIM QURESHI

INTRODUCTION

The impact of the U.S. Global War on Terror is often reduced to large symbols of U.S. military activity such as the wars on Afghanistan and Iraq. These theaters of violence accompanied the open use of torture and arbitrary detention by Americans that have become widely associated with images of kneeling detainees in hoods, earmuffs, and orange overalls in the detention camps at Guantanamo Bay, Cuba. Such images, however, show only one face of the Global War on Terror.

While the War has led to multiple injustices that have spilled from U.S. actions, it has actively spread its malignancy throughout the world, providing authoritarian regimes and liberal democracies alike with the means to take advantage of a global backsliding of due process rights.

The logic and rhetoric of the Global War on Terror have become key resources for countless actors and commentators justifying unlawful actions of the state. For example, Aung San Suu Kyi, the former de-facto leader of Myanmar, refused to defend her Muslim Rohingya population during their ethnic cleansing by Buddhist militants, instead choosing to blame 'terrorists' for any perception that such violence might be taking place (Safi, 2017). This stands as one particularly egregious example of how the narrative of the War on Terror has been instrumentalised by different states in order to achieve their own political ends. Suu Kyi's use of language may seem particular to her context, but as this piece will demonstrate, while the War on Terror has spread across the world in a shape-

shifting fashion, it has remained connected to the body of harm initiated by the U.S.

BOSNIA – GROUND ZERO OF THE RESPONSE TO 9/11

George W. Bush's binary threat of a world that was either with America or with the terrorists heralded an unprecedented international cooperation between states keen to support their U.S. ally. Contrary to popular belief, the initial site of U.S. reaction to 9/11 was in Bosnia, with the detention and rendition of 69-year-old Abdel Hakim Khafagy. A joint operation between German and American agents kidnapped Khafagy off the streets of Bosnia, after which he was sent from the American base in Tuzla back to his native country of Egypt. There, Khafagy was tortured by the Egyptian security agencies, eager to find out information on behalf of the U.S. about any potential terrorism plots – except Khafagy was entirely innocent of any crime.

The day after Khafagy's arrest, two Bosniak men, Nihad Karsic and Almin Hardaus were similarly detained by the Americans, this time with the assistance of Italian Carabiniers, and sent to the Tuzla base where they were interrogated and tortured. As with Khafagy, these men were completely innocent of any crime, and yet were forced to suffer the consequences of America's violent response to 9/11 (Qureshi, 2009).

Bosnia's role in the Global War on Terror became a staging post for much that would come later. While the first detentions took place there, October 8, 2001 marked an even more sinister turn. It was on this day that the Bosnian Algerian Bensayah Belkacim became the first of a group of ethnically Algerian men who would be denied legal status in Bosnia and placed on rendition flights to Guantanamo Bay. The U.S. emphasis on their response requiring a "gloves off" approach crept into the practices of the Bosnian state, as Muslim men were systematically denied their rights, even when judicial judgements demanded their release.

The presence of Arab former-mujahideen in Bosnia ultimately resulted in the citizenship deprivation of a large group of Arab men, for no reason other than American suspicion of their presence in the country. This deprivation of citizenship would herald the use of its practice across Europe, but particularly in the U.K. where hundreds of individuals would find themselves denied the protection of legal status.

SYRIA – AMERICA'S FRIENDLY ENEMY

In the case of Bosnia and countries like Egypt and Morocco, where detainees were being outsourced for torture by the U.S., there was at least some geopolitical sense that could be made out of allies working in concert with one another – this has not been true of Syria-U.S. relations. From almost the beginning of the Global War on Terror, John R. Bolton, the U.S. Ambassador to the UN at the time, had declared Syria as part of the 'Axis of Evil' that presented a threat to the U.S. and its interests. However, four months after Bolton's declaration, Canadian businessman Maher Arar was on a connecting flight through New York, when he was detained by U.S. agents and forcibly placed on a rendition flight to Jordan, from where they had him transported to Syria to be detained and interrogated.

Arar was not alone. Detained with him were other Canadian men including Muayyad Nurredin, Abdullah Almalki and Ahmad Abou El Maati – all of

whom were subject to harsh interrogation and torture at the notorious Fara' Falastin prison in Syria. Abusive practices at this prison and others like it would later motivate Syrians to take to the streets to demonstrate against the regime of Bashar al-Assad almost a decade later. As we will see with other parts of the world, the malignancy of the War on Terror's narrative was already cemented through the close security cooperation between the Syrian regime and the U.S. By 2018, al-Assad was regularly using words such as 'terrorists' in order to describe demonstrators and rebels (Graber, 2020).

Until Bashar al-Assad's brutal crackdown on the Syrian population, those on the political left had largely been critical of the U.S.-led global War on Terror and the discourse it produced – particularly around the use of the word 'terrorism' to delegitimize insurgents in Afghanistan and Iraq. Stop the War movements across the western world were largely supportive of the idea that 'terrorism' as a discourse was being exploited in order to justify U.S. aggression abroad. In many ways, Syria marks a rupture, after which the narrative of the War on Terror came to be adopted by many segments of the political left. For example, some journalists began to suggest that all Syrian rebels were loosely tied to Salafi-jihadi groups who should be seen as terrorists requiring a strong state response by Bashar al-Assad. Others deployed the grammar of the War on Terror in order to provide cover for their political allies, all in the name of a Syrian anti-imperialism that was willing to torture Muslim men on behalf of the U.S.

SOMALIA – THE AFRICAN FRONT OF THE WAR ON TERROR

With 'hot wars' taking place in Afghanistan and Iraq, less attention has been paid to the role played by the U.S. in establishing a military presence in East Africa. This is an important oversight, especially as the U.S. base of Camp Lemonier was established in Djibouti one year after the 11th September attacks, as a Joint Task Force for counter-terrorism operations for the Horn of Africa region. Reminiscent of the role that the U.S. played in the Contra Affair in Nicaragua, the U.S. military sponsored, trained and equipped Ethiopian troops, even going as far as to provide tactical support when Ethiopia invaded Somalia in the last days of 2006. By January 2007, the Union of Islamic Courts, which had come to power through peaceful means, had been replaced by the U.S.-friendly Somali Transitional Federal Government.

In the immediate aftermath of the invasion, hundreds of individuals across East Africa were detained in operations conducted by U.S., British and Israeli security agencies, with a large number of refugees being detained in Kenya and ultimately placed on rendition flights to Ethiopia. On arrival, these detainees became extremely concerned, as Ethiopian officials explained that a determination was being made on whether or not to treat the group – which included men, women and children – as 'enemy combatants.' This legal anomaly, which had been invented by the U.S. in order to deny detainees being held at Guantanamo Bay their due process rights, had now found its way into the parlance of an Ethiopian court (Qureshi, 2009, p.51). Like the men who were detained at Camp X-Ray in Cuba, these detainees in Ethiopia were similarly housed in cages made of chicken-wire. While ostensibly their captors were Ethiopian, it was the Americans who conducted interrogations.

As with the targeting of Arab communities after 11th September and British-born Pakistanis[1] after the London bombings in July 2005, international incidents were creating a new profile of risk. After

[1] Although other South Asians were profiled and surveilled, British-born Pakistanis were identified as a specific threat, with former U.S. Department of Homeland Security Director Michael Chertoff at one stage mooting Pakistanis born in the U.K. as requiring a separate visa process to enter the U.S.

Ethiopia's invasion of Somalia, security agencies around the world began to suspect their Somali populations as being potentially subversive and thus placed them under mass surveillance. In the U.K., a group of Somali men began to be harassed by MI5, while in the U.S., Somali communities in Minnesota began to be securitized through Countering Violent Extremism (CVE) programs. In these examples we can observe U.S.-led wars abroad spilling well beyond actual conflict zones, resulting in the mass surveillance and suspicion of communities and the transformation of these communities into phantom threats requiring disciplining.

KASHMIR, PALESTINE AND EAST TURKESTAN – OCCUPATIONS CEMENTED BY THE WAR ON TERROR

Although the Indian occupation of Kashmir, the Israeli occupation of Palestine, and the Chinese occupation of East Turkestan predate the Global War on Terror by decades, the dominant discourse surrounding these sites of dispossession has been cemented by the Global War on Terror – masking the terror of settler-colonial violence. In the 1990s, the Indian government instrumentalized fears of Muslim terrorists, but nowhere to the extent that they have done so in relation to Kashmir after September 11, 2001.

According to Idrisa Pandit:

The reframing of the Kashmir conflict as a fight against terrorism readily finds support among anti-Muslim ethno nationalists and far-right political leaders. Within India, the BJP government is stoking Islamophobia by using religion as an instrument of identity politics. And the Indian media's portrayal and characterization of Muslims only reinforces the status of Muslims as the other and Islam as the enemy (Pandit, 2019).

The unbridled Hindu ethno-nationalism used to dominate Kashmir mirrors political Zionism. India and Israel's increasingly close cooperation makes this all the more striking. Indeed, Kashmiris and Palestinians have both had their political ambitions reframed through the lens of post-9/11 fears of the "global scourge of Islamist terrorism" (Osuri, 2016).

As Richard Silverstein writes:

"What's common to both movements is an over-arching Hindu-Zionist historical myth, suggesting that western-style democracies are opposed by dark forces of religious oppression. In this view, Israel's and India's 'Islamist' enemies seek to impose an oppressive theocracy on their otherwise peace-loving, democratic societies." (Silverstein, 2021)

The construction of this threat, however, has become rooted in the vocabulary of the War on Terror, which reconfigures reactions to settler-colonialism as terrorism, rather than resistance to an occupying power. Although neither of these occupations have a historical link to 11th September and the War on Terror, Kashmir and Palestine have been actively reframed through the logic of the War on Terror as a means of India and Israel evading censure for their brutality.

In many respects, this approach is vivid in the close cooperation between China and the U.S. in the immediate aftermath of 11th September, as China sought to justify its approach towards East Turkestan and the Uyghur population by reframing its repression through the War on Terror.

Sean R. Roberts' *The War on the Uyghurs* situates China's cultural genocide of the Uyghurs within a

broader history and contemporary politics. He begins with the year 1759, when the Qing Dynasty destroyed Uyghur leadership, leading to a process by which Chinese frontier colonialism transformed into today's settler colonialism. Roberts carefully unpacks how the Uyghur shifted from being considered an outside threat to Chinese Han supremacy, to a terrorist threat.

It is in the discourse of terrorism that there is a converging of interests after 11th September 2001. The U.S. gave the green light to the Chinese to present the Uyghurs as terrorists by incorporating China's antagonism within the War on Terror, and thus became complicit in the designation of the Uyghur as terrorists, furthering their repression. U.S. policy gestures in relation to China and the Uyghur in recent years, especially through the sponsorship of legislation to sanction China for ethnic cleansing, does not obscure the key role it has played in the normalization of anti-Uyghur brutality at the onset of the War on Terror.

With 22 Uyghur Muslims being detained unlawfully at Guantanamo Bay, the U.S. government chose the political expediency of securing international support for the continued use of the detention camps, over any consequences that acquiescing to China's repression of the Uyghur might have. China was able to use the presence of Muslim men in Guantanamo Bay in order to justify its continued repression of the Uyghur, and to use the moment to cooperate against dissident groups by joining with the U.S. At Guantanamo Bay, this cooperation was made only too clear to the detainees:

"Chinese officials told another prisoner that the Defense Department has given the Chinese information the prisoner had previously provided to U.S. interrogators about himself and his family, violating specific promises by U.S. interrogators that they would not provide this information to the Chinese." (Center for Constitutional Rights, 2008)

By focusing on the little-known East Turkistan Islamic Movement (ETIM), China presented a picture to the U.S. of an al-Qaeda associated network that was grossly exaggerated beyond any meaningful or operational reality:

"…the US decision to recognise ETIM as a 'terrorist threat' was driven by a need to court China's further support in the GWOT (Global War on Terror)." (Roberts, 2020)

This refraction of violence within the Uyghur Autonomous region through the lens of the War on Terror has resulted in 'terrorism experts' reinforcing the early positions presented by China and the U.S., by referencing that unrest to a post 11th September world, rather than situating it in a much older anti-colonial struggle. Roberts' treatment of this violence is very careful and nuanced; while he addresses the non-state violence of the Uyghur, he situates it within a much longer trajectory of colonisation, repression and cultural genocide:

"In many ways, the violent passion unleashed in Urumqi in July 2009 was a boiling over of the tensions that development, settler colonialism, and Uyghur marginalisation in the region had fostered." (Roberts, 2020)

All of this has helped produce our contemporary moment.

> *The Uyghur are structurally denied the ability to practise their religion. They are barred from praying or fasting. They are*

forced to drink alcohol and consume pork. Muslim Uyghur women are routinely married off to non-Muslim Han men by force. The notion that somehow their cultural and religious life is a marker of their 'extremism' shows us how the logic of the War on Terror, taken to its extremity, results in the complete pathologization, criminalization and ultimately evisceration of Muslim belief and behaviour.

China utilizes extreme policies of securitization, but it is not the progenitor of these policies or the vocabulary used to justify them – nor is it alone.

CONCLUSION

The Global War on Terror has clearly exceeded the aim of ending al-Qaeda and the Taliban, as the original Authorization for the Use of Military Force (AUMF) by the U.S. set out to accomplish. Rather, as indicated by the use of 'War on Terror' as a proper noun, this piece has sought to show how the global manifestations of this conflict are inextricably linked in all the ways they have spread across the world. Like a malignant tumour, its tendrils have extended to almost every single part of the world, where states have taken it upon themselves to adopt rhetoric and policymaking set by the U.S., even when those states are ostensibly opponents of the U.S.

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NAMING THE INJURY: WAR ON TERROR AND THE LEGIBILITY OF TRAUMA

SAHAR GHUMKHOR & TAREK YOUNIS

INTRODUCTION

Much ink has been spilled on the War on Terror's (WoT) expansion of the sovereign exception (Agamben 1998), characterized by extra-legal measures, eroding of civil liberties and growing Islamophobia. These security practices have been overseen by a world that claims to be 'post-racial' (Goldberg 2015), yet national security's preoccupation with Islam's political capacity has cast Muslims as unruly and suspects, investing a great deal in the management of Muslim social and political life. Such political configurations have shaped Muslim political strategies in the face of state and public interrogation. Under the shadow of 'the Muslim question' (Norton 2013), Muslims have been pitted against one another within the confining logic of the 'good' and 'bad' Muslim (Mamdani 2005) as the only acceptable condition for recognition and acceptance.

Muslim visibility has therefore been tied to what the West has wanted from them: if not as terrorists, then those who condemn terrorism – but one in which Muslims are always implicated in the act and crime of terror nevertheless.

But a shift is occurring. In the face of resurgent white supremacism and far right movements across the West, and hastened by mosque attacks like those in Christchurch and Quebec City, we contend that an emerging narrative has enabled Muslims to shift from conceding to the terms of 'guilt by association' – that is, as condemned or condemner – to centring themselves as victims traumatized by Islamophobia. This shift situates Muslims as a different kind of confessional subject, allegedly reproaching the state while vying for its recognition as victim. In this investment Muslims are entangled further in the state security apparatus.

This article is not a discussion of the good Muslim/bad Muslim dynamic; rather, it serves as a reflection on how the desire to draw the state's attention towards Muslim injuries inadvertently plays into it. Mindful not to dismiss the work of those who work to draw attention to the consequences of Islamophobia, we will explore the uses of trauma, and consider the limitations of the frameworks of victimhood as a political strategy in combating Islamophobia. The article poses key questions that we contend will intensify this urgency in the coming decade. What does the future hold for the experiences of Muslim pain and abuse? And does the centring of Muslim suffering offer an effective strategy for Muslim resistance?

MUSLIM SUFFERING AND THE CONDITIONS OF RECOGNITION

The WOT has left a legacy of calamities, insecurities and grievances. As it expanded the sinister workings of its enemy and developed responses from counter-terrorism to 'deradicalization', the growing terror industry's preoccupation with Islam and Muslims as a problem has been unrelenting. Facing the suspicious gaze of an increasingly paranoid state – what Rachel Jane Liebert calls the "neocolonial security state" – where policing, email snooping, data storage, CCTV, government secrets have cultivated a culture driven by western paranoia spurring the state to stalk, attack and murder brown and black bodies (2019: 8- 9), Muslim communities have wrestled with finding a language that exceeds the demands of the state, to name their injuries and document their suffering.
If Muslims have been racially marked as the dominant Other in national imaginaries, in practice this tendency embodies a two-tier system which privileges White violence--especially when associated with the state--and renders Muslim suffering less worthy of grievance. Everyday Muslim suffering at the hands of the state and the white majority population has no place in being memorialized in national remembrance, outside the most extreme acts of violence. Muslim suffering is thus immediately conditional to the logic of the state, along the very racialized lines of separating "good" Muslims from "bad." Bad Muslims like prisoners/detainees (famously but not exclusively in Guantanamo) endure tremendous hardship – even torture – for example, while good Muslims deemed 'undeserving' of violence are offered support and sanctuary. One Muslim *steals* 'our' freedom, the other either is *gifted* 'our' freedom.

The recognition of Muslim suffering has always been provisional. For example, while the abuse of 'hate crime' is recognized, the abuse caused by state institutions, such as when the police question a Muslim child about their religious beliefs, are not. This has not gone unresisted. Following the rise of Islamophobia in the atmospheric war against terror, Muslims have increasingly campaigned against the erasure of their injuries, demanding recognition and grievability. Despite the efforts to deny the racist harm of Islamophobia, Muslims have lobbied the state to see their humanity and recognise the violence towards them on par with other groups, such as Jewish communities.

This has ushered in a new era of the 'confessional Muslim.' As Muslims make their demands for the recognition of their injuries, an adoption of trauma discourse reveals itself as a highly situated knowledge with other political effects. Is trauma (and mental health) discourse serving the purpose we want? And does it recognise the structural conditions which perpetuate violence towards Muslims?

THE RACIALIZED MUSLIM AS CONFESSIONAL SUBJECT

Studies have noted that the post-911 moment marked a hailing of the Muslim as Muslimness, a process of racialization whereby Muslim signifiers (bodies, behaviours, clothing, etc) became objects of hostility, interrogation and governance (Mamdani 2005; Razack 2008; Kundnani 2014; Tufail and Poynting 2016, Rana 2017). The impact of this racial calculus on Muslim sensibilities and cultural practice, their mode of speech, their capacity to diagnose their political condition, and the strategies of resistance they employ, comes with other social, political and psychological costs not yet anticipated. We contend that a discursive shift has occurred in the confessional practices of Muslims from internalizing the role of the 'enemy within' requiring self-surveillance to documenting the injuries of Islamophobia.

In a heightened security climate, confession becomes a salient practice of acquiring knowledge of suspect communities as a tool of surveillance. Muslims as confessional subjects are expected to reveal everything there is to know about Islam and their community – from terror plots, sleeper cells, abuses against women, sexual desires, through to their condemnation of terrorism. In condemning their own, their confession evidences their national loyalties when called upon and to ensure that their religion paves the way to this loyalty. Such integrationist requirements measure—or even monitor— Muslim capacity for secular modernity as a practice of freedom in the name of security.

The practice of freedom is a desire to speak, to confess one's desire, and to have one's confession recognized. Confession is however entangled in the nexus of power, body, desire and knowledge – that is, in the production of truth (Foucault 1978). Confessing your inner desires, the body's secrets, was a means of uncovering truth in the making of modern western subjectivity. Confession is always mediated by the Other—a submission to a moral authority such as the state and exalted liberal values. In other words, there is always a desire for and towards recognition which the act of confession is directed. Confessional society signals how conditions for recognition were designed to discipline the subject before the state so they are made to be subjects within the confines of its governance. When considering this process within a racialized order that invites management of difference, the investment in surveillance and discipline is only heightened.

The desire to confess and the desire for confession has manifested over the past two decades most powerfully in the dissenting voices of Muslim 'insiders'. These Muslim or ex-Muslim confessions focus on 'unveiling' the 'truth' about Islam – either by protecting it from the charge of sanctioning terrorism or to implicate it, along with human rights violations against women and minorities – and the threat that this bares to modern society. This native informant's insider account confirms conclusions that are already presupposed by the west—a west that incessantly demands to have its knowledge reaffirmed. As a political subject whose agency is one of refusing what is assumed to be culturally sanctioned practices against women or what 'radicalizes' Muslims, the Muslim as a confessional subject bolsters western claims for intervening in the lives of Muslims.

A condition for speaking in the post-911 climate has required that Muslims parade a commitment to these liberal truths, encouraging a distancing from an Islam with a different political orientation. To speak as Muslims today already marks the

[1] Although other South Asians were profiled and surveilled, British-born Pakistanis were identified as a specific threat, with former U.S. Department of Homeland Security Director Michael Chertoff at one stage mooting Pakistanis born in the U.K. as requiring a separate visa process to enter the U.S.

subjected process in which one is made intelligible and what confession invites. Thus, drawing on a civilizational discourse, confessional discourses in the last two decades have covered the familiar themes of hate, trauma, victimhood, fear, risk, violence, survival and heroism. Power speaks through these confessional stories even as they speak back to it, corroborating Saba Mahmood's problematization of the precondition for the political subject who must subscribe to liberal notions of agency, autonomy and choice (2005).

In the face of growing Islamophobia, Muslim discursive strategies have become more complicated. The visibility of Islamophobic violence is brought to bear on a western public alarmed at the rise of Trumpism and a growing global far right movement united in their opposition to the 'Islamification' of the West and recent high profiled attacks on Muslims such as Christchurch. The desire to document the violence committed in the name of Islam is now met with an accompanying demand to document the violence committed in the name of the West.

An explosion of reports, studies, essays, memoirs, testimonials, opinion pieces have attempted to name the injury Islamophobia has inflicted upon Muslims. Stories of women having their hijabs removed, Muslims verbally attacked, terrorised, spoken of as a problem, have marked the arrival of a new kind of confessional subject. This subject too desires recognition, the desire to be recognized by the state as victims rather than perpetrators. Their experiences similarly revolve around themes of violence, risk, fear and hate – all in the service of presenting a case for the plight of Muslims as a victimized community.

If Islamophobia's confessional Muslim manages Muslim political will (see Medovoi 2012) to not disrupt the friend/enemy distinction, the confessional subject of post-911 trauma is a Muslim who will still remain entangled in and determined by the racial codification of the neo-colonial security state.

QUALIFYING MUSLIM TRAUMA

An example of this confessional practice is in the growing reliance on trauma. Trauma has gained traction as a sense-making of suffering and the language through which suffering is identified. This is increasingly the case for racialized minorities (such as inter-generational trauma, as it relates to the lasting legacy of slavery). What initially began as a concept speaking broadly towards adverse childhood experiences, trauma has shown the capacity to now speak to all manner of adverse experiences more broadly (Furedi, 2004). The growth of trauma discourse goes beyond the scope of this essay but cannot be understated as a contemporary frame in how we speak of our experiences of structural violence.

In the sentencing of white supremacist Brenton Tarrant who murdered 51 Muslims in Christchurch, the testimonies of survivors and family members were crucial insights into the anger, frustration and desire for justice by individuals and a community that saw the event as part of a wider injustice against them as a community. Media coverage and government response had up until then however presented their emotional state as "portraits of trauma". The emphasis on mental health for survivors has similarly dominated the political debate, strangely echoing the aftermath of Christchurch's devastating earthquake a decade earlier.

Like Christchurch, a comprehensive psychological response strategy was devised for the Muslim victims of the Quebec mosque shooting. As

Kendil's (2019) overview demonstrates, this strategy served to substantiate and improve the need for cultural competence with Muslims, besides addressing the immediate effects of the attack. The point of interrogation here is how the injuries of Muslim survivors can serve to improve mental health services for Muslims on the one hand, but can not substantiate a resistance to Islamophobic politics on the other. Indeed, to anchor the point even further, the Quebec political discourse shifted once again to ban the niqab and headscarf not long after – the sort of Islamophobic politics which served as a bedrock for the shooting (Bilefsky, 2020).

This psychologized framing revises our understanding of violence – its origins and its remedies (Younis, 2020). It localizes violence within the experiences of individuals – those deserving of relief – while deflecting from the political movements which legitimize these attacks. Read through a trauma lens, victims are indistinguishable. Like a 'natural disaster,' Islamophobia can be viewed as an inevitability, and one can only tend to the wounds after the fact. This is not to challenge the profoundly difficult experience of these violent events, the necessity to attend to the victims and the good work of intervenors who do so. Rather, we question if, and how, trauma discourse – even when instigated by Muslims – can serve to misdirect attention from holding authorities accountable.

The investment in victimhood is certainly not limited to Muslims, either. Reflecting on the need to document the oppression of indigenous peoples, Eve Tuck considers "the long-term ramifications of thinking of ourselves as broken" (2009, 409) and its effectiveness as an oppositional strategy. Calling for a moratorium on "damage-centred research," Tuck contends that indigenous communities need to centre "survivance" – a way of being that goes beyond experiences of domination and victimhood. That is, to desire beyond confessing one's harm. This concern about the attachment to victimry echoes Wendy Brown's concerns a decade earlier about the risks of feminists mobilising around their injury, fixing identities around being injured which "codifies as well the meanings of their actions against possibilities of indeterminacy, ambiguity, and struggle for resignification or repositioning" (1995, 27). Brown continues, warning that this hailing also positions the state as a neutral arbiter for addressing these harms when it is often the cause of harm. Building on this intervention about our attachment to one's wounds, the growing focus on Muslim trauma invites a similar depoliticization of Muslim political will, attaching Muslims not only to their injuries and the need for the neo-colonial security state to alleviate their grievances, but also to racializing practices of state violence.

CONCLUSION

The afterlife of the attacks on the World Trade Center has revealed the extent to which sovereign will can eclipse law and the right of citizens to intervene in the lives of those deemed a threat. It has also shown how communities can be recruited into this process of intervention, surveillance and policing. This essay tries to understand this securitization of the subject in the growing tension between the need for self-injury to be validated, and the desire to be unshackled from our injuries – to self-define according to a register of our choice. Frantz Fanon was notably in this latter camp: decrying his past, present and future being determined by the injuries of racist colonial projects, and seeking to define himself according to his own desire for self-actualization.

The essay also maps onto the wider moral panic of the 'alt-right' and the rage against so-called 'snowflakes', assumed to focus too much on their injuries to the detriment of social cohesion. In the case of Muslims, this has also translated into a disdain of Islamophobia, with some Muslim leaders like Abdal Hakim Murad (2020) arguing that Muslims are too self-absorbed in the experience of their oppression, and should take a more productive role beyond grievance. While it may initially appear the concerns we have about centering victimhood are shared with 'anti-woke' critics, we do so with very different intentions. We propose a decentring of victimhood, not an erasure of the structural mechanisms in which we are made to be victims. In contrast, these 'anti-woke critics' dismissing resistance to structural violence commit to a narrative of resilience and 'picking yourself up from the bootstrap' approach which restates contemporary neoliberal ideals of individual responsibility – obfuscating the conditions of the harm. So what then is the way forward?

A collective recognition of injury which feeds directly into resistance is required. This would call for a communal ethic which neither erases the causes of structural violence, nor exclusively psychologizes its consequences unto individuals. This communal praxis and ontology is already present in Prophet Muhammad's narration, "the parable of the believers in their affection, mercy, and compassion for each other is that of a body. When any limb aches, the whole body reacts with sleeplessness and fever."[1] Here, it is not the individual experience which takes primacy, but rather each individual experience speaks to a wider occurrence of injury which must feed into collective mobilization. The shift from individual to the collective but not collapsing the two completely conceptualizes an injury outside Eurocentric formations of the self. When we think of the occupation of East Jerusalem and the attacks on Al Aqsa Mosque, for example, we note that each attack on Al Aqsa is injurious, even if no one was around to 'witness' it. This formulation of injury outside of the self (and trauma discourse), across other dimensions of space and time, is much needed in a globalized world.

Twenty years on from 9/11, the era of the Global WOT and global Islamophobia necessitates that we organize and develop a global language to make legible Muslim injuries at the hands of state violence. This language must eschew a Eurocentric framing of injuries and, most importantly, serve to mobilize recognition and resistance to violence outside the confines of the state. Every injury which Muslims experience, whether enacted or legitimized by state policies, is important and has occurred – or is occurring – even if no one is there to witness it.

[1] Source: Ṣaḥīḥ al-Bukhārī 6011, Ṣaḥīḥ Muslim 2586

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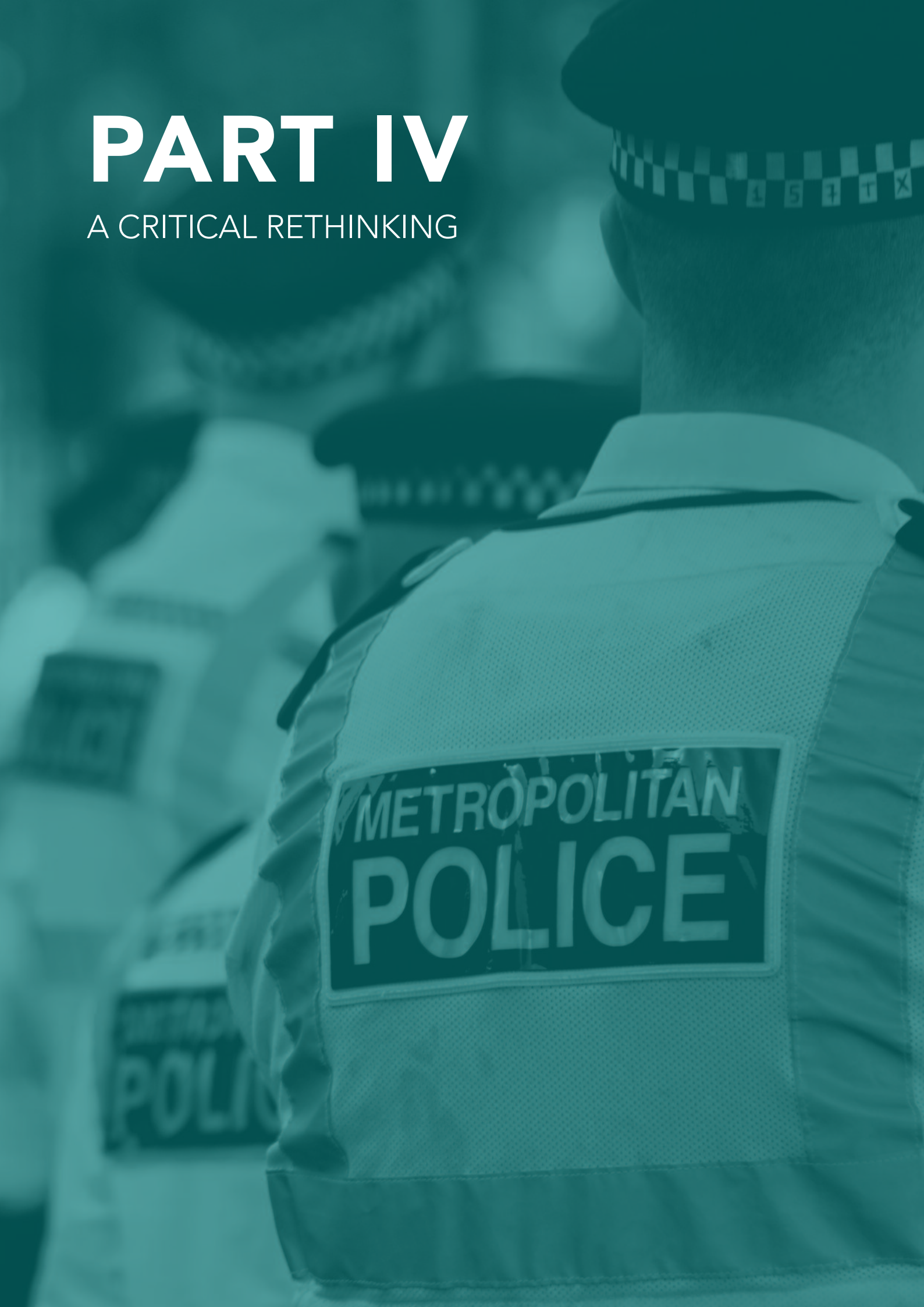
PART IV

A CRITICAL RETHINKING



21

THE WAR ON TERROR AND THE POLITICS OF RACE IN THE CONTEMPORARY ABOLITIONIST MOVEMENT

ATIYA HUSAIN

"Since half of the people locked up are not, or not obviously, descendants of racial chattel slavery, the problem demands a different explanation and therefore different politics. This does not mean that the lineage of abolition extending through chattel slavery is not robust enough to form at least part of the platform for ending mass incarceration in general. However, as it stands, to achieve significance, the uncritical extension of a partial past to explain a different present demands a sentimental political assertion that depends on the figure of a laboring victim whose narrative arc…is fixed, and therefore susceptible to rehabilitation—or expungement—into relative innocence." -Ruth Wilson Gilmore (2017, p. 234)

Among those critical of the War on Terror, it is widely accepted that "terrorism" has racial implications. The racialized category the War on Terror gave way to or helped along has been called AMEMSA, AMSA, or SWANA, the figure of the Muslim, the racialized Muslim, and other similar names.

With U.S. counterterror campaigns in East Africa, South and West Asia, as well as Russia and China, among other countries, what unites campaigns under the rubric of the Global War on Terror is not the clear demarcation of a racialized body. Many are non-white and/or Muslim, but not all, which must be accounted for to some degree in analysis of the racial implications of terrorism.

A promising site for reframing how we think about race in relation to the War on Terror is a particular politics of race that comes out of a segment of the contemporary abolitionist movement. The contemporary movement in the United States takes its name from the movement to abolish slavery in the nineteenth century. It shares some of its broad vision with the brief and promising period of Reconstruction following the passage of the Thirteenth Amendment: building a democratic society whose political, economic, and social institutions were no longer reliant on chattel slavery. Contemporary abolitionists emphasize the imperative to build new institutions grounded not in capitalism, given its longstanding interrelation with racism in the U.S., but alternative economic systems such as socialism and communism. There is some continuity between abolitionism today and that of the previous two centuries, but there are also important differences due to shifts such as the development of the prison industrial complex.

The prison industrial complex is the target of the twenty-first century abolitionist movement. Its abolition is the mission of Critical Resistance, a key node in the history of the contemporary movement. Founded in 1997 by Ruth Wilson Gilmore and Angela Davis among others, Critical Resistance describes the prison industrial complex as "the overlapping interests of government and industry that use surveillance, policing, and imprisonment as solutions to economic, social and political problems" (Critical Resistance). Mass incarceration and militarism domestically and abroad are then components of the prison industrial complex, extending well beyond the four walls of the prison. Over the next few years since its founding, Critical Resistance hosted massive conferences across the country and developed regional chapters. By 2001, just months before 9/11, the organization had developed a national structure. This timing, along with the goals of Critical Resistance, suggests that the movement is already positioned against the increased militarization of the police and other aspects of the War on Terror.

Earlier abolitionist efforts took on counterterrorism policies before the post-9/11 War on Terror as well. For example, Ruth Wilson Gilmore's careful study of the prison boom in California takes resistance to counterterrorism as its starting point. Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California (2007) began as a research project in the early 1990s on the Street Terrorism Enforcement and Prevention (STEP) Act of 1988 and Proposition 184 (the "three strikes you're out" law of 1994) on behalf of Mothers Reclaiming Our Children (ROC), a group of mostly African American, working-class mothers whose children were imprisoned. They wanted to learn more about the new law, which mandated law enforcement agencies to identify and place street gang members into a state-wide database. Someone charged with an offense and also found in this database would receive an enhanced sentence of one to five extra years of time. Mothers ROC educated other working people in a similar structural position, across race and other categories of difference, who were vulnerable to facing the same problems of the STEP Act. The group opposed the building of a new prison in their community, created multiracial coalitions, and helped negotiate a truce between gangs. This local-level work, where they understood their shared status as poor and working class, grew initially from the need to fight the repression of counterterrorism policy. For many, Mothers ROC are not the image that comes to mind for resistance to counterterrorism. Yet they found that counterterrorism was a problem they faced. The case of Mothers ROC gestures toward a different racial politics, because they understood the ways

that the problems they faced impacted people across the color line. Their work shows that such a politics may be developed through a different diagnosis of the problems of counterterrorism and the prison industrial complex. In this sort of politics, race is not an identity worth preserving as it stands, but rather race is a structuring logic of a system to be abolished.

This is where the question of the lineage of abolition and its racial politics arises, and the importance of the way that we understand it, per Gilmore's opening quote. This lineage is very reasonably threaded through racial slavery; yet what is of critical importance is how the relation between slavery and the contemporary abolition movement is understood. Common analysis coming from the racial structure Gilmore critiques above is that anti-black racism is the quintessential racism. Indeed, blackness has become the signifier of the larger system of race, as Sylvia Wynter puts it, and this must be understood not as an absolute truth but as a reality in a specific, dominant order. Davis and Gilmore are among many abolitionists who have critiqued fellow abolitionists and the left more broadly for limitations in the movement's race politics that repeat the terms of this order. The relation between the War on Terror and Muslims is invoked in instructive ways in their critiques. Reflecting on how many seasoned activists she respects were perplexed as to what to do after 9/11, Davis says:

Today, it seems that many of us who oppose the policies and practices of the Bush administration are still, at bottom, greatly influenced by the ideology of American exceptionalism. Thus the sense of paralysis in the aftermath of September 11, and the dangerous embrace of the worst kind of nationalism…we sometimes tend to rely on the ideologies we think we are opposing. (Davis, 2005, pp. 84–85)

Justice movements risk producing the same if they engage on the same terms. Along similar lines, Gilmore points out a contradiction between antiracism, on the one hand, and an antiracist cultivation of racial epistemologies, on the other hand:

Sadly, even activists committed to antiracist organizing renovate common-sense divisions by objectifying certain kinds of people into a pre-given category that then automatically gets oppressed. What's the alternative? To see how the very capacities we struggle to turn to other purposes make races by making some people, and their biological and fictive kin, vulnerable to forces that make premature death likely and in some ways distinctive. (Gilmore, 2007, p. 244)

She presses on, invoking the place of Muslims:

The racialization of Muslims in the current era does double duty in both establishing an enemy whose being can be projected through the allegation of unshakable heritage (fundamentally, what the fiction of race is at best) and renewing the racial order of the U.S. polity as normal, even as it changes. (Gilmore, 2007, p. 244)

With the aforementioned relationship to race, the War on Terror may be usefully understood as an occasion for thinking differently about race, rather than a case to which critical thinkers must apply race analysis in an attempt to give legibility to those who suffer the consequences of this war.

But there is still a broader question regarding innocence that is important to consider here. A common abolitionist critique against innocence holds that legal guilt has a strong relationship to poverty; legal guilt/innocence is thus not a useful guide for who deserves to be free of the carceral system. The inability to pay fees, fines, and tickets,

is just one set of obviously financial offenses that accumulate into multiple interactions with law enforcement. The selection of an innocent subject is a logic of the carceral system that the abolition movement argues against as a warrant for abolishing prisons. The logic of innocence, if retained, means that movements are compelled to find a different innocent (as opposed to abandoning that sort of politics). When this logic meets race analysis, one or another race or racialized group is selected as the singular innocent subject. On this logic, for example, black people become the innocent subject of mass incarceration, and brown people become the innocent subject of the War on Terror; these racial identity categories and their combination (e.g. Black and Muslim, Black and Arab) become stand-ins for prisons and counterterrorism. However, such moves are still attempts to reach for an innocent subject, and they cannot account for the work of groups like Mothers ROC. In the War on Terror, inseparable from the prison industrial complex, then, is a high stakes opportunity for rethinking the grounds for solidarity across infinite kinds of difference and not requiring a reduction to western biological notions of race or racial similarity. Instead, the task is to produce a new political subjectivity all together, one not reliant on the institution's constructs of guilt or innocence. Although the contemporary abolition movement is not uniform in its politics on this matter, its debates help us think about how to face the racial barriers to developing a new political subjectivity.

Abolitionists emphasize the productive powers of imagination, which is not antithetical to description and empirical analysis.

> *After 9/11, the racialization of terrorism appears intuitive, obvious, and as a fact. But it is actually interpretation – an important distinction if the goal is to end the War on Terror and its terms of engagement rather than merely describe it on its own terms. For the different strains of resistance to the War on Terror to fully embrace a politics of solidarity to create a society truly different from the one they are working to change, a change in racial politics will be necessary.*

This alternative racial politics is both modeled in abolitionist thought while also a struggle inside of it.

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22

THE AMERICAN MUSLIM COMMUNITY GUIDE: SHUT UP AND SPEAK UP

SAMI AL-ARIAN

INTRODUCTION

In the aftermath of the September 11, 2001 attacks, political leaders in the United States had to explain to the American public the reason for the atrocious and tragic attacks that had taken place. There were really only two possible answers. The first was that the country was attacked as a consequence of the government's policies.[1] Admitting to this would have meant that politicians and decision makers were also complicit and partly to blame. The other answer, which was almost universally adopted by the political class and power elites, was that America was attacked because of its freedom and democracy, and because of "who we are." And, since we cannot change who "we" are, then we have to change who "they" are. This was reflected in what followed: invasions, occupations, torture, Bagram, Gitmo, Abu Ghraib, black sites, secret detentions, renditions, drones, assassinations, the PATRIOT Act, mass surveillance, the establishment of the national security state, CVE programs targeting vulnerable minority communities, setting up incompetent and corrupt regimes abroad in Afghanistan and Iraq, and more.

These aggressive programs and policies have fundamentally transformed the United States both domestically and internationally. Within a short period of time, the United States invaded nations and toppled regimes in Afghanistan, then Iraq, and took "revenge" against thousands of innocent Muslims around the world. Domestically, the government empowered its security agencies and unleashed them on the vulnerable American Muslim community under the pretense of "preventing the next 9/11." Even though not a single perpetrator of the September 11 attacks was an indigenous person or American Muslim, the country's local community became the primary target of the national security state and its massive surveillance programs.

[1] Such as occupying the birth place of Islam after the first gulf war in the early nineties; imposing devastating and crippling sanctions on Iraq during the 1990s that killed over half million Iraqis; providing blind support to Israel's brutal occupation of Palestine, which continues to expand its unimpeded settlement policies while denying Palestinian rights; by being the main power that supports dictatorships and totalitarian regimes throughout the Arab world, which deny their people democracy, freedom, and basic human rights.

In such a state of affairs where the safety, security, and future of the American Muslim community are at stake, one of the most pertinent questions that has been intensely debated is the relationship between the community and the national security establishment, particularly the FBI. To answer this question, one must understand the new mission and tactics the FBI has adopted since 9/11.

Theoretically, the FBI is a law enforcement agency that was supposed to pursue criminals after federal crimes have been committed. But often times, as discussed in several essays in this volume, the FBI engaged in political repression by targeting political activists and utilizing its massive resources in order to disrupt constitutional and first amendment activities that it disfavored—evident, for example, in its involvement in the COINTELPRO operations between 1956-1971. After 9/11, the FBI, the newly established Department of Homeland Security (DHS), as well as other agencies and task forces such as the JTTF (Joint Terrorism Task Force), have focused their efforts against politically disfavored communities, and employed many underhanded tactics for the purpose of disrupting, dividing, and discrediting the American Muslim community. All of this was done on the basis of perpetuating the belief that such tactics are needed to fight terrorism.

ALBURY REVELATIONS

This article is an unusual piece as it quotes extensively from other articles in order to show uncontested evidence needed to prove all the allegations that have been levelled against the FBI and U.S. government, especially that they have been relentlessly and unfairly targeting the American Muslim community for over two decades. Former FBI veteran, Terry Albury, spent seventeen years working on national security affairs and pursuing the American Muslim community. His explosive story was featured and published in *The New York Times* on September 1, 2021 (Reitman, 2021).

During his time with the FBI, Albury had a change of heart and felt uneasy about his role in destroying innocent Muslim lives as an agent in the so-called War on Terror. He leaked many documents to The Intercept, which exposed much of the aggressive tactics used by the FBI in targeting the American Muslim community. He was eventually arrested for these leaks, pled guilty, and served over three years in prison for his actions. He told the Times that he saw his role in telling his story "as providing context." He continues, "You had all these organizations that were suing the federal government over abuse of authority or racial or religious profiling, based solely on anecdotal information. I was there to say, OK, here you go, this is proof - now go forward and take action and help your people."

Albury's account is chilling in its details, as it exposes the racist and dangerous policies that have been adopted and used by the FBI, JTTF, and other agencies as they targeted the American Muslim community to infiltrate and unsettle it. In his narrative, the targets were not just some bad apples, but the ideology and religion of Islam itself, and its adherents have become targets. Albury recalls that "[t]he indoctrination was immediate". He explains that the attitude of the FBI was that "[w]e're at war, we need to respond, we need to use every tool at our disposal. [I]t was made very clear from Day 1 that the enemy was not just a tiny group of disaffected Muslims," he says, but "Islam itself was the enemy." According to him even though "there was no existential threat from Islam, as [he] was *taught as a surveillance trainee* [shortly

after 9/11], just an endless list of people who were being targeted because they were Muslim." It had taken him a decade to reach this conclusion.

The purpose of this chapter is to summarize some of the techniques and tools mentioned by Albury that have been used by the FBI against the American Muslim community. "Albury's revelations confirm what communities — primarily Muslims and communities of color — and rights groups had long known or thought to be true," Hina Shamsi, director of the National Security Project at the American Civil Liberties Union told the Times. "For years we've been hearing from people who were surveilled or investigated or watch listed with no apparent basis for the FBI to suspect wrongdoing, but based primarily on their race or religion or political organizing and beliefs," she added.

The primary objectives of the FBI operations and tactics used against the American Muslim community have been (a) to infiltrate this community with thousands of informants and spies in order to keep them under constant surveillance and control, as well as distrustful of each other, and (b) to cultivate a new breed of American Muslim "leaders", who would demonstrate loyalty and fealty to U.S. hegemonic policies by being co-opted by the U.S. security establishment. Michael German, another former FBI agent, told the Times that the FBI mandate that was adopted after 9/11 has "exposed a vast number of people who were not suspected of breaking the law, to some of the same intrusive techniques the bureau had long used against people it suspected were criminals. As it turned out, spying on innocent people doesn't help catch guilty people, so it was a flawed approach."

RACISM AND ISLAMOPHOBIA

It is not far-fetched to conclude that the FBI is an institution that has deeply seated racist views against Muslims and other minorities. Albury worked in the FBI office in Washington D.C. as well as several field offices across the country, as he witnessed first-hand the racism that permeated this institution. In one incident, a superior at the Minnesota field office described to Albury the Somali Muslim community by calling them "dirty, smelly, disgusting, worthless pieces of [expletive]", as she excruciated him because he did not "get the problem," meaning their culture and faith. He said that as agents needed to develop sources within Minneapolis' Muslim community, a large number of whom were Somali immigrants, they used to call them "skinnies." In all his years as an FBI agent, Albury had never heard "the sort of unabashed hatred for any group of people as he did for the Somalis, whom agents denigrated for their poverty, or their food, or the habit some Somali immigrant women had of tucking their cell phones inside their hijabs while shopping at Walmart or driving a car."

According to Albury "[t]oo many members of the JTTF seemed to be driven by personal animus, describing Islam as a religion of violence, a message that was still being promulgated in FBI. That was what happened when you worked in counterterrorism too long," Albury thought. "You lose perspective. You invest years in it and begin to believe it's your duty to find evidence, no matter how small, confirming your suspicions."

RUINING PEOPLES' LIVES

Albury contends that the real consequence of his work against American Muslims in several communities as well as that of his colleagues as FBI

agents were, to put it simply, "ruining people's lives," without any real reason except suspicion, pure hatred, and sustaining a biased institutional culture. In one instance, he pursued a person under suspicion as well as his little brother for years. Even though both were innocent, he noted that the brother, who was targeted because he was his sibling was "screwed for life." He says, "there was nothing connecting the kid to terrorism." He knew this after spending months completing a process known as "baseline collection" – scouring his social media, checking his phone records, running his name through the DMV database as well as myriad other secret and top-secret government databases. But now his name was in the system. That meant any number of government agencies — the FBI, the CIA, the DEA, ICE — could have access to his file. This file will forever stay in the system staining him for life without the ability to expunge it." He says that he had realized that by simply looking at the brother of a suspect he was "opening him up to future harassment or, at best, put an asterisk next to his name that would be with him forever."

The article also notes that "at any time he applied for a passport, or a job that required a background check, or a driver's license, or simply had his name run through any sort of government database, for the rest of his life, it would show up that he'd been looked at by the FBI, which would inevitably be viewed as suspicious." That was what was so insidious about the process, Albury thought. And it wasn't just this kid — there were thousands of Minneapolis Muslims in the system just like him and untold millions elsewhere in the country." He continues by observing how the reality of what he was a part of hit him in a way that just shattered his belief in the system.

"There is this mythology surrounding the war on terrorism, and the FBI, that has given agents the power to ruin the lives of completely innocent people based solely on what part of the world they came from, or what religion they practice, or the color of their skin. And I did that," he adds. "I helped destroy people. For 17 years."

FBI TOOLKIT: THE USE OF INFORMANTS AND INFILTRATION OF MUSLIM COMMUNITIES, SURVEILLANCE, NATIONAL SECURITY LETTERS, DATABASES, AIRPORT PROFILING, NO-FLY LISTS, CVE PROGRAMS, MOSQUE OUTREACH, DISRUPTION, MANUFACTURING CRIMES

The FBI and other law enforcement agencies have a long history of using informants that are deployed against criminal syndicates and gangs, as well as political dissent. But since 9/11, the FBI has made it its principal policy to infiltrate mosques and Muslim communities across the nation as if they are inherently criminal. According to an Intercept article published in 2016, the FBI had recruited informants against the American Muslim community that numbered at least 15,000 domestically a few years after 9/11 (Currier and Hussain, 2016). That figure, which was revealed in a 2008 budget request

(Aftergood, 2007), is roughly 10 times the number of informants that were active during the era of J. Edgar Hoover and COINTELPRO (Aaronson, 2015). According to Albury, there were many tactics used by the FBI for the sole purpose of recruiting informants and turning them into spies against their communities. He says, "Every encounter was exploitable either domestically, via the FBI, or internationally, through the CIA or another intelligence partner." He continues, "We take people from foreign countries where they have secret police and recruit them as informants and capitalize on their fear to ensure there is compliance."

Another leaked FBI document published by the Intercept recommends that "agents scour Facebook 'to find individuals who are dramatically increasing their levels of piety — that's the demographic you want.'" It further states, "Since we're looking for young people re-engaging with their Islamic faith," it continues, "the local MSA [Muslim Student Association] is a great place to start" (Currier, 2016). In 2012, the American Civil Liberties Union obtained (ACLU, 2011) documents showing that the FBI had used "mosque outreach" programs ostensibly meant to build relationships with Islamic communities in order to collect intelligence. A similar program by the NYPD spied on Muslim student associations and communities for years before it was eventually exposed and disbanded after it admitted that it had never generated a lead (Apuzzo and Goldstein, 2014).

TACTICS USED IN RECRUITING INFORMANTS

As early as 2002 the FBI issued guidelines (OIG, 2005) that allowed it to investigate anyone without an indication of criminal activity. By 2011 another report by The New York Times stated that the FBI opened nearly 43,000 counterterrorism-related assessments with very little leading to further investigations, let alone full-fledged criminal charges (Savage, 2011). Based on Albury's experience, the entire purpose of these assessments, he told the Times, was "to create a database of American Muslims."

According to Albury, "Assessments were the opening salvo to the informant-recruitment process. It was a delicate art of manipulation, persuading a person to work for the federal government against his or her own community, but with access to the person's criminal history, or immigration status, it was much easier. There were different techniques agents were allowed to use. They could assist a person who lacked legal status to be given it, a tactic known as the 'immigration-relief dangle.' Conversely, agents could also work with immigration officials to deport those people if and when they'd exhausted their usefulness as confidential sources. Fear was a prominent driver. "You love America and want to protect this country, right?" Albury would ask his targets, many of whom were recent immigrants, or permanent residents, or maybe they were in the United States on a visa or had no documentation at all, and so what were they going to do, say no? He was standing before them with a gun on his hip. Most of the time, people would say yes. Those who refused might get put under even more pressure."

Another tactic mentioned by Albury is "the FBI's abuse of the no-fly list to coerce Muslims into spying on their communities, an intimidation tactic [he] says was not uncommon" during his tenure. Another common tactic he mentioned was "to threaten uncooperative sources with spreading disinformation unless they agreed to cooperate." He explains, "The script was, 'Everyone in your

community already thinks you're a source, so you might as well work with us.'" He would further say, "Another was, 'Everyone tells us you're a good guy,'" which was used to both butter up someone who wanted to be perceived as a good American and plant a seed of doubt as to what it might be like to be viewed as not a 'good guy' by the FBI." He knew how devastating such practices are on the targeted members of the American Muslim community. In retrospect, he reflects by stating, "I don't think anyone fully appreciates how demoralizing it is to be sitting across the table from a peace-loving man or woman from a foreign country, insinuating all kinds of baseless BS, attempting to coerce them to spy on their equally peaceful community," he continues, "but it was also my job." He recalls how at one point, he knocked on the door of a woman, a young Syrian refugee, who looked so terrified that she was visibly shaking, "You should be scared," he thought. "Open that door, I will ruin your life."

According to Albury the purpose of these tactics by the FBI is to instill fear and mistrust in the community. He told the *Times* reporter, "What the FBI was directing us to do was to go into these communities and instill fear and then generate this paranoia within these people so that they know that they're under suspicion perpetually."

Another customary tactic used by the FBI is the use of the so-called National Security Letters or NSLs. The FBI issues thousands of NSLs each year, including nearly 13,000 in 2015 (IC, 2016). Even though a series of Inspector General reports found significant problems (Doyle, 2015) with their use over the years, the FBI is currently pushing to expand the types of information it can demand with an NSL (McLaughlin, 2016). According to the Intercept, the FBI had made a habit of asking companies to hand over more revealing data on internet usage (Currier, 2016).

Another common course of action used by the FBI is to target Muslim travelers at airports. Since a significant number of American Muslims are immigrants or come from immigrant communities, traveling to other countries is ordinary. Albury observed that "Federal agents from ICE or U.S. Customs and Border Protection could, at the behest of the FBI or another intelligence agency, pull a person out of the customs line and interrogate him or her based solely on being from Pakistan, or Syria, or Somalia, or another country in which the U.S. government had an interest." He further mentioned that "Border agents administer a program known as Placement, Access and Willingness, or PAWS, a nationwide assessment program that screened foreign travelers from specific countries for their intelligence value."

But more significantly, Albury explains how the FBI has been manipulating airport investigations as it used them as recruiting grounds for informants and spies against the American Muslim community. He explains, "Anyone could become a suspected terrorist given the right data collection. But this was how the F.B.I. recruited informants at nearly every international airport in the country." The *Times* article expounded on how for years Muslims being interrogated by border agents, who pulled them out of line, were subjected to rigorous questioning, where, "at times [they] took them into separate interrogation rooms where an agent like Albury would play the good cop while border agents searched through their luggage and computers and cell phones. Later, they might receive a visit from an FBI agent who was interested in their recent trip abroad."

Albury spent hours "driving around and jotting down the comings and goings of various Muslims who for one reason or another had fallen into the post-Sept. 11 dragnet." In one instance he recalls how a Palestinian-born engineer was put under

round-the-clock surveillance by the local JTTF, which "searched through his garbage, placed GPS devices in his car, listened to his phone calls, searched his electronic communications and sent undercover informants into his personal, professional and religious circles," without finding much evidence of wrongdoing, let alone terrorist-related activities. "I'd say most of our investigations were based on very thin leads from questionable sources," one former agent on the local JTTF had once confided in Albury.

The *Times* article also stated that Albury "had a wealth of resources at his disposal: top-secret databases, informants, electronic surveillance tools." Albury noted that, "It was easy, as a member of the JTTF, to send a national-security letter to an internet or phone company or another commercial entity and obtain information about a customer. It had also become routine to obtain a FISA warrant for more elaborate operations like wiretaps. Tremendous pressure was put on agents to bolster their squad's numbers on open or active investigations and informants, which boosted the office's statistics, resulting in more funding for agents, analysts, surveillance teams and other aspects of the JTTF, which in turn would open more investigations."

CVE AND MOSQUE OUTREACH PROGRAMS

Since 2015, the U.S. government including the FBI have been promoting a dangerous program called: "Countering Violent Extremism" or CVE. The purpose of this program as advertised was to help communities with grants for education and other social benefits, particularly geared towards the youth. "The idea was to bring together local and federal law enforcement with various members of the community - imams, teachers, psychologists, coaches, social workers - to come up with intervention strategies to help 'off-ramp' young people they feared might be radicalizing." However, Albury exposed the program as a recruitment tool devised by the FBI. After a bad start where many Muslim communities shunned CVE programs (with notable exceptions of those who have already been cultivated by the FBI within the American Muslim community), it was rebranded and renamed as Shared Responsibility Committees, or SRCs.[2]

Albury observed that "the SRCs were simply a way to grow the FBI's informant network under the guise of countering violent extremism." It was simply a thinly veiled effort at intelligence gathering. Albury says that "[m]embers of the committees were asked to sign confidentiality agreements, which swore them to secrecy even from other members of the committee." In other words, those who received grants from the government under the pretext of helping the community could not even share what they were actually doing in their communities. He adds, "The FBI was entitled to pursue prosecution, or share information with other agencies in the government or foreign governments." The program comes down to the fact that "the FBI knew what they were doing, and everyone else was kept in the dark," Albury adds. "Swearing everyone to secrecy is part of how these programs work operationally."

Another trick in the FBI's bag was the so-called Mosque or community outreach programs. Albury says that one of his main tasks was "Mosque Outreach." He said that he took a list of all the Islamic centers in a 10-mile radius, as his assignment was "to sit down with the leaders and play the role of your friendly neighborhood FBI agent while building profiles on anyone who might make a good confidential source." Once inside a mosque he'd use a standard pitch, which according

[2] This program has been rebranded several times. Under Biden it has been renamed Center for Prevention Programs and Partnerships or CP3.

to him goes as follows, "We've been hearing some things about your mosque […] That always put them on the defensive," he reflects.

> *Sometimes he'd throw a few Arabic phrases into his conversation, mentioning the good work the FBI was doing to help 'counter violent extremism' and expressing concern about the continued harassment of Muslims. His job was "to protect them, the 'honest, decent Muslims,' which was why he needed their help." He'd then say, "We're here to work with you, not against you, so if you hear anything that worries you [contact us]. …" In one instance, his task was to investigate the imam of the local mosque, so he recruited an informant who'd be "praying at the mosque, slowly making his way into the imam's inner circle. He recorded every conversation."*

MANUFACTURING CRIMES

Albury argues that the FBI has built the entire apparatus and convinced the world that "there is a terrorist in every mosque," and that every newly arrived Muslim immigrant is secretly anti-American. He stated that "because we have promoted that false notion, we have to validate it. So we catch some kid who doesn't know his ear from his [expletive] for building a bomb fed to them by the FBI." Trevor Aaronson, an investigative reporter, investigated hundreds of terrorist plots and showed that a substantial number of the terrorist plots were being manufactured by the FBI, which planned, financed, executed, and directed the fake plots to convince the public and the political class that it is catching real terrorists (Aaronson and Williams, 2016).

DISRUPTION

Perhaps similar to the infamous COINTELPRO, which was deployed against political activists during the civil rights struggle of the 1960s, one of the major undertakings of the FBI after 9/11 is its constant disruption of the American Muslim community (Currier, 2017). According to an important investigative piece by The Intercept, "[w]hen the FBI puts a halt to criminal or terrorist activity without bringing anyone to court, it claims to have achieved a disruption." The FBI guide defines a disruption "as an action that neutralizes a threat by impeding the activities of an individual or group of suspects. Some of the tactics the FBI uses to this end are familiar: interviewing the subject, for instance, or seizing financial assets. Others were not previously known: deportation, media campaigns, and feeding suspects disinformation." The Intercept article shows that disruption operations included "sting operations, recruitment of informants, and arresting suspects on lesser charges." It further concludes that the FBI uses disruptions as means to target people it suspects and wants to eliminate, instead of working on cases that are likely to fail in court because of the absence of evidence.

Another disruptive tactic in the FBI guidelines

uncovered in The Intercept article is to incite a "media campaign" against its target by "publicizing a suspect's activities, even when there is no legal action pending against the suspect." Other disruption tactics used by the FBI take place outside criminal courts or the legal system because of lack of evidence, but could still have profound impact on a person's or family's life, such as facing deportations or throwing the vulnerable target into immigration limbo. In the same 2017 article The Intercept argues that "[t]he FBI uses disruption statistics to help justify spending $5.3 billion — more than half its budget — on counterterrorism" (Currier, 2017, p.12).

BOTTOM LINE: SHUT UP WHEN QUESTIONED BY SECURITY AGENTS AND SPEAK UP TO THE POLITICAL ESTABLISHMENT

When FBI agents knock on your door, your office, your place of work, or your mosque, it is important to note that there is nothing good that can come from talking to them. Their mission is either to collect evidence against you, turn you into an informant, or to disrupt your life. Talking with them could also put you in legal jeopardy since they could claim that you had lied to them when talking with you, which is a criminal charge, and in the course of a terrorism investigation might add dozens of years behind bars.

In reviewing the leaked FBI documents published by The Intercept, it was clear that "FBI agents will say one thing, but the DIOG, unredacted [reveals the opposite]"[3] – acronym for the FBI's Domestic Investigations and Operations Guide. A legal expert, who reviewed the leaked documents told The Intercept that the DIOG "shows us the truth. Frankly, FBI agents can lie to attorneys and their clients. We remind people of this when we do seminars to teach people about their rights."

In the *Times* article, when Albury, a veteran FBI agent was confronted with other agents suspecting him of leaking classified information, he immediately asserted his fifth amendment rights, refused to speak to them, and asked to talk to his attorney. He then stood up and said, "By law, you can only detain a person for the purposes of identifying them. You know who I am. Therefore, you cannot detain me." He later told the Times about whether or not agents lie, stating that, "[o]f course they lie – I lied to people all the time as an agent."

What the American Muslim community needs from its imams, leaders, intellectuals, activists, and community organizers is to demand accountability from their political leaders for the excesses of the so-called Global War on Terror. The Muslim community has been for over two decades securitized and pathologized. For too long it has been scapegoated because of the 9/11 attacks. The community must resist and reject this approach by shutting up when questioned by security agents, who want to disrupt and unsettle their communities, and speaking up to the political leaders demanding accountability, transparency, equality, and respect.

[3] https://www.documentcloud.org/documents/3416775-DIOG-Redactions-Marked-Redacted

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PART V

RECOMMENDATIONS



21

GENERAL OBSERVATIONS

After the chapters in this report were assembled, the editors created panels of experts to discuss the *Terror Trap*, and make recommendations on what must be done—by Congress, lawyers and the legal profession, civic organizations, the media, and mosques and Muslim communities—to repair the damage that has been done in the War on Terror and prevent a recurrence. Their recommendations are as follows:

The *Terror Trap* report demonstrates that the War on Terror has been a calculated attempt to repress and control Muslim communities at home and abroad through fear, lies and violence, often utilizing methods of control developed during American chattel slavery [1]. Although Muslim communities in the US had little to do with the 9/11 attack that supposedly justified the War on Terror, they were profiled and unfairly targeted in governmental repression campaigns against them. [2]

Justification for the War on Terror centered on the myth that there were vast hidden networks of disloyal Muslim citizens supporting terrorists plotting to strike again. [3] The effort to root out these supposed networks was characterized by massive secret electronic surveillance [4] - including programs to counter supposed violent extremism [5]; watch lists based on secret evidence, joint terrorism task forces, and fusion centers. All of these surveillance measures and security programs found little evidence of terrorist activity, and only proved that there were no vast networks of terrorists to threaten national security. Notwithstanding this lack of evidence, the US government deliberately struck fear into the Muslim community by conducting thousands of unjustified detentions, raids, interrogations, and harassment of Muslim populations culminating in hundreds of pre-crime prosecutions of innocent Muslims using entrapment and misuse of material support for terrorism laws. These so-called "preemptive prosecutions"

[6] (similar to the policy of violent repression against the Black community from 1955-1971, known as COINTELPRO), included steep terrorism enhancements of prison sentences in criminal cases and incarceration in special highly restrictive Muslim prisons [7]. The government used the "preemptive" convictions of innocent Muslims to sow public fear and validate the government's false claims of terrorist networks. This, in turn, justified the expenditure of more money for national security and the use of extreme and unconstitutional methods against the undefined phantom menace of "Terrorist". Many Muslim families and communities were essentially destroyed by wrongful convictions, and Muslims learned their government, rather than protecting them from false accusations, would rather use them to generate Islamophobia to justify additional repressive measures. [8]

Abroad, the War on Terror took the form of invasions of foreign countries like Iraq and Afghanistan based on false information or contrived justification. [9] These invasions were characterized by torture (typically a method of control favored by colonialists), [10] arbitrary detentions in "black sites" and prisons like Guantanamo [11], and arbitrary drone warfare against civilian populations. [12] Millions were killed or injured, and millions more were displaced. [13]

The FBI's false claims of a need to preemptively prosecute non-existent terrorist networks in America, mirrored the government's false claims of the need to invade Iraq to preempt Saddam Hussein from using his non-existent weapons of mass destruction. One false narrative mirrored the other in justifying preemptive attacks on Muslim populations at home and abroad. [14] As Malcom X observed, "The police do locally what the military does internationally." But the whole governmental program of violence against Islam has been shielded from scrutiny by secrecy, and classification of documents that prevent the public from knowing the truth about lies told and crimes committed by the government. The public has only learned the truth from whistleblowers who have been relentlessly prosecuted for their service to the country.

RECOMMENDATIONS TO CONGRESS

Since 9/11, the US government has created its own vast network of laws and agencies to root out non-existent terrorist networks. Finding none, the government has used this enforcement infrastructure to instead create terrorists from innocent Muslims to justify more repression. The *Terror Trap* Report now recommends that this infrastructure be repealed and dismantled.

1. END PREEMPTIVE PROSECUTION, TERRORISM ENHANCEMENTS, CMUS AND UNREASONABLE LIMITATIONS ON HABEAS CORPUS

After 9/11, the FBI targeted the Muslim Community with a new edition of COINTELPRO, preemptively prosecuting hundreds of innocent Muslims. In the absence of any real terrorists hiding in America, these manufactured terrorists helped the government generate Islamophobia, scaring the public and building support for repression at home and abroad.

To help end preemptive prosecutions, CCF has proposed the Entrapment and Governmental Overreach Relief Act (EGO Relief Act), to close three of the loop holes which the FBI unfairly exploits to prosecute Muslim preemptively. [15] (1) The Act proposes a new statutory entrapment defense, which would require that the target must have already taken substantial steps toward engaging in the criminal activity before the government can attempt to induce the target to commit the particular crime. This would ensure that the criminal intent originates with the defendant and not the government. (2) The Act also proposes that in order to convict someone of material support for terrorism, the prosecution should have the burden of proving that the target intended to support violence or terrorism. (3) Finally, the Act would require that any classified information given to a judge in the case, must be shared with security cleared defense counsel, to prevent false or prejudicial classified information from poisoning the judge's mind without the defense's knowledge. We recommend passage of the EGO Act.

To add to the unfairness of preemptive prosecutions, terrorism enhancements, created by the Federal Sentencing Commission, are often added to increase an average terrorism sentence by 3 to 4 times the normal sentence, even in entrapments where nobody was injured or even in danger. A terrorism enhancement is not needed because terrorism crimes already carry with them an elevated sentencing range appropriate for such crimes. [16] We recommend ending terrorism enhancements.
To further add to the unfairness of preemptive prosecutions, Muslims convicted in preemptive prosecutions are often forced to serve their enhanced sentences in a Communication Management Unit (CMU), which are very harsh mostly Muslim prisons that severely restrict the prisoner's rights to communicate with the outside world. Since most of the Muslim prisoners there are not real terrorist, the prisons serve no purpose except to further traumatize innocent prisoners and stigmatize the Muslim community. We recommend abolishing the CMUs.

In addition, the 1996 Anti-Terrorism and Effective Death Penalty Act (ATEDPA) needs to be repealed or reformed to prevent convicted prisoners (often Muslim) from being denied an opportunity to prove their innocence by unreasonably limiting Habeas Corpus challenges to convictions. There is no valid reason for limiting Habeas Corpus. Why should evidence that a convicted person is innocent ever be blocked by arbitrary deadlines that elevate finality over justice? [17] We recommend reform of the Effective Death Penalty Act.

2. END SECRET SURVEILLANCE WITHOUT PROBABLE CAUSE, ESPECIALLY WHEN DISCRIMINATORILY DIRECTED AT MUSLIMS

The Patriot Act, passed immediately after 9/11, created a secret surveillance state, giving the US government vast powers to secretly obtain personal information on Americans, without a warrant based on probable cause, as required by the Fourth Amendment. After two decades of intense surveillance of Muslim communities failed to identify any significant terrorism networks, it is time to end the discriminatory surveillance of the Muslim community which was not imposed on any other group to the same extent.

Since 9/11, the Patriot Act has been amended on a number of occasions and the extent of surveillance now permitted is in debate. However, the Constitution still requires that all governmental "searches" for information about individuals must be based on judicial warrants, issued on probable cause, as required by the Fourth Amendment. [18] We recommend that Congress (1) repeals the Patriot Act (2) requires judicial warrants based on probable cause for all surveillance, and search and seizure of personal information and (3) end disproportionate surveillance targeted at Muslim communities

3. END PROGRAMS THAT STEREOTYPE THE MUSLIM COMMUNITY AS TERRORIST SUCH AS COUNTERING VIOLENT EXTREMISM (CVE), FUSION CENTERS AND JOINT TERRORISM TASK FORCES (JTTF)

The government supports CVE programs that supposedly identify and counter violent extremism. These programs target Muslims while ignoring the violence on the radical right. Since there are virtually no real terrorist in the US, these CVE programs are a waste, serving only to stigmatize Muslims as terrorists, and forcing participating Muslim organizations to inform on their own members identified as prone to future radicalization. These CVE programs are frauds based on junk science. No program can accurately identify who might become a violent extremist in the future. [19] We recommend ending CVE programs.

Fusion centers supposedly share and analyze intelligence about terrorism and security threats between the federal government, state, and local law enforcement agencies. They are criticized as having historically contributed virtually nothing to national security, because real terrorists in the US are essentially non-existent and the few real terrorists able to strike in America were not identified by the fusion centers. They have also been criticized for violating the civil rights of peaceful protesters and immigrants, and for issuing unfounded and often nonsensical terrorism warnings. We recommend closing Fusion centers.

Under the direction of the FBI, JTTFs were expanded after 9/11 to essentially deputize local law enforcement officials to conduct quick investigations and response to terrorist threats identified by fusion centers. In practice, without any real terrorist threats to investigate, the JTTF has focused more on creating the illusion that the Muslim Community harbors terrorists - for example by staging theatrical arrests in entrapment cases for the evening news - holding terrorized Muslim families at gun point, or dropping commandos down from helicopters. JTTF officials who knew better, routinely lied and said that these theatrical arrests in entrapment cases were genuine captures of hard-core terrorists. Their lies suggest that the JTTF's real goal is to scare the public to justify more funding for themselves. Many communities refuse to cooperate with JTTF.[20] We recommend ending JTTF.

4. END NO-FLY LISTS AND WATCH LISTS BASED ON SECRET EVIDENCE

The "No Fly" list and other watch lists allow the US government to indefinitely restrict the rights of Americans to such basic necessities as air travel, based on secret evidence, without any due process for

being added to or removed from the list. This power is frequently abused, for example, by placing persons on the list to coerce their agreement to spy for the government as found by a recent Supreme Court case, Tanvir v. Tanzin, [592 US __ (2020)]. If ind ividuals are a danger to aviation, they should be charged with a crime, and if they are not a danger they should not be listed. At the very least, individuals on these lists should be given a clear way to be taken off of the list with an open due process hearing, free of secret evidence that cannot be rebutted because it is secret.[21] Depriving people of their rights by secret evidence is always wrong. End secret no-fly and watch lists.

5. END TORTURE AND OTHER ILLEGAL METHODS OF COERCING INFORMATION FROM SUSPECTS; RELEASE THE SENATE REPORT AND HOLD TORTURERS ACCOUNTABLE

In response to 9/11, senior US government officials decided to use torture to obtain information about terrorist plans, even though torture was illegal and ineffective at obtaining truthful information. This illegal decision - one of the dumbest governmental decisions ever made - traumatized thousands of prisoners, obtained little or no useful information, and destroyed America's reputation in the world community as a humane and law-abiding nation.

On December 13, 2012, the US Senate completed a detailed report of over 6,000 pages about the torture program, but the report was suppressed. Two years later a 525-page executive summary was released, but without the detail necessary to hold torturers accountable. America's reputation as a moral and principled country can never be restored until the full Senate torture report is released, and the architects of torture have been delt with according to law. We recommend using the UN as a neutral tribunal to judge the culpability of the US government and its agents. [22] We recommend releasing the torture report and ensuring accountability.

6. END MILITARY COMMISSIONS AND CLOSE GUANTANAMO

To cover up its crimes of torture, the American government placed prisoners in the War on Terror in Guantanamo Bay prison – supposedly a completely lawless place that is outside the jurisdiction of the US, and where they would be at the total mercy of US torture officials. Defendants were to be tried by military commissions, which supposedly would tolerate tortured confessions and severely restrict the rights of the defendants.

The commissions system was so bad, so illegal, so immoral that, in two decades, no military commission trials have been completed. In fact, some 80% of the detainees at Guantanamo were eventually found to be completely innocent without ever being subjected to military commissions, and sent home. It is unlikely that the remaining prisoners will ever be tried because of fears that even the most restrictive of

Guantanamo trials might expose the identity of the torturers. The notion that prisoners will be imprisoned forever without a trial or even charges, out of fear that a trial would expose their torturers, is grotesque. [23] We support the demands of the remaining Guantanamo detainees for prompt trials in regular civilian courts, or release under humane conditions which causes no further harm. We recommend closing Guantanamo, and dealing fairly and lawfully with the remaining prisoners.

7. REVOKE THE 2001 AUTHORIZATION FOR USE OF FORCE (AUOF) FOR AL-QAEDA. PASS SENATE BILL #2391 – THE NATIONAL SECURITY POWERS ACT ; END DRONE WARS AND ASSASSINATIONS.

The 2001 AUOF against Al-Qaeda for 9/11 is our only Congressional authorization for military intervention in the Middle East. Two decades later, Bin Laden is dead, Al-Qaeda is in disarray, the US-imposed Afghan government has collapsed to the Taliban, and the Middle East has dramatically changed. If military intervention is now needed in the Middle East (or anywhere else), it should be considered by Congress on its own merits; not shoe-stringed on a 20-year-old congressional authorization responding to a 9/11 event that no longer applies. The recently introduced National Security Powers Act (Senate bill number 2391), seeks to repeal the 2001 AUOF and establish limits to Congress's future authorization of use of force [24] We recommend Congress repeal the AUOF, and limit future military authorizations.

In addition, the US War on Terror abroad generated huge numbers of innocent civilian and non-combatant casualties, often resembling a reign of terror more than a legitimate military presence. Civilian and non-combatant deaths are morally wrong, and like torture, they poison the civilian population's relationship with the occupiers. The indifference shown by the US military to Afghan civilian casualties during two decades of war may explain why the population surrendered so quickly to the Taliban after the US left. We recommend Congress impose restrictions on the military to limit civilian deaths.

Moreover, drone warfare was used to assassinate non-combatant civilians based on often faulty guess work as to their identity. It was also used to assassinate American citizens like Anwar Al-Awlaki and his son Abdulrahman without any due process. Like torture, these excesses demonstrate a lawless cruelty and racist indifference to human life that shocks the conscience. We recommend Congress end drone assassinations.

8. REFORM THE DEPARTMENT OF JUSTICE (DOJ) TO PREVENT UNETHICAL PREEMPTIVE PROSECUTIONS IN THE FUTURE

The DOJ has prosecuted preemptive prosecution cases against the Muslim community for nearly two decades, pretending they were genuine terrorist cases and playing them for their political value in stigmatizing the Muslim community as terrorists. Lawyers in the Justice Department have an ethical duty to do justice, present the truth, and not discriminate against any defendant based on religion or ethnicity. Yet their preemptive prosecutions of Muslims continued the DOJ's racist history of wrongfully detaining thousands of Japanese-American citizens during World War II and targeting Black citizens during COINTELPRO. DOJ lawyers have an ethical duty to resist politician's demands for political prisoners based on pretext or manufactured evidence.

Agencies within the DOJ responsible for ethical conduct – the Office of Legal Counsel, and the Inspector General's Office - have failed to provide oversight and accountability, allowing federal prosecutors to commit misconduct with impunity. Moreover, old cases of obvious injustice continue to go uncorrected because the DOJ would rather see innocent defendants remain in jail than admit the DOJ was wrong. To correct these abuses, we recommend that Congress:

a. Reform the Attorney General's guidelines to require that the FBI may open cases based only on probable cause to believe that a crime has, or is about to be, committed, rather than using religion, ethnicity, race and politics, as a basis for opening investigations. [25]

b. Establish an independent commission on prosecutorial conduct, outside the control of the DOJ, to discipline prosecutors who do not follow ethical guidelines.

c. Establish an independent conviction review unit within the DOJ to review cases which raise significant issues as to the validity of the conviction or sentence. [26].

9. ESTABLISH A BALANCED INDEPENDENT COMMISSION TO ASSESS THE 20-YEAR IMPACT OF THE WAR ON TERROR:

It is widely understood that the War on Terror has been a disastrous failure. It failed primarily because it was a power grab based on lies and myths about terrorism and Islam, and shielded from transparency and Congressional oversight. The public was forced to listen to whistleblowers and prisoners of conscience like Edward Snowden, Reality Winner, Chelsea Manning, Daniel Hale, Terry Albury, and Julian Assange to learn the truth. These whistleblowers must be pardoned, and Congress must hold hearings to determine what went wrong, and to pass laws to avoid these mistakes from ever happening again. [27]
It is absolutely necessary for Congress to hold hearings on the conduct of the War on Terror, and listen to truthful accounts of what damage has been done to Muslim communities, to the world, and to the laws that should protect us all. Then Congress can finally end this nightmare. The War on Terror was created by acts of Congress, and the war will not end until Congress repeals the very Congressional acts that created it.

RECOMMENDATIONS TO OTHER GROUPS

While Congress has the principal responsibility of ending the War on Terror, The *Terror Trap* study recommends that other groups also have responsibility to pressure Congress into acting, and in the meantime to protect the world from the harm that is being done by the irresponsible conduct of the War on Terror. These groups include the following:

LAWYERS AND THE LEGAL PROFESSION

Lawyers have a special responsibility to ensure that Congress passes the legislation recommended above to end the War on Terror. Through bar and other legal associations, lawyers must draft statutory language, lobby Congress and advocate for the legislative changes recommended, such as the EGO Act. Lawyers should also study other areas of potential governmental abuse such as immigration, deportations, conditions of confinement problems, Special Administrative Measures (SAMs), the lack of transparency in FBI law enforcement and national security investigations, and the failure of the government to follow its own laws, with the intent of drafting and passing legislation to correct these abuses.

In addition, the legal profession as a whole, must recognize that national security litigation often lacks adequate resources to provide a defense to those wrongfully charged. These inadequate resources include the lack of expert defense witnesses, translation services, cultural understanding of the context in which the cases arise, as well as the inability to discover secret or classified materials. Resource centers need to be created to assist defense lawyers. New defense lawyers should have opportunities to be mentored in national security cases by more experienced lawyers. More attention needs to be paid to the overlap between mental health and national security cases, with adequate psychiatric resources being made available to address these issues.

Bar Associations and the legal profession as a whole need to study what went wrong in the War on Terror, and correct it for the future. Past injustices to prisoners must be addressed through reparations, treaty transfer, pardons and other remedies to release wrongfully convicted defendants from jail. Institutions must be created to ensure that Islamophobia and other forms of hatred directed at particular groups will be effectively countered in the future, especially when coming from within the government. Victims of Islamophobia in the future must be adequately resourced and represented by defense counsel, who in turn are adequately resourced and trained. Lawyers should volunteer their services pro bono to advise Mosque members of their rights when the FBI engages in predatory investigations.

CIVIC ORGANIZATIONS, MEDIA, AND COMMUNITIES

For Civic Organizations: Muslim and non-Muslim organizations need to partner together to share resources and experience about the War on Terror and Islamophobia to avoid a repeat of the injustices of the past and present. These organizations should hold periodic joint conferences on political prisoners—how they can be freed and how we can avoid incarcerating more—so the pain is shared and understood. Communities should establish red lines on inappropriate governmental behavior (such as mass surveillance, CVE programs, or other stigmatizing programs described above), so that if these red lines are crossed in the future, it will trigger a massive response to the government's policies. We also recommend that organizations create independent databases and sources of information to check government lies and misinformation.

Engage the Media: Build independent narratives to counter the dominant mainstream media. Hold conferences and meetings with reporters to correct misinformation especially on so-called terror cases. For Muslim Communities: Demand that religious leadership emphasizes the duty of Muslims to protect and care for the victims of oppression, and political prisoners. Muslims must see victims of preemptive prosecution through the lens of compassion, and not through the FBI lens of national security. Muslims should not allow the FBI access to their mosques or communities. Law enforcement agents and their associates should be barred from sitting on the board of directors of Mosques or Islamic centers. Mosques and other Islamic organizations should not accept any money from the FBI, the Department of Homeland Security, or other local state or national law enforcement agencies. Several times a year, communities should hold "know-your-rights" training workshops, including instruction on not talking to the FBI. Mosques should make capable lawyers available to its members who cannot afford legal representation and offer attorney consultation about national security-related matters.

Mosques and Muslim community members should reach out to accept the return of convicted Muslims who, as political prisoners, have completed their prison sentences. Mosque members should refrain from stigmatizing or shunning them and instead offer them support and friendship. Islamic centers also have the responsibility to educate their members about appropriate ways of engaging with the government to bring about changes of policy. Members should be encouraged to boldly and courageously speak their mind as true citizen activists, based on Islamic principles, without being forced into a false "Good Muslim – Bad Muslim" dichotomy.

Recognizing that the War on Terror is also built on false narratives about "Palestinian terrorists," Muslim organizations should not partner with Zionist organizations such as the Anti-Defamation League, nor accept training from, or identification with, them. It is also imperative that mosques and Muslim communities hold periodic open discussion about the War on Terror and its impact on Muslims across the nation. Such discussions should include training in the use of language and shedding offensive stereotypes about "terrorists" and "extremists" which have little real meaning except to stigmatize Muslims, and on the other side, explain that words and concepts such as "jihad" have been unfairly misrepresented by the media and so-called experts, and used to further criminalize Muslims.

[1] See Ch. 1, starting at p. 21
[2] See Ch. 6, starting at p.64
[3] See Ch .8, starting at p. 75
[4] See Ch. 9, starting at p, 83
[5] See Ch. 11, starting at p. 98, and Ch. 17 starting at p. 149
[6] The term "Preemptive Prosecution" derives from a Prosecutor's press conference in Albany N.Y., on December 13, 2009, when the prosecutors explained that they "preemptively" convicted an innocent Muslim Imam named Yassin Aref on terrorism related charges because they (wrongfully) believed he might be connected with (non-existent) "vast vast networks" of terrorist supporters, and the FBI's en trapment "preempted anything that might have happened later on"; Hundreds of such pretext preemptive prosecutions were brought after 9/11, similar to the unjustified internment of over 100,000 Japanese-American citizens during World War ll.. See page 71 of the *Terror Trap* for more details.
[7] See Ch. 14, starting at p. 130
[8] Terry Albury, a former FBI agent turned whistleblower, said of preemptive prosecution: "We've built this entire apparatus and convinced the world that there is a terrorist in every Mosque, and that every newly arrived Muslim immigrant is secretly anti-American, and because we have promoted that false notion, we have to validate it….It is a very dangerous and toxic environment and we have not come to terms with the fact that maybe we really screwed up here."(Quoted in the September 1, 2021 New York Times Article on Terry Albury)
[9] See Ch 12, starting at p. 105
[10] See Ch. 10, starting at p. 91
[11] See Ch. 13, starting at p. 121
[12] See Ch. 16, starting at. P 145
[13] See Ch. 18, starting at. p 154
[14] In 2010 and again in 2015 the Department of Justice (DOJ) published lists totaling 608 supposed terrorists convicted in the War on Terror - which included defendants known to be innocent. In 2019, a report was published entitled Inventing Terrorists – The lawfare of Preemptive Prosecution, demonstrating that 93% of those 608 cases involved preemptive prosecution. The Report, consistent with other reports by scholars, concluded by saying: The study shows that the war on terror has been largely a charade designed to make the American public believe that a terrorist army is loose in the US, when the truth is that most of the people convicted of terrorism-related crimes posed no danger to the US and were entrapped by a preventive strategy known as preemptive prosecution. (pg. 7)
[15] The EGO bill is made retroactive to allow former convictions (including life sentences for FBI- created crimes where nobody was injured) to be brought back into court and reconsidered in light of the new law. The EGO bill, made retroactive, may be the last hope of some defendants to escape from unfair life sentences, and may refocus the FBI on solving crime rather than creating it.
[16] (See Shane Harris – The Terrorism Enhancement: An obscure law stretches the definition of terrorism and metes out severe punishment; National Journal, 7/13/07
[17] See American Bar Association website: www.americanbar.org/group/litigation
[18] (For information visit www.freedomworks.org/content/house-introduces. For general information about the Patriot Act, visit the ACLU website - Myths and Reality about the Patriot Act, www.aclu.org/other/myth-and-reality-about); The PATRIOT Act has Threatened Freedom for 20 years; Patrick Eddington, Cato Institute Commentary .10/21/21

[19] See: The Brennen Center; Countering Violent Extremism Programs in the Trump Era; www.brennancenter.org/our-work/analysis-opinion/)

[20] See: www.oregonlive.com/portland/2019/citing-deep)

[21] See ACLU website: Grounded, Life on No-Fly List; www.aclu.org: See also CCR website: Tanvir v. Tanzin 592 US___ (2020) about the FBI's abuse of the no fly list; www.ccrjustice.org/ tanvir v. tanzin.

[22] (For more information see ACLU website, www.aclu.org/cases/senate-torture-report-foia)

[23] See ACLU website, www.aclu.org/feature/close-guntanamo) For released prisoners, we adopt the letter from the prisoners themselves to President Biden:

i. All those cleared for release are immediately repatriated to their home countries, as long as they are safe from arbitrary imprisonment and persecution.
ii. The office for the special envoy is reopened and suitable countries are sought to restart the resettlement process for those unable to return to their homes.
iii. Appropriate measures are taken to ensure that former prisoners are granted the means to start a meaningful life in the new country and are afforded protections from violations of those measures by the receiving state.
iv. The concept of "forever prisoners" is rescinded, and those not facing charges under the military commissions are repatriated or resettled (as above) following appropriate security arrangements.
v. Repatriation/resettlement should not take place by force, and prisoners are not resettled where they will face arbitrary imprisonment once again.
vi. Periodic Review Board reports should be superseded by the imperative to close Guantanamo and not obstruct the above measures.
vii. The military commissions should be scrapped, and those facing charges should have their cases tried in accordance with the law.
viii. Where appropriate and practicable, mechanisms are put in place whereby those convicted of crimes can serve their sentences closer to home.

[24] See: National Security Powers Act https://www.congress.gov/bill/117th-congress/senate-bill 2391/

[25] See: John T. Elliff, Attorney General's guidelines for FBI Investigations; Scholarship.lawcornell.edu/cgi/viewcontent/cgi?

[26] See: John Holloway, Conviction Review Units: A National Perspective; scholarship.law.upenn.edu/cgi/view content.cgi?

[27] In holding these hearings, Congress is encouraged to consider the following issues among others:

a. The failure of the US government to prevent torture
b. The failure of the US government to limit surveillance by observing the probable cause requirements of the 4th amendment
c. The failure of the US government to prevent scapegoating of religious and ethnic minorities during a time of crisis
d. The failure of the US government to treat prisoners of war in accordance with law, treaty and humanitarian imperatives

e. The use of false intelligence to start an offensive war in Iraq
f. The failure to protect non-combatants and innocent civilians during warfare
g. The failure to protect truth-telling whistleblowers who exposed governmental crimes
h. The US Government's adopting Israel's Islamophobic, anti-Palestine narrative as a basis for turning the War on Terror into a War on Islam
i. The US Government supporting Israel's Islamophobic, anti-Palestinian narrative as a new form of McCarthyism to persecute critics of Israel and supporters of Palestinians
j. The US Governments use of lies and disinformation in its 20-year War on Terror, and its classification of information to conceal criminal conduct by the US Government itself
k. The legal validity of continuing to hold prisoners wrongfully convicted in the War on Terror

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