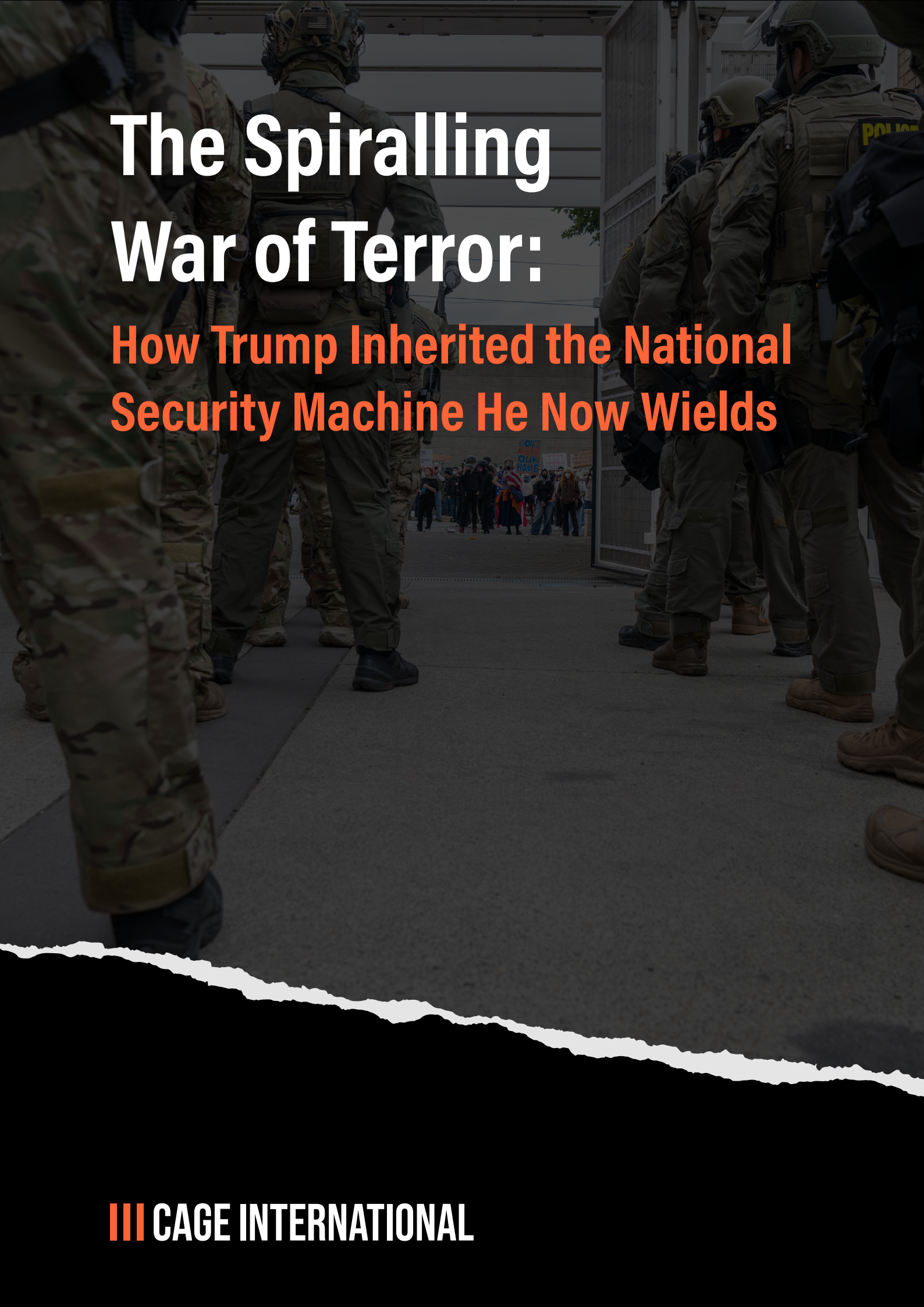




The Spiralling War of Terror:

How Trump Inherited the National
Security Machine He Now Wields

CAGE INTERNATIONAL

CAGE International is an independent advocacy organisation that aspires to a just world. We challenge War on Terror inspired state oppression and empower communities to dismantle the discourses and policies of the global War on Terror.

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INTRODUCTION

“DHS insists they are targeting criminals. But all I see here are mothers, sisters, daughters, grandmothers. Some have active green cards. Nevertheless, they are transferred from detention center to detention center. It is human trafficking, by another name.” – Leqaa Kordia¹

“Aspects of my confinement [in ICE detention] were hauntingly reminiscent of my experience growing up under a brutal Israeli military occupation in the West Bank, where we became accustomed to violent, humiliating treatment at the hands of Israeli soldiers.” – Salah Sarsour²

These words, coming from two Palestinians detained by immigration enforcement in the United States targeted for speaking up against the genocide in Gaza, reveal the importance of not seeing the ICE detention facility in isolation, as a rare hiccup under Trump of the otherwise relentless American march towards greater civil rights. Rather, Leqaa’s writing, describing the ICE human trafficking occurring at the Prairieland detention facility where she was held, and that would later gain further infamy when protestors outside it were charged with terrorism, bring to mind the enforced disappearances that were a central feature of the human rights abuses committed in the prison archipelago of the United States’ War on Terror.³ Sarsour’s linking of ICE detention with the detention of Palestinian political prisoners makes the connection to the rhetorical and legal infrastructure of terrorism even more explicit, as Sarsour likens his targeting by ICE as part of a policy targeting pro-Palestine voices as being “national security threats” to his being jailed for fabricated charges of terrorism by an Israeli military court system known to systematically target Palestinians.⁴ Their words break the walls of the detention cell, positioning Trump’s mass deportation drive as one node in a carceral network that abuses Palestinian political prisoners held in Israel, tortured Muslims in CIA black sites around the world, and continues to illegally hold men with no charges in Guantánamo, all based on the rhetoric of terrorism and national security.

Listening to Palestinian voices, it is impossible to buy into any simple framing that would regard the Trump administration as exceptional, as somehow committing unprecedented abuses that represent an aberration from the otherwise pristine record of Western liberal democracy. While this may be the framing of Trump’s second presidency adopted by many mainstream voices in American politics and media, attention to Palestine reminds us that Trump’s actions are connected to larger structures that have long targeted Muslim, Palestinian, and all form of anti-colonial dissent, whether domestically⁵ or abroad.

This report traces how the Trump administration’s targeting of migrants, activists, and detention policies all rely on the legal and rhetorical infrastructure that was built during the War on Terror. Drawing on the history of American law enforcement as an apparatus for imposing racial hierarchy, the War on Terror represented a new pinnacle of repression as new apparatuses of state violence were built to target Muslim communities en masse. Through expansive legal frameworks, the weaponization of the rhetoric of counter-terrorism and national security, and modern technologies of mass surveillance, the War on Terror laid the foundation for Trump II.

The Purpose of Memory

25 years since George Bush declared that “this crusade, this war on terrorism, is going to take a while,”⁶ the War on Terror indeed has taken a while, with the logic of counter-terrorism and security continuing to evolve and find new targets. Writing 20 years after the War on Terror began, Guantánamo lawyer Joseph Margulies identifies how while the War on Terror has faded from the public consciousness, this is precisely a symptom of how it has never ended and expanded:

“It’s not that 9/11 is irrelevant; on the contrary, it has radically altered the legal, cultural, and geopolitical landscape and will shape our present for the indefinite future. But those

changes have now been thoroughly normalized, and talk about 9/11 no longer stirs the national blood... In this amnesic cultural context, American torture is so 2002.”⁷

And yet American torture has never been more relevant, as forms of brutality like force-feeding hunger striking prisoners used in Guantánamo are repeated in ICE detention.⁸ The War on Terror’s reach, as Margulies writes, is so wide-ranging that it is no longer even recognized as the War on Terror

The Lay of the Land

On May 6th 2026, the Trump administration released its counterterrorism strategy, crafted by Sebastian Gorka, a far-right figure with well-documented ties to the Islamophobia industry.⁹ But while Gorka’s “expertise” has traditionally been in the demonization of Muslims as Islamists, the counterterrorism strategy was illustrative of how the Trump administration intends to use the vague and arbitrary nature of US counterterror law to target an ever-widening swath of society, from immigrants to anti-ICE activists. Alongside familiar refrains about the Muslim Brotherhood being “the root of all modern Islamist terrorism,” the strategy also identifies “cartels” and “violent left-wing radicals,” particularly an alleged global Antifa (anti-fascist) network, as key targets.¹⁰ These threats are explicitly tied in the logic of the strategy, which calls for using the vast American counterterror apparatus on targets like the cartels through FTO designations, based on the premise that “integrating countercartel and counterterrorism efforts allows the U.S. to disrupt the shared networks, financing, and logistical routes used by both designated drug traffickers and Islamist terrorists.”¹¹ Rather than a novel use, the counterterror strategy positions Trump’s deployment of counterterror tools to target cartels and dissenters as in perfect continuity with America’s history of structural Islamophobia, as all threats can ultimately be tied back to the ever-looming bogeyman of Islamism and “Islamic terrorism”; this is perhaps best exemplified by the strategy’s repetition of a

well-worn Islamophobia industry line about the supposed “Red-Green Alliance” between “the far-left and Islamists.”¹²

The rhetoric of the counterterror strategy follows from tangible action on the part of the Trump administration, using the legal tools and rhetoric of the War on Terror to target immigrants and activists disliked by Trump. Early in his term, Trump designated a laundry list of cartels as Foreign Terror Organizations,¹³ a move that ultimately served to justify the administration’s deportation of Venezuelan men to a notorious counterterrorism prison in El Salvador based on suspicion of being involved in the designated Tren de Aragua cartel founded on little but the racial profiling of Hispanic men with tattoos.¹⁴ Targeting activists, Trump issued an executive order labelling Antifa a domestic terrorist organization, turning the vast counterterrorism infrastructure of the federal government on a vague ideology that is not actually an organized group or organization.¹⁵ The executive order, NSPM-7, has already been cited by federal law enforcement counterterrorist infrastructure as a basis to surveil and prosecute anti-ICE,¹⁶ pro-Palestine, and police abolitionist activists.¹⁷ Trump’s Secretary of State Marco Rubio made the conceptual link between Islamophobia and the targeting of migrants and activists even more explicit in announcing a federal government effort to target “far-left terrorism” with “the same seriousness and ferocity the world has long reserved for jihadist terrorism.”¹⁸

That announcement was followed by a State Department report on the supposed radical network supported by the Cuban government, one which equates Palestine solidarity and anti-ICE activism with the bogeymen of Trump’s national security state such as Iran and “narco-terrorists.”¹⁹ The targeting of activists and migrants all coheres under the same analytic frame, one based on the precedent set by the War and Terror and its Islamophobia.

Although immigration and domestic law enforcement may often be conceptualized as separate issues, Trump’s administration has

made abundantly clear how immigration enforcement and domestic law enforcement are connected tools within the state's oppressive apparatus. The cases of Mahmoud Khalil, Rümeysa Öztürk, and other pro-Palestine voices targeted by immigration enforcement show how the logic of national security, and rhetoric of counterterrorism, underlie both immigration enforcement and the crackdown on domestic dissent. Thus it's not just loud pronouncements about terrorism designations that must be analyzed as an extension of War on Terror, but also the routine bureaucratic violence of immigration enforcement, which has reached unprecedented arrest and detention numbers under Trump.²⁰ Understanding the Trump moment then requires attention to the on-going nature of the War on Terror, situating Trump within a broader genealogy of the legal and political precedent of the War on Terror and its expansions of state violence.

Key Findings and Recommendations

Resisting the urge to exceptionalize the Trump moment and understanding it as part of the trajectory of American structural racism and Islamophobia allows us to draw lessons that go beyond simple longing to return to a pristine liberal status quo. While the War on Terror, with Guantánamo as its horrifying synecdoche, already shattered America's self-image as the global paragon of civil and human rights, American complicity in Israel's genocide in Gaza and the repressive measures taken to protect that complicity have definitively buried any idea of American exceptionalism. Rather than parrot old, discredited liberal consensus, understanding Trump's use of the tools of the War on Terror invites a more profound reconsideration of the terms of post-9/11 conversation embraced by the left and right alike that have led to the current crisis. Some of these key tools documented by the report include:

- The use of counterterrorism powers and justifications rooted in national security to deploy domestic law enforcement against protestors for Palestine and other causes despised by the Trump administration -

this is seen at every level of law enforcement, from the FBI to local police that collaborate with them through an information sharing infrastructure built during the War on Terror

- The equation of immigration with a national security threat, leading to the creation of ICE and the deployment of counterterrorism powers to police and detain migrants
- The repetition of torture and detention tactics from the War on Terror in ICE detention using the legal space created by the War on Terror
- The use of due process violations justified by a concept of "national security exceptionalism" where judges show greater deference to executive abuses when "national interests" are invoked

Two points, gleaned from Trump's deployment of the War on Terror apparatus, are illustrative of the kind of reimagining and rethinking required.

Question the logic of national security -

Tracing Trump's use of the label of terrorism on everyone from advocates for Palestine to anti-ICE activists exposes the fact that there was never anything of substance behind the word "terrorism" in the first place. Palestinian voices have long warned of the danger of the term, as Israeli figures aiming to delegitimize Palestinian resistance like Benjamin Netanyahu were key drivers behind the framing of "Islamic terrorism" and popularising the idea of Muslims as a fundamental threat to the Western World.²¹ As Palestinian literary critic Edward Said warned in 1988, there "common agreement in expert literature and rhetoric that no real definition of terrorism was actually possible," leaving the label as nothing more than an essentializing trope which presents disliked actors as irrational and in "isolation from any explanation or mitigating circumstances, and... [in] isolation as well from representations of most other dysfunctions, symptoms and maladies of the contemporary world."²² Documenting this vacuousness in the specific context of America's counterterror laws, Shirin Sinnar has shown how the very concept has allowed for the rise of Trump:

Thus, while novel in some of its applications, the Trump administration's expansion of terrorism is a foreseeable result of a racialized, self-serving concept of terrorism developed over decades alongside the consolidation of executive power. U.S. legal and political actors constructed "terrorism" to selectively address political violence, while creating the conditions for an autocratic president to unleash counterterrorism against his enemies. It is long past time to rein in not only counterterrorism, but also the concept of terrorism that fuels it.²³

The response to Trump's use of the logic of national security and terrorism designations requires something more than a sort of politics of fine-tuning and trying to find the "right" definition of extremism that CAGE has long critiqued.²⁴

A key feature of the logic of the security state is the equation of the "foreign" with the "bad," with the "Bad Muslim" generally being the Muslim who is insufficiently domesticated, who speaks up on international issues and is critical of American empire abroad.²⁵ As Sinnar has shown, the association of minorities with "foreign" or "international" terrorism is a key part of the racialized abuses of the American counterterrorism regime, with the danger that "the 'international' category will almost inexorably expand to cover racial, ethnic, or religious communities perceived as a threat, even if they have scant connections abroad."²⁶ This use of the "foreign" as a vector of attack is evident in the attempts to smear CAIR and other American Muslim civil society organizations as affiliated with the Muslim Brotherhood, evil because it is foreign, echoing a history of associating racial justice organizations in the United States with communism and alleged foreign influence.²⁷ Understanding how these accusations of foreign ties are weaponized prompts a reconsideration of strategies that would aim to defend them by denying them and engaging in performative demonstrations of loyalty to the United States; playing into the logic of the accusation simply feeds into the ability to wield terrorism as a politicised label.

Overall, a look at the structures of power of the

War on Terror era reveals the need to reject the classic Good Muslim, Bad Muslim paradigm or, more broadly in the age of ICE Terror, the Good Immigrant, Bad Immigrant paradigm. Trump's equation of the two has revealed how the "terrorist" and the "illegal alien" have always operated on similar terrain, based on equating anyone perceived as "foreign" with a national security threat. Immigrant rights campaigners must then resist the urge to paint the migrants they work with as the "good immigrants," as opposed to "those terrorist sympathising immigrants over there." Those pushing back against the national security state must resist a framing that would hold out certain communities as model minorities, defending against accusations of foreign-ness with a sort of hyper-integration into American racial codes. Which immigrants are acceptable is just as political as the label of terrorist, as activist Harsha Walia shows: "Yet there is nothing coherent about the definition of 'criminal alien,' 'illegal,' or 'unauthorized arrival,' discursive categories that are always shifted and policed to maintain cheapened labor and racial citizenship."²⁸

The key lesson is to not reinforce the rhetoric and logic of national security, acting as if there is some true definition of the "Good Muslim" or the "Good Immigrant" that we just need to reach to avoid the abuses of the security state. Rather, we must work with an understanding that the very foundation of these terms is racialized and politicized.

Reassess relationships to mechanisms of the state - Disentangling from the logic of national security is not merely ideological - it requires a critical reassessment of relationships to the material infrastructure built on that logic. This report shows how the War on Terror has shaped every single level of law enforcement, from local police to the FBI as agencies have orientated themselves towards viewing their populations through the lens of counter-insurgency. It is not possible to simply identify select law enforcement abuses, such as the use of informants or surveillance by the FBI, as particularly abusive practices that are somehow cordoned off from the overall structure of

policing in the United States; increased data-sharing and partnerships between law enforcement agencies have resulted in a situation where the “front” of the War on Terror is everywhere. As Muneeza Rizvi writes, “Through multi-agency partnerships such as Joint Terrorism Task Forces, created to streamline communication between local and federal agencies, a Pizza with a Cop event at the local mosque can easily become a venue for data collection and community mapping.”²⁹

The War on Terror expansion of mass surveillance is part of a longer history of law enforcement abuse of activists and racialized people in the United States, such as the well-documented violations of the FBI’s COINTELPRO program of surveillance and disruption of liberation movements in the 1960s.³⁰ Even while federal law enforcement attempted to position themselves as allies to the Muslim community during the War on Terror, it should not be forgotten that the FBI has a long history of Islamophobia, with a key part of its targeting of Black activists in the 1960s being the suspicion and disruption of Black Muslim movements in the United States.³¹ Understanding this deep history of law enforcement racism and Islamophobia, Sami Al-Arian, himself a political prisoner who was a target of this apparatus, writes that even while the FBI may position itself as coming to mosques to protect the “honest, decent Muslims,”³² “there is nothing good that can come from talking to them.”³³

Understanding the nature of US law enforcement as a repressive apparatus, it becomes imperative for communities to imagine new ways of relating to law enforcement and questioning what we at CAGE have identified as the “conflation of public ‘safety’ with state security.”³⁴ This can be an uncomfortable position, having to abandon the reassuringly simple notion that greater law enforcement is necessarily equivalent to greater safety. However, it is a position that becomes necessary to occupy when one understands that the very terms under which safety has been thought under the security logic of the War on Terror has actually served to make everyone

unsafe, evidenced by the mass attack on civil society and migrants unleashed by Trump. Leqaa Kordia points to another possibility of what safety and security might look like: she describes giving her fellow women in ICE detention apples she received during Ramadan, praying alongside another Muslim woman, and a community defined by solidarity forged under confinement. This is a community where in the face of the repressive apparatus of the state, emotions are shared and community is created: “When somebody is crying, everybody is crying. When somebody is laughing, everybody is laughing.”³⁵ These women know who their oppressor is, and they use this understanding to advocate for and support one another.

In a letter to his community, Salah Sarsour describes being “forced into the ‘school’ of Prophet Yusuf (Joseph),”³⁶ echoing an Islamic tradition rooted in the Qur’anic story of the imprisonment of the Prophet Yusuf of viewing unjust confinement as an opportunity to reflect, to commit oneself to drawing nearer to God and seeking justice for others as a means of that. As Sarsour writes, “We learned that unjust confinement will, inshallah, be a source of ‘ajr’ (accumulation of virtuous deeds) for us,”³⁷ pointing to how learning from those who have faced imprisonment provides an opportunity to further pursue justice and build solidarity.

Trump’s expansion of the US carceral regime through mass ICE detention and the targeting of activists under domestic criminal law provides a moment for us to return to the School of Yusuf. Thinking with contemporary ICE detention and terrorism charges, we have a moment to reflect on the regime of the War on Terror, to learn in the School of Yusuf whether it be in Guantánamo Bay, Cuba or Alvarado, Texas. Rather than thinking through the terms given by the national security state, this is an opportunity to think anew, and imagine better futures.



ICE ENFORCEMENT

Without the War on Terror there would be no ICE. It is difficult to overstate the impact the War on Terror had on American immigration policy, marking a decisive moment where immigrants increasingly began to be seen through the lens of national security and all immigrants, beginning with Arabs and Muslims, were framed as potential threats to the “homeland.” ICE was founded in this context, as part of the post-9/11 creation of the Department of Homeland Security. The inclusion of ICE within the new DHS marked a moment where the national security apparatus, according to immigration attorney Karen Tumlin, “assumed responsibility for immigration and immigrant policy and has subordinated these concerns to separate and larger terrorism policy goals.”³⁸ Unsurprisingly then, the first director of ICE was a former prosecutor focused on terrorism who had been involved with the post 9/11 round up of thousands of Arab and South Asian Muslim men.³⁹ This subordination of immigration to the demands of counter-terrorism, “communicates a view that immigrants, including refugees and asylum seekers, are potential terror threats.”⁴⁰

Under every administration since 9/11, this securitization of immigration has led to a dramatic expansion of the deportation machine operated by ICE. Appropriations for immigration detention increased nearly sixfold from 2000 to 2020,⁴¹ foreshadowing ICE becoming the highest-funded U.S. law enforcement agency under Trump.⁴² The year before 9/11, 19,000 people were in immigration detention on an average day; by 2019 this figure reached 50,000 as a direct result of counter-terrorism legislation that also required DHS to expand its detention capacity.⁴³ Similarly, alleged concerns over terrorists entering through the US-Mexico border led to a massive increase in funding for border security, with the amount of border fencing along the US-Mexico border going from negligible to around 700 miles during the War on Terror.⁴⁴

Just as terrorism is not a natural category, it is important to realize that immigration enforcement and the current American regime

of criminalised detention are not automatic or neutral responses to immigration. Trump’s mass deportation campaign and demonization of migrants is the result of a bipartisan consensus that saw the War on Terror as an opportunity to adopt a punitive approach to immigration. As a report from #NoTechForIce coalition explains, Trump’s:

“second presidency exhibits a culmination of the ‘War on Terror’ while also intensifying and pushing its boundaries. The founding of DHS in 2002 normalized the centrality of migration policing and deportation in US governance, as well as the determination of what is ‘national security’ and who is and is not a ‘terrorist’ in the executive branch. The ongoing ‘War on Terror’ revealed that broad categories of people—such as Muslims, non-citizens, people protesting state violence—can be subject to indefinite detention, cruel treatment, exile, or even death, with few or no legal protections so long as they can be labelled as threats.”⁴⁵

With this vital understanding that “The perpetual state of emergency that guides DHS has provided the political cover to divert an unprecedented amount of federal resources into building the surveillance infrastructure and repressive migration control apparatus we are confronted with today,”⁴⁶ it is also possible to zoom in and trace how specific tactics and legal tools utilized by Trump’s deportation machine were developed through the War on Terror.



Racialized Policing

Having been founded during the War on Terror, ICE took shape in an era where racialized immigration enforcement tactics and mass detention were widely deployed. Immediately after 9/11, the FBI engaged in a mass round-up of Arab and South Asian Muslim men, detaining over a 1,000 men arrested in raids on mosques and Muslim owned-businesses.⁴⁷ Far from a temporary measure though, this type of racial profiling became systemized and widely deployed throughout the Bush and Obama administrations. As leading scholar of immigration law and race Kevin Johnson writes, "More ominously, after years of national consciousness-raising about its evils, racial profiling enjoyed a comeback in popularity as efforts to locate Arab and Muslim terrorists were the number one priority of the federal government."⁴⁸ The Bush and Obama administration explicitly gave the FBI "authority to engage in racial and religious profiling — which disproportionately impacts Muslims — in national security investigations and to protect 'border integrity.'"⁴⁹ These policies did not vanish into thin air as the War on Terror faded from the public consciousness. The normalisation of racial profiling heralded ICE's current tactics, exemplified in a Supreme Court ruling allowing ICE to profile migrants based on their speaking Spanish.⁵⁰ Far from exceptional, ICE's tactics such as raiding places of worship⁵¹ flow from law enforcement measures like the surveillance of mosques that were normalized during the War on Terror. Law enforcement agency suspicion of anyone attending the mosque regularly or wearing Muslim clothing while monitoring and infiltrating Muslim communities⁵² is the antecedent of ICE today invading communities and suspecting those who are visibly Hispanic.

Trump's ICE has also used legal tools like the 'automatic stay,' which allows the government to continue to detain an immigrant who an immigration official has been ordered released.⁵³ The 'automatic stay' regulations were implemented following 9/11, as part of a rush by federal law enforcement to use "every available law enforcement tool" to detain Muslims.⁵⁴ In this context, the automatic stay was widely used to maintain the detention of Muslim immigrants who were rounded up after 9/11, despite many of those

suspects, much like migrants arrested under Trump, lacking a substantial criminal record let alone any connection to 9/11.⁵⁵

ICE also relies on complicity from local law enforcement to enact its campaign of racial terror. Section 287(g) is a subsection of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act that allows ICE to make agreements with local law enforcement partners who then act as deputies enforcing federal immigration law.⁵⁶ The 1996 law was itself an expression of the equation of immigration and counter-terrorism, as the law was passed alongside the Antiterrorism and Effective Death Penalty Act in the wake of the Oklahoma City Bombing. Although The OKC Bombing was committed by white nationalist domestic terrorists, it was initially blamed on immigrants and led to a general crackdown on immigrants out of alleged foreign terrorism concerns.⁵⁷ Although the 1996 law allowed for ICE agreements with local law enforcement, the first agreement was not signed until the program was taken up by the Bush administration as part of the targeting of immigrants during the War on Terror.⁵⁸ According to the ACLU, these partnerships have been eagerly taken up by local police departments eager to racially profile migrants⁵⁹ and the Trump administration has only expanded these agreements.⁶⁰ Issues of police brutality link local police and ICE as well, with egregious ICE abuses like the killing of people in traffic stops like Lorenzo Salgado Araujo and Joan Sebastián Durán Guerrero and anti-ICE protestors like Alex Pretti and Renée Good being most likely shielded from legal consequence by the same legal precedent that protects local police. Stanford Law Professor Shirin Sinnar has traced how the War on Terror provided the Supreme Court the opportunity to further expand precedent on law enforcement immunity, with the post-9/11 Court using national security to justify immunity for FBI official profiling Arabs and Muslims and for Border Patrol abuse, creating a situation where "for many kinds of misconduct by federal security, law enforcement, or immigration officials, including the masked ICE agents now descending on immigrant communities, there is no longer any remedy available from a court."⁶¹

Surveillance from the Battlefield to the Bronx

The surveillance infrastructure behind ICE's deportation machine is explicitly built on the infrastructure of the War on Terror. To fuel its targeting of migrants, ICE is hungry for data which is made accessible by the regime of mass surveillance developed under the War on Terror. As civil rights attorney Collin Poirer writes, "the profiling and mass surveillance of Arab- and Muslim-American communities on the pretext of combatting terrorism generated a robust surveillance infrastructure that has now been adapted to support ICE and CBP operations."⁶² Key nodes in this surveillance network are the nationwide network of fusion centers, established during the War on Terror to facilitate intelligence sharing between local and federal law enforcement. ICE and CBP participate in the fusion centers and use data shared by agencies like the FBI to make immigration status decisions and facilitate deportations.⁶³ Fusion center participation allows immigration officials to directly tap into the surveillance infrastructure of the War on Terror, such as facial recognition tools operated by local law enforcement.⁶⁴ Other data-sharing mechanisms between local governments and federal agencies created in the wake of 9/11 are also a key part of ICE's deportation machine. A Georgetown Law Center for Privacy and Technology report documents the vast expansion of the scope of data collection by immigration authorities during the War on Terror, noting that "ICE began broadening the scope of its data collection in response to the events of Sept. 11, 2001, as part of an overarching federal initiative to radically increase domestic surveillance under the auspices of the 'war on terror.'"⁶⁵ Prior to 9/11, immigration enforcement rarely targeted immigrants for deportation beyond those with criminal records; this all changed with the creation of ICE and the collapsing of the distinction between national security and immigration.⁶⁶ Based on the revealing statement from the 9/11 commission that "For terrorists, travel documents are as important as weapons," ICE began to draw on data like DMV records, creating a situation where "the reach of ICE surveillance far exceeded that of the already massive databases maintained on arrestees and

visa holders, usurping data sets that easily included the majority of people in the U.S."⁶⁷

Another major source of data was partnerships with local law enforcement agencies justified based on national security. ICE's "Secure Communities" initiative, designed to remove those deemed "national security threats,"⁶⁸ provides ICE access to local law enforcement data to target people for deportation.⁶⁹

On top of the repressive tools of the state itself, ICE uses private technologies and tools developed by companies profiting off the War on Terror and the national security industrial complex. For example, ICE has used Stingray technology, a cellphone surveillance tool first developed for battlefields in the War on Terror.⁷⁰ It has used ID machines developed to track people in war zones.⁷¹ DHS more broadly is a massive purchaser of military technology as part of a militarized approach to "securing the border," such as drones and military-grade camera suites used during the invasions of Iraq and Afghanistan.⁷² DHS also takes advantage of border technologies developed in other assaults on Muslim populations, as companies like Israeli security firm Elbit Systems sell "solutions" at the US-Mexico border developed from building high-tech barriers to Palestinian mobility.⁷³ Far from existing just on the physical border though, DHS's official policy after the War on Terror is that the "border" is anywhere within 100 miles of an entry point to the United States.⁷⁴ This allows DHS to deploy its military apparatus in a swath of land where legal rights against search are lessened and that encompasses two-thirds of the US population and 9 out of its 10 largest cities.⁷⁵

Palantir, founded using CIA venture capital funding and initially deployed in Iraq and Afghanistan,⁷⁶ has also been a major contributor of the software and analytics enabling mass deportation.⁷⁷ Palantir's involvement in the national security-immigration nexus also predates Trump II, with data analytics provided by Palantir facilitating some of the most brutal mass raids of the first Trump administration.⁷⁸

Palantir and other surveillance technologies developed in the War on Terror finding their way home are the latest manifestation of policing

practices developed through imperialism abroad being brought home to terrorize minority communities.⁷⁹ As tech and immigration justice organizer Jacinta Gonzales said in the wake of revelations that Palantir staff were on-site for a mass ICE raid in the Bronx where the vast majority of those detained were not even non-citizens: “It is important for us to remember that ICE is a police force,... and they are given military-grade surveillance equipment to go after folks. A lot of Palantir’s technology, for instance, was developed for use by the military in foreign wars and has now been repurposed for use domestically. ... As long as we have police forces [like ICE] that have this much power of surveillance and tech companies that are creating tools to access fundamental parts of our lives—without protections to our fundamental rights—we are going to continue to see situations where more and more people are vulnerable to this type of surveillance from the government.”⁸⁰

Immigration Status as Political Weapon

In addition to mass deportation tactics, Trump’s use of deportation as a tool targeting specific political opponents has roots in US counter-terrorism policy. Although the most famous cases of the Trump administration targeting pro-Palestine voices in the United States, such as Mahmoud Khalil and Rümeysa Öztürk, was based on a law from 1952, the rhetorical infrastructure for Trump’s “Catch and Revoke” policy comes directly from the War on Terror. Secretary of State Marco Rubio’s statement on the targeting explicitly framed pro-Palestine protestors as threats to national security and supporters of terrorism, and Hamas specifically.⁸¹ The Catch and Revoke policy was also based on AI-enabled monitoring of non-citizen social media accounts,⁸² an escalation of the surveillance of non-citizen social media that became DHS policy as a direct result of Trump’s Muslim ban.⁸³ When publications like Just Security warn that “The Trump administration’s efforts ultimately may sweep even more broadly, seeking out speech that it views as anti-American,”⁸⁴ it must be understood that this risk

is a direct result of an ideology of paranoia towards Muslim political agency that is foundational to American national security policy.⁸⁴

Beyond one specific policy, Trump’s use of immigration law as a tool to attack political opponents fits within a broader genealogy of counter-terrorism based targeting of non-citizen political speech. As Palestinian scholar and chair of the Muslim Legal Fund of America, Hatem Bazian, shows, the targeting of Khalil and other Palestinian community activists like Salah Sarsour by ICE is a manifestation of the Nakba continuing and being exported to the United States. The campaign of Palestinian erasure is rooted in notions of counter-terrorism and national security, as Bazian links Khalil and Sarsour today to past examples like the Nixon administration rounding up Arab Americans after the Munich bombing, the targeting of the LA 8 for deportation, the prosecution of the Holy Land Foundation and the deportation of Sami Al-Arian.⁸⁵ In all these cases, national security, concerns over terrorism, and immigration law provided the cover for targeting Palestinian voices as part of the well known “Palestine Exception” to the First Amendment.⁸⁶

The legal tools to target Palestinian and Muslim voices are baked into the laws at the intersection of national security and immigration. As the Center for Constitutional Rights and Palestine Legal demonstrate in their groundbreaking report on the links between US counter-terrorism law and the systemic silencing of Palestinian voices, modern immigration law has roots in an anti-Palestinian understanding of counter-terrorism. When Congress first introduced terrorism as a legal basis for excluding someone from entering the United States or deporting non-citizens already present in a 1990 law, that law explicitly listed the PLO as an organization whose members would be excluded due to being regarded as terrorists.⁸⁷

As legal scholars noted in the wake of the Supreme Court’s 2018 decision upholding Trump’s Muslim Ban, immigration law is an area where “national security exceptionalism” has often applied, as courts show extraordinary

deference to discriminatory government conduct when it is justified in the name of national security.⁸⁸ There is a direct throughline between the expansive national security state and the ability of the Trump administration to target non-citizens on the basis of their speech, race, and religion.

The Muslim and the Migrant

Beyond specific policies, it is vital to understand that the figure of the Muslim terrorist and that of the allegedly criminal illegal immigrant are deeply intertwined. The War on Terror provided an opening to link the long-standing American traditions of Orientalist fears of Arabs and Muslims to xenophobia against Mexicans and other Latin American migrants. The rhetoric of non-citizens as an invading force threatening Western civilization was perfected and institutionalised as part of the structural Islamophobia of the War on Terror.

After 9/11, politicians of both parties seized the opportunity to appear tough on national security by explicitly connecting counter-terrorism and immigration, using Islamophobia as an excuse to also traffic in stereotypes of Latinos and migrants. Sociologists Luis A. Romero and Amina Zarrugh identify the post 9/11 phenomenon of the “extension of Islamophobia to Latinos/as by merging immigration and terrorism issues in order to justify surveillance.”⁸⁹ Fear of Muslims and the racialized War on Terror, they show, also fed greater xenophobia towards Latin migrants, as politicians seized on the opportunity to present the US-Mexico border and illegal immigration as a potential entry point for terrorism. Making the link between Islamophobia and anti-Latin racism incredibly explicit, politicians often circulated reports of Muslim prayer mats or litter with Arabic writing being found on the border as evidence for the need for harsher border security and a crackdown on migration.

Through rhetoric where “the issues of immigration and terrorism are brought together and being used to racialize, and generate fear

surrounding Latinos” as the basis to justify deportations, both parties in the War on Terror therefore handed Trump the rhetorical tools for his current mass deportation campaign. In line with the turning of immigration into a national security issue, the War on Terror discourse around immigration has, in a sense, rendered Latin migrants as targets of Islamophobia even though the percentage of American Latinos who are Muslim is relatively small (albeit growing).⁹⁰ Spanish is Arabic, the Migrant is the Muslim, and the Muslim is to be suspected and subjected to the national security state.

It is unsurprising then that in recent American history increased paranoia about terrorist threats has gone hand in hand with oppression targeting Mexican immigrants. For example, the harsh 1996 immigration laws, rooted in viewing immigration through a counter-terrorism lens, led to record numbers of deportations for Mexican immigrants.⁹¹ Writing soon after 9/11 as a long-time observer of the history of American nativism in law, Kevin Johnson sagely predicted that “immigrants in general will suffer the long-term consequences of the many measures taken by the federal government in the name of fighting terrorism.”⁹² The immediate early War on Terror measures that Johnson observed as having negative impacts for all migrants, such as greater scrutiny of visas and identification of non-citizens and more extreme deportation and border enforcement campaigns, manifest today in even more repressive forms such as border walls and intense surveillance of migrants.



ICE DETENTION

In one detention center in Manhattan, immigrants are deprived of water and are degraded by a guard who refuses to let them drink unless they wait until he squirts water from a bottle in their mouths.⁹³ Across the water in Brooklyn, migrant men are verbally and physically abused; one reports losing over 15 kilos due to the lack of adequate food.⁹⁴ Although separated by less than 10 kilometers, these stories actually happened almost 25 years apart. The first, part of a documented pattern of abuse of ICE detainees at 26 Federal Plaza,⁹⁵ disturbingly echoes the second, the story of Javaid Iqbal and his fellow Muslim men who were detained and abused by federal officials rounding up Muslim immigrants following 9/11 in the Metropolitan Detention Center.

The physical proximity of these sites of racialized torture reveals that once ICE deploys War on Terror tactics to surveil and arrest migrants, the continuities persist as ICE uses strategies of torture, detention, and colonial third-country extradition without due process honed through the illegal targeting of Muslims.

The connections are not even subtle or below the surface. Eight days into his second administration, Trump signalled his intent to link immigration and the War on Terror by announcing a plan to house 30,000 migrants awaiting final deportation at the infamous Guantánamo Bay detention center.⁹⁶ In a statement after the first migrant detainees were sent to Guantánamo, former Secretary of Homeland Security Kristi Noem stated that “Guantanamo Bay will hold the worst of the worst,” directly echoing the words of the Bush administration who theatrically paraded the first detainees brought to Guantánamo before the press while declaring them to be “the worst of the worst” and people who would “chew through the hydraulic cable of a C-17 cargo plane to bring it down.”⁹⁷ Of course, many Guantánamo detainees would prove to not actually be the “worst of the worst,” or in fact guilty at all, and similarly many migrant detainees sent to the site by Trump “lacked serious criminal records — or any at all.”⁹⁸

In the words of 16 Guantánamo survivors, it is “the same system,” that abused Muslims across the world in the wake of 9/11 and that abuses migrants now. Their words highlight the urgency of documenting and responding to the connections between detention then and now:

This decision is a direct result of the impunity the U.S. has enjoyed for the crimes committed at Guantánamo. The failure to close the prison and reckon with its legacy has not only allowed these injustices to continue but has now enabled their expansion. Guantánamo should have been shut down long ago, yet instead, it is being revived for new victims.⁹⁹

Colonialism from Cuba to Chicago

The groundwork for the immigration as national security problem paradigm has a history at Guantánamo that begins even before the first War on Terror detainees arrived. In the 1990s, Guantánamo became a site where migrants were held, specifically Haitian asylum seekers who, in an early preview of racialized notions of national security, were held in detention at Guantánamo due to paranoia that they would spread disease if allowed to reach the mainland United States.¹⁰⁰ As Guantánamo became the infamous site of torture during the War on Terror, physically connecting this exclusion of asylum seekers to “foreign terrorists” from around the world, American Studies professor Amy Kaplan writes that the “image of the ‘enemy combatant’ also draws on the conflation increasingly made of immigrants and terrorists.”¹⁰¹ As well as a site of torture, Guantánamo was the site of ideological production, advancing an understanding of racialized peoples as threats who ought to be subject to law enforcement abuse and detention. The failure to close Guantánamo in previous administrations, according to Center for Constitutional Rights, allows for these abuses to continue today: “Indeed, for the last seven months, the Trump administration has exploited the failure of prior administrations to close the prison, using it

unlawfully to terrorize and detain hundreds of immigrants transported there directly from the United States, many of whom are later sent to other countries without individualized regard to whether they might face torture and persecution.”¹⁰²

Guantánamo was one node in a transnational network of torture and detention sites¹⁰³ in the War on Terror. Critical legal scholar Darryl Li documents how the United States operated a “global network of carceral circulation,”¹⁰⁴ exercising control through third-countries to create sites of torture, detention, and rendition. The same techniques of global carcelarity are used by ICE today, rooted in the notion that, in the view of US national security strategy post 9/11, “the American homeland is the planet.”¹⁰⁵ Just as this notion led to the detention and torture of Muslims across the world, it also produced an expansion notion of border securitization where US border enforcement now has around 60 offices across the world and globally deploys surveillance technology and pressures “partner” governments to enforce US immigration policy.¹⁰⁶ Using this precedent and echoing the holding of Muslim men racialized as threats from across the world in Cuba, the Trump administration has deported over 200 Venezuelan men to the revealingly named Terrorism Confinement Center (CECOT) in El Salvador to face torture¹⁰⁷ based on no real charges other than alleged affiliations to the Tren de Aragua gang which the Trump administration arbitrarily designated as a terror organisation.¹⁰⁸ As the Center for Constitutional Rights points out, the same counter-terrorism infrastructure allows for the kidnapping of men to Guantánamo or CECOT: “Under the current Trump administration, the United States government has expanded its abuses using the same ‘national security’ and counterterrorism justifications recalling the sordid history of the United States’ extraordinary renditions to foreign torture sites and the Guantánamo Bay prison facility.”¹⁰⁹

The abuses perpetrated by ICE’s deportation machine today must be seen as the legacy of Guantánamo. Beyond even the physical space of the detention center being shared, ICE operates

through the tactics and legitimization of human rights abuses that Guantánamo wrought. This is the danger that 111 non-governmental organizations warned of in a letter to President Biden on the 19th anniversary of Guantánamo and it is the danger that has come to pass in the Trump administration due to the failure of past administrations to close the camp:

Guantánamo embodies the fact that, for nearly two decades following the September 11, 2001 attacks, the United States government has viewed communities of color – citizens and non-citizens alike – through a security threat lens, to devastating consequences. This is not a problem of the past. Guantánamo continues to cause escalating and profound damage to the men who still languish there, and the approach it exemplifies continues to fuel and justify bigotry, stereotyping, and stigma. Guantánamo entrenches racial divisions and racism more broadly, and risks facilitating additional rights violations.¹¹⁰

Guantánamo operated through the construction of the category of the “terrorist,” a figure beyond the pale of humanity, a methodology described by Gitmo lawyer Muneer Ahmed as seeking “to expel the prisoners—consistently referred to as —terrorists— from our shared understanding of what it means to be human, so as to permit, if not necessitate, physical and mental treatment... abhorrent to human beings.”¹¹¹ This apparatus of dehumanisation is mobile, and today justifies the abuse of migrants in the name of “securing the homeland” as it did Muslims. Unsurprisingly then, similar regimes of detention and rights violations have emerged in ICE detention centers today as did in the War on Terror.



The Prison Archipelago

"It's a copy of Guantánamo. The conditions are inhuman. We're kidnapped here." - Individual detained at "Alligator Alcatraz"¹¹²

Describing the abuses faced at an infamous ICE detention facility in Florida, a man naturally reaches for Guantánamo as a point of reference, showing the site's looming presence in America's history and present of racialized torture. The copying is not merely metaphorical thought: extreme torture techniques used at Guantánamo on detainees like Abu Zubaydah¹¹³ have seen startling analogues appear at Alligator Alcatraz.¹¹⁴ As Pulitzer Prize winning journalist Spencer Ackerman, a veteran of covering the abuses of the War on Terror, argues, the continuation of the abuses of Guantánamo at ICE detention centers is a natural extension of national security exceptionalism of the War on Terror that shielded oppressive officials from consequences:

"[The reappearance of torture] is the direct result of there being no criminal or even substantial political penalties for the architects of the torture program, either at Langley or within the Bush administration. When there is no consequence for torture, torture will persist, going into abeyance—at most—until politically empowered sadists reach for a tool of domination. The lack of consequence ensures it is a matter of time before people who owe their positions of authority to declarations that they seek to dehumanize the vulnerable play a sick game of 'Well, if we did this to these Terrorists there, why not to these other Criminals here...'"¹¹⁵

However, Alligator Alcatraz, should not be taken to be an exception that only arose under the Trump administration. To the contrary, given its foundational logic is the equation of immigrants with national security threats, ICE detention across administrations of both parties has involved human rights abuses akin to those suffered by War on Terror detainees. Examples abound, but to list just a few:

- The use of extensive periods of solitary confinement as a tool of punishment in

violation of both US constitutional and international human rights, reported in both ICE detention¹¹⁶ and Guantánamo¹¹⁷

- Widespread medical neglect of detainees, with lack of access to required medication and treatments in ICE detention,¹¹⁸ while medical staff at Guantánamo were often complicit in concealing evidence of the torture of the men imprisoned there¹¹⁹
- Lack of access to adequate food and hunger strikes by detainees in response, as seen at Delaney Hall ICE detention center today¹²⁰ and in the starvation and resistance of Guantánamo detainees¹²¹

While Guantánamo may be the apex of torture and crimes against humanity, the comparison with ICE detention is nevertheless instructive given both are rooted in the logic of the War on Terror and have been the subject of years of extensive documentation of the human rights abuses faced by detainees.

Torture by third-country partners, a feature of the US torture program in the War on Terror,¹²² has also been present in immigration detention. Venezuelan men deported to CECOT, for example, have alleged torture, medical neglect, and sexual abuse while in confinement, all features of the War on Terror carceral regime as well.¹²³ Importantly, men detained in CECOT report being told by guards that "You are all terrorists," and "Terrorists must be treated like this,"¹²⁴ showing how the dehumanizing label of terrorist is applied to justify the torture of migrants today.

Violations of physical liberty also go hand in hand with violations of fundamental rights like religious freedom. Detainees of the War on Terror reported wide-spread violations of Muslim's religious freedom, including desecration of the Qur'an, a lack of access to religiously-compliant food, and suppressing the adhan and communal prayer.¹²⁵ Leqaa Kordia, a Muslim Palestinian woman infamously held by ICE for her pro-Palestine protest attendance, has discussed how her religious rights were completely disrespected in ICE detention, including a lack of access to halal food, spending two Ramadans in detention, and

disrespect of those wearing hijab.¹²⁶ These violations are widely reported, including being denied correct food and being prevented from attending religious gatherings; Muslim detainees also reported particular hostility towards Islam. This torture is also sustained by well-documented collaborations with Israeli counter-terrorism forces, known for their record of human rights abuses and torture.¹²⁸

In the detention and warehousing of hundreds of detainees, ICE also embraces the due process and human rights abuses practiced during the War on Terror. Today's federal judiciaries are stocked with judges who were part of the legal machinery that justified the War on Terror, including a Supreme Court that has endorsed Trump's Muslim Ban and limitations on the due process of asylum seekers.¹²⁹ Embracing this normalization of national security excusing violations of immigrant rights,¹³⁰ the Trump administration has disappeared migrants with no record,¹³¹ cutting off their access to family and attorneys.¹³² This recalls US practice in the War on Terror, both domestically with the round up of Muslim and Arab men post 9/11,¹³³ and abroad through forced disappearances and "ghost detentions" with no record.¹³⁴

Many of the due process violations suffered by immigrants are rooted in the same 1996 legislation linking counterterrorism and harsh immigration enforcement that drives ICE policing tactics like automatic stays. The 1996 laws established mandatory detention, a regime where many immigrants are subject to being held in detention with no possibility of a bond hearing.¹³⁵ The War on Terror saw these tools from the 1996 laws widely deployed and expanded,¹³⁶ laying the groundwork for mandatory detention now being a key legal tool in Trump's current mass detention campaign, holding migrants without allowing them individual review to secure release.¹³⁷ The 1996 law was also infamous for allowing the use of secret evidence, a practice that was particularly targeted towards Palestinians falsely accused of terrorism and being threats to national security.¹³⁸ These practices of secret evidence being justified by accusations of being a threat to national security are now repeated in Trump's

first time use of the Alien Terrorist Removal Court to attempt to deport an Afghani woman based on classified evidence, based on part of the 1996 laws that creates a specialised court where legal residents can be deported based on evidence that is not seen by them or their attorney.¹³⁹ Although there was major momentum to reform these laws and the use of secret evidence pre-9/11, the War on Terror association of immigration with national security threats ultimately destroyed all progress,¹⁴⁰ with Palestinian Sami Al-Arian, a major campaigner against the use of secret evidence, eventually being prosecuted by the very Bush administration that he had partnered with to secure denunciations of secret evidence pre-9/11.¹⁴¹

A Civilizational War

The physical infrastructure of detention is sustained by a rhetoric of defending "Western civilization" from migrants and Muslims that reached a fever pitch in the War on Terror. Today, Peter Hegseth, a former guard at Guantánamo and now Secretary for the Department of War,¹⁴² can stand at the base and declare that US forces are "defending the homeland,"¹⁴³ invoking white nationalist rhetoric that has become a common feature of Trump administration communication.¹⁴⁴ Hegseth perhaps best exemplifies how the War on Terror has produced the explicit ethno-nationalism of the Trump moment: Hegseth's ethno-nationalist radicalization occurred in the post 9/11 moment when he served in American invasions of the Middle East and began embracing white nationalist symbols and an explicitly crusader mentality.¹⁴⁵ Today, the crusader logic of the United States as a white, Christian "homeland" under threat from Muslims abroad and immigrants at home¹⁴⁶ fuels the Trump administration, but the groundwork was a bipartisan effort to leverage Islamophobia to normalize detention and torture.





DOMESTIC SURVEILLANCE AND POLICING

"And then one fine day the bourgeoisie is awakened by a terrific boomerang effect: the gestapos are busy, the prisons fill up, the torturers standing around the racks invent, refine, discuss." – Aime Cesaire, Discourses on Colonialism

The "imperial boomerang" described by Cesaire is an oft-used metaphor used to describe how policing tactics deployed abroad by Western imperial nations eventually come to haunt the metropole; the tactics, weapons, and ideologies of American policing have often drawn from American adventures abroad.¹⁴⁷ Unsurprisingly then, the wars waged on Muslim lands during the War on Terror found their domestic corollary in the development of a legal and rhetorical infrastructure to target Muslims that the Trump administration can now turn on its domestic opponents.

The Trump administration and state governments use of the machinery of the state to target Palestine protestors, anti-ICE activists, Muslim groups based on allegations of connections to the Muslim Brotherhood, and whatever other group has been declared to be the enemy of the day should not be viewed as some strange exception to a history of American liberty; the FBI is of course infamous for its history of targeting political opponents, particularly those advocating for the liberation of racialized communities. What the War on Terror added to this sordid history was the fusion of this history of targeting Black and Brown activists with an unprecedented expansion of surveillance, law enforcement power, and normalized mass religious and racial profiling justified by a concept of national security and counter-terrorism that presented itself as unquestionable. Far from being novel, the mass surveillance and targeting of entire ideologies draws on the precedent of an entire religious group being viewed as suspect; the equation of any anti-ICE ideology as a sign of domestic terrorism¹⁴⁸ echoes the equation of all signs of

Islamic piety with terrorism by both local police like the NYPD and federal agencies such as the FBI.¹⁴⁹

To understand the assaults on dissent in the United States today is to trace the genealogy of how domestic policing, from local police to the FBI and state and federal regulatory agencies, took the logic of the War on Terror as an opportunity to declare war on their own populations.

The Boomerang Comes Back

Local police departments using military-grade equipment and tactics in responding to Palestine protests¹⁵⁰ is possible because of the War on Terror, which local law enforcement seized as an opportunity to militarise and apply counter-insurgency and counter-terrorism lens to the populations they ostensibly serve. As legal scholar Bernard Harcourt explains, "Since the War on Terror, but especially since President Trump's [first] inauguration, our government has come to see its own citizens... as dangerous insurgents who need to be designated and identified, isolated, and excluded."¹⁵¹ This counter-terrorism approach to policing is both material and ideological. Materially, 9/11 led to a vast expansion of equipment transfers from the military via the 1033 program; one Brown University estimate says that there have been 1.6 billion dollars worth of equipment transfers post 9/11, compared to just 27 million before.¹⁵² Ideologically, law enforcement in the United States operates on the notion that they are a front in the War on Terror, going so far as to travel to Israel for "counter-terrorism" seminars to learn techniques of racial and religious profiling initially developed for use against Palestinians.¹⁵³

This connection between local law enforcement and the War on Terror was reinforced by very real exchanges between local law enforcement and the imperialism of the War on Terror. Richard Zuley, a Chicago police officer who tortured African Americans, was also involved with torture programs at Guantánamo from 2002 to 2004, before returning to work at the Chicago Police Department.¹⁵⁴ Veterans from America's invasions have returned to America to serve in police departments increasingly based around battlefield mentalities.¹⁵⁵ Sociologist of American Empire Julian Go notes that veterans "served as new conduits for continued imperial importation," revealingly quoting a Georgia police officer describing counterterrorism and policing as "the same side of the coin, only looked at from different angles."¹⁵⁶ The War on Terror has accelerated a trend, inherent to the foundations of American policing as a tool of American empire, where police view civilians through the lens of counter-insurgency and suppressing dissent.¹⁵⁷

The federal government has actively solicited local law enforcement as counter-terrorism partners, viewing them as playing a critical role in the War on Terror.¹⁵⁸ Local law enforcement agencies post 9/11 have massively expanded their surveillance capabilities, with large departments like the NYPD having intelligence operations that even extend overseas.¹⁵⁹ This local intelligence feeds into federal and local law enforcement collaborations like fusion centers, which then become locusts for suppression of dissent justified in the name of counter-terrorism. For example, in 2020 fusion centers often surveilled the activity of Black Lives Matters protestors and fabricated rumors that they might pose a threat to public safety.¹⁶⁰ Fusion centers also monitored Palestine protests and provided intelligence that led to police crackdowns on student activists.¹⁶¹ With this infrastructure in place, fusion centers under the Trump administration have vilified anti-data center protestors as "anti-tech extremists"¹⁶² and

repeated Trump's conspiracy theories of the threat posed by Antifa.¹⁶³ The surveillance and monitoring behind Trump's current assault on dissent is therefore possible because of the War on Terror and its infrastructures of surveillance. According to Dylan Saba of Palestine Legal, "what we've seen with the Trump administration's implementation of Project 2025 and Project Esther is really just an acceleration of all of these tools of repression that were in place from before."¹⁶⁴

Spying on Activists

The Trump administration's ability to harass and prosecute activists using federal law enforcement comes from an FBI that has been empowered to ignore civil liberties and suppress dissent by War on Terror precedent. During the War on Terror, the Bush administration implemented the Mukasey Guidelines, which used counter-terrorism as a guide to "expand the FBI's discretion to investigate individuals and groups while simultaneously limiting oversight requirements and thereby risk opening the door to invasions of privacy and the use of profiling on the basis of race, ethnicity, religion, national origin, or political ideology."¹⁶⁵ These new counter-terrorism powers allowed the FBI to begin investigations with no evidence of wrongdoing and use invasive techniques in its intelligence gathering,¹⁶⁶ based on a concept of preventive surveillance that equates non-criminal activity with potential terrorism.¹⁶⁷

Using these tools of repression, the FBI during the Obama and first Trump administration spied on Black Lives Matter activists across the country.¹⁶⁸ Similarly, the Obama FBI investigated environmental activists after equating opposition to the Keystone XL pipeline to a potential terrorist threat and placed them on terrorism watchlists.¹⁶⁹ Unsurprisingly then, the Trump administration has seized these tools to crack down on dissent and the FBI under Trump II has invoked counter-extremism to investigate

Extinction Rebellion¹⁷⁰ and, most infamously, open “domestic terrorism” investigations into anti-ICE activity across the country.¹⁷¹ This surveillance is a direct outgrowth of the normalized targeting of Muslims during the War on Terror; as defense attorney Collin Poirot writes, “the pre-existing machinery of surveillance, entrapment, and prosecution [built through the War on Terror] is likely to not only remain in use, but to be expanded upon” as “the infrastructure built to repress Muslim Americans—particularly Black Muslim Americans—and Arab Americans is now being directly weaponized against other dissident communities and movements.”¹⁷²

Another staple of War on Terror investigations used by the FBI subsequently is the aggressive use of undercover informants and entrapment. Expanding its network tenfold relative to even the infamous COINTELPRO era,¹⁷³ the FBI massively expanded its use of informants during the War on Terror, creating a network of 15,000 informants largely tasked with infiltrating Muslim communities across the United States.¹⁷⁴ The “informant” label is a misnomer though, as people on the FBI payroll were often actively involved in concocting plots and pushing people towards violent actions they otherwise did not have the means to commit; “creating crimes to solve crimes so they can claim a victory in the war on terror,” in the words of defense attorney Martin Stoler.¹⁷⁵ Having built this infrastructure, the FBI has turned it against activist movements it regards as “terrorists.” Comparing racial justice protests in the wake of the killing of George Floyd by law enforcement to 9/11 and smearing activists as “Black Identity Extremists,” the FBI set its informant network to work to encourage protests to become violent and target activists for prosecution.¹⁷⁶ Environmental activists against the KeystoneXL pipeline were characterized as “following a jihadist insurgency model” by a private security firm working with police and an activist was subsequently charged in relation to a gun provided by an FBI informant.¹⁷⁷ Under Trump II, this precedent has allowed for the targeting of environmental activists¹⁷⁸ and anti-ICE protestors¹⁷⁹ for informant-based investigations based on equating them with domestic terrorism.

Once cases reach the courtroom based on these abusive tactics and oppressive surveillance, prosecutors can use War on Terror precedent to secure convictions of activists while trampling on due process. Legal scholar Wadie Said has done extensive work documenting the abuses of counter-terrorism prosecutions, writing in his book *Crimes of Terror*, “When faced with a government asserting national security as a justification [for violations of defendants due process], all too often the courts acquiesce.”¹⁸⁰ Based on of the “exceptionalism [of] a criminal prosecution of terrorist crimes,”¹⁸¹ national security exceptionalism leads to injustices at every stage of the trial: “systemic human rights abuses and Islamophobia that pervade the criminal justice system at every step,” as CAGE’s report *Guantanamo Begins at Home* described it.¹⁸²

The Trump administration’s successful prosecution of anti-ICE activists in the infamous *PrairieLand* case is a revealing example of how counter-terror law and its lack of protections can be applied to non-Muslim activists as well. In *PrairieLand*, 9 activists who participated in an anti-noise demonstration outside an ICE facility were prosecuted for material support for terrorism despite the alleged “terrorism” amounting to one gunshot towards a police officer,¹⁸³ with the defendant’s defense attorney arguing that the government hid evidence of the fact that said gunshot was simply a warning shot fired at the ground.¹⁸⁴ These evidentiary issues in a terrorism prosecution are unsurprising: the prosecution of counter-terrorism cases in the US has been marked by improper use of evidence by the government, with Wadie Said writing that “once the government decides to indict someone on terrorism charges, the evidentiary floodgates open, no matter how dubious the origin of any given piece of evidence.”¹⁸⁵

In the *PrairieLand* case, the prosecution used such dubious evidence as the defendants use of Signal¹⁸⁶ and wearing all black in trying to make it seem as if the activists were part of the “North Texas antifa cell,” despite no such organization existing.¹⁸⁷ Prosecutors were also allowed to present broad evidence of the defendants’ ideology, such as anarchist reading material and

anti-fascist memes, as evidence of the alleged terrorist conspiracy.¹⁸⁸ Far from an aberration though, these evidentiary issues are inherent to counter-terror laws, which are rooted in criminalizing vague ideologies and associations rather than actual acts.¹⁸⁹ In terrorism prosecutions, prosecutors have often introduced irrelevant, inflammatory evidence, such as videos of attacks and beheadings that bear no relation to the defendant's alleged acts.¹⁹⁰ Similarly, actions like merely using Arabic phrases were presented as evidence of terrorist intent.¹⁹¹

Another egregious trend in War on Terror counter-terrorism prosecutions repeated in the *PrairieLand* case was the use of "expert witnesses" of an openly ideological bent by the government. In War on Terror prosecutions, prosecutors consistently called upon "expert witnesses" who lacked basic qualifications to testify on militant groups in the Muslim world; many experts used across these cases did not speak Arabic or other relevant languages and based their testimony on research methods debunked by academics in terrorism studies.¹⁹² Other repeat "experts" had ties to the national security state and pro-Israel think tanks.¹⁹³ Perhaps most egregiously, in the *Holy Land* case, an anonymous Israeli intelligence official was allowed to testify without the defense being able to properly challenge the testimony, a violation of the 6th amendment right to confront witnesses.¹⁹⁴ In *PrairieLand*, these abuses were repeated as the government's presentation of Antifa as a terrorist organization relied on testimony from an "expert witness" who works for an Islamophobic think tank designated a hate group by the Southern Poverty Law Center.¹⁹⁵ Despite the government's "expert" admitting to not having an academic social science methodology to study anti-fascist movements,¹⁹⁶ the judge allowed his testimony, a continuation of national security being used to justify admitting biased, baseless "expertise."

When the time came to sentence the *PrairieLand* activists, they received incredibly punitive multi-decade sentences for crimes that otherwise would have been a few years at most.¹⁹⁷ However, the defendants' sentences were a

product of the War on Terror legal infrastructure, specifically terrorism enhancements on sentencing that can turn otherwise fairly minor charges into spending the majority of one's life in prison. Terrorism enhancement "facilitates the draconian and illegitimate imprisonment of Muslim detainees,"¹⁹⁸ as seen in the case of Dr. Aafia Siddiqui who is imprisoned in the same North Texas region in tortuous conditions,¹⁹⁹ serving an 86 year sentence given under a terrorism enhancement despite her never being officially charged with terrorism.²⁰⁰

Muslim Brotherhood, Muslim Civil Society

The War on Terror also facilitated increasing crack downs on dissent at the state level. Federal terrorism legislation inspired state level legislation as well, with over 30 states enacting domestic terrorism legislation post 9/11.²⁰¹ These statutes are often even broader than federal statutes and more explicitly aimed at directly characterising certain forms of protest as terrorism.²⁰² State counter-terror laws have led to infamous prosecutions such as the attempted prosecution of Stop Cop City activists under Georgia's domestic terrorism statutes and the targeting of environmental activists involved in efforts to stop oil pipeline construction, all based on the counter-terrorism logic of characterizing protests as domestic terrorism and threats to public safety.²⁰³ Pro-Palestine protests have provided an opportunity for the counter-terror logic behind these laws to become obvious once again, as state and federal lawmakers introduce laws to criminalise protest based on rhetoric that equates protestors with Hamas.²⁰⁴

State level counter-terrorism policy has also been the basis for the targeting of non-profits and civil society. Emulating federal material support statutes, states like Texas and Florida have implemented statutes that give their executives the ability to designate non-profits as terrorist organizations and subject those organizations to draconian restrictions on their ability to work within those states.²⁰⁵ Analysis by the International Center for Non-Profit Law shows that these laws inherit the lack of due

process in federal counter-terrorism law, as statutes like Florida's do not require the state to provide evidence for designations and lack clarity on what conduct actually constitutes terrorist activity, providing officials with vast discretion to target organisations and chill protected activities.²⁰⁶ As the ACLU described in suing Florida over its targeting of CAIR using its terrorism statute, "Under the regime, officials can brand nonprofit corporations with debilitating stigma and then use an array of state authorities to immediately silence and incapacitate the organization, its employees, its members, and a wide range of others associated with the group through extraordinarily broad and severe criminal, civil, and administrative penalties," including cutting off an organization's access to counsel because any attorney working with them could be subject to state sanction.²⁰⁷

The equation of advocacy with terrorism to crack down on civil society organizations is unsurprising and represents another War on Terror tactic embraced today. The government targeted large Muslim charities post 9/11,²⁰⁸ most infamously prosecuting the Holy Land Foundation for material support of terrorism based on its charitable activity in Palestine.²⁰⁹ In the process, prosecutors also named several large American Muslim organizations in a list of 246 unindicted co-conspirators, in order "to cast a cloud over the entire [Muslim] community, delegitimizing its institutions and treating its members with suspicion."²¹⁰ These attacks on Muslim civil society post 9/11 were frequently based on the idea that American Muslim organizations were somehow tied to the Muslim Brotherhood,²¹¹ accusations that are today repeated in targeting non-profits based on their Palestine activism and pro-Palestine Muslim organizing. In introducing the "non-profit killer" bill following pro-Palestine protests in 2024 that would have given federal authorities the power to revoke the non-profit status of organizations without evidence based on accusations of terrorism, the legislators sponsoring it justified it as a necessary measure to stop organizations that "bankroll terrorists,"²¹² specifically repeating the myth from the Holy Land case that equates work supporting Palestine with support of Hamas.²¹³

Trump's smearing of non-profits as threats to national security based on perceived opposition²¹⁴ is not therefore some unprecedented politicization of the government's relationship to civil society: the counter-terrorism framework has long given the government the ability to arbitrarily target non-profits based on politicized accusations of terrorism and with no due process protections.²¹⁵ As the Charity and Security Network notes, "Civil society was a particular target of post-9/11 legal restrictions, driven by faulty assumptions pushed by the George W. Bush administration that nonprofit organizations (NPOs) were a significant source of terrorist financing."²¹⁶ NGOs have reported a chilling effect on their ability to perform charitable work due to the material support laws that make up a key part of the American counter-terrorism legal framework and since the Supreme Court's 2010 Holder decision it has also been established doctrine that advocacy and speech can be prosecuted as material support.²¹⁷ Far from an innovation then, Trump's wielding of the apparatus of the federal government to target disfavored non-profits is another inherited tool of the War on Terror, which explicitly normalized the ability of the government to go after civil society on the basis of terrorism allegations.

Another feature of the War on Terror apparatus targeting civil society and activists is the prevalence of lawfare, the use of the legal system to harass political opponents. In a report on the use of lawfare to target pro-Palestine advocacy, the Charity and Security Network observes that "post-9/11 legal framework is especially significant [for the shrinking of civic space and rise of lawfare], given the severe legal penalties for violations and the limited scope of safeguards for civil society."²¹⁸ A key piece of counter-terror legislation, the Anti-Terrorism Act, was passed in 1992 to allow private actors to sue in US courts for damages related to international acts of terrorism.²¹⁹ The law was explicitly written to target the PLO²²⁰ and its scope was then expanded in 2016 to increase the number of parties that could potentially be liable.²²¹ Unsurprisingly, the targets of litigation under the ATA have been overwhelmingly related to Palestine,²²² following a pattern of Zionist

lawfare targeting pro-Palestine organizations based on exploiting the expansive scope and arbitrary nature of counter-terror policies.²²³ Today, the equation of Palestine advocacy with support for terrorism echoed by the Trump administration is a direct echo of language advanced by Zionist lawfare groups using War on Terror legal precedent including the ATA to target activists opposing Israel's genocide in Gaza.²²⁴ State-level action has also been taken accusing Palestine activists of aiding Hamas pursuant to state-level legislation modelled after federal material support statutes, all based on accusations made by Zionist lawfare organizations.²²⁵ Zionist pressure groups have also been able to use allegations of connections to Hamas to point the FBI repressive apparatus towards Palestine activists, a project with "roots in post-9/11 law enforcement scrutiny of Muslim-run charities that did humanitarian work in Palestine."²²⁶

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