

ACCUSING MUSLIMS OF TERRORISM:
ISLAM, SECULARISM, AND RELIGIOUS VIOLENCE IN THE UNITED STATES

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ABSTRACT

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This dissertation describes the ways in which the securitized secular laws of the state act to regulate and control Muslims and the practices of Islam through “terrorism” prosecutions in the United States. In order to eliminate terrorism violence, the security state has created an exception to regular legal norms by establishing a court within a court and a prison within a prison, where normal legal procedures are not followed for those Muslim immigrants and American Muslim citizens accused of “terrorism” related offenses. I address the ways in which Muslims have been conditioned and affected by the securitized secular laws that are applied in “terrorism” cases, and I also discuss how human-rights advocacy around the accused challenge and resist these discriminatory practices. Based on 24 months of ethnographic fieldwork; observations of federal terrorism trials; a review of prison writings; and interviews with families of the accused, activists, lawyers, and human-rights advocates, I address the legal practices of securitized laws concerned with preventing “terrorism,” their impact both inside and outside of judicial institutions, and the power of these practices on the lived experiences of Muslim Americans. While some authorities claim that preventive “terrorism” prosecutions are necessary to eradicate violence, I suggest that the main concerns of the security state are really about eradicating religious thought and practices that contradict the secular definition of acceptable religion.

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I entered graduate school at Michigan State University to pursue studies in cultural anthropology with a focus on Islam and gender in transnational religious movements and identity formations among South Asian Muslims in the post-9/11 global context. My life's trajectory, however, redirected that focus more locally to studying conditions in the United States, and to trying to understand the impacts of the "War on Terror" on the lived experiences of Muslim Americans. This resulting dissertation is the product of the generosity and feedback of multiple mentors, colleagues, and friends.

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INTRODUCTION

Suhana¹ is distressed as she recounts to me the night of her son's sentencing. When he was condemned to thirty years in prison it felt like the Day of Judgment for her; it was the time when all things abruptly died inside of her. She was taken back to her home that evening after having lost consciousness. But the authorities did not spare the family a moment to heal and collect themselves from this shock. A dozen ICE agents, SWAT team members, and other federal agents descended into her home that night, forcing their way in, waking the family up, holding them at gunpoint, and isolating members into separate rooms while they raided the house for hours looking for something. Not finding what they were looking for, the agents then handcuffed and transported Suhana, her daughter, and her husband to an immigration detention center, confiscating their legal documents and later seizing their bank accounts. Already devastated, the family was further traumatized when they were separated from each other in isolated cages. Suhana cried and screamed for her daughter and son all that night. Looking at me she says, "We're Muslims all along and had all our papers, and they did not arrest us all this time, but after my son was sentenced. But, we have done nothing."

What happened to the family on that night after her son's sentencing is a story Suhana tells everyone with anxiety, tears, and anger in her voice. She views it as an injustice and a betrayal on the part of her adopted country. Escaping from violence against her Ismaili Muslim community in Pakistan,² Suhana and her family moved to the United States in 1999 looking for a

1 Several of my research participants offered permission to use their actual names because they are publicly visible. However, to provide as much protection as possible, I have assigned pseudonyms to all participants mentioned in the dissertation.

2 Ismailis are a sect of Shi'ite Muslims. Jonah Steinberg's ethnographic work describes this faith community in detail in *Isma'ili Modern: Globalization and Identity in a Muslim Community*. See also Farhad Daftary, *A Modern History of the Ismaili: Continuity and Change in a Muslim Community*.

better life, seeking employment and education for their children. It was the dream of her family to live in a country founded on religious freedom, where she thought they would find no more sectarian politics or violence. There were difficulties in starting a new life and getting work, but eventually both her husband and her son had jobs, and her son also began attending classes at a local community college. This life was shattered in 2004 when a government informant started harassing and manipulating her teenage son about *jihad* and talking about a hypothetical attack in the US—discussions for which her son was later arrested and imprisoned.

I met Suhana and her family when I was living in New York in 2006, long before starting my academic fieldwork. Later, when I began to conduct this research, she again welcomed me into her home. She offered me a place to stay and allowed me to observe the family's day-to-day life. Suhana would share with me all her ideas about what families like hers needed and what I as a researcher and activist could and should do to support them. This determination came to the forefront when she learned about the Families of Prisoners Conference that was to take place in Washington, DC, in November of 2012. She was eager for the opportunity to meet and sympathize with others who had undergone similar experiences.

I drove to the conference together with Suhana, her daughter, and their friend. The beige-walled room was filled with women (and some men), with a large variety of ethnic backgrounds and ages represented. Some wore the long overall Muslim garment, *abaya*, while others dressed more casually in *salwar kameez*, and still others wore Western-style trousers and shirts. When I entered the room, about thirty people were sitting in a big circle facing the female facilitator, who was standing in the middle and occasionally walking to the side to write with colored markers on a large display board. They were all discussing and sharing their experiences with

each other. At one point Marina, a white woman and the mother of an imprisoned young Muslim man, explained her view of the situation:

Well, from early on, Bush senior wanted to have my son paraded around in New York and see how that would feel to be treated like he was an animal in a cage. I think just by virtue of him being a Muslim, they are not fully like the rest of us. It's "us" and "them." That's what I think is dehumanizing. That's what they did. And then there is the Taliban, they have done some awful thing too along those lines. This country has done terrible, awful things. They are not considered fully human, the Muslims—they are brutes, terrorists, and they are not like us.

The participants acknowledged her by nodding and whispering "yes." Another woman named Haya anxiously asked:

Can we say how they treat them in the two CMUs? ["Communication Management Unit" is the official euphemism for the isolation wards in which US authorities often hold and closely monitor Muslim prisoners.] These new jails are like Guantanamo but in the United States. They torture them there. I can tell every time I go see my husband, he is different. It's worse than Supermax, ADX, or solitary confinement. At least in those prisons, you know why they are placed there. I don't even know why my husband is at the CMU in Marion [Illinois]. In these two units they only put Muslims, but now they included some non-Muslim to balance it, as "balancer." They treat the Muslims totally differently and damage them. They want to make sure these prisoners end up in mental hospitals.

Maria, the wife of another captive, eagerly but softly said, "It's like breaking our soul. Breaking their souls and damaging us all. It's like sometimes you blame yourself and the community thinks you must have done something bad and deserve it. You become very depressed thinking like that."

Everyone at the conference seemed to agree with these assessments, and the other participants expressed similar stories and emotions. An attendee named Amna shared how it was difficult for her children with Muslim names at school. Crying, Amna described how her 6th-grade son was ridiculed by classmates and referred to as "Ahmed the Akbar," after a satirical character from a YouTube video. The women shook their heads in sympathy. The facilitator, Selina, who specializes in healing trauma through justice practice and who also has an

imprisoned family member, interjected to say, “It creates a whole culture and that’s how the government is succeeding!” She then invited everyone to think about the ways they had been affected personally through the arrest and imprisonment of their loved ones, and asked them to write down some of their experiences on the template sheets that the conference organizers had provided.

The women started to work on their papers, discussing among themselves and jotting things down. After about fifteen to twenty minutes the facilitator brought everyone’s attention back to the center of the room with three claps. She instructed the participants to choose one person from each group to share some of what they had written under the category of “negatives” to “self/me.” One by one the participants offered their litanies: broken dreams, lonely, missing, stress, anxiety, illness, hurt, misunderstandings, losing faith in the system, feeling of betrayal, laws are betraying, people look at you differently, treated differently like “bad” people, people pity you instead of showing empathy. As these last points were being spoken, I saw Kharisa, a prisoner’s mother, wrestling with herself before suddenly interrupting the listing process:

This is how it is even with your own family. My sister stopped talking to me. My own sister denied me. She doesn’t ask how I feel but looks at me differently. She never asks me if I need financial help or what’s going to happen. And it hurts so much. . . . She is my older sister. My mother used to say, after me, she is your mom. Now she looks at my kids like they are all bad. I know she is scared after they arrested my son, but she didn’t do anything to be scared like that. I don’t know why she left me. I don’t have anyone in this country. You know, I had support from strangers who don’t know me. They support me, go to the court, but I had to do everything by myself.

Everyone’s eyes shifted to Kharisa as she broke down in tears. The room became silent, as the participants seemed to look at Kharisa helplessly. While the women all shared similar experiences and could relate to her story, it appeared that they did not really know how to respond to her outburst. The same sense of emotional disconnection that Kharisa had spoken of began to fill the room. Finally, Selina the facilitator, spoke up:

If this is our experience, then the government has achieved their purpose. They have infiltrated the minds of our friends and communities in dividing us from them. And, if we believe that it's our sister, brother, cousins, friends, or community that don't love us, we have already given those people who want to harm us the power. So we have to be grounded in our own sense of power. When we are not clear of our own sense of trust and faith, it's easy to believe those who are in power, to believe whatever the media or the government says about us, who we are, as people.

Many of the women seated in the circle nodded in agreement. They had come from many different parts of the country seeking this acknowledgement, hoping to find others who could understand their sense of disconnection and injustice. For most of them, it was the first time that they had gathered together to share their experiences and to support others with similar stories.

Background: The Global War on Terror

After the World Trade Center attacks of September 2001 the U.S. Government implemented laws and policies to start a "War on Terror" that had no clear definition and no definable end. For fifteen years this war has continued both at home and abroad, ravaging the lives and souls of countless people. To cleanse the world of terrorism, thousands of Muslims from all parts of the globe have been snatched away, "disappeared," blindfolded and kidnapped, shackled and transported by secret rendition aircraft to foreign countries where they were interrogated, tortured, and sometimes killed, all without any form of civil prosecution or a presentation of evidence against them (Scahill 2014; Grey 2007; Frontline 2007). More than 3,000 Muslim men have been renditioned and detained, and over one hundred that we know of have been blatantly tortured in CIA "black sites" (Open Society Justice Initiative 2013; Gaist 2015; Tyler 2015). Approximately fifty prisons have been used to hold detainees in twenty-eight countries, in addition to twenty-five more carceral sites in Afghanistan and twenty in Iraq (Fischer and Graves 2011). The United States has also operated seventeen ships as floating prisons since 2001, where

an estimated one hundred prisoners are held on alleged terrorism charges (Campbell and Norton-Taylor 2008). This imperial global detention system allows the U.S. authorities to hold individuals incommunicado in secret extralegal facilities, and thereby prevent them from accessing lawyers, courts, or the outside world—treatment that is in violation of international laws and human-rights norms (Taguba Report 2004; Sheets 2014).

The prison facility in Guantanamo Bay, Cuba, has become a prominent symbol of this imperial carceral paradigm. About seven hundred Muslim men have been tortured and subjected to indefinite extralegal detention at Guantanamo (Center for Constitutional Rights 2010; Guantanamo Global Justice 2005; Worthington 2007; Keller and Leopold 2013; Smith 2014). Hundreds of these detainees have protested their unlawful detention with hunger strikes, to which the authorities responded by forcefully tube-feeding their captives, ignoring outcries from legal advocates, medical professionals, and human rights organizations (Bloche 2014). The so-called “Torture Report” from the U.S. Senate Intelligence Committee confirmed that at least one hundred detainees were severely tortured by the Central Intelligence Agency (CIA) at Guantanamo; whereas other captives have simply disappeared into the black-site network. The full numbers and identities of the prisoners held incommunicado by U.S. authorities remains unknown to the public today (Cassidy 2014; Greenberg 2016).

This new direction in U.S. policy has involved a considerable strengthening of executive, military, and police power that affects individuals both within and beyond the country’s boundaries. As the legal scholar Karen Greenberg explains, “Politicians, lawyers, and bureaucrats . . . [worked] hard to counter the terrorist threat by going right to the edge of the law and, when the law proved too restrictive, . . . [they massaged] its boundaries to include the measures they wanted to take” (Greenberg 2016, 3). The increasing power of the state is perhaps

most apparent in the realm of legal justice, which has been stripped of hard-won safeguards and more closely integrated with executive authority (Greenberg 2016). The Bush administration suspended terrorism suspects' right to *habeas corpus*, a well-established recourse in law where one has the right to formally challenge the state of arrest, imprisonment, and detention (Cole 2003; Greenberg 2016). This process only accelerated under President Obama, whose administration furthered the use of military tribunals to indefinitely hold detainees who are not charged with any crime but are simply considered "dangerous" (Finn and Kornblut 2011).

Since then, the U.S. government has declared the entire world as an open field for the extrajudicial kidnapping and even assassination of anyone whom the authorities label as a "suspected terrorist" or an "unlawful combatant" (Cole 2003; Zalman and Clarke 2009; Worthington 2007; Rana 2011; Scahill 2014). While the new paradigm can and has been applied to all manner of individuals, those most affected are today's foreign enemy of choice: Muslim men. The state has also targeted a growing number of Muslim women (Stahl 2015; Bello 2013). Stripped of all legal rights and excluded from the law, yet still under the jurisdiction of the state and its physical control, those who fall into the U.S.'s black-site carceral network occupy a position that the Italian philosopher Giorgio Agamben has described as a "state of exception"—one in which customary legal protections and all normal societal rules of behavior have been suspended (Agamben 2005). These Muslims are excluded from any political and legal claim, and from any customary evidence-based evaluation regarding whether or not their behavior has actually been criminal or deserving of punishment. This regime of kidnapping, torture, and secret imprisonment fits the textbook definition of an authoritarian program designed to instill a sense of terror in the community and to reshape society in a fashion that is pleasing to those in power (Foucault 1979; Agamben 2005; Rana 2011).

The suspension of normal rules of social conduct and human rights that is experienced most strongly by kidnapped “suspects” also extends to other members of the broad international Muslim community, leading to a condition of fear, suspicion, resentment, and subservience. By declaring its unilateral authority to determine at whim who lives or dies, the state inflicts trauma and a psychologically toxic condition of anxiety on the targeted population (IHCRC 2012). Drones hover over communities, striking at will, inflicting injury and death to thousands of human beings and leaving devastated families and infrastructure in their wake (Center for Civilians in Conflict 2012; IHCRC 2012; Pickler 2014; Scahill 2014). The elite military forces known as the Special Operations Command carry out ground attacks in secret and without accountability (Marshall 2013; Turse 2014; Scahill 2014). Although some consider the “war on terrorism” a symbolic war, it has resulted in very real and destructive consequences throughout the Muslim world.

To further the paradigm of paranoia and scapegoating, Muslim immigrants and citizens in the U.S. who have committed no crimes are often targeted, isolated, held without legal representation, and steamrolled with vague, manufactured charges such as “material support to terrorism” (Aaronson 2014; Dratel 2010; Cainker 2004; Aziz 2011). Placed in segregated units inside the Federal Bureau of Prisons, those who stand so accused are often held apart from their communities, dehumanized, and prevented from contacting the outside world (Aziz 2011; Aaronson 2014; Human Rights Watch 2014). This stripping away of human rights and due process has long been a feature of the U.S.’s “dirty wars” in the global context, often carried out on distant shores through client regimes. In this case, however, it has also spilled over to affect members of the Muslim American community (Cainkar 2004; Iftikhar 2016; Scahill 2014; Campbell 2003). The goal of this predatory prosecution is not merely to inflict “preemptive”

punishment for potential violent crimes before they can happen, but also to undermine political resistance, purge undesirable ideological elements, create a state of fear, and ensure that the scapegoated communities are too traumatized to speak out against the status quo (Cainkar and Maira 2005; Aziz 2011; Human Rights Watch 2014). To quell public dissent, the state has increasingly targeted activist organizations in recent years, with many protest leaders or even protest participants falling under surveillance and/or being arrested (Cainkar and Maira 2005; Shahshahani and Guilloud 2016).

The acceleration of these policies has proceeded irrespective of which of the two main U.S. political parties was in power. The policies implemented by President Bush's administration were not counteracted after the Democrats won office in 2008. Despite President Obama's campaign promises to shut down the prison at Guantanamo Bay, the site continued to operate throughout the duration of his presidency (and beyond). Obama also extended Bush's "state of national emergency" under Proclamation 7463, which heightened the power of the executive branch over the use of military force and gave the administration the authority to suspend any law relating to the armed forces (Korte 2016). Obama revived the military commissions conducting trials of detainees, classified the struggle against al-Qaeda as a war to be fought with military force, increased the use of drone strikes, maintained the secret surveillance programs of the National Security Agency, and aggressively prosecuted more whistleblowers than any other administration in history (Finn and Kornblut 2011; Savage 2015).

President Trump has heightened the rhetoric targeting the Muslim community and has continued the policies of the Bush and Obama administrations. As of this writing, the discrimination against Muslims under Trump has now extended to include a focused travel ban on individuals from seven Muslim-majority countries (Lyons-Padilla and Gelfand 2017). While

it remains to be seen what other discriminatory policies the Trump administration may implement as a result of the administration's explicitly xenophobic, anti-black, and anti-Muslim political platform, there seems to be little question that Trump, like his two predecessors, intends to ensure the dominance of U.S. military power and to uphold a unilateral "America first" protocol (Hunt 2016; Jones 2017). Unlike the Bush and Obama regimes, however, during which officials offered assurances that the United States was not actually in a global war against Islam, the Trump administration has overtly declared discrimination against Muslims to be an item of domestic and foreign policy (Luce et al. 2016; Baig 2017). In sum, there is intimate continuity between these three administrations, with the only real difference being the extent to which the prosecution of Muslims was openly acknowledged. While the Trump administration is more candid about its views and beliefs, the previous two administrations paved the way for Trump's actions with their own counter-terrorism policies and their subversion of the rule of law.

Muslim Americans, however, are not passively enduring these affronts. They are working to challenge the constitutionality of new laws, and they are speaking out against the many violations of their civil and human rights (Cainkar and Maira 2005; Muslim Advocates 2010; Iyer 2015). Numerous Muslim civil-rights groups, coalitions, and organizations have emerged in recent years to educate members of the community and to support political and civil activities (Iyer 2015). Muslim community leaders are increasingly working with politicians and law-enforcement agencies to help fight prejudice and to promote the understanding that a commitment to human rights goes hand-in-hand with national security (Kanjwal 2015). To counter the scapegoating of Muslim Americans as the "enemy within," those who have been targeted by this system have been working to convey their humanity and to engage in collective actions to free imprisoned Muslims whose legal and human rights have been violated

(D’Almedia 2016). While attention and outrage among the general public has focused primarily on the conditions of Muslim prisoners in “black sites” and offshore camps such as Guantanamo, an additional consensus is starting to emerge about the plight of those who have been victimized by manufactured and predatory “terrorism” cases within the U.S. court system.

Purpose of the Research and Methods Used

This dissertation is based on extensive, direct ethnographic research combined with an analysis of scholarly literature. The overall goal of the project was to understand how “terrorism” prosecutions function to regulate and control the Muslim community and Islam within the U.S. and the effects that these prosecutions have on those who experience them. There are three specific research questions that served to guide the investigation:

- (1) In what specific ways have Muslim Americans and Islam been conditioned and affected by their encounters with securitized secular laws and manufactured “terrorism” cases?
- (2) What means have been used by members of the Muslim community who are affected by “terrorism” cases to challenge and resist these securitized secular laws of the modern liberal state?
- (3) To what extent do the surveillance and prosecutorial practices of the securitized liberal modern U.S. state reproduce colonial-era frameworks of violence and power in relation to Islam?

Based on my ethnographic fieldwork and analysis, I argue that while “terrorism” prosecutions claim to eradicate potential violence and promote the rule of law, their application is really focused on eliminating religious thought and practices that are perceived to contradict

the secular state's definition of acceptable or permissible religion. The effect of these prosecutions has been to reinforce social norms of expected behavior, to enact prejudice against religious practices that are perceived as threatening to the dominant Euro-American culture, to marginalize and threaten the Muslim community, and to reshape Islam in a fashion that is more amicable to Western sensibilities. This entanglement of secular law into religious practice and religious identity distinguishes a "sanitized" and acceptable version of Islam, which may be celebrated as a component of "diversity" but does not seriously challenge the status quo, vs. a "toxic" and unacceptable version of Islam that must be purged and castigated regardless of whether or not it has led to any actual criminal behaviors. This forceful secular intervention in the shaping of religion and cultural identity is experienced as a form of violence by Muslims, and it strongly affects their subjectivity and way of being in the world. However, while the state tries to manage religion through securitized secular law, Muslim Americans also challenge the securitized state and attempt to humanize themselves using the secular law. In order to understand these processes and the lived experiences of American Muslims, the research examined the impact of securitized policies and practices in terrorism cases, both inside and outside of penal and legal system, to understand anxieties of the secular security state and Muslims in America.

I also argue in this dissertation that the underlying dynamics of these manufactured "terrorism" prosecutions are neo-colonial in nature, as they are tied to Orientalist ideologies and to the U.S.'s ongoing imperial socioeconomic adventures in the Middle East. When Muslims are collectively blamed for terrorist crimes, and are made available for prosecution and imprisonment through predatory criminal proceeding, this demonization of an entire portion of the world's population and their faith tradition makes it easier to justify unequal relationships

between the West and the East. The Muslim suspect becomes *homo sacer*—*the one set apart from society—who does not merit the ordinary protection* of cultural, legal, and political forms, and whose existence cannot be grieved (Agamben 1998; Rana 2011; Butler 2009).

In this dynamic religious affiliation and legal status become part of the battleground through which the exclusion and control of populations is carried out. Claims of distinction between religion, secular law, and politics are very common, but in fact religion has profoundly shaped the nature of modern “secular” societies and laws as much in the West as in the East. The exercise of racial exclusion and inclusion in modern secular state systems can be directly tied to regimes of religious exclusion from pre-modern times right up to the present (SpearIt 2009; Agamben 2005; Asad 2003; Girard 1979; Sullivan et al. 2011). In the context of United States some critics have argued that Protestantism laid the very foundation for the secularism and liberalism that developed after the Protestant Reformation in England, and that Christian religious imperatives continue to determine the application of secular law and the range of religious and social behaviors that it sanctions (Berman 2003; Kennedy 2012; Sullivan 2011; Massad 2015). In this dissertation, I engage with theorists who argue that secularism has become a kind of political ontology and theology that tries to ignore the Christian nature of the Western modern state and Western modes of being, and at the same time over-emphasizes the religious nature of Muslim communities. In doing so, it positions Islam (though not Christianity) as belonging to an entirely different category of life whose viewpoints and arguments are not commensurate with the intellectual underpinnings of the modern liberal and secular project (Mahmood 2015; Asad 2003; Sayyid 2014; Massad 2015; Sullivan et al 2011).

This work is grounded in 24 months of ethnographic research with Muslim American communities, conducted mostly in the northeastern United States. The participants who shared

their lives with me, allowing me to observe and follow them during their daily activities, included many family members of Muslim men who were convicted of “terrorism” in preemptive/predatory prosecutions. I also participated in community meetings, conferences, demonstrations, and discussions with legal professionals and advocates. I visited federal immigration prisons and observed terrorism trials and courtroom proceedings and congressional hearings alongside the affected families and other community activists. During this work, I encountered both a heartening resilience and a depressing litany of legal setbacks and losses for human dignity. I observed how Muslims who are caught up in “terrorism” prosecutions strive to shift the discursive framework from one in which they are unjustly painted as alien aggressors to one in which they are more accurately identified as members of civil society who have been victimized and are engaged in collective action and resistance.

Chapter Roadmap

The methods of ethnographic fieldwork, participatory research, and theoretical scholarship that were used in this study are discussed in more detail in chapter 1. Then, in chapter 2, I review the history of U.S. legal provisions related to immigration and naturalization cases from 1800s up to the present. I also review the history of separation between religion and politics in Europe and the influence of Orientalism in the construction of race and religion. I describe how Orientalist sentiments concerning religion have influenced secular legal decisions and paradigms of inclusion and exclusion in U.S. history, and how these viewpoints are tied to colonial economic and political structures as well as to Christianity, liberalism, and secularism. This history is the vital background for understanding the ongoing playbook of cultural scripts that contributes to the racialization and subjugation of Muslims in the “War on Terror.” Viewing the recent theater

of preventive “terrorism” prosecutions in this historical context allows us to see how they function as a continuation of earlier policies, and how they serve to control Muslims and exclude them from the social and political sphere. By mandating what kinds of religious expressions are “sanitized”/acceptable and “toxic”/unacceptable, these secular legal practices have long served to legitimize prevalent social beliefs about cultural and religious hierarchies, to portray those outside of the U.S.’s cultural and religious mainstream as unworthy of being considered human, and to mask the violence inflicted on Muslims and other outsider groups behind a veneer of legal civility.

In chapter 3 and chapter 4, I discuss the legal life of terrorism cases. Chapter 3 addresses the topic of “terrorism,” preventive measures, and prosecutions of Muslim Americans in the exceptional federal judiciary. I examine “terrorism” prosecutions broadly by attending to securitized law enforcement and legal practices that the modern state employs as well as to the way secular law uses and interprets religion to create and sustain suspicion about Muslim Americans. I discuss how suspicion is entrenched in secular law and guides its adventures in regulating religion and subjugating Muslims. I describe this as a process of “secularizing” Islam and Muslims, which means that secular state power is established and maintained over the marginalized religious population. Examining this relationship reveals that while the modern liberal securitized state wants to exclude Islam and portray it as a despotic system, it nonetheless depends on Islam for its own survival and universal image. The forced incorporation of a secularized version of Islam into liberal society is required in order to show that secularism is absolute and can absorb all things into itself.

Chapter 4 addresses the topic of secret prisons and examines the conditions under which convicted Muslim Americans are held by the U.S. government. Euphemistically described as

“Communications Management Units” (CMUs), these camp-like facilities severely curtail the prisoners’ access to the outside world and grant authorities total control over their lives and bodies. While drawing from the well-established scholarly literature on the functions and purposes of carceral control, this chapter also discusses how the imprisonment system is part of a project that seeks to alter Islamic religious identity and practices. By differentiating “sanitized” (acceptable) vs. “toxic” (unacceptable) religion, and distinguishing between the “good Muslim” whose beliefs, attitudes, and experiences are acceptable if not celebrated in the West, vs. the “bad Muslim” who is unspeakable and entirely outside the realm of human dignity, legal rights, and personal consideration, the system of preventive prosecution and confinement seeks to adjust Islam and divide the Muslim community in ways that are convenient to neocolonial power and secular state structures. In examining topics such as the U.S. state-sanctioned versions of Islam and the litigation around Muslim daily communal worship in the CMUs, I show how these secular and liberal ideological impositions attempt to erase the complexity of Islamic subjectivity and alienate Muslims from their own histories, communities, and experiences to reconstruct an altered ontology.

Chapter 5 and 6 deal with the social life of terrorism cases. In chapter 5, I focus on the experiences of prisoners’ family members, with an emphasis on how men and women are managed differently during preventive prosecutions and in their aftermath. These gendered expressions of power help to extend the impact of “terrorism” cases over the scapegoated population, dividing communities through the spectacle of arrest, trials, and imprisonment. I examine the ways in which the dominant culture appropriates the trauma, pain, and suffering of Muslim women and other family members of the imprisoned, and seeks to use this suffering to further their marginalization and secularization. This is done in order to manage the Muslim

population, specifically, but also as a way to help control and manipulate the broader U.S. population. The imprisoned population serves the secular state power in proving their contention that Islam must be controlled, and acts as a way to regulate the Islam of the broader Muslim American community through fear.

Advocacy and collective actions to oppose predatory “terrorism” cases and change the rhetoric surrounding them is the topic of chapter 6. I demonstrate how activists, families of the accused, and the convicted men themselves seek to humanize the individuals who are targeted by “terrorism” prosecutions, and how they challenge the associated security-obsessed secular laws and policies. The main demands of these campaigns are straightforward—equality in the application of formal legal rights, and justice for those individuals whose rights have been abrogated. The established standards of international law and human rights provide a strong basis for these claims to the advocates. For these advocates, it is simply a matter of recognizing that these rights must be applied to everyone, and that no community should be demonized as undeserving of legal rights. While the regime seeks to present Muslims as “enemy monsters” who are outside of the normal processes of the law, advocates seek justice and try to humanize the accused through the secular law as well. Following the advocacy works of activists, organizations, and families, this chapter argues that Muslim subjects seeking justice through secular laws are always tied to the state, and shows how advocacy or social justice work focused on and through the secular law is just another way that secular state power functions to regulate religion. This dependency on secular laws also expands the violence of the secular liberal state and perpetuates a neo-colonial relationship.

By demonstrating how the exclusion of religion, neocolonial imperatives, and secular law operate together as constitutive aspects of the modern liberal state, this examination of

“terrorism” prosecutions reveal how the hand of secular power forcefully reconstructs Muslim identity, subjectivity, and ontology and attempts to reshape Islam. It also shows how this secular management and regulation is a form of oppression. The themes of secularism, modern state power, religion, law, and violence run throughout the project, indicating how the securitized state seeks to govern Muslim and manage Islam in the “war on terror” reproduces a neo-colonial relationship.

CHAPTER ONE: ETHNOGRAPHIC FIELDWORK AND THEORETICAL OUTLOOK

This dissertation is based on approximately 24 months of field research, most of which was conducted in New York City and the District of Columbia, U.S.A. The basis of the study also includes a smaller number of observations in Boston, MA; Raleigh, NC; Atlanta, GA; Cherry Hill, NJ; Philadelphia, PA; Marion, IL; Terre Haute, IN; and Indianapolis, IN. Prior to starting my fieldwork, I had already established a good relationship with a non-profit organization called the National Rights Coalition (NRC),³ which works to offer support to families of individuals targeted by government overreach in predatory “terrorism” prosecutions. The NRC is a coalition of human-rights and civil-rights organizations established in 2010 as a means to help put an end to racial and religious profiling, preemptive prosecution, and the abuse of prisoners.

The NRC has its own by-laws, a staff, and an executive director who oversees day-to-day activities. The Steering Committee (SC) coordinates different sub-committees within the organization: Legal, Legislative, Education, Prisoners/Family Support, and Media. The members of the SC communicate regularly to assist each other in their various projects and to discuss the issues that they face in their work. The majority of the advocates and staff members are volunteers; the only exceptions are occasional outside contractors who serve temporarily and provide expert advice. During the period of my fieldwork the organization did not have its own offices, but instead made use of borrowed spaces from its member organizations to conduct meetings and other activities.

I was introduced to the organization by a seasoned activist friend whom I had come to know over the years of my advocacy work. I started volunteering with the organization in 2011.

³ This is a pseudonym for the organization.

Through my own connections, I helped to organize panel discussions on behalf of the organization around the country in the cities of Boston, Detroit, East Lansing, Raleigh, and Atlanta. For the Detroit panel in July of 2011, I was able to get U.S. Congressional Representatives John Conyers and Clarke Hanson to attend and discuss legislation/policy proposals with the executive director. This placed me on the organization's radar as someone who can "make things happen." As a result, when I shared with them that I was going to start conducting dissertation research with communities affected by predatory "terrorism" cases, they not only offered their support but also encouraged me to stay on and assist in developing their Prisoners and Families Committee. I was thrilled at the prospect of working more closely with the organization to help build these outreach efforts, and I was also happy that the position would help to subsidize my living expenses during fieldwork and thus allow me to expand the scope of my research. Starting in 2012 we came to arrangement where I would serve as the director of the of program for their Prisoners and Families Committee in return for a modest stipend. While the organization agreed to participate in my research efforts, their primary interest was in the immediate contributions that I could make to their organizational efforts.

I was given a long list of pre-existing agenda items that the organization wanted to accomplish. At the time, they were trying to determine what kind of support the family members of imprisoned Muslims needed. The organization had created a tentative questionnaire for this purpose, but it needed more work to develop the format and broaden its content beyond basic financial and legal requests. I assisted in developing this document, in conjunction with their legal staff. The organization had a small list of contacts for the family members of prisoners, and I was able to add few additional names through my own connections, but at the time there were only seventeen total families that we were in touch with. I initially distributed the questionnaire

to these family contacts in a survey format; however, since very few replied via email I ended up traveling to visit families in several different states to discuss the questionnaire items with them in person.

I obtained approval for my research from the Michigan State University Institutional Review Board (IRB) in June of 2012, and shortly thereafter I left for New York to engage full-time in my fieldwork. During the following two years I participated in numerous interviews, conversations, and observational sessions with affected family members, as well as with advocates working on their behalf. Some of these observations took place in institutional settings such as courtrooms, while others took place in more intimate family settings, in support meetings, and at advocacy events. These contexts are described in more detail below. All of the family members and advocates with whom I interacted were aware that I was engaged in academic research; they were also aware of my involvement in advocacy work with NRC. In conversations with family members, I would often ask what issues and experiences they would like to share with the world so that others could know about their situation. Very frequently, they would respond by expressing a desire to be humanized and better understood, and by expressing enthusiasm for the project. Overall, the family members and advocates with whom I spoke about my research activities were all very supportive and freely offered their assistance.

Personal Background

My own involvement in advocacy against predatory “terrorism” prosecutions began in 2006, when my brother was kidnapped from Bangladesh and brought to Brooklyn by the FBI to face charges in U.S. federal court. At the time, I established connections with various civil-rights and human-rights organizations in New York, and with members of the New York Muslim

community. I have continued to maintain these contacts over the years in relation to my brother's case. When I began my research, these connections became vital in helping to open up opportunities for participant observation, as well as for assistance with practical concerns such as safety and housing. When I first arrived in New York City to conduct my fieldwork one of the affected family members—the aunt of a young man who was entrapped in the disturbing “Newburgh Four” prosecution⁴—invited me to stay with her while I searched for more permanent accommodations. Almost immediately, another unrelated family member asked for my assistance in driving her to visit her son at the federal prison in upstate New York. Thus, I was quickly immersed in opportunities to learn about these women's experiences.

I also encountered a variety of negative responses to my work. One Muslim roommate, upon learning that I had a brother in prison, stated that she did not feel safe with me around and demanded that I leave the apartment immediately. Again, I was forced to rely on the community of affected family members for a temporary place to sleep. Eventually I got another semi-permanent accommodation with a Bangladeshi family, where I stayed for about three months in a section of their living room divided off by a curtain. The woman of the house was living with her two children and her husband was in prison for various federal violations. One day the husband, who was supposed to be serving a seven-year sentence, simply showed up again without notice on the doorstep. The family was shocked and elated. However, I felt uncomfortable having a male in the apartment where I was sleeping in the living area and had very little privacy. Furthermore, when I asked the man the reasons for his unexpected early

4 The Newburgh Four terror case involved a fake, FBI-initiated plot to blow up two synagogues in the Bronx. Shahed Hussain, the government informant who cajoled the defendants into participating in this “plot,” presented himself as a wealthy Pakistani businessman and offered to pay the defendants a significant amount of money for their involvement. The defendants later stated that they only wanted to scam Hussain out of his money and had no intention of actually carrying out the bombings.

release by federal authorities, he grinned at me and said that agents had interviewed him and concluded that he was not a “threat to the country.” This response didn’t make much sense to me (since he was imprisoned for credit-card fraud), and I began to wonder if he was working with federal officials.

My fears were quickly affirmed by the local advocacy organization that had helped place me with this family. A representative of the organization told me that they believed this man may have been recruited by the government and offered an early release in exchange for helping to monitor or entrap me, and they described a pattern of such cases that they had documented in the New York Muslim community. Once again, I had to scramble for a new place to stay. My gratitude for this clarity soon soured, however, when I learned that another representative from the same advocacy organization had been telling members of the community that I, also, was a likely government informant, and that people should not participate in my research or allow me to learn about their lives. As a result of this intervention several of my research participants discontinued contact with me. The sense of personal frustration and powerlessness that I experienced throughout this situation helped me to understand very intimately how predatory prosecutions and the sense of paranoia surrounding the “War on Terror” reverberated throughout the community. I felt unsure of my own safety and also hurt by the suspicions that I encountered. I just hoped that someday I could publish the outcome of my work so that people could better understand my research.

One of the affected family members whom I drove to the federal prison shortly after my arrival in New York offered to let me stay with her until I found another place. Again I slept in the living room, along with the family’s daughter, with no privacy at all for four months. This type of arrangement has become quite common among the immigrant population of New York,

as spaces intended as dens or dining areas are converted into makeshift bedrooms due to the high cost of living. Later, I moved in with another family in a housing project in Queens, where I lived in the same room with two children for several months, before finally getting a place with my own room in Brooklyn in 2013. Though I spent much of my time looking for an affordable residency during this first year of fieldwork, I also made valuable connections with members of the affected community, as well as important contacts with local organizations. A group associated with a local university further assisted in connecting me to various community members, legal professionals, events, and meetings related to the laws and policies that were of concern to the larger New York City Muslim community.

Participant Observation

In the following sections I describe in more detail the features of my fieldwork activities and the methods that I employed. First, I cover the various contexts in which I conducted participant observation, and then I continue in later sections to discuss interviews, archival/material-culture research, and my record-keeping practices. Although I make a distinction here between participant observation and ethnographic interviews, in practice this distinction was sometimes blurred. Depending on my pre-existing relationships with the participants, the interviews were at times more or less formal—the difference, however, is that the interviews were recorded and were guided by a more intentional and semi-structured list of questions, whereas the participant observations were not. As I discuss in more detail below, making and recording observations was particularly challenging in an environment where taking notes, taping conversations, or carrying a camera could be readily construed as threatening both by government officials and by the

affected community members. Thus, the observation and interview processes had to be carefully conducted in a way that respected the participants' safety concerns.

The majority of my fieldwork activities fall within the approaches that are known as engaged anthropology, participatory action research, or activist research (Hale 2008). Scholars such as Stuart Kirsch have asserted that advocacy is appropriate within anthropology, and that it can be understood as an aspect of the discipline's professional ethics— "a logical extension of the commitment to reciprocity that underlies the practice of anthropology" (Kirsch 2002, 178). My fieldwork experience was also strongly shaped by my own personal social position and background, and it is therefore overtly grounded in the "situated knowledge" of my life's trajectory (Haraway 1988). Many anthropologists today who work with indigenous people or disenfranchised populations have come to align themselves with their subjects' daily struggles for survival, and they understand their academic work as a means of advocating for greater equality and communicating marginalized experiences to an outside audience (Hale 2006; Kirsch 2002; Tandon 1988). Unlike many anthropologists who ally themselves with a community that they are not immediately a part of, my work as a researcher is focused on studying a population in which I myself am included.

Observation of Human Rights Organizations

The NRC did not have a designated office space where I could observe its employees or constituents. In fact, the NRC did not have any employees at all, but was operated by a limited number of volunteer staff members, with occasional contributions from paid outside consultants. Each of the organization's five sub-committees had a director and a co-director, and these ten individuals, along with the NRC's executive director and a secretary, comprised the Steering

Committee. The Steering Committee members relied primarily on email for communication and coordinating their advocacy tasks.

As the program director of the Prisoners and Families Committee (PFC), my role was formally described as: (a) conducting outreach to families and helping them to find the support they need in their local communities, (b) finding support for prisoners and coordinating with the Legal Committee to provide that support, and (c) organizing the provision of Ramadan gifts to prisoners. These tasks appeared to me like social work, an area in which I have very little experience. I proposed to add a few additional tasks that were more in line with my advocacy background and experience. One of these tasks was helping the NRC to connect with more imprisoned Muslims and their families by drafting and sending letters of introduction. I also organized the first National Ramadan Letter Writing to Prisoners Campaign, developed educational programs about and for the families of imprisoned Muslims, and curated an exhibition of artworks of imprisoned Muslims. I proposed that families of imprisoned men should be brought together to meet, network, and support each other. All of these efforts were to help combat the stigmatization and dehumanization of Muslims who have fallen under the rubric of terrorism accusations.

Participant observation took place in a variety of locations. These contexts were primarily meetings, conferences, and advocacy events. In addition to attending official organizational functions and observing the advocates, lawyers, and concerned community members at work, I also maintained contacts with families. I also initiated communication with imprisoned Muslims on behalf of the organization. One site of observation that was of particular interest to me was the interaction between the organization's representatives and the larger Muslim community. I also often assisted family members of imprisoned men in their efforts to connect with this larger

community, and I contributed to the organization's efforts to conduct panel presentations for broader community in national conventions such as the Islamic Circle of North America Conferences (ICNA) and the Islamic Society of North America (ISNA). At both national and local events across the country, I was sometimes placed as one of the speakers and had opportunities either to share my own family's story or to talk about the work of the NRC.

While participating in these activities and events, I endeavored to make it clear to staff members and families that I was simultaneously performing social science research and making observations that would inform my academic writing. Most of my interlocutors were entirely supportive of this effort, particularly when I told them that I planned to write about the impact of predatory prosecutions on Muslim Americans and the necessity to support these imprisoned Muslims and their families. When I had organizational responsibilities for conference panels and community events, I endeavored to leave myself free time in which to observe the interactions that took place among family members and advocates. Taking notes during speaker presentations was relatively easy.

Observation at Legal Help⁵

Legal Help is a law clinic that assists with the legal needs of Muslim, Arab, and South Asian communities in the NYC area who are directly affected by national security and counter-terrorism policies. It also maintains a close relationship with community organizations that are working to change some of the more unjust and predatory aspects of these policies. The organization is primarily staffed by law students, who provide information and assistance on topics ranging from how to interact with law enforcement officers to how to remain safe during

⁵ This is a pseudonym for the organization.

international travel. Legal Help also collects documentation and evidence about encounters with U.S. law enforcement and about the impact of national security and counter-terrorism policies on the Muslim community.

My involvement with Legal Help mostly pertained to the “Know Your Rights” presentations that the group frequently provided for the community. During this process, I was able to observe how community members responded to legal advice and to the advocates who provided it. I was also able to engage in conversations with a variety of civil-rights and human-rights lawyers who were working on local campaigns to draw attention to rights violations. During the period when these observations took place (2012–2013) Legal Help and several affiliated organizations were working to challenge the NYPD’s surveillance program of Muslims and its “Stop and Frisk” policies, which are widely viewed as both ineffective and discriminatory (Rivas 2012; Tcholakian 2013). Many of the events and activities that I participated in with Legal Help were focused on raising awareness and opposition to these law enforcement practices.

Observation of Courtrooms

As part of my advocacy work I traveled to various states to observe and support families who were going through trial proceedings. This helped me to establish rapport and relationships with many people involved in the court procedures. Additionally, as a part of my work with NRC, I was tasked with supporting families and this included going to court with them when needed. I also observed courtroom proceedings alongside activists and in cases that Legal Help was representing. I observed both “terrorism”-related cases (state vs. Muslims) and lawsuits brought by Muslims against the state around national security policies and practices. These observations

took place in the following courts: New York State Court, D.C. Circuit Court, Appeals Court in New York City, U.S. Federal Court in New York City, U.S. Federal Court in Boston, and U.S. Federal Court in Indianapolis. I observed total of eight federal “terrorism”-related court proceedings, including a case about Guantanamo Bay detainees, as well as a Congressional Hearing on the use of unmanned drones.

All of the courtrooms that I witnessed during my fieldwork were very similar in appearance. Toward the back of the room, they had rows of forward-facing wooden benches along each side for observers, with a central walkway between them. At the front of the room, the platform where the judges sat was elevated above the ground floor and extended across the full width of the courtroom. The attorneys were seated between the public benches and the judges. The walls and ceilings of the rooms were richly decorated with handsome chandeliers, drapes, and paneling. All of the courtrooms were lavishly appointed and had fully integrated technology available, including video-conferencing and recording cameras.

During courtroom proceedings I took hand-written notes, and in some cases I was mistaken for a journalist. In fact, the press corps comprised a significant portion of the observers for these proceedings. Attending the cases allowed me a unique opportunity to interact with actual journalists and to learn about their attitudes and outlooks. At one point, I told a reporter from the *New York Times* that I thought the titles of her articles about these cases were very racist. The reporter replied that she did not choose the titles. Instead, she told me, they are written by the newspaper’s editors, who also significantly cut and edit her reports. In a similar fashion, a journalist with *Al Arabiya* spoke to me with frustration, saying that her editors would not include any of the analysis that she sent them but instead just wrote their own stories using details taken from her account. During the breaks between witness testimonies, the reporters

mingled with each other and I would often listen in on their conversations. I came to appreciate their irreverent sense of humor as well as their jaded acceptance of the fact that whatever they wrote would invariably be adjusted to fit their publishers' desired narratives. I got the feeling that some of the reporters had grown rather tired of these "terrorism" cases that they had been assigned to cover for their news agencies.

Observation of Prisons

In addition to four visits to see my brother in the "Communication Management Unit" in Terre Haute, IN, I also accompanied other family members of imprisoned Muslims on their visits to their loved ones in Terre Haute, IN; Ottisville, NY; and Elizabeth, NJ. As was the case with the courtrooms, these federal prison facilities had an imposing similarity—as though they were forged from the same extended blueprint. Located in remote areas, they all occupied vast areas of land, with similar structural elements, similar guard towers, and similar barbed-wire surrounding them. All visitors were required to follow the same rituals to pass through security checks and enter beyond the iron gates. Family members had to show their identification cards, fill out forms, take off their shoes and jackets, and walk through metal detectors. They were required to follow specific guidelines for their dress, to stay calm and collected at all times, to restrain their emotions, and to behave politely with officers. All visitors were branded with invisible ink before getting processed through a series of scanning laser beams as they were finally allowed entrance into the dim waiting lobby. Even then, there was always an uncertainty as to whether or not a visit would be allowed, as the prisons enacted new and seemingly arbitrary regulations on a near-daily basis.

Most of the loved ones of the families who participated in my research were held in the two “Communication Management Units” (CMUs) located in Terre Haute, IN, and Marion, IL. These special prisons were established after the September 2001 tragic incidence specifically to house Muslims convicted of terrorism-related offenses. Civil-rights groups, family members, and the imprisoned Muslim themselves often refer to the CMUs as “Guantanamo North”—a designation that indicates their concerns about the exceptional nature of the facilities, the frequency of communication blackouts, and the specter of political imprisonment and torturous punishment that hangs over these prisons. At the CMUs, a supervisor escorts visitors to a room where family members can see their loved ones through plexiglass and communicate with them via wall-telephones. There is no physical contact. These visitation rooms are dingy and are full of conspicuous surveillance cameras, in addition to the physical surveillance provided by the ever-present prison guards. Family members have to make an appointment in advance to visit, and they can expect to be carefully scrutinized and regarded as suspicious due to their affiliation with a captive.

Visiting loved ones in these prisons is quite an ordeal, not only due to the oppressive security procedures and the sense of helplessness they engender, but also because of the distant location of the prisons and the logistics entailed in a visit. It takes about 16 hours to drive from New York City to Terre Haute, IN—assuming that one can locate transportation and can afford to make the trip. Since my brother was held in the Terre Haute CMU, other community members whose loved ones were imprisoned in that facility sometimes asked for the opportunity to travel with me when I visited. In one case, another visitor and I were told that we could not both see our family members on the same day. Apparently, a policy had been implemented that limited the CMU unit to one (total) visit per day. In addition, when we tried to make appointments to

visit, the guards intently questioned us about how we knew each other and our reasons for traveling together. Due to these kinds of hardships, it is common for years to go by without family members having an opportunity to see their loved ones.

Driving family members to prisons gave me an opportunity to learn more about their viewpoints and experiences. However, as I was cognizant that they were in effect stuck with me for the duration of the drive and also dependent on me for the opportunity to visit, I rarely pressed for any specific information beyond what they wanted to volunteer in conversation. Some of these interlocutors were more verbose than others, but all wanted to exchange stories about their imprisoned loved ones, their cases and trials, their day-to-day experiences, and their relationships with the larger community. They shared their dreams, worries, complaints, fears, and pain.

Observation of Collective Actions

During my fieldwork, I also participated in collective actions undertaken to resist predatory prosecutions and the scapegoating of Muslims. Under this category of collective actions, I am including demonstrations, campaigns, vigils, and rallies, most of which occurred in New York City and some in Washington, D.C. There is in fact no shortage of such activities in New York City that challenge local, national, and international authorities and that seek to hold these authorities accountable for their human-rights violations. Almost immediately upon my arrival in the city, affected families, activists from the Muslim community, and legal advocates began to inform me about planned events. As noted above, the campaign against NYPD's discriminatory "Stop and Frisk" program was a central issue at the time, and some advocates were using that movement as a springboard to draw attention to the targeted surveillance of the Muslim

community. I was advised to go to some of these demonstrations, and from there I had the opportunity to meet and connect with other Muslim activists and organizers.

The advocates working on “terrorism”-related prosecutions within the federal court system were particularly curious as to why there had been so little public outcry regarding the violations of these prisoners’ rights, while at the same time the treatment of those held internationally in locations such as Guantanamo Bay had become nearly an everyday topic in the national conversation. To help challenge this dangerous and selective silence, they were initiating conversations with larger organizations including the American Civil Liberties Union, the Center for Constitutional Rights, the Council on American Islamic Relations, and Amnesty International. These meetings usually took place in the offices of Amnesty International. I was invited to participate both as a representative of Justice for Shifa (my brother’s campaign) and as a representative of the NRC.

As always, I informed those involved in the campaign that I was conducting academic research at the same time that I was working as an advocate. The participants were all supportive of these efforts. Our work to create awareness of predatory “terrorism” prosecutions and human-rights violations against Muslims in the federal court system culminated in creating a national campaign in 2014. Among other things, this involved monthly vigils in front of the Metropolitan Federal Detention Center in Lower Manhattan. I soon became one of the core members for this group, and the campaign was an important site for my observations about collective resistance actions.

Ethnographic Interviews

I conducted sixty-one detailed interviews with affected family members, community leaders, lawyers, human rights activists, and former prisoners. The participants were of varying ethnic backgrounds; about three-fourths of them were Muslim. They ranged in age from twenty-one years to over sixty years. Most of these interviews took place at the homes of the participants or offices—the exceptions were three of the interviews that were conducted using Skype videoconferencing software (due to the distances involved). The duration of the interviews varied from 1.5 hours to 3 hours, depending on how much information the participants wanted to share. All of the interviews were audio-recorded with the consent of the participants.

Most of the interviews were conducted in English, with the exception of two affected family members who preferred to speak with me in the Urdu language. While these two women understood English, and spoke it with reasonably well, they indicated that they preferred to be interviewed in Urdu to help ensure their comfort and clarity of expression. They stated that a translated consent form was not necessary, since they could easily understand the English-language version of the form. My working knowledge of Urdu sufficed to comply with these wishes, but there were a few occasions in these two interviews where I had to request additional clarification for phrases that were unfamiliar to me.

When conducting the interviews, I made use of semi-structured questionnaires that I had prepared in advance. A different questionnaire was used for each category of participants—community members, activists, and lawyers. (Affected family members, former prisoners, and Muslim leaders were all included in the category of community members.) Following the standard semi-structured interview format, these prepared questions were used only as a starting point for conversation. Additional discussions, questions, and details emerged spontaneously

depending on the responses of each participant. In addition to the focused interview discussions, several of the community members and activists provided me with extensive life histories and background information about their situations.

Most of my interview respondents were extremely articulate and were fully engaged with the subjects at hand; they were eager to offer their outlooks in an interview format without much additional prompting. Recognizing me as an affected family member, they spoke frankly about their feelings and about how the “War on Terror” had affected their lives. Many of the family members had opinions about what they hoped I could communicate to the larger world as a researcher, and they would frequently advise or remind to examine this or that aspect of the situation or to make sure that I did not omit certain things that they had told me. Since I had previously interacted with many of these individuals during my participant observation and advocacy work, the interviews served in many cases as a kind of culmination or summation of experiences that we had shared together during the previous years. In some cases, we talked about events and campaigns that we had been involved in together. Overall, these interviews complemented the period of participant observation and allowed me to collect thoughts and opinions from my interlocutors in a more rigorous format.

Collection of Archival and Material Culture

In addition to my participant observation and ethnographic interviews, I accessed a variety of primary-source materials and objects associated with the Muslim community’s experience of predatory “terrorism” prosecutions. Several organizations, including the NRC, document their work and collectively maintain a Website, a YouTube channel, a listserv, a Facebook page, and a Twitter account, all of which contain copious information, images, and written expressions by

affected community members, activists and legal advocates. I also collected prisoners' writings, letters, poetry, and artwork from various prisoners' rights websites, activists and from family members. On the legal side, my contacts provided me with extensive documentation related to ongoing court cases and human-rights abuses. Expressions of outlooks and policy from government representatives were collected from news articles, published interviews, and television appearances as well as public forums.

Record Keeping and Photography

Conducting fieldwork related to the "war on terror" in a community that is under constant targeted surveillance by authorities leads to unique requirements and considerations in the collection and preservation of data. In addition to carefully protecting my research participants' safety, I had to attend to my own personal circumstances as the family member of an imprisoned person and a representative of an advocacy organization that supports the families of imprisoned Muslims accused and convicted of "terrorism." One of the suggestions that lawyers and activists always provide for Muslims who come under surveillance is to carefully document their interactions and conversations. Since federal agents and informants have the habit of not recording full conversations with "suspects," but rather writing selective reports after the fact, the mere suggestion of documentation that is held by the affected community members can alter agents' behavior and help to establish accountability. Thus, Muslims are advised to offer to tape-record any conversations that they have with authorities. I had already learned to do this as a result of my experiences with my brother's case as a means of ensuring that nothing I say could be misquoted or misrepresented.

When I was preparing to begin my fieldwork, I consulted with human-rights lawyers on the topic of how to protect myself as I conducted this research. Again, one of the primary suggestions that I received was to document all of my interactions with authorities or with suspected informants. Fortunately, New York is a “one-party consent state,” which means that anyone can record their interactions with others and that those recordings have legal standing. I made use of this advice when I suspected that my interlocutors might not be as they appeared. For example, at one point during my research I was contacted by an unknown woman who claimed to have legal documents related to a prisoner’s case that she wanted to share with the NRC. She insisted on meeting in person, and then several times requested changes in the appointment dates and locations that I had stipulated. When I finally went to meet her, I took my recording device to protect myself. As it turns out, she forgot to bring any of the aforementioned documents to our meeting, and instead plied me with questions, such as what do I do with the prisoners, what do they tell me, and had I recently taken any Arabic classes. She then offered to put me in contact with a Muslim student group—one that I happened to know from my research had been previously shut down by federal authorities. Since I became strongly suspicious that this woman was an informant I was glad that I had made a recording of the conversation, and I gave it to a lawyer to keep in a safe place in case it was needed.

While full recordings can be a powerful defensive tool when they are in the hands of those targeted by authorities, such documentation can also be perceived as a threat by community members who fear that their words or images may be taken and selectively used against them in predatory prosecutions. The sense of fear and paranoia that such top-down surveillance engenders has a dampening effect both on democratic expression and on the integrity of social-science research. To allow my interlocutors to freely express their feelings and

experiences I had to account for their entirely rational concerns about data collection. For this reason, during the vast majority of my participant observations I made no recordings or notes at the time of observations (the exceptions to this were the semi-structured interviews, courtroom observations, and interactions with authorities). When communicating with advocates and family members I made sure to introduce myself accurately and to clarify that I was collecting observations for my dissertation, but I tried to avoid as much as possible the use of note-taking or recording devices. During the second year of my fieldwork I took a number of photographs of individuals. Photos of public events were collected from various event websites and social media as well as my own. In this case and in my recorded interviews I was careful to obtain permission from the participants.

Historical Background and Theoretical Framework

To better understand the historical context of the entanglement between religion and secular law in “terrorism” prosecutions, and to strengthen the analysis of my observations, I engaged in a review of scholarly literature related to religion, secularism and liberalism, modern state formation, detention, crime, and colonialism. These themes are interconnected and will appear throughout this dissertation as I address various topics related to Muslims’ experiences with militarized security laws. This project relies on the scholarly understanding that the state and the law have been historically connected with racial and religious concepts, and that a particular Euro-centric worldview underlies the judicial and penal practices of the modern Euro-American liberal state (Asad 2003; Sullivan 2009; Sullivan 2005; Sullivan et. al 2011; SpearIt 2009). I draw from scholars who have traced a specific type of structural coordination between the political and religious spheres that dates back to Europe’s Protestant Reformation in the 1600s,

when politics, law, and government were conceptually separated from transcendental religion (Sullivan et. al 2011; Asad 2003; Weil 2011; Mahmood 2006; Yelle 2013). Starting in that era, European and white American societies developed a particular view of how religion and politics ought to be conducted, while excluding, banishing, or imprisoning those whose practices and beliefs did not fit the secular state's new definition of acceptable religion. Central scholars that I draw from in this analysis include Talal Asad on religion and secularism, Michel Foucault on crime, security, and disciplinary institutions, and Giorgio Agamben on the dehumanization of "undesirable" people.

A very brief account of the origins of the modern liberal secular state begins with the Thirty Years War in seventeenth-century Europe, also known as the Religious Wars. During this time, various European monarchs and religiously-based nations conducted extensive and convoluted military campaigns against one another. The conflicts were widely justified by the various powers as "holy wars," and different states claimed to have theological authority and direction from Christian God to wipe out other Christian factions. In the aftermath of these terrible conflicts, and influenced by the spread of Renaissance humanism, Europeans began to move toward a separation of religion from all governmental, political, and legal institutions in an effort to stop the religious violence and cultivate tolerance (Berman 2003; Sullivan et. al 2011; Asad 2003, Massad 2015). Along with this transformation came an effort to limit the divine authority of monarchs over their subjects and reduce practices such as public executions and torture (Foucault 1979; Sullivan et. al 2011; Asad 2003; Kusha 2009; Agamben 2005). However, despite these efforts to separate religion from politics, religious authorities (particularly Protestants) remained strongly connected and influential in the way the political authority of the emerging liberal secular state was constructed. Christian religious doctrines continued to strongly

influence and guide the concepts of crime and punishment. Even while the concept of non-religious authority was being established, the emerging modern legal/penal system functioned in the outlook of many people as a site of penance and rehabilitation for those who had “sinned” or committed “idolatry” (Kusha 2009; Foucault 1979; Sullivan et. al 2011).

The church at this time was dominated by the emerging power of Protestantism and its opposition to Catholic monarchies. Protestants were firmly invested in deeming religion to be a “private” or internal matter that should not be subjected to external religious authority. Despite this nominal religious-democratization process, however, the concepts of Protestantism themselves became a new kind of normative religion, one that was strongly linked to the emerging concept of the secular liberal state, universal civic benefits, and the scope of religious tolerance (Weil 2011; Berman 2003; Asad 2003; Yelle 2013; Sullivan et al. 2011). The tolerance did not extend very far. Under this paradigm Catholics were considered heathen, disloyal, and a threat to “national security” because they followed the authority of the Pope and emphasized public rituals (Weil 2011; Kennedy 2012; Berman 2003). In England, being a Catholic became a crime after the Protestant Reformation. A significant part of the reason for this was because Catholics supported formal religious involvement in the state, thereby violating the supposed separation between religious identity and political loyalty that had been established by the secular/Protestant movements. Anti-Catholic penal laws were established by the supposedly secular state to punish and exclude Catholics from the national polity and cultural and political citizenship (Weil 2011; Berman 2003).

At the broader social level, Catholicism became an object of fear and hatred in countries such as England, and it was viewed more as a threatening political ideology rather than a legitimate religious viewpoint (Weil 2011; Kennedy 2012). This was the time in Western history

where the current debate over how to draw the line between sanitized, non-threatening, and acceptable religion vs. toxic, politically dangerous, and unacceptable religion really began. The definition of acceptable religion was linked to the state's authority to demarcate society into different spheres (political, social, economic and familial) and subject these spheres of life to the regulation of secular legal doctrines. The ideal of the new secular/Protestant state was that religion would be practiced without coercion and by individual choice and personal preferences. In the current political climate of the "War on Terror" Islam is frequently demonized, just as Catholicism was in an earlier era, as a dangerous type of religious practice due to its presumed affiliation with political power.

Another vital perspective in understanding the treatment of religious groups by secular regimes was solidified during the European colonialism of the eighteenth and nineteenth centuries, when secularism was presented as one of the key Western achievements that ensured modern positivist scientific and technological progress and the superiority of European societies. With the advent of positivist scientific discoveries and theories, secularism was presented as an epistemological and ontological category rather than a social or political category. It came to view itself as an attempt to shift the episteme of citizens from religious ontological claims of transcendence to an outlook centered on human-centric and scientifically oriented temporal ontology (Mahmood 2015; Asad 2003; Massad 2015; Sayyid 2014; Camaroff 2001). This connection between secularism and scientific and economic progress enabled the expansion of European empires and the colonization of non-Europeans. The primarily Christian states that applied scientific accomplishment as a means to subjugate others also practiced a form of ritualistic and intellectual coercion that the anthropologist John Camaroff has termed "lawfare" (Camaroff 2001). The violence and discriminatory practices codified into legal codes lent an air

of legitimacy and progress to what would otherwise have been blatant acts of armed oppression.

Speaking from the perspective of colonized, the psychiatrist Frantz Fanon (1963) argued that both colonization and decolonization (that is, the formation of modern states in the previously colonized territories) were projects in which non-European subjects and traditions were dehumanized. In contrast, the anthropologist Talal Asad (2003) has argued that the colonizing project of Europe was about “humanizing” the colonized subject. However, Asad does not view this as a good thing. Asad emphasized that the mission of implementing modern laws, liberal ethics, science, and a secular way of life – the project general known as “civilization” – was merely a way of managing the colonized. Furthermore, he suggests that it was a fundamentally violent project (regardless of whether it is interpreted as “dehumanization” or “humanization”), and that it was devoted to the eradication of non-European ways of life. Another understanding might be that while colonial laws and practices dehumanized the colonized, the creation of post-colonial or de-colonized liberal states then “re-humanized” non-European peoples in a manner convenient to Western power. Regardless of how it is understood, a significant part of this process is the elimination of “dangerous” forms of religion and belief in the colonized territories. The relationship between colonizer and colonized is ultimately based on assumptions about the superiority of modern liberal law and the secular state in achieving universal progress. The benefits of such social changes are often characterized in terms of providing freedom to individuals to resist oppressive authorities, including religious authorities.

Thus, modernity and the modern secular state created a rupture in the sacred, religious, and natural practices of colonized people. This is similar to the social ruptures that the emergence of modernity created in Europe, but for the colonized it was even more traumatic

because it was imposed violently by an outside power. Native worldviews were forcefully subordinated to a paradigm that prided itself on concepts of tolerance, reason, science, freedom, equality, humane law, and secularization, but that also retained strong elements of Christian proselytizing and an overt belief in European racial/cultural superiority. In the current era, modern liberal laws are widely viewed as more tolerant, humane, and rational than religion-based authority, and they are celebrated as a triumph in the U.S. and elsewhere. Critics have noted, however, that the specter of Euro-American superiority, religious and racial prejudice, and absolute power that has been structurally entrenched continues to linger over modern liberal secular systems.

Gorgio Agamben (1998; 2005), borrowing from Carl Schmitt's idea of the "state of exception," argued that all modern states maintain spaces in which undesirable or outlawed people are confined, stripped of rights, and dehumanized due to the supposed necessity of "emergency actions" or "existential dangers" to society. Agamben focused on overt sites of confinement, such as the U.S. detention centers in Guantanamo Bay or Holocaust concentration camps, where nominally modern liberal democratic states exercise absolute sovereign power. In these sites, undesirable people are stripped of any human rights, cultural meaning, or dignity, and reduced to a state that he calls "bare life," where they are treated merely as physical animals to be controlled rather than as human subjects. In Agamben's view this type of state power operates directly on life, reshaping it according to the state's desires and its approved conceptual orientations to the world (Agamben 2005). In other words, this type of treatment affects one's subjectivity or one's subjective understanding of oneself and being in the world. In these exceptional sites, the modern liberal state demonstrates its unbridled power to control and inflict violence on those it deems unacceptable, thereby confirming its sovereignty much in the same

way as pre-modern monarchies, albeit in a somewhat more institutionalized format (Agamben 1998; 2005).

The philosopher Michel Foucault's theories focus more on this institutionalized nature of modern state power, and describe how power is distributed more broadly through disciplinary institutions, policing, security, and the surveillance regimes of the modern liberal state (Foucault 1979). The discipline and management of population through security apparatus is a way the modern state produces desired morality, sensibilities, and actions from its citizens to the point where they become self-governing subjects. In this way, the modern state regulates human life and generates certain subjectivities and ways of being, an exercise that Foucault referred to as "biopower" (Foucault 1979). Both Agamben and Foucault address how the administration of life in a "state of exception" and/or within disciplinary institutions can reconstruct human life and sensibilities. Agamben's state-of-exception camps and Foucault's disciplinary institutions are cautions against the idea that modern secular states have successfully instituted a more tolerant and humane regime that equally benefits all of humanity.

While drawing from the views of these scholars about the failures of secular states to live up to their ideals, and demonstrating this perspective in relation to the United States' treatment of Muslims in the "War on Terror," I also go further by adopting Talal Asad's contention that this phenomenon is not limited to isolated disciplinary institutions but is rather a normal and fundamental condition of the modern secular state. Asad (2003) traces a chronological trajectory that he describes as the secular, secularism, and secularization. First, the concept of the secular emerged as an epistemic category. Secular reality or secular life came to be understood as a profane, or non-sacred space that was separate from religion. Certain times, places, persons, institutions, and actions were seen as closely related to the sacred, while other aspects of life

became regarded as non-religious. Secularism, according to Asad, is the resulting political doctrine of separating the institutions of church from the institutions of government. Finally, secularization is the process of subordinating sacred institutions to secular authority (Asad 2003).

This subordination of sacred life to secular authority is where the concepts of “state of exception” camps and disciplinary institutions interact with the trajectory of secularism. By placing unwanted or “inappropriate” racial and religious groups under such conditions, the modern state seeks to alter their subjectivity, generating different kinds of ontology that are amicable to secular liberal regimes. According to anthropologist Saba Mahmood, “it is the principle of freedom of conscience that makes secularism central to liberal political philosophy of the modern state” (Mahmood 2006, 324). Ironically, however, the oppressive and dehumanizing treatment of Muslims and other “dangerous” populations is necessary to reshape their worldviews into ones that are more aligned with Western notions of individual choice or freedom of conscience. This political project is not a new feature of the “War on Terror”; it has a long history in the way that the liberal state has treated Muslims and other religious communities throughout its existence (Asad 2003). The most recent “state of emergency” has merely provided an opportunity for the secular state to enact yet another set of militarized discriminatory laws and further entrench its political power to scrutinize, discipline, and regulate religious piety and adherents of Islam. By constraining Muslim bodies in a “state of exception” and collectively treating Muslims as a group excluded from normal legal claims, both beyond and within the continental U.S., the secular state seeks to reconstruct Muslim epistemology and ontology in a way that is more amiable to secular agendas and western sensibilities.

The political theologian Carl Schmitt (a somewhat controversial figure due to his political affiliations), has argued that the foundation of the secular state is in fact a religious concept, one

that is based in the Christian worldview. From this outlook secularism can be understood as having followed, or being aligned with, Christian theology in seeking to displace transcendence theology from public life and from political practice (Schmitt [1963] 2005). Schmitt contended that modern secular legal jurisprudence is simply unaware of its actual theological background and of the way that it acts as political theology in its application of law. Similarly, Asad has argued that religion remained an integral part of the state in post-Reformation Europe, and that religion's integration into the English and American national secular culture continues in the current era, making religion a very important component and condition of the modern secular state and its law and jurisprudence (Asad 2003). The argument that is advanced here is that these theological underpinnings are structurally engrained in the modern secular state, which cannot avoid behaving like a transcendental cosmic authority in declaring its power to decide what religious beliefs and practices are good/bad, sanitized/toxic, true/false and acceptable/unacceptable. The political theology of the modern state becomes most conspicuous in the "state of exception," where secular authorities declare their capacity to suspend the paradigm of human rights and exert sovereign power on bare life, just as earlier divinely inspired monarchs declared their own transcendental authority through imprisonment and torture (Schmitt [1963] 2005). By declaring that it has the ability to act in such extraordinary fashion on the body of the Muslim "terrorist," whether real or imagined, the state demonstrates its absolute power and ensures that alternative viewpoints to its own theology will be limited, banished, or submerged. In other words, "bare life" in disciplinary institutions or in exceptional camp sites is central to the secular project of modern liberal state in the Global War on Terror.

In this dissertation, I show that the exceptional authority of the modern state exists not only in distant camps or foreign wars, but also for Muslim Americans who are subjected to

surveillance and predatory terrorism prosecutions as part of the “War on Terror.” In this case, the federal judiciary operates as a state of exception since normative judicial rules and procedures that are granted to other citizens cease to function for the targeted Muslim population. In this state of exception, secular law becomes an instrument of sovereign power, and contributes to the project of reconstructing Muslim lives into a way of being and living (that is, an ontology) in accordance with acceptable Western sensibilities and identities (Mahmood 2006; 2015; Sayyid 2014; Asad 2003; Massad 2015; Agrama 2012). Violence and domination over religion is a necessary part of secularization, and it is one of the primary ways that the modern state’s sovereign power is sustained. Not all religions are treated equally, though, as Christianity, and in particular Protestantism, continues to fit more easily into the secular worldview and remains intertwined in the economic, political, legal, and social structures of nominally secular societies. Other religious traditions and viewpoints are either banished entirely or else reconstructed and “sanitized” to fit the secular/Protestant concept of acceptable religion (Asad 2003; Sullivan 2005; Mahmood 2006).

In this dissertation, I adopt the position that a total separation of religion from law and politics is impossible because Christian doctrines have always contributed to the underlying ontological concepts of secular law and secularism in modern nation states (Sullivan et. al 2011; Hurd 2015; Mahmood 2015). Protestant Christianity in the United States is profoundly entwined with secular and liberal understandings of who human beings are, how they should relate to one another, and how they should act in the world (Sullivan et. al 2011; Mahmood 2015; Howe 2016). By exerting its dominance over religious life and keeping Muslims and other marginalized traditions in a perpetual state of exception, the secular/Protestant state demonstrates

its power as a transcendental authority and as the final arbiter of acceptable or true religious practice.

Coda: Positionality and the Engaged Anthropologist

Many members of the communities in New York City with whom I interacted had previously come to identify me as “the sister of Shifa Sadequee” or an “affected family member”—a victim of government overreach. This attribution of identity consolidated after 2006, when I began to speak out about my brother’s case. Upon returning to the city in 2012 to conduct my Ph.D. research, I felt that I needed to bring this understanding slightly into question in accordance with my new position as an academic researcher. The distinction was very clear to me, as the Muslim community members, activists, and lawyers I contacted for the first time in 2012 tended to see me first and foremost as a graduate student conducting social research on policies related to the “War on Terror.” Their responses to me were different—more formal, and more in accordance with this perception of professionalism. To the affected family members, however, most of whom I knew before starting my academic career, I was simply a person like them who happened to be making an effort to tell their stories in academia. They knew that I had been personally involved as an advocate long before I wrote my IRB proposal.

Some people in the activist community felt awkward about how to interact with me and position me in their minds as I carried out my multiple roles. They felt that I was crossing boundaries in an uncomfortable fashion. I think that it was not always clear to them whether I was a powerless and oppressed victim who needed to be given a stronger voice, or a professional representative of an intervening advocacy agency, or a potentially suspicious analytical researcher attached to the education/prison/military complex. With some activists and

community organizers, I would talk about my brother, my work at the NRC, and my academic research all at the same time, which seemed to create quite a lot of hesitancy and confusion. I became interested in this multi-vocality as part of my investigation, and when I later reflected on these conversations I sometimes tried to identify the points at which my ambivalent social positioning had switched or consolidated in one way or another among particular interlocutors. In many cases others' true perceptions of me remained a mystery, as perhaps I was also a mystery to them.

CHAPTER TWO: THE RACIALIZATION OF MUSLIMS AND THE SECULARIZATION OF ISLAM

Suhana's son worked in an Islamic book store, which was located next to a local mosque. He wanted to help his disabled father to support their family. After the tragic World Trade Center tragedy in 2001, the New York Police Department (NYPD), Federal Bureau of Investigation (FBI), and the Central Intelligence Agency (CIA), worked together to cultivate paid informants who would infiltrate and spy on mosques and the Muslim community. Many believe that these efforts were motivated by a political imperative to manufacture "terrorism" cases. Suhana's son was only 19 when he was targeted. According to his family and advocates, he had a borderline deficient intelligence level. This vulnerability was used to entrap and convict him. As the family recounts the case, it began with an undercover police officer who visited the mosque looking to befriend various congregants. After failing to accomplish anything in that fashion, the federal authorities then used another informant/provocateur whom they paid to entrap one of the Muslims in a bomb plot. The first target was the imam of the mosque, but he turned the informant away. Finally, the informant moved on to Suhana's son.

The government provocateur befriended her son and presented himself as a father-figure. He drove Suhana's son home after work, got close to him, and then manipulated the young boy to say hateful things about America by showing him horrible pictures of torture in Palestine, Abu Ghraib, and Guantanamo. The government informant showed the Suhana's son pictures of young Muslim girls being raped by U.S. soldiers, pictures of U.S. soldiers cutting open the bellies of pregnant Muslim woman, and pictures of an infant who was shot in his father's arms by a U.S. soldier. The government provocateur told Suhana's son that the 9/11 attack was an inside job.

Finally, after inciting the boy emotionally, the agent further provoked him by asking, “as a Muslim, what is your duty?”

Despite these provocations Suhana’s son refused to participate in the “conspiracy” and tried to withdraw from the “plot” several times. At his trial, the government’s recordings revealed him stating that he wanted to get the permission from his mother before doing anything—permission that he certainly knew she would not grant. Suhana’s son never wanted to harm anybody, but the government’s paid agent was relentless. He pressured the young man, inciting him, frightening him, and confusing him. At one point the provocateur had Suhana’s son meet with another young Muslim who was being targeted and encouraged them to discuss what the best locations would be to plant bombs for a terrorist attack. Suhana’s son was disturbed by this and soon after stopped communicating with the other young man. A few days later, almost immediately before the Republican National Convention was to be held in New York City, the NYPD arrested both young men and paraded them as a successful “terrorism” bust. Prosecutors persuaded the other young man who was targeted to testify against Suhana’s son, and granted him a reduced sentence of five years. Suhana’s son was convicted and sentenced to thirty years in prison.

Following the sentencing, Suhana’s entire family was arrested at midnight and taken to an immigration detention center. Suhana and her daughter were held for eleven days, most of that time in solitary confinement. Suhana tells the audience in her public speeches how unfair this treatment was, and how politicians and law enforcement worked together and used religion to entice emotions of anger and violence in her son. She explains how the case against him was politically manufactured and how various agencies of the state plotted to entrap him. To me

personally she has remarked, “We don’t even believe in jihad because we’re Agha Khani (another name for Ismaili beliefs). We don’t believe in fighting. It is our personal struggle.”

The experiences of Suhana and her son are representative of the way in which Muslim Americans have been held collectively responsible for terrorism violence. Muslims are often viewed as an “enemy” within the nation, and Islam is often treated as a threat to U.S. national security and a danger to the global world order (Cainkar 2004; Bayoumi 2009; Iftekhar 2016). Some atrocities are committed by only a few individual culprits, but anti-terrorism laws and policies are so broad that they target anyone who is perceived as being Muslim. This treatment from the U.S. government has further propelled public anxiety, Islamophobia, hate crimes, and religious intolerance against people who are perceived to be Muslims (Muslim Advocates 2011; Iyers 2015; Selod 2015).

The law is prominently understood as an area of the social system that is neutral and separate from culture, religion and politics. However, according to legal scholars such as Khaled Beydoun (2013), the law and the courts have played a significant role in shaping a racialized identity of Muslims in the U.S. and characterizing the Muslim community as outsiders to the white, Christian norm. Examining this racialization of Muslims in U.S. legal history can help us to understand how the law continues to exclude and marginalize certain religious groups. The law can be viewed as one of the social institutions involved in the formation of race and religion, in that legal understandings are embedded in the prevalent cultural knowledge and they apply established social imaginaries as a basis for inclusion and exclusion (Lopez 1996; Asad 2003). One of the ways law designs social categories is by directly controlling human behavior, but it also is deeply involved in affirming cultural beliefs and forming people’s understanding of group identity and group boundaries (Lopez 1996; Foucault 1979). The law operates as a controlling

tool and an ideology, and its scope is very broad, including local, state, and federal court systems, judges, legislators, prosecutors, attorneys generals, lawyers, petitioners, and the penal system and its officials (Lopez 1996).

Many scholars believe that the law and legal system in the U.S. is structurally entwined with religion, even though it claims to be secular (Sullivan et al. 2011; SpearIt 2009; Miller 2006). Through legislatures, courts, and other legal actors, the secular modern state uses the law to establish boundaries of social, religious, and racial groups and define categories of identities that have social privilege or disadvantage in U.S. society (Lopez 1996; Amsterdam and Bruner 2000; Miller 2006; Sullivan et al. 2011; 2005; Berger 2015). As a part of the institution of the modern state and as participants in a particular social system, legal actors such as judges and prosecutors have a tendency to work under worldviews that have sometimes been described as unconscious racism. It is believed that today's judiciary in the U.S. has little overt racism, but unconscious bias and the selective application of laws can nonetheless negatively affect non-white minority groups (Lopez 1996). Thus, the supposedly neutral law in the U.S. actually functions to regulate the behavior of racial (and religious) groups in a discriminatory fashion and to thereby maintain racial hierarchies and dominance (SpearIt 2009; Lopez 1996; Amsterdam and Bruner 2000). This discrimination leads to extremely high imprisonment rates and longer sentences for non-white population, while legitimizing popular mythologies such as "black criminality" and limiting the opportunities of the affected population (Lopez 1996; Amsterdam and Bruner 2000; Alexander 2012).

Racism in the U.S. criminal justice system is also the template and the foundation for the targeting and predatory prosecution of Muslims in the "War on Terror." In this context, religion has been transformed into a *de-facto* racial category and is often linked to physical markers

(Rana 2011; Maira 2009; Maira 2009a). The Muslim body and the various markers it displays are interpreted as cohesive racial category, and Islam is regulated through the criminalization of these religious identity markers (as I discuss in detail later in this chapter). The anthropologist Junaid Rana speaks of these effects at length and touches on their colonial background—stating for example that, “the process of reframing Islam, a religious category, into a racial category in the contemporary U.S. speaks to a wider historical discourse that emanates not only from racism and the maintenance of white Christian supremacy, but also from the historical pre-eminence of imperialism and the maintenance of empire” (Rana 2011, 27).

In the following sections, I discuss in more detail how the criminal justice system in the modern state (in general), and in the U.S. in particular, operates to sustain white Christian dominance by scapegoating, targeting, and punishing minority groups. I explain how this racialization has been extended to Muslims from the country’s very beginnings up to the current day. The history of this racialization process sheds an important light on the modern state’s attempt to shape Muslim Americans’ ontology and identity, and how the secular legal actions of the liberal state have been experienced by Muslims as a form of violence.

From Orientalism in Antiquity to Islamophobia in the Modern United States

Islam is the second-largest religion in the U.S. today, a prominence that may contribute to its increasingly being viewed by others as a threat and a danger. However, prejudice against Muslims was prevalent in the West long before the current era, and even before the creation of the modern state. The demonization of Islam is rooted in the Orientalist racialization process that began in earnest in medieval Europe but can be traced even further back to antiquity (Rana 2011; Said 1979; Anidjar 2006). The scholar of religion Gil Anidjar has argued that Christian views of

Islam were transfer of even earlier prejudices against Judaism, going back to the early days of Christianity when Saint Paul marginalized Jews for their supposed heathenism, idolatry, and backwardness. These categories were then later imposed on Islam as Europeans gradually came into more everyday contact with Muslims in the tenth to twelfth centuries. During the fifteenth and sixteenth centuries there was an overt connection of religion to race across the European continent, which intensified into blatant discrimination against Muslims and Jews by the Catholics in Spain and by Protestants in multiple other countries (Rana 2011; Yelle 2011; Massad 2015).

During this time Christianity, and particularly Protestantism, had become invested in the task of firmly classifying the various ethno-religious groups that existed in Europe and vetting what was considered “true” and “false” religion. As described in the previous chapter, anxieties about Catholics became pervasive in Europe after the Protestant Reformation, as Catholics were viewed as holding an allegiance to a foreign power, the Pope. They were considered a security threat to Europe and officials conducted religious tests to identify loyal Christian subjects as a part of the incipient secularization project (Weill 2011). According to scholar of religion Rachel Weill, the issue at the time was how to draw the line between a “‘mere religion’ and a religion that is really a form of politics and potentially a threat to the state” (Weil 2011, 83).

Orientalist discourse about Islam, which is understood by many as an ongoing racialization of the religion, can be linked with secularization discourse. Expanding on the work of Edward Said’s *Orientalism*, Gil Anidjar has argued that, “Secularism is Orientalism. Orientalism is Christianity” (2006, 66). In other words, the difference between “religious” and “secular” is created by and within Christianity, particularly within Protestantism. It is a view where the Occident/Christian world is represented as civilized, secular, tolerant and peaceful,

whereas the Orient is viewed as religious, primitive, intolerant, and violent (Anidjar 2006; Yelle 2011; Said 1979). In Anidjar's view, Christianity has "judged itself no longer Christian, no longer religious . . . [and] named itself . . . *reincarnated* itself, as secular" (Anidjar 2006, 66). Thus, in this outlook, Christianity seeks to rise above the definition of "religion" and present itself as secular, liberal, progressive, and universal. This understanding of secularism as an expression of Christian religious superiority views secularism as a continuation of the religious hierarchies that played a significant role in the original era of European colonization. If secularism is a form of Orientalism, then it could be argued that the current form of Islamophobia that pervades the West in general and particularly in the U.S. is deeply connected to the racialized history of colonialism.

Not only Catholicism, but Islam and Judaism, were also identified by Protestants as "false," heathen, backward, and an enemy of Europe (Yelle 2011; Roover 2011; Weill 2011; Massad 2015). Jewish people endured perhaps the worst of the intolerance and violence during the early years of the Protestant Reformation, but the prejudices were extended to many groups, including the North Africans (who were called Moors by Europeans, which meant an outsider or Other). These North Africans were the descendants of Arabs who were nominally Christian, but continued to practice Islam in secret (Majid 2009). According to historian Anouar Majid, all minorities living in the West after 1492 were "in a symbolic or metaphorical sense...the descendants of the Moors" and "the world's non-European natives or religions were all stamped with the taint of Muslim impurity" (Majid 2009, 5). Quite often, members of the Jewish and Muslim minorities were forced to choose between converting to Christianity or being put to death (Rana 2011; Majid 2009). Although North Africans Muslims looked basically identical to Spanish Christians in physical appearance; they were still considered "darker" since they

originated from Africa (Rana 2011; Majid 2009). The violence between Spanish Christians and North African Muslims helped to solidify the conflict between Christianity and Islam, eventually culminating in the complete removal of Muslims (and Jews) from Spanish territory. The idea of the Muslim as a culturally backward and frightening figure became firmly fixated in the minds of Europeans during this time. Since then, the white Christian European sense of identity has been significantly shaped by bitterness toward the Moors or Muslims (Majid 2009).

According to the anthropologist Junaid Rana (2011), this history and cultural conflict was then extended into the American colonies and eventually in the newly independent U.S. through linking of Islam as a “primitive” religion with both African slaves and Native American populations. Rana stresses that the racialization of indigenous people in the U.S. was presented at the time as a conflict in religion between European Christians and native heathen:

For the discoverers, it was precisely their understanding of the religious other and of religious difference that formed the lens through which they understood racial difference in the New World. In this moment, religion was defined not only in terms of broad ideologies of belief, but also as states of being in relation to cultural notions of civilization and barbarity—as the terms of inclusion and exclusion within the “family of man” (Rana 2011, 32).

In other words, racial hierarchies developed alongside religious hierarchies in Europe and America during eighteenth and nineteenth century colonialism, and religions were categorized on an evolutionary scale from “higher” to “primitive.” Christianity was of course regarded as the most advanced and progressive religion.

This linear evolutionary scheme of religion emphasized that the more “evolved” societies were characterized by monotheism, written scriptures, and little or no ritual practices. Religions that were considered “primitive” were more communal, polytheistic, and/or earth-centered with many rituals, and tended to be associated with indigenous and non-white populations (Tylor 1958). However, the various European colonial powers that came to the Americas approached

religion and race somewhat differently. For the Spanish Catholic conquistadors as well as French Jesuit colonizers, religion was more strongly associated with national identity and there was a greater tendency to forcefully enslave the natives (Milne 2015). The European Puritan settlers of New England were more invested in the belief that “heathens” could advance themselves by adopting righteous religion and “civilized” culture; thus, they were more invested in proselytizing (Sullivan et. al 2011; Milne 2015; Newcomb 2008). Overall, throughout the Americas, religion and race were entwined in a way that demarcated the rules of exclusion and inclusion and that legitimized colonial power.

Religion, specifically Christianity, was thus an important vector of political and economic advancement in colonial times; it was one of the central political ideologies of the European settler-colonizers. Blackness was connected to this religious hierarchy through the association of the race with “primitive” African religions, and also through the strong link between Islam and the North African Moors that had been forged during the Spanish conflicts. As a result, the marginalization and racialization of Islam became firmly entrenched in the American colonies. In later years—the eighteenth and nineteenth centuries—the idea of race became somewhat more “scientific” and secularly defended based on phenotypic and biological categorizations, and it was therefore separated from its close ties to religious categorizations (Rana 2011). The modern form of racism as biological determinism displaced the role of religious differences, and the original ties between Islamophobia and racism became somewhat submerged. Nonetheless, this history demonstrates that religion has been an important feature in the development of biological and cultural difference in the race concept, and that religious difference has long been used as a marker of exclusion and inclusion in the dominant society.

Islam, African Muslims, and the Immigration of Muslims in the Americas

Scholars Joseph Massad and Junaid Rana addressed that though a violent historical period, Islam has been a significant part of how Europe racialized and excluded unwanted communities from its polity, shaping European's understanding of the "other," which was later transferred onto indigenous and black population in the Americas (Rana 2011; Massad 2015). As Muslims were being banished from European territories in the sixteenth century, the enslavement of African population became prevalent in European empires. Although Islam first came to the Americas with Muslims who accompanied Spanish explorers, the first major influx occurred in the sixteenth century, when large numbers of African Muslim slaves were brought across the Atlantic. The Spaniards, however, were not intentionally trying to bring Muslims to the new world; there were in fact colonial laws banning the entrance of Muslims in the Americas (Curtis 2009; Diouf 1998). Thus, the North African slaves were forcibly, if superficially, converted to Christianity before crossing the Atlantic. These Muslims found themselves in a brutal environment on plantations where all aspects of daily life and activities were governed under the tight control of plantation owners and where their religious practices were formally banned. This made following their religious obligations very difficult, but many scholars believe that African Muslims continued to practice even under these terrible conditions (Diouf 1998).

Many southern states had laws banning the gathering and meeting of slaves—laws that African Muslims had to violate if they wanted to observe Islamic rituals. Slaves were severely punished when plantation owners caught more than five Africans gathered for religious service, which the white owners translated as plotting for rebellion (Diouf 1998). These early Muslims remain an important part of the history of the black diaspora in the U.S., and it is believed that approximately 15% to 30% of African slaves held Muslim beliefs (Beydoun 2013; Curtis 2009).

Thus, representatives of Islam were present in the Americas long before the U.S. became a modern state and far prior to the immigration of Arab or South Asian Muslims. Euro-Americans frequently used religious differences as a justification for this slavery, with pro-slavery Christians citing various parts of the Bible to support their stance and to explain the origins of the “Negroid” race (Thornton 1998; Johnson 2004). Ideas about whiteness and its racial superiority thus developed directly alongside arguments about Christian superiority and the global authority of white Protestants as the chosen people of God (Guess 2006; Blum et. al 2009).

Islam can be seen pervading the public spaces and imagination of colonial America in contexts where European-Americans used it as a political tool to denigrate their rivals. The historian Thomas Kidd has traced this early American relationship with Islam by examining popular writings of religious and political leaders before 1800, in which European-Americans can be seen drawing similarities between an opponent’s views and the belief system of Islam as a means to discredit one’s enemies (Kidd 2008). During this time, Christian theologians also used Islam in religious debates, drawing from European Orientalist literature such as the book, *The True Nature of Imposture Displayed in the Life of Mahomet*, and comparing Catholicism to Islam as a way to exert the superiority of Protestantism over Catholicism (Kidd 2008). Puritan religious leaders noted that, “the Scripture speaketh of two great Anti-christs, one in the West, the other in the East; one is called Mahomet . . . the other is the Pope” (Kidd 2008, 8). Such theological and political opinions about Islam had become entrenched in the U.S. by the end of American Revolution, and various personalities in the new country overtly positioned Islam in their visions of the apocalypse, branded Muhammad as fraud, and condemned Muslim societies as authoritarian. Many Protestant Americans imagined that huge number of Muslims (as well as

Jews) would convert to Christianity in the last days, and that Protestant Christianity would ultimately rule both the Western and Eastern hemispheres (Kidd 2008).

These Orientalist discourses in the U.S. came to the forefront when a war broke out with the North African Barbary States in 1784 (Beydoun 2013; Kidd 2008). This war ignited racism and political rhetoric in which the Muslim-ness of the Barbary States was considered a part of their supposed villainy and their “enemy” status (Beydoun 2013). Interestingly, state entities such as the U.S. Congress classified the Berbers as “Arabs” based on their Muslim identity, and invoked Orientalist imagery that conflated the North African Berbers with Arabia. Various political groups in the U.S. mobilized popular support for this war by vilifying Islam as an enemy of Christianity and as a hindrance to progress and democracy (Beydoun 2013). Despite the fact that the supposedly secular U.S. state had institutionalized freedom of religion, the religious threat of Islam to Christianity was overtly cited as a reason why the country had to fight in North Africa.

During the nineteenth and twentieth centuries, black Muslims often came to invoke the religion as a kind of alternative cultural identity in opposition to biological race constructions (Beydoun 2013; Rana 2011; Jackson 2005). Hoping to protect themselves from discrimination and racial violence, the descendants of enslaved African Muslims embraced Islam as a way to indicate that they were at least slightly higher in the cultural hierarchy than white society preferred to view them. The Moorish Science Temple, originating in the 1920s, offered a form of dignity to black Americans by linking them to proud Moorish and Muslim identities. The founder of the temple, Noble Drew Ali, taught that a return to Islam and a recognition of their true ethnic and racial identity would help black Americans to advance in the world and find spiritual salvation (Johnson 2017; Jackson 2005). Although this alternative self-representation

was a source of pride and a kind of opposition to “scientific” racism, it did not change the fact that its adherents’ blackness remained an identifiable marker in a country where social inclusion was based on whiteness and Christianity. This idea of identifying with Islam as opposed to biological concept of race was later continued by the Nation of Islam, which again did little to mitigate the external prejudice that African Americans faced from the dominant society (Rana 2011; Evanz 2017; Jackson 2005). Although Islam was viewed as an emancipatory category for many African Americans, the connection only served to enhance the threat perceived by white Christians, and to reaffirm a link between race and religion (Evanz 2017; Johnson 2017).

As African American Islam was growing in prominence in the early twentieth century, Arab and South Asian immigrants were arrayed within fixed racial categories and described as “Syrian” and “Hindu” respectively (Lopez 1996; Rana 2011; Beydoun 2013). Muslims were not allowed to naturalize in the U.S. during this period, so immigrants had to claim a different religious status. Even after 1965, when Muslims were first allowed to immigrate, they continued to be a minority within the Arab American population, whereas Arab Christians were the majority (Beydoun 2013). The black Nation of Islam was therefore the most visible Muslim community in the United States during this period. It is only during the most recent generation that Muslim immigrants from Arab and Asian countries began to arrive in the U.S. in significant numbers and to become the dominant voice of Islam in America (Beydoun 2013; Jackson 2005).

Religion, Race, and Law in the U.S. Judicial System

The conflation of religious and racial categories, and the use of these categories to demarcate insiders and outsiders in the U.S., was extended into legal constructions of the immigrant that remain prevalent to this day. Racism and religious exclusion through the law continue to remain

common for Arab and Muslim populations. Even though legal and political institutions in the U.S. are nominally secular and are perceived as being based on logic, science, and observable fact, they continue to be mixed with Christian religion in a way that has been noted by legal scholars, historians, judges, politicians, and clergymen alike (Lopez 1996; Sullivan et al. 2011; Newcomb 2008; SpearIt 2009; Miller 2006). Tracing the history of the law in modern liberal democracies, the scholar of religion and politics Jakob De Roover (2011) has argued that legal systems in Western democratic societies have struggled to determine what is and is not religious. Although the state is nominally secular, Protestantism provided the models not only for colonial civil governments but also for the present constitutional system in the U.S. (Sullivan 2005; Sullivan et al. 2011; Howe 2016; Newcomb 2008; Kusha 2009). This historical intertwining between the supposedly secular legal-juridical practices in the U.S. and broader Protestant intellectual and cultural currents can help to illuminate the continuing legal prejudice against Islam in the current historical moment.

Religion and Race in the U.S. Immigration Courts

From 1790 until 1952 the attributes of whiteness (primarily) and religious identity (to lesser but still substantial extent) were used overtly in legal proceedings as a prerequisite for obtaining immigration and naturalization status in the U.S. (Beydoun 2013). During this time, federal policies restricted immigration on the basis of race through the use of national origin quotas, while legislators passed specific doctrines such as the Chinese Exclusion Act of 1882 to bar the immigration of particular groups, and the Supreme Court upheld provisions that made it impossible for non-whites to obtain citizenship. Immigrant groups who were denied citizenship and branded as outsiders, such as Chinese workers, were often cast as both racially and

religiously inferior. The term “pagan” was a common insult used against the Chinese (Maffly-Kipp 2006; Paddison 2012). Among the various other legal barriers put in place to maintain the ethnic and religious “purity” of the U.S. were the exclusion of Japanese immigrants in 1908 and the creation of an Asiatic Barred Zone in 1917 (Beydoun 2013; Lopez 1996).

In 1924, a new U.S. Immigration Act established quotas that significantly affected the flow of people in terms of religion. Immigration from northern and western Europe was allowed, but immigration from eastern Europe, the Middle East, and Eastern Asia were disallowed. The restrictions on southern and eastern European immigration slowed the arrival of Jews and Catholics, while the restriction on immigration from Asia restrained the movement of Muslims, Buddhists, and Hindus, among others (Williams 2015). Then, during the depression era, attention shifted to Catholic Mexican immigrants, who were U.S. citizens but were nonetheless rounded up and deported in large numbers. This deportation was again linked not only to racial constructs but also to religion, as increasing Catholic immigration had given rise to a growing anti-Catholic animus. American nativists claimed that Catholics were a foreign entity that threatened the U.S. government because their true allegiance was to the papacy (Dolan 2003; Uddin 2016). Anti-religious garb laws were devised to bar Catholic nuns from wearing their traditional religious attire in public spaces (Uddin 2016). All of these anti-immigrant movements were based on a mixture of ethnic and religious superiority and were propagated by white, American-born Protestants who believed that the U.S. was their cultural homeland and exclusive possession.

Overt racial and religious restrictions on immigration were finally dismantled in 1965, when Congress abolished both the national origin system and the Asiatic Barred Zone. However, some legal scholars believe that this form of purposeful discrimination in immigration law remains constitutionally permissible in the U.S., since the case that upheld the Chinese Exclusion

Act to this day remains intact (Lopez 1996). Furthermore, the long history of immigration prejudice in the U.S. continues to echo in popular perceptions of immigrant groups and in the hurdles that ethnic and religious minorities must overcome in order to attain citizenship status.

Religion and Race in the U.S. Naturalization Courts

Throughout most of the country's history, U.S. naturalization courts were required by law to establish a petitioner's national origin, language, culture, and ancestry as a basis for granting citizenship (Lopez 1996). The courts had to specify not only who was white, but why someone was white. The racial construct was again strongly linked to religious affiliation, and Muslims in particular were banned from obtaining U.S. citizenship until the 1940s (Beydoun 2013; Gualtieri 2001; 2009). The courts conflated Arab and Muslim identity and designated Arabs as non-white, a racial construction that was grounded in the social and cultural imagination of European settlers going all the way back to their experiences with Islam in medieval Europe. To counter this prejudice, Muslim immigrants from the Arab world often converted to Christianity and change their names to help establish their whiteness while seeking citizenship (Beydoun 2013). Those who refused to convert to Christianity were generally forced to accept a marginalized status as "non-intending citizens," which meant that they occupied a position of "legal purgatory" and were not accorded the same rights as Euro-American citizens (Beydoun 2013, 12).

The decisions of U.S. federal courts in Muslim and Christian citizenship cases for individuals of Arab background perpetuated the narratives that Muslims were hostile and that Islam was incompatible with American culture and society. Legal Scholars Khaled Beydoun and Sarah Gualtieri have traced several cases in detail that demonstrate the interrelation between

whiteness, religion, and naturalization (Beydoun 2013; Gualtieri 2009). For example, in *Ross v. McIntyre*, a case brought to the Supreme Court in 1891, the judges emphasized that Muslims were very antagonistic toward Christians and toward Western civilization and that they lacked the capacity to assimilate into U.S. society (Beydoun 2013). Although there was a mass immigration from the Arab world during this time, the ruling in *Ross v. McIntyre* set a legal precedence for naturalization cases that indicated Islamic religious identity was incompatible with the legal definition of whiteness that was required to obtain American citizenship (Beydoun 2013). Similarly, in the case of *Dainese v. Hale* in 1875, Supreme Court Justice Joseph P. Bradley indicated that Islam was a “pagan” religion, while other judges in the case demonized the Prophet Muhammad as false prophet and described Islam as an enemy of Christianity (Beydoun 2013).

Another case in 1915 that created paradoxical results from the court judgment was *Dow v. United States*. Lower courts denied George Dow’s naturalization application twice for not being white because he was a Syrian. However, he was granted citizenship on appeal, during which the court recognized him as white based on Syria’s geographical closeness to Europe (Gualtieri 2001). This case established a substantial legal precedent in support of Syrian Arab whiteness in the U.S., and it promoted the view that those who were geographically closer to Europe possessed characteristics more suitable for participation in American society—a belief that has remained deeply entrenched in the legal practices related to American citizenship (Gualtieri 2001; 2009). While this case may have helped Syrians assimilate, it also perpetuated exclusionary practices that negatively affected other immigrants from Arab countries. This became evident in 1942, when a Yemeni Muslim immigrant, Ahmed Hassan, was denied naturalization in Michigan. The federal court declared that Hassan was darker in complexion

than other Arabs, and since he came from a “Mohammedan world” whose culture was very different from Christian people in Europe, he could not be white and could not be expected to become assimilated into American civilization (Gualtieri 2001).

The Immigration and Naturalization Services eventually incorporated Muslim Arabs into the definition of whiteness, indicating that “they were cast as players in the march of Christian, Western civilization” (Gualtieri 2001, 51). To be such “players,” however, these immigrants had to minimize the importance of their religion and disassociate it from racial categories:

Muslim Arabs were deemed white when their religious identity was effaced Whereas the Christian identity of Syrian applicants in the racial prerequisite cases had been central to their argument for whiteness, and had indeed helped them secure it, Muslim Arabs were at their whitest when stripped of their religious affiliation and rendered part of the western fantasy of an original “Semitic” race. (Gualtieri 2001, 51)

Many of these views and legal decisions were influenced by Orientalist sources and biased translations of the Quran, which the judges relied on during their rulings (Failing 2011; Beydoun 2013). For example, George Sale’s problematic translation of the Quran, which was prominently used by judges overseeing these cases, has been described by scholars as having “purposely manipulated information in such a way as to present the Qur’anic message as trite and untrustworthy” (Fahakhani, quoted in Failing 2011). Beydoun further explains the influence of Sale’s translations on the United States judiciary:

Sale’s work did not provide a neutral translation of the Qur’an, but a politicized iteration that reinforced the Orientalist binary and reified Islam’s perceived hostility and tyranny. Reliance on these Orientalist texts not only entrenched the view of Arab identity as oppositional to everything that stands in for the “West,” but also stamped these representations with judicial approval. (Beydoun 2013, 8)

Thus, these court rulings demonstrate an interrelationship between legal practice in the U.S. and the entrenched prejudices of the larger culture dominated by a particular racial and religious stain. Whether consciously or unconsciously, the judges helped to normalize a negative

image of Arab and Muslim identity, and served as conduits through which this prejudice shaped the lives of the marginalized population. These discursive juridical-legal practices, interpretations, and decisions affected not only Muslim immigrants but other groups as well, such as Asians and Asian Indians who were also treated as non-white:

[They] were excluded from citizenship as inferior; by implication, those who were admitted were superior. In this way, the prerequisite cases show that Whiteness exists not only as the opposite of non-whiteness, but as the superior opposite. For each negative characteristic ascribed to people of color, an equal but opposite and positive characteristic is attributed to Whites. To this list, prerequisite cases add whites as citizens and others as aliens. (Lopez 1996, 28)

In these citizenship cases, it appears that these laws and rulings of juridical-legal actors influenced the divisions of the population based on both religion and phenotype to maintain social hierarchies. They not only aided in the construction of group boundaries, that is, what race or religion is acceptable or unacceptable, but also affected human behavior and socioeconomic reality in terms of what social institutions immigrants could or could not access. Citizenship and immigration status controlled the movement and behavior of non-white people in society and dictated their access to health care, education, and employment (Lopez 1996). By organizing racial and religious dominance and subordination through the law, these decisions solidified socioeconomic relations in a manner harmful to certain groups. Juridical decision-makers and the law helped to implement racial concepts as well as notions of “true” and “false” religion into a lived reality.

The legal scholar Steven Newcomb has claimed that the foundation of law in the U.S. is not the Constitution but rather the cognitive model of Christendom based on the Old Testament (Newcomb 2008). Examining federal Indian law, Newcomb found concepts and language that described conquerors taking over a promised land and saving “savages” centered on Biblical parallels. There is entrenched Biblical background to many U.S. laws that the government and

judicial bodies have often consciously or unconsciously used in legal decisions related to those laws (Newcomb 2008). Moreover, Newcomb noted that all law is composed of human thoughts and many laws that are applied on specific groups are a product of the imagination of white-dominated legal actors about non-white populations (Newcomb 2008). This foundation is somewhat less visible today since legal precedents are now firmly in place, and legal actors simply employ these precedents in their decisions. This allows judges to rely on a history of Biblically inspired injunctions without examining the embedded conceptual foundation (Newcomb 2008). In other words, legal actors as products of culture and society, and as part of the modern state, perpetuate dominant cultural discourses and reproduce prevalent social norms, stereotypes and inequalities.

By shaping how people should be perceived and how they should behave in society as a result of their appearance or religious beliefs, these immigration and citizenship federal court cases have contributed to the racialization of the U.S. population and the establishment of hierarchical order. These disparities and discrimination functioned as a kind of violence, as Lopez further explains:

These laws . . . [forced] people apart, using state violence to assign meanings of belonging or exclusion, racial worth or worthlessness, to people possessing certain features, ancestries, and nationalities. At the same time, the prejudices evident in the discourse of immigration and race translate into material disadvantages that affect all immigrants. Anti-immigrant laws, drawing on deep social beliefs in racial hierarchy, give effect to and entrench those same social beliefs. (Lopez 1996, 145)

These types of cases and decisions served as the precedents for subsequent legal decisions, and those not overturned continue to be used, a factor that has been instrumental in managing race and religion in the U.S. (Lopez 1996). Through such legal practice, the state exerts its authority in a discriminatory fashion. This relation shows how secular law functions as a product of social norms and as a venue of politics, wherein hierarchies of religion and race are implemented.

Racial Segregation Laws and Policies

In addition to the immigration and naturalization laws that the U.S. courts used to enforce racial and religious categories and social classes, the state also devised laws to prevent intermixture between ethnic groups. Anti-miscegenation laws and lynch laws sought to maintain social dominance along specifically racial lines. “Jim Crow” was a series of anti-black laws under which African Americans were relegated to the status of second-class citizens. Bolstered by popular cultural beliefs about race and by Christian Protestant teachings, politicians and legal actors supported the formal segregation of the black population (Myrdal and Bok 1996; Alexander 2012). As a result, even long after the end of slavery, black Americans were excluded from certain public transport facilities, juries, jobs, schools, restaurants, and neighborhoods (Myrdal and Bok 1996; Alexander 2012). While the passage of the 13th, 14th, and 15th Amendments to the U.S. Constitution had granted blacks most of the same legal protections as whites, many states still found ways to continue to restrict the freedoms and liberties of the black population. The U.S. Supreme Court helped to undermine the Constitutional protections of African Americans with *Plessy v. Ferguson* in 1896, which legitimized the system of Jim Crow segregation (Alexander 2012; Myrdal and Bock 1996).

During this period, private citizens perpetuated extreme violence against African Americans. Whites could physically beat and abuse blacks with impunity in much of the country, because the Jim Crow criminal justice system was dominated by white officials and the victims had little practical recourse (Alexander 2012; Myrdal and Bok 1996). In the most extreme cases, African Americans were killed outright in mob lynching. Violence was thus an instrumental part of the Jim Crow system and was used as a method of social control. Lynching can be understood

as a public display of violence that was used as an intimidation tactic to keep blacks under control of white majority, and in many cases state authorities were complicit or at least silent in response to these killings (Myrdal and Bock 1996; Lopez 1996). Legal practice, therefore, was implicated in constructing racial, religious, and social differences by condoning violence on multiple levels and by endorsing cultural prejudices. While immigration and naturalization laws governed who was and was not welcomed to join the American polity, anti-miscegenation laws regulated sexual relations and social behavior, and segregation laws isolated people in regard to where they could live and work. Together, all of these legal practices helped to shape the appearance and behavior of the U.S. population.

From this history, it is apparent that certain juridical and legal procedures have established social conditions of belonging and exclusion, and have assisted in reconstructing social behavior along racial and religious lines for the purpose of managing U.S. society. This history also reveals the co-constitutive nature of secular law, judicial systems, and religion in the foundation of legal system and in the maintenance of social boundaries and power hierarchies. Manufacturing social boundaries along racial and religious identities has also been helpful to those in power by offering scapegoats in times of national crisis, so that the actual sources of social problems could be masked by redirecting blame onto marginalized groups. This scapegoating phenomenon is the topic of the following section.

Immigrants, Scapegoats, and Moral Panic in the U.S.

By perpetuating racial identities based on physical features and religion, and by selectively applying the legal decisions in relation to these groups, judicial institutions have helped to establish material conditions of inclusion and exclusion and have rendered certain groups

insignificant throughout U.S. history. As will be discussed in more detail below, the law continues today to perpetuate such exclusionary and discriminatory practices toward Muslim Americans in the “War on Terror.” The detentions, deportations, predatory prosecutions, and imprisonment carried out against Muslims in the U.S. today are not very different from previous legal practices such as the Alien and Sedition Acts of 1798, the Chinese Exclusion Act of 1882, the internment of Japanese American during the Second World War, the persecution of those with communist political ideologies during the Cold War, and the counterintelligence programs that were carried out against civil rights leaders and other social justice movements from the 1950s onward (Cole 2003; Rana 2011; Iyer 2015). Similar to our current moment, all of these oppressive policies were sanctioned as being necessary for national security and all of them allowed for detaining, deporting, and restricting the rights of immigrants and minority groups in order to protect the privileges and national supremacy of white American citizens.

Selective legal enforcement is an important aspect of this discrimination where certain laws and policies are imposed on a particular racial or religious group but not on others. Once selected for the implementation of certain laws, the designated group is collectively blamed for certain violations. This occurs when state agents assign collective responsibility and collective punishment to a designated population, defined through race, nationality, and religion, who are deemed suspicious because of their perceived similarities to a perceived enemy (Cainker 2006; Rana 2011; Aziz 2014; Aziz 2012a). By selecting an entire group to punish for the actions of a few, the state contributes to far-reaching moral panics about the group and their supposed threat to the broader society (Rana 2011; Cohen 1973; Cainkar 2006). For example, during the Second World War, Japanese immigrants were forced to register as “alien enemies” with the U.S. Department of Justice under Presidential Order No. 2537. Later, Presidential Executive Order

9066 condoned anyone who was considered to have 1/16 or more Japanese ancestry to incarceration camps (Takaki 1993). Even though there was no evidence against these individuals or any real reason to fear them, they were targeted due to racial prejudices and used as scapegoats to create a public panic about imminent Japanese attacks in the continental U.S. (Reeves 2015; Takaki 1993).

In the incarceration camps, Japanese Americans' religious freedoms were violated by prohibitions against practicing Shinto and Buddhism, while Christianity was officially encouraged by federal officials (Shiro 2013; LegiSchool Project 2000). Protestant churches were allowed to proselytize and provide services to the incarcerated prisoners on a regular basis in the camps (Blankenship 2012). Some scholars have argued that liberal Protestants were working towards the broader objective of a "new world order" even before the bombing of Pearl Harbor, and held a strong belief that the task of the United States was to Christianize the world (Blankenship 2012). These Protestant groups collaborated with Federal Council of Churches and U.S. politicians and presidents to organize the "Six Pillars of Peace" plan to guide the world to global Christian ideas and principles, and Protestant pastors made use of these concepts when proselytizing in the Japanese American incarceration camps (Blankenship 2012). These projects demonstrate the co-constitutive nature of Protestant religious organizations and secular government agencies in U.S. foreign policy during the 1930s and 1940s.

Again, the supposedly secular state continued to regulate religion by advancing Christianity and by conflating other religions with "enemy" status. Japanese Americans were also denied the freedom of speech and press, the right to assemble, and the right to speak their native language in public spaces (Reeves 2015). The U.S. government searched homes of Japanese-Americans without warrants, taking any items identified as being "Japanese" under the

pretext that such items were a threat to “national security” (Shiro 2013; Reeves 2015). All of these actions were an extension of and a contributing factor to broader social prejudices and practices of exclusion, which were used by the state to inflict fear and panic about attacks and stir up support for the war abroad.

Hysteria and moral panic over perceived threat from communists in the U.S. is another example where the legal institutions of the state were strongly implicated in inflaming social exclusion and carrying out discriminatory prosecutions. As the Cold War between the Soviet Union and the United States intensified in the 1950s, the Red Scare led to a range of actions from legal institutions that severely affected U.S. society (Fariello 2008). In order to eliminate the supposed internal communist threat, the Federal Bureau of Investigation (FBI), was involved in targeting numerous U.S. citizens, and once again this targeting took on the form of religious protectionism. The FBI director J. Edgar Hoover openly decried communism as an attack on Christianity, and associated it with various marginalized groups including leftist Jews (Johnson and Weitzman 2017). He even went so far as to devise his own religious categorization schema, in which left-leaning, progressive, and pacifist religious doctrines were set apart from “true” understandings of Christianity, Judaism, and Islam (Johnson and Weitzman 2017; Kirby 2017). Scholars of religion Sylvester Johnson and Steven Weitzman have written about Hoover that he cast his opposition to communism, “as a crusade to defend religion itself against a godless atheism bent on religion’s destruction Under his direction, the FBI at once defended the United States and policed the borders between true and false religion” (Johnson and Weitzman 2017, 171).

These views about communism became prevalent in the U.S. government, and their widespread distribution through state propaganda outlets contributed to public paranoia.

Eventually this fear of communist insurrection resulted in the “witch-hunts” carried out by the House Un-American Activities Committee (HUAC) and Senator Joseph McCarthy (Fariello 2008; Johnson and Weitzman 2017). Individuals who were identified as communists or as communist sympathizers by government informants were required to testify in hearings, respond to allegations, and identify other members of the Communist Party. People who failed to cooperate with the investigation were held in contempt of Congress, a stigma that severely threatened their livelihoods. Witnesses in the hearings did not receive due-process protections and had no right to confront their accusers or demand standards of evidence. Instead, the state investigators practiced guilt-by-association and relied upon the unsubstantiated testimonies of paid informants to charge and punish the accused. Many innocent lives were ruined by the accusations and legal actions of these prosecutors (Fariello 2008).

The climate of moral panic, hysteria, and repression linked to the Red Scare was also connected with the state’s counterintelligence programs (COINTELPRO) of the 1960s and 1970s. The COINTELPRO programs were one of the most infamous domestic spying and intimidation initiatives in U.S. history. They targeted organizations and individuals, primarily black individuals, who were viewed as “dangerous” and threatening to the state (Blackstock 1988; Berger 2014). The FBI agents who carried out these programs viewed the Civil Rights and Black Power movements, which were challenging the systemic state violence and structural poverty experienced by African Americans, as a threat to the U.S. state and to American society. Consequently, the FBI identified Martin Luther King, Jr. as the most dangerous black person in the U.S. (Johnson and Weitzman 2017; Johnson 2017a). Those black leaders who represented non-Christian religious traditions, such as El Hajj Malik el-Shabazz (Malcolm X) and Elijah Muhammad of the Nation of Islam, were also listed as major domestic threats (Johnson and

Weitzman 2017; Evanz 2017). By engaging in surveillance, misinformation campaigns, and alleged assassinations of some African American leaders who the state considered “radical,” the FBI sowed mistrust and fear and attempted to silence dissent. These activities severely affected the African American community and devastated many lives (Blackstock 1988; Berger 2014).

Throughout American history, secular state authorities tasked with maintaining law and order have tried to legalize their attempts to interfere with and suppress religious and racial groups seeking social and political change. The brief history discussed here contributes to an understanding of how the supposedly secular authorities have continued to promote and prioritize whiteness and Christianity in the U.S., and how these racial and religious categories have been linked together. The secular state continues to be experienced differentially by different groups in the U.S., and as the next section will demonstrate Muslim Americans are today a primary target of this scapegoating and exclusion.

The PATRIOT Act and Muslims in America

The USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001) is the secular state’s latest attempt to regulate Islam by expanding legal authority over this religious community. While some public commentators and politicians view the PATRIOT Act as a new political doctrine of statism, that is, authoritarianism, other commentators have identified the methods used by law enforcement in the “War on Terror” as being akin to the way in which African Americans were targeted in the 1960s with COINTELPRO (Buttar 2010; Cainkar 2006; Paul 2011; Rockwell 2011). Scholars have also remarked on the close similarities between the treatment of Muslims under the PATRIOT Act and the way Japanese Americans were scapegoated and imprisoned as an internal

“enemy of the state” during World War Two, as well as the treatment of leftists during the years of the Cold War (Hayoun 2014; Cainkar 2006; Iyer 2015; Rana 2017). The PATRIOT act follows the logics of these previous periods by targeting racially and religiously based groups for preventive prosecution, detention, and deportation (Rana 2011; Cainkar and Maira 2005). By targeting Arab, South Asian, and Muslim communities based on their ethnic identity, national origin, and religious affiliation, the state has restricted the civil liberties and constitutional rights of these citizens (Cole and Dempsey 2002; Iyer 2015; Aziz 2012a). As with similar targeted campaigns against various minority groups throughout U.S. history, Muslim Americans are being held collectively responsible for terrorism crimes committed by others, and viewed as uniquely dangerous or more likely than other citizens to have hidden aspirations toward violence.

Like the COINTELPRO programs, the PATRIOT ACT has given state authorities broad new powers to infiltrate legal and social organizations and to harass, intimidate, and arrest people without charges. Practices that many believe to be unconstitutional, including preventive detentions and prosecutions, warrantless wiretaps, and warrantless search and seizures of personal property, have been legalized by the PATRIOT ACT and are now commonly carried out against Muslim citizens (Aziz 2012a; Cainkar and Maira 2005; Cainkar 2006). Denying Muslims their rights of due process in the judicial system, the legal statutes of the PATRIOT ACT have extended the power of the state to investigate and arrest anybody without accountability or judicial oversight. The state has also extended these policies globally with the kidnapping and detention of Muslims as “enemy combatants” at Guantanamo Bay and other CIA-operated black sites. Thousands of Muslim prisoners continue to languish in these facilities, and many of them have been tortured and murdered by U.S. agents (Rana 2011; Cole 2003).

The PATRIOT Act was passed hastily in the midst of rampant fear, hysteria, and urgency, ushering a period of unchecked state power and the erosion of civil liberties (Cainkar and Maira 2005; Iyer 2015). The normal legislative procedure of public hearings, discussions, and floor debate in both the House and the Senate was bypassed to endorse the bill (Muslim Advocates 2011). Civil liberty advocates, legal scholars, and a variety of concerned citizens objected to the new measures on the grounds that they would jeopardize constitutional ideals and the rights of citizens; however, these voices were almost entirely ignored in the legislative fervor. The act amended or revoked many federal law and statutes, including criminal procedure, foreign intelligence procedure, and immigration laws, and it facilitated discriminatory and invasive practices in the name of national security that were specifically applied to individuals perceived to be Muslims (Cainkar and Maira 2005; Muslim Advocates 2011). Using the PATRIOT Act as justification, federal agents rounded up and detained thousands of people, mostly Arab and Muslim men, in the weeks after the 9/11 attacks. In the following months and years, the law was cited to allow for detaining individuals for long periods of time without formal charges, for the establishment of special detention facilities and prisons that severely restrict communication and segregate Muslims from other prisoners, for a series of federal “interview” programs targeting mostly Arab and Muslim men, and for a wide array of other troubling legal practices (Cainkar 2006; Iyer 2015; Human Rights Watch 2014; Kundnani 2014).

The PATRIOT ACT also expanded the legal authority of certain government agencies such as the FBI to target, monitor, and interrogate Muslim immigrants and citizens, without any suspicion or evidence of criminal behavior. As a result, these agencies began to increasingly focus their attention on domestic intelligence gathering (Iyer 2015; Aziz 2012a; Kundnani 2014). Agencies such as the FBI whose nominal mission is to solve crimes morphed toward an

intelligence-gathering function and established expansive programs to spy on Muslims and other immigrant communities (Muslim Advocates 2011; Barkun 2017; Kundnani 2014). Federal agents were instructed to view Muslims with suspicion and to give unique attention to individuals who wear “traditional Muslim attire,” attend mosques, or have “strong religious beliefs” (Cainkar 2006; Kundnani 2014). As part of this new direction, state agents also began to regularly spy on Islamic religious institutions with wire-tapping and other undercover programs. Agents and informants are now routinely sent into mosques and community gatherings to monitor Muslim individuals and their activities, even when there is no particular reasons to suspect those individuals beyond the fact that they are Muslims (Human Rights Watch 2014; Shamas and Arastu 2013; Barkun 2017).

Muslims in the U.S. therefore continue to experience collective punishment and surveillance based on their cultural and religious identity. At least 100,000 Muslims living in the U.S. have directly experienced the negative impacts of these legal measures (Muslim Advocates 2011). Thousands have been deported, even though none of these deportees were charged with connections to terrorism (Muslim Advocates 2011; Iyer 2015). Non-immigrant visa applicants are frequently held and interviewed, and over 80,000 Arabs, Muslims, and others from selected countries had been “specially” registered through the National Security Entry-Exit Registration System (NSEERS) (Iyer 2015; Chisti and Bergeron 2011). The purpose of this special registration, according to the Immigration and Naturalization Services Office, is to facilitate the monitoring of immigrants and undocumented people whose reside in the U.S. and who are part of specific cultural populations that are believed to be a national security concern. These practices make explicit the government’s view that Arabs and Muslims as a group are considered a security risk.

The discriminatory securitized state practices legitimized by the PATRIOT Act demonstrate religious and racial boundary-making processes that are similar to problematic laws throughout U.S. history, going all the way back to the 1798 Alien and Sedition Acts. Just like the PATRIOT Act, these laws targeted immigrants for restraint and deportation under the assumption that particular ethnic and religious groups were undesirable, subversive, and dangerous (Naber 2008; Selod 2015). Racialized representations of Muslims and Arabs that rely on stereotypes and scapegoating have been institutionalized through the PATRIOT Act and the associated practices of legal agencies, helping to reinforce social prejudice and to entrench the stigmatization of these groups in the United States. As the scholars Louise Cainkar and Sunaina Maira have argued, this process not only inflicts collective punishment on Muslims, but also has a degrading effect on democratic institutions that should be of concern to all citizens:

Excluding Arab and South Asian Muslims from cultural citizenship and criminalizing their communities is the ideological and practical work that builds popular support for sacrificing their civil rights for the presumed sense of safety of the majority, links them to “enemy” nations and combatants, and delegitimizes their dissent. Isolated as potentially disloyal, in part using notions of essential cultural difference that are diffused through the mainstream media and in popular culture representations, the profiling and criminalization of these groups by the state is tolerated by the public. Arabs, Muslim, and South Asian Americans become accepted as cultural outsiders, so that what happens to them is (falsely) seen as not affecting anyone else. In the process, the state whittles away one democratic right after another, so that prolonged and secret detentions, detention without charge, and even torture of detainees become acceptable state practices in the name of national security. (2005, 4)

Although citizenship in the U.S. is no longer formally denied to individuals on the basis of race, religion, or gender, the preceding discussion should demonstrate that not everyone has come to fully enjoy the same privileges as others in relation to the state. The policies and practices legitimized by the PATRIOT Act, like similar legislation throughout U.S. history, continue to promote the social, legal, and political construction of hierarchical racial and religious categories. These policies demonstrate how state power and resources are used through

legal institutions to reproduce social inequality and reinforce civic, political, and cultural exclusion. Furthermore, these discriminatory legal practices are tied to incitements of hate, violence, and prejudice by private actors, since they help to reinforce the stereotypes that underlie such actions (Iyer 2015; Selod 2015). The difficulties that Muslim Americans encounter under these discriminatory legal practices have a strong effect on how members of the community experience their place in the American racial order and on their ability to freely practice their religion (Cainkar and Maira 2005; Shamas and Arastu 2013).

Surveillance and Enforced Secularization of Islamic Congregants

In the name of advancing security, the secular state has codified policies that interfere in the religious lives of Muslims, not only through invasive surveillance and detention but also through “community outreach” initiatives that attempt to change religious beliefs (McDonough 2011; Barkun 2017; Kundnani and Kumar 2015). These efforts are part of federal government programs called “counter-radicalization” or “Countering Violent Extremism” (CVE) in the U.S. and the PREVENT program in the U.K. (UK Secretary of Home Department 2011; Hussain 2015). Counter-radicalization initiatives are a continuation of security-obsessed militarized state practices and part of a preemptive paradigm that seeks to prevent future violence by changing beliefs and activities that are perceived by state agents to be threatening (Aziz 2014; Patel 2011; Vaid 2016). The purpose of these interventions is to remove unwanted, “radical” Islamic beliefs, and replace them with a “moderate” or “mainstream” Islam—which can also be understood as an American-approved Islam (Vaid 2016). That is, the programs seek to eradicate toxic/bad/unacceptable religious activities and promote sanitized/good/acceptable ones.

While the concept of “counter-radicalization” is problematic and inadequately theorized, the belief of many state officials and proponents of this theory is that Islam is a political ideology and that violence is inherently part of Islam. To prevent violence, one has to reshape the basic ideology of the religion (UK Secretary of State Home Department 2011; Silber and Butt 2007). That national-security and law-enforcement government agencies in the United Kingdom and United States view Islam through this lens is indicated in the reports on “PREVENT Strategy” in the U.K. and “Radicalization in the West: The Homegrown Threat” in the U.S. From the perspective of numerous government authorities, politicians, and average American citizens, Islam is seen as a political ideology that seeks to conquer and dominate Europe and America. For example, Oklahoma Republican Senator John Bennet said in 2014, “Islam is not even a religion; it is a political system that uses a deity to advance its agenda of global conquest” (Branch 2014). This reductive and false view of Islam is shared by other advocates like Michael Flynn, the former National Security Advisor of the Trump Administration, who stated, “Islam is a political ideology . . . [that] hides behind the notion of it being a religion” (Coca 2016). Anti-Islam activists David Yerushalmi and Frank Gaffney have argued in a widely publicized report that Muslim religious law, or *sharia*, is a dangerous political ideology that Muslims hope to impose on the United States (Center for Security Policy 2010). In other words, there seems to be no clear ideological or practical separation between law enforcement and political actors about their views and actions regarding Muslims.

These anxieties around Islam are of course not new; they have been pervasive in Europe and America for hundreds of years, as was discussed earlier in this chapter. After the World Trade Center attacks in 2001, however, the long-simmering concept of Islam as a political ideology prone to violence has emerged as a full-blown public moral panic. Some of this

polarization may be the outcome of the search for a new dualism to replace the now-defunct communist enemy in the world order. Since the Soviet Union no longer provides an external danger around which to rally support, a new “clash of civilizations” has emerged, based on the notion that Islam is perpetually in conflict with the West and seeks to dominate the West. Such a view of intractable religious and cultural differences has been widely propagated by authors such as Samuel Huntington (1993), and since the 9/11 attacks the U.S. government have capitalized on this theory to muster public support for both wars abroad and domestic surveillance programs at home (Selod 2015).

Many of the participants in this study have experienced the direct brunt of these state policies, but even community members who are not targeted with manufactured “terrorism” cases also experience the impact of policies designed to prevent “radicalization.” For example, the public now knows about a secret surveillance program carried out by the New York Police Department (NYPD) that mapped, monitored, and analyzed the daily life of Muslim Americans throughout the northeastern part of the U.S. (Associated Press Report 2011). The surveillance program was guided by a 2007 law-enforcement policy report entitled “Radicalization in the West: The Homegrown Threat,” which laid out a model of how Muslims become religiously “radicalized” (Silber and Butt 2007). The report described many of the spaces where Muslims congregate in their daily lives as “radicalization incubators” and “venues that provide extremist fodder”—these included Muslim worship houses, cafes, cab driver hangouts, and Muslim student associations. According to the report, individuals who are in the path toward becoming violent demonstrate the following behavioral traits: wearing traditional Islamic clothing; growing a beard; becoming concerned about community affairs; becoming involved in social justice activism; and then giving up drinking, cigarettes, and gambling (Silver and Butt 2007). It thus

became evident from leaked documents that “radicalization” theory was the foundational basis for profiling and surveillance activities being carried out by the NYPD, and that the basic religious practices and external indicators of Islamic piety had been marked as a sign of radicalization or extremism that required intrusive secular governmental monitoring.

Secular Disenchantment with Islamic Cosmology

The overt attention directed toward the religious practices of Islam in recent years perpetuates a widespread suspicion about the Muslim American community as a whole, and reinforces Orientalist imaginaries that are already entrenched in the dominant U.S. society. By placing Islam at the center of state’s security policing and surveillance programs, every facet of a Muslim’s religious life and identity markers—including the way one dresses, the types of religious activities one engages in, where one prays, and how one prays—becomes cause for suspicion and invasive scrutiny (Shamas and Arastu 2013). This surveillance in itself has a negative effect on Islamic piety practices. For example, going to mosques is widely seen as a religious obligation for Muslims, but participation in this duty has increasingly diminished in the U.S. in recent years, due to fears about the surveillance programs that have infiltrated Muslim worship centers (Apuzzo and Goldman 2011; Shamas and Arastu 2013). It is difficult to focus on piety practices such as prayers or rituals when one is concerned about hidden surveillance cameras, undercover state agents, and paid informants who are watching every move; all of these methods have been prominently employed by state authorities in relation to places of worship and the Muslim community.

Places of worship are sacred and provide ritual activities with the goal of connecting humanity to higher cosmology and ontology. In some Muslim traditions, it is believed that angels

descend on mosques during congregational worship ritual to join with humans in services to the Creator. These spaces are governed by Islamic rules or etiquette of behaviors. *Ibadat* are rules that are viewed as governing relationship between the Creator and the observant practitioner of faith, and *mu'amalat* are rules of etiquette that manage the behavior of congregants and their relationship with each other in these spaces. These religious etiquettes relate to individualized piety practice but also to social relationship and obligations to friends, family, and the community at large. Muslim attendees are expected to conduct themselves in certain way in houses of worship following Islamic protocols. In other words, performing ritual services in mosque is not only an individualized spiritual act but also includes social components. Places of worship provide a sense of belonging, hope, and identity for believers and practitioners (Rappaport 1999). Mosques in the U.S. are particularly important in providing cultural and spiritual spaces within the larger American society. They perform multiple social and psychological functions to meet the gendered and generational social needs of congregants in the Muslim American community (Kahera 2008).

Scholars of religion and immigration Karen Leonard and Peggy Levitt have argued that religious centers like mosques help diasporic religious communities, such as American Muslims, connect with and support each other in coping with their new social environment in the U.S. (Levitt 2009; Leonard et. al 2006). In these communities, immigrant religiosity is not seen as a backward custom from homeland that is expected to disappear by assimilating to the new context, but rather religious piety is regarded as something that can be adapted to the host society (Levitt 2009; Leonard et. al 2006). It is the particular cultural and political context of American society that produces particular religious response from certain immigrant communities as an adaptive strategy. Collective social and religious identities produced through communal settings

and collective practices assists immigrant communities to configure their internal similarities and differences in American society and lead to the cultivation of a stronger, unified civic community (Leonard et. al 2006; Levitt 2009). Many people feel that immigrants bring new faith traditions and different ideas about the nature of religion that can benefit pluralistic societies like the U.S. (Levitt 2009). However, the extensive surveillance of mosques is a profound invasion that has turned Muslim religious safe spaces into spaces filled by suspicion. Anxiety, distrust, and fear are pervasive in Muslim places of worship as a result of surveillance and the infiltration by undercover state agents. Community members feel that the invasive attention to their religious life and places of worship repress their ability to practice their faith. They feel that the U.S. government is telling them to decrease or abandon their practice of Islam (Shamas and Arastu 2013).

Suspicion of others in the community has an important spiritual resonance in Islam, because in the faith's spiritual texts it is deemed a sin to be suspicious without basis. According to prophetic traditions, suspicion is considered the greatest lie. It is viewed as a depravity of the heart and a serious form of mistreatment:

Avoid suspicion, for suspicion is the gravest lie in talk and do not be inquisitive about one another and do not spy upon one another . . . and nurse no aversion and hostility against one another. And be in fellowship with each other by being mindful of God (Abu Huraira, Sahih Muslim Book 032, Number 6214)

Thus, the suspicion induced in the community by subjecting Muslim places of worship, community centers, and religious practices to invasive surveillance is not only a threat to psychological safety, but also actively challenges Muslims' ability to practice their faith. It is a form of symbolic violence when one member of the community treats another community member with mistrust, an irreligious or immoral act that according to some Muslim traditions has consequences for one's spiritual destiny. In other words, the unwarranted imposition of

surveillance to eradicate signs of “radicalization” and the sewing of mistrust in the community can have not only external effects on religious identity and practice, but also internal effects on observant Muslim’s relationship with the spiritual transcendental realm. These intrusions have deeply affected the way Muslim faith is experienced and practiced in the U.S., and have profoundly threatened Muslim Americans’ *way of being* in the world. The modern state is not only subjecting Muslim bodies to its authority but has entered the very heart of the faith, interfering with the spiritual territory. People who believe their mosque is under surveillance or infested with government informants either stop going there altogether or else they do so with great anxiety and mistrust, which affects their sense of piety, connections to spiritual time, and relationships with the community.

From this short account of community life, it appears that the modern state has not only been managing Muslim bodies and external cultural and religious expressions, but has entered into the very heart of Muslim life, disrupting sacred relationships. The philosopher Max Weber in *The Protestant Ethic and the Spirit of Capitalism* argued that religious communities would become more modern proficient actors in societies and contribute to economic and technological progress and develop modern capitalism if they became secular and disconnected from sacred cosmology. Using Protestantism in Europe and America as a model, which he viewed as a genealogically advanced form of religion, Weber ([1918] 2002) considered the connection to the sacrosanct as superstition and part of an “enchanted world” that is incommensurable with reason, rationality, and modernity. The impingement of the supposedly nonreligious state in the religious sacred domain is how the rupture or disenchantment occurs. For Weber, such disruption is an indicator of becoming a modern subject, and thus progressing in human evolution. Placing houses of worship under militarized secular surveillance has indeed engendered certain types of

behavior from Muslim congregants and limited certain expressions of piety, thus demonstrating how the secular state manages religion and produces self-governing subjects. The consciousness of being under surveillance engenders certain types of behavior where those under surveillance internalize the power of the invisible authority. Foucault explains more about this self-subjection:

The more numerous those anonymous and temporary observers are, the greater the risk for the inmate of being surprised and the greater his anxious awareness of being observed. . . . He who is subjected to a field of visibility, and who knows it, assumes responsibility for the constraints of power; he makes them play spontaneously upon himself; he inscribes in himself the power relation in which he simultaneously plays both roles; he becomes the principle of his own subjection. (Foucault 1979; 201–2)

The process of reconstructing religion by designing certain type of behavior as acceptable and scrutinizing every ritual action of the community is a process of creating a sanitized or acceptable version of faith that is amiable to the needs of the modern secular state.

Liberal Secular Re-Constructions of Islam

Although Islam is not considered a legitimate religion by various U.S. political figures and segments of the state's security apparatus, it is evident that Islam and Muslim identities are being reconstructed by these security-obsessed secular policies in order to fit the definition of a legitimate religion. When people feel that laws are making them discard their religious practices and religious identities, it indicates that there is a conflict between the state's view of tolerable religion and the practitioners' conception of religion. This discord is the result of the distinct division of religion and politics that secularism doctrine devised which understands religion in particular way. This particular view of religion can be elucidated if we briefly examine debates about the definition of "religion" and "Islam." A variety of Western scholars have argued for a universal definition of religion. The anthropologist Clifford Geertz, for example, attempted to

summarize all religion as, “(1) a system of symbols which acts to (2) establish powerful, pervasive, and long-lasting moods and motivations in . . . [people] by (3) formulating conceptions of a general order of existence and (4) clothing these conceptions with such an aura of factuality that (5) the mood and motivations seem uniquely realistic” (Geertz [1973] 2000, 90). According to Geertz, religion operates in an internal fashion and involves the projection of cosmic order onto the human experience.

However, the notion that religion has a universal form and is shaped and experienced by all adherents in the same way can also be understood as a product of particular Western hubris. Critiquing Geertz’s universal ideas of religion, Talal Asad has argued that this ideal is really a localized historical understanding of religion in the West that has been imposed as a falsely universal concept (Asad 1996; 2003). According to Asad, the concept of religion in the West has undergone a significant change since the Christian Reformation in sixteenth-century Europe. Prior to this time religion was seen as an all-encompassing sphere of life, but after the Reformation European societies began to view religion as more of a private matter. In this concept, religion is understood as something unverifiable and unscientific, psychological in nature, attached to localized institutions like a church, consisting of scriptures and ritual performances, all of which are allowed to operate only in the demarcated private spaces of individual consciousness. Secular viewpoints are the only outlooks that are unrestricted, or liberated, and allowed to thrive in the public spaces. Non-western societies did not have these categories prior to contact with European colonization, during which the understanding of religion and the conceptual paradigms of Western modernity were coercively imposed on the colonized (Camaroff 2001; Yelle 2013; Asad 2003; Thal 2002). It is in this encounter with European colonialism that Hindu *dharma* (Yelle 2013), Islamic *din* (Asad 2003; Massad 2015),

Japanese Shinto tradition (Thal 2002), and many other native traditions were coercively reconstructed through European-Christian categories and models of “religion” so that they could be easily managed by colonial empires.

This process was associated with broad social changes leading toward the secularization of the state and the emergence of modernity in the eighteenth and nineteenth centuries. Today modern secular societies lay claim to an equal flourishing and tolerance of diverse religions in their social order by differentiating between secular public spaces and religious private spaces—but at the same time they continue to treat certain religious groups punitively and to engage in practices of political and social exclusion, in part because not all religions are content to accept the definition of religion as a private matter (Asad 2003). In many democratic modern secular societies in the West, the religion or worldviews of the majority, i.e. Christianity, blossoms as the unquestioned standard, while religions of the minority are scrutinized, limited, and carefully managed by state authorities.

Islam in Arabic is considered to be *din*, meaning “a way of life,” which is not exactly the same as a “religion” in the Western sense. Asad has argued that Islam should be understood as a “tradition” rather than a “religion” in order to better indicate the complexities and particularities of the various ways in which Islam is lived by its practitioners (Asad 1996; 2003). Understanding Islam as a discursive tradition helps bring focus to questions about authority, interpretative practice, and the language that is used to understand that relationship. In deciphering the ways in which adherents of a tradition make sense of authority and temporality in their lived experience and how that tradition evolves or remains the same, it is important to understand a tradition as a living tradition (Asad 1996; 2003). As a discursive practice, the members of that tradition engage in conversations and disputes about what is or is not essential, correct, and appropriate behavior,

especially in new cultural contexts, and they conduct interpretations and disputes while still remaining a part of their tradition. These internal arguments and assessment of texts that traditions engage in are central to living traditions. Thus, tradition is not an abstract concept compartmentalized in authoritative institutions and experienced by all religious groups equally, but is rather associated with various kinds of experience, institutions, interpretations, and arguments; it is a social and historical fact, which has legal, domestic, political, and economic dimensions (Asad 1996; 2003).

Although there is ongoing discursive interpretive practice regarding the tradition, the scholars of critical Muslim Studies and Islam, Salman Sayyid (2014) and Shahab Ahmad (2016), maintain that certain aspects of Islam are unchangeable and fixed. That is, most Muslims agree that Islam is formed by belief in the oneness of God, in the Prophethood of Muhammad, and in the divine nature of the Quran, and that these and other practices associated with Islam are permanent. Muslims in different parts of the world know how to perform the same ritual worship, which direction to face for worship, and what to do in Ramadan (even though some Muslims may not adhere to or individually believe in those rituals or practices). This, however, does not mean those rituals or practices do not exist or do not belong to Islam just because certain individuals do not follow or believe in them or may use them for a nonreligious purpose. Even though various conducts of Muslim individuals or communities may be different or in contradiction with what is commonly considered to be proper in Islam, they nonetheless engage in these alternate behavior or interpretations in reference to the established knowledge of Islam. In other words, if a Muslim does not fast or practice daily rituals and has an individual justification for this, they are still engaged in conversations about their choices in relationship to the standardized rules or rituals that define Islam. In this view, individuals do not create another

version of “Islam” by inventing something new or rejecting practices, but rather their rationalization about rejection or acceptance happen in relationship to Islam.

In this way, all variant types of Muslims around the globe can be considered as connected and having a certain collective subjectivity, and it is the doctrines of Islam that fundamentally shape the way they conduct themselves in the world in their respective localities (Ahmad 2016; Sayyid 2014). Sayyid explains further about this concept of collective subjectivity or singular Islam:

The attempt to argue for a world of multiple Islams is a rather hurried response to the threat of essentializing Islam. Multiple Islam would only make sense if they could be said to exist in splendid isolation from each other . . . unaffected and fully self-contained . . . One does not need to posit an essence to Islam to argue that Islam is not reducible to its ontic manifestations. All the particular expressions of Islam exist as a part of a singular Islam: at the most we have rival projects to interpret a singular Islam. (Sayyid 2012, 8)

In other words, Islam as a singular tradition is always going through interpretations and reinterpretations by various interlocutors in particular moment in history and in various geographical locations. This process that adherents engage in and through Islam and about Islam gives Muslims a collective subjectivity or collective identity, that is, *ummah*, or community. The inability to historicize Islam as a cohesive tradition always in the process of interpreting, according to Asad, has resulted in the calls for a “reform” of Islam and the inability to confront the underlying causes of the recent eruptions of violence (Asad 1996; 2003). The prevalent suggestion in the West that Muslims should undertake a reform of their own religious tradition to help prevent “Islamic extremist violence” assumes that all Muslims are alike and unchangeable. This stance also assumes that Muslims are entirely self-contained and that reform has not been occurring throughout the entire history of Islam. The prevalent narrative in the West, based on Orientalism, is that Islam is a religion that is fixed with an unchangeable essence. Based on this

Orientalist narrative, Islam is portrayed antithetical to liberal democracy and as a passive doctrine that is unable to change and become enlightened or modern on its own initiative.

Since Islam has been historically positioned as opposed to democracy, the scholar Joseph Massad (2015) argues that Islam has served as an integral “Other” to liberalism ever since liberalism first emerged as an ideology and a political order. Islam had to be repudiated and denied as an “Other” in order for liberalism’s self-understanding to emerge (Massad 2015). According to Massad, Euro-American liberalism imposes on Muslims to choose between the political ideology of liberalism or Islam, as an either/or option, and it is in the form of this choice by which liberalism understands Islam and constructs Islam as having multiple synonyms and antonyms (i.e., meanings such as authoritarian, anti-democratic, etc.) that did not exist before liberal formulations and appropriation (Massad 2015). Massad further claims that liberalism operates as religion trying to proselytize Muslims, and everyone on the globe, and convert them to the only acceptable, rational system of culture and values—that is, to Western Protestant liberalism. Those who refuse the liberal worldview will be forced to convert by any means necessary. What Massad (as well as Asad and Sayyid) is saying is that the existence of Protestant liberalism’s universalizing values depends upon recreating a new version of Islam in the Protestant image, and, by so doing, Islam is placed at the very center of liberalism and Euro-America’s self-understanding, identity, and political agenda. In other words, the Muslim “Other” is a political concept in liberalism (as well as secularism).

For a liberal secular society claiming to tolerate all religions, it becomes incumbent for the modern state to treat Muslim Americans as citizens and as a minority community aligned with the state’s liberal values, and thus included in the polity. However, the liberal secular state also feels it is necessary to restrict and discipline Muslims or other minority religions when their

practices are seen as threatening the dominant culture's (Protestant) values. This need to regulate and confine Islam is a historical feature of how liberal secularism understands religion and manages Islam, influenced by the Protestant view of religion as a private matter. The exclusion of other, more expansive concepts of religion, in particular Islam, is central to the persistence of the security state and to the secularization and liberalization projects of the West.

Community Partnership for the Secularization of Muslims

As a tool for “de-radicalization,” the liberal secular state uses surveillance and seeks to change the religious directions of individuals and entire communities before certain Islamic ideology, in the fears of state agents, can carry over into violence (Patel 2011; Ahmad 2009). It appears that stopping people from attending worship services is one way to achieve this. Secular authorities are allowed to do so because secularism understands religion as a private matter, and because of the popular view in the U.S. that Islam is a political ideology and not a religion. Thus, the secular modern state can enter worship spaces to regulate religious and cultural practices. From the perspective of the secular law, influenced by Protestant understanding of religion, “true” religion is invisible and spiritual, whereas “false” religion is visible and external expression and thus becomes idolatry, which needs to be removed from public space. In other words, secularism operates as religion, or a political theology, because it is concerned with what is or is not idolatry to its conscience. Muslim's external markers of religion are idolatry to secularism's theological perspective.

Other “de-radicalization” tools used by state agents are even more intrusive than surveillance. These include overt programs to establish a state-sanctioned “moderate Islam” that is in line with secular ideologies, carried out both in the U.S. and abroad through the U.S. State

Department (Kaplan 2005). In a speech before the United Nations General Assembly, former U.S. President Barack Obama urged all modern nation states to adopt such “countering violent extremism” programs (Obama White House 2015). The initiatives are considered community-partnership programs in which government agencies coordinate with local social-service providers to monitor children who are deemed at-risk of becoming “extremists,” starting from elementary school (LoCicero and Boyd 2016; Jefferis 2016). This program in the U.S. is adapted from PREVENT in the United Kingdom which aims to intervene in the daily life of Muslim communities to secure conversion to liberalism by encouraging state-approved “moderate” Muslims to oppose “violent extremism” (Kundnani 2010). The PREVENT program identifies signs of “radicalization” as anything that rejects British values. Under Obama, similar programs have been (unsuccessfully) implemented in cities such as Boston, Minneapolis, and Chicago (Patel and Koushik 2017). Through an elaborate system of surveillance, involving teachers and youth workers, health care professionals, mental health specialists, *imams*, and religious teachers, among others, future “radicals” are identified and given counseling, mentoring, and religious instruction in an attempt to divert them from extremist views. Teachers have been known to provide anti-extremist referrals for pupils for extremely innocuous practices such as using the term *alhamdulillah* (“praise be to God”) (Khaleeli 2015). In this way, Countering Violent Extremism programs as part of broader preventive mechanism enact state intervention directly in theological debates.

Preventive mechanisms such as CVE and PREVENT are ways the liberal state distinguishes what is religion and not religion. This demarcation revolves around the figure of the imagined terrorist or the Muslim “Other,” that is, by creating “bad” and “good” Muslims (Mamdani 2002; 2005). According to anthropologist Frank Peter (2008) and legal scholar

Samuel Rascoff (2012), these securitized practices and counter-radicalization strategies operate to administer Islam and Islamic institutions and reconstruct Islam by creating “civil Islam” (Peter 2008) or “official Islam” (Rascoff 2012) (i.e., secularized Islam or moderate Americanized Muslims), a state policy that aims to refashion a certain type of Islam that is monolithic, and, thus easy to manage.

These state policies and initiatives are implemented to manage and regulate Islam, and as such they are part of the processes of subordinating Islam to secularism; that is, they are part of the political project of liberalism. Through intentional policies and actions, state agents are trying to invent a state-sanctioned version of Islam that is palatable to the dominant culture. When the secular modern state selectively applies policies to a specific population, as is the case in religious policies of the U.S., it plays an important role in determining which cultural or religious characteristics can exist within a national identity by demarcating between “good” and “bad” expressions of religion. When the modern state applies accusations of “terrorism” to Muslims by collectively holding them responsible for the actions of lawbreakers, it allows the state to demonstrate its absolute power to control the shape of Muslim society. Placing Muslims in this liminal space of enforced reconstruction, the liberal secular state can make use of Muslim bodies as a demonstration of its sovereign power to decide between “good” and “bad,” between who will or will not be targeted with surveillance, and who will or will not be charged with terrorism crimes. In doing so it plays a significant role in the racialization of Muslim and the representation of Islam as anti-American, perpetually foreign, and violent. This allows liberalism to further its domestic and imperial agenda, and it is a direct continuation of the long history of colonialism, racism, and religious prejudice that I have charted in this chapter. In the next two chapters, I discuss the legal life of “terrorism” cases and describe how Muslim identities and

religion have been affected in by predatory prosecutions and imprisonments under “material support to terrorism” statutes in the exceptional federal judicial and criminal justice system of contemporary liberal secularism.

CHAPTER THREE: MUSLIMS AND ISLAM IN “TERRORISM” COURTROOMS

Suhana’s son took responsibility for the words that had been secretly recorded by a government informant, while also stating that the informant had goaded his emotions and lured him to say things he did not really believe. Wearing a blue prison uniform and a white long-sleeved shirt at his 2007 sentencing proceeding, he offered a brief statement of apology as is expected by the criminal justice system. The jury had deliberated for two days but ultimately rejected the entrapment defense. Suhana’s son was convicted on four counts of conspiracy and plotting to bomb a public transportation system, an action he insists he had no intent to carry out. The federal judge, siding with the government prosecutors, sentenced him to thirty years in federal prison in the Communications Management Units in Indiana. When recounting the sentencing proceeding with me, tears welled up on the side of Suhana’s eyes: “It was like a judgment day. The last day of my life. I still can’t forget or explain how it was. It was like I couldn’t stand on the ground and couldn’t feel the ground underneath my feet. It was like I had died.” Defense lawyers stated that Suhana’s son was scapegoated and entrapped by the government, and that thirty years was an extremely punitive sentence for his tentative acquiescence to a “plot” that never actually existed. Law enforcement officials and prosecutors, however, were jubilant and welcomed the callousness of the sentence, while the media had a field-day defaming the family and celebrating this valiant judicial effort to make Americans feel safe.

Numerous “terrorism” cases have been processed through the federal judiciary since the World Trade Center attacks. Between 2001 and 2010, there were 998 accused individuals who were indicted in terrorism or related offenses, and 87 percent of those individuals were convicted on at least one charge (Greenberg 2010). Almost 50 percent of these convictions resulted from

informant-based cases, and roughly 30 percent were sting operations in which paid government informants actively influenced the defendants to participate in imaginary plots (Human Rights Watch 2014). About 72 percent of “terrorism” convictions listed by the U.S. Department of Justice involved individuals who were preemptively convicted for suspicion of their “ideology” but not for any actual violence or criminal conduct (Downs and Manley 2014). Some analysts have suggested that as many as 94 percent of “terrorism”-related federal convictions to date have had elements of preemptive prosecution (Downs and Manley 2014).

There is a lack of public attention to these cases that stands in sharp contrast to outcries about military tribunals and detainments in extra-judicial sites such as Guantanamo Bay, probably because of a public (mis)perception that U.S. courts provide fair and equal treatment (Rovner and Theoharis 2012). A variety of different groups and organizations, including some federal judges, have strongly advocated for transferring Guantanamo Bay detainees to the federal system for trial (Sullivan and Freeh 2010). For some this may be because they feel the detainees will be treated more fairly in federal courts; but for others it seems to be based on the belief that prosecutors will receive favorable, speedy convictions (Sullivan and Freeh 2010; Hernandez-Stern 2015). In reality, there may not be as much difference between extra-judicial military tribunals vs. the U.S. federal court system as some people believe, as evidenced both by the experiences of accused Muslims in the federal system after 9/11 and by the long history of legal discrimination in the U.S. that was elaborated in the previous chapter. Rights violations in federal “terrorism” trials have been documented in great detail by scholars such as Laura Rovner and Jeanne Theoharis (2012); some of these violations will be discussed later in this chapter.

Extra-Judicial Prosecution as a Model for the Legal Treatment of Muslims

Muslims who stand accused in federal “terrorism” cases cannot be conceptually separated from the broader climate of the “War on Terror” and the associated network of “black site” prisons and torture programs. Even in traditional U.S. courtrooms, references to “Islamic terrorism” brings up associations of an overarching existential threat to society and the extraordinary measures that must be used to oppose it. The extra-judicial detention site at Guantanamo Bay has become the most well-known symbol of this system, and it is worthwhile to review some of its parameters. Operating in a way that is paradigmatic of the “state of exception”—a place where the normal rules and standards of social conduct are suspended—the prison at Guantanamo Bay has confined 770 men from 45 countries who were tortured and held indefinitely without access to legal counsel or communication with the outside world (Cole 2003; Center for Constitutional Rights 2006; Center for Constitutional Rights 2008; Agamben 2005). The vast majority of the detainees at Guantanamo are not charged with any crimes, and since the site is not located in the mainland, U.S. authorities have argued that the prisoners do not have rights as guaranteed under the U.S. Constitution—such as a presumption of innocence and the right to a trial by jury (Cole 2003; Maran 2006; Fletcher and Stover 2008). At the same time, the authorities claim that they are not prisoners of war and thus do not have the rights granted by the Third Geneva Convention to soldiers working for a nation-state (Cole 2003; Maran 2006). The captives are regarded, in sum, as having no legal status whatsoever.

The practice of indefinite detentions at Guantanamo and elsewhere are founded on the Authorization for Use of Military Force, AUMF, that was passed by the U.S. Congress after the World Trade Center attacks, and in an executive order signed by President Bush in 2001. The AUMF sanctions state officials to kidnap and imprison anyone whom they regard as having

conspired to engage in acts of terrorism against the United States or its allied nations (Cole 2003). In his comments at the time, President Bush characterized the “War on Terror” as an open-ended “crusade” of good against evil (Ford 2001). With such an absolutist, transcendent mandate it is unsurprising that extreme measures were deemed necessary. Both the AUMF and President Bush’s decree indicate that radical actions are needed to destroy the enemy, and that anyone on the wrong side will be subjected to the full force of war (Hawley 2008). At the same time, the U.S. authorities asserted, these amorphous enemies have no rights as prisoners of war, nor do they have any rights in any courts of the world and no courts can hear their petitions. According to the U.S. government’s claims, no juridical review of the prisoners’ status or their indefinite detentions can ever take place.

Human-rights organizations such as the Center for Constitutional Rights (CCR) brought lawsuits against the state challenging these orders and injunctions. First, district courts and the circuit court of the District of Columbia confirmed that in the case of Guantanamo detainees U.S. courts have no jurisdiction to hear the *habeas corpus* petitions that would ordinarily allow government captives to question the legality of their confinement. In 2004, however, the CCR challenged this ruling in the case of *Rasul v. Bush*, and the Supreme Court overturned the opinion of the circuit court, holding that prisoners in Guantanamo Bay do have the right to challenge the legal basis for their detention. Another case in 2004, *Hamdi v. Rumsfeld*, led the Supreme Court to more narrowly confirm that U.S. citizens could not be detained in sites such as Guantanamo and that they had the right to challenge their detentions (Hamdi et al v. Rumsfeld 2004).

In response, the U.S. Congress passed the Detainee Treatment Act of 2005, which made nominal provisions for the captives’ treatment but also explicitly stripped the federal courts of

jurisdiction. The Act strongly prohibited all courts, jurisdictions, and judges from hearing appeals of Guantanamo detainees (Suleman 2006). The following year, in the case of *Hamdan v. Rumsfeld*, the Supreme Court responded by ruling that military commissions did not have the power to try detainees either, because the structure of these tribunals violated both the Uniform Code of Military Justice and the Geneva Conventions (Hamdan v. Rumsfeld 2006). The Court found numerous violations of the Guantanamo detainee's rights, and it further stated that the commissions were legally unacceptable because they allowed hearsay evidence and prohibited the accused and his attorney from even knowing what evidence was used against him—in other words the accused was excluded from his own trial (Hamdan v. Rumsfeld 2006; Lane 2006).



Figure 1: Demonstration in Washington, DC. Activists representing detainees demand to close Guantanamo Bay prison camps in January 2012

The Bush administration responded once again by pressing Congress to pass the Military Commissions Act of 2006. This act formally authorized the president to establish military commissions and it made the executive branch of the U.S. government the judge and the jury

over all matters at Guantanamo Bay (Suleman 2007). The Military Commissions Act (MCA from hereon) prohibited detainees from invoking the Geneva Conventions as a source of rights, prohibited any judge, court, or justice from considering a *habeas* petition from the detainees, and permitted the admission of hearsay evidence in the military trials of these prisoners (Military Commissions Act 2006; Suleman 2007). Following Congress's approval of this act, the government formally notified the D.C. District Court that it no longer had jurisdiction over Guantanamo Bay detainees. From that time to the current day the issue has largely been regarded by authorities as being settled. Captives continue to be held in an extra-judicial limbo in Guantanamo Bay, and reports of tortures such as waterboarding, forced feeding, and psychological terror have continued to trickle out of the closed facility (Center for Constitutional Rights 2006).

What this history shows is that there was an intense drive on the part of the executive, Congress, and other U.S. authorities to ensure that Muslim captives in the “War on Terror” would not be granted basic human rights as guaranteed under the U.S. Constitution, the Geneva Conventions, and the norms of the international community. Instead, the authorities wanted those accused to have no legal status or human dignity and to be entirely subjected to the whims of sovereign power. The fact that it was primarily Muslims who were treated this way—and not other prisoners accused of acts of violence—indicates how the secular liberal state coordinated political and religious agendas and regarded Islam as a unique type of problem. This relationship between the secular liberal state and the dehumanized Muslim captives needs to be understood in an historical context, and as a continuing example of how the sovereign state uses violence to maintain insider and outsider dichotomies. While the specter of “terrorism” looms large in Western social imaginary as an existential threat, it is really no more dangerous than numerous

other threats the society faces, none of which have inspired the wholesale abandonment of human dignity. Instead, the treatment of Muslim captives under the guise of “national security” has to be considered as part of an outlook that excludes Muslims from the human family and targets them as part of a religious-inspired “crusade.” By stripping these detainees of their legal, national, political, and cultural rights, the state authorities seek to demonstrate their absolute, universal power over Muslims and reduce them to a spectacle of “bare life” that is helpless before the authority’s power (Agamben 1998; 2005).

This treatment of Muslims as political “other” and as an external threat undeserving of human dignity is somewhat easier when those detained are not considered citizens of the sovereign state that is confining them. The situation becomes more complicated and produces more anxiety for those in power when the captives are Muslim Americans and therefore have a relatively stronger claim to insider status. When dealing with U.S. citizens, such as the “American Taliban” John Walker Lindh, more extreme measures have to be taken to justify stripping the captives of their human status and their legal rights. Lindh and other accused Muslim Americans occupy an ambiguous relationship with the U.S. state, since they are regarded as members of the “external enemy” and yet at the same time the state is formally responsible for protecting their rights and privileges as citizens (Kaufman-Osborn 2002; Lindh 2011). As the scholar of politics and law Thomas Hawley noted, state authorities find themselves in a quandary when the enemy is “us.” These ambiguities “trouble the liberal state’s use of violence and . . . reshape the relationship of citizens to their state Not quite domestic criminals and not quite soldiers or outlawed enemy combatants, citizen terrorists are something of a paradox” (Hawley 2008, 34). This is the territory in which the majority of Muslim Americans accused in predatory “terrorism” prosecutions find themselves. They are for the most part citizens or legal residents,

but they are viewed by liberal state and by many Americans as an extension of the external “terrorist” threat that requires dehumanization and the abrogation of rights in places like Guantanamo. Thus, the liberal state is in predicament since it has sworn both to protect their rights and to destroy them. For the most part, accused Muslim Americans in “terrorism” trials are viewed not as ordinary citizens charged with criminal activity, but rather as sympathizers with outside aggression whose existence threatens the entire political and socioeconomic order of liberalism (Hawley 2008).

One way that state agents tend to encourage this apocalyptic perception of accused Muslims is by claiming the authority of secularism and then scrutinizing the religious life of the accused citizens as a marker of their outsider status and their alien allegiances. Such a separation of “us” vs. “them” helps to mitigate Muslim Americans’ claims to citizenship and the associated rights, while also reinforcing the state’s absolute power over those who are considered outsiders. These practices are hardly new in U.S. history or in human empires more generally—practices such as the banishment of unwanted people and distinctions between those who have rights and those who do not have rights are a continuation of practices that have existed since ancient times. In such cases, the law is mixed with religious and racial prejudices and serves to implement them, resulting in certain groups being marked as deviant and disorderly and thus subject to easy banishment from society (SpeartIt 2009; Girard 1979). The selective preventive prosecutions of Muslim Americans and immigrants in the U.S. courts, which I discuss in more detail below, should be understood as deeply implicated in this overall project of purging “alien” and suspect religious elements from the liberal secular state.

Preventing “Terrorism,” Advancing Secularism

In an effort to prevent terrorist violence within its territory, the U.S. government has developed a new domestic legal framework of security practices. Numerous branches and departments of the state have combined their efforts to capture those whom they perceive as enemies. The U.S. Congress has amended laws or created new ones, such as the provisions that criminalize “material support to terrorism” and those that designate an ever-expanding list of designated foreign terrorist organizations, as a means to curtail a broad range of behaviors that are perceived to be related to terrorism (Aziz 2011; Aziz 2012a; Huq 2011). During the course of these efforts, Muslims who have not actually committed violent acts have become a major focus of American jurisprudence (Aziz 2012a).

The conceptual paradigm of preventing terrorism before they can take place leads rapidly toward the belief that terrorism is pervasive in society and that anyone who conceivably poses such a risk needs to be banished, imprisoned, or otherwise incapacitated (Bjelopera 2013; Cole 2003). This outlook is grounded in the promotion of constant, and somewhat irrational, fears that terrorist attacks are the “new normal” and that constant vigilance is required against them. The response requires first and foremost surveillance and suspicion, carefully attending not only to what someone has done or is planning to do, but even to what they might be likely to think about doing at some point in the future. In order to evaluate what people might do and assess that risk, the secular state has to obtain detailed data about the lives and practices of “suspicious” individuals. In practice during the current era of paranoia about terrorism, this means intrusive surveillance and suspicion toward any Muslims who express “excessive” religious devotion (Huq 2011). According to the legal scholar Aziz Huq (2011) the state’s preemptive prosecution, where there is a lack of overt criminal conduct, is equivalent to prosecution for *mens rea* (intent),

which is usually difficult to prove and is not used in normal criminal cases. In “terrorism” prosecution *mens rea* is one of the prominent strategies the state uses to convict Muslim Americans, along with pretextual charges involving immigration violations, which are usually unconnected to terrorism (Huq 2011). The zeal toward identifying hypothetical violent extremists by targeting religious speech among Muslims (and only among Muslims) has been used to justify normally unacceptable entrapment tactics—such as the use of paid informants who attempt to manipulate and goad Muslims into inflammatory rhetoric and the tacit acceptance of made-up “plots.”

According to anthropologist Werner Schiffauer, such “preventive measures are concerned with abstract dangers . . . not concerned with criminals or crimes, but with extremists assumed to be capable of becoming potential criminals” (Schiffauer 2008, 55). This preventative security and risk assessment goes directly against the tradition of human rights and the customary practice of criminal law in the U.S., where suspects are supposedly deemed innocent until proven guilty and are not apprehended or prosecuted until after a crime is committed (Huq 2011; Ahmad 2009; Aziz 2012a). As noted in the previous chapter, however, there is a long history in the U.S. of these legal ideals being abrogated when it comes to the treatment of cultural outsiders and minority populations. Such abuses are particularly likely when the state is operating in a “war mode” and when authorities link their political visions to concepts of white, Christian cultural superiority (Hawley 2008). As noted before, the secular and the sacred are structurally built into the foundation of the U.S. liberal nation state, and the continuing influence of Calvinist and Protestant morality and disciplinary doctrines have a strong effect on how the modern legal system and state institutions function. Those who are deemed “foreign” to the mainstream

culture have typically been regarded by the state as beyond repair or rehabilitation, and thus justifying preventative prosecution and retributive punishment as the preferred mode of justice.

This adversarial mode of thinking about unwanted behavior—in this case religious expression—is closely aligned with the overall moral tone of the “War on Terror.” Conflict-based tactics that position Muslims as the enemy of the state are not limited to foreign military actions and extra-judicial detainments; they also play a role in the strategic entrapment, prosecution, surveillance, and regulation of Muslims through the criminal justice system. Since Muslims who are citizens or residents of the U.S. cannot as easily be banished to Guantanamo Bay for torture, government agents have taken to using predatory criminal prosecutions as a means of alienating and excluding the Muslim American community. By demarcating Muslim Americans as a unique threat and as potentially disloyal citizens, the secular state separates them from “good” citizens who do not need such careful vetting. It manufactures a political “other” and makes it appear as though Muslims are more likely to have allegiance to some external power or leader. These ideas of how to deal with the “enemy” or “disloyal” residents through the use of terrorism prosecution are closely related to the “state of exception” in sites such as Guantanamo. A separate legal paradigm is established by the state within the criminal justice system that suspends the normative law and order (Agamben 1998; 2005).

The Secular Indeterminacy of “Terrorism”

One of the primary ways that aggressive legal attacks on Muslim Americans take place is by accusing the person of providing “material support” to terrorism. This extremely vague provision is part of a statute codified by the U.S. Congress as 18 U.S.C. § 2339A. It defines “material support” as providing (among other things) financial services, training, and expert advice or

assistance that is used by others to carry out one of over forty criminal conducts derived from criminal law specified in the statute (Said 2011). The range of activities that can qualify as “material support” is extremely wide and indefinite, and in some instances, there is not even a requirement that the accused must know or intend that their support is helping in terrorist activities (Dratel 2010). While the statute makes it a crime to provide material support in aid of a conspiracy to murder, maim, or kidnap overseas, it does not require a specific identification of what the conspiracy is, who its victims are, or proof that the defendant intentionally joined the conspiracy or its aims in any manner (Dratel 2010; Said 2011). The vague and unlimited nature of “material support” has also had a negative impact on First Amendment rights after the Supreme Court decision in *Holder v. Humanitarian Law Project* denied constitutional protection even to political speech if it is made “in coordination with” a designated foreign terrorist organization. Government agents have relied extensively on the unspecified and broad nature of this law to advance the tactic of preventive prosecutions and to target religious and political associations (Rovner and Theoharis 2012; Said 2011; Dratel 2010).

Many of the high-profile terrorism-related prosecutions in the U.S. courts have focused on the concept of “homegrown” terrorism threats among the Muslim American community (Bjelpora 2013; Greenberg 2010). Muslims living in the U.S. who fall under suspicion are usually designated with this label. In contrast, non-Muslim Euro-American suspects in mass violence cases are referred to as “domestic terrorists,” or more frequently, are not designated as “terrorists” at all. According to the legal scholar Sahar Aziz, “the troubling development in the preventive paradigm is the racial subtext of homegrown terrorism as a ‘Muslims only’ club . . . [this designation] facilitates selective and arbitrary enforcement of counterterrorism laws against Muslims” (Aziz 2012a, 3). While there is no consistently used definition of “homegrown

terrorism,” it generally refers to the idea of Muslim Americans who have internalized anti-U.S. viewpoints due to consuming propaganda from foreign organizations. Terrorism experts and government agencies use integration, religiosity, and geographic location and transnational connection of “suspicious” person to label and interpret these “homegrown” cases (Greenberg 2010). The preventive prosecutions associated with identifying “homegrown terrorists” before they have committed acts of violence as well as absent of overt evidence of criminal conduct have raised serious concerns about pre-judgment and a lack of fair trials (Aziz 2012a; Huq 2011).

The general public, the media, and legal professionals often cite the success of “homegrown terrorism” convictions as evidence that state prosecutions are preventing attacks, but they do so without a close examination of the internal workings of “successful” terrorism plots or the actual details of preventive prosecution cases. More detailed analysis has shown that many cases of violence that are labeled as “terrorism” do not have any clear relationship to terrorist or violent ideologies on the part of the perpetrators, and in converse, that expressions of sympathy for terrorist groups very rarely lead to violent actions (Greenberg 2010; Huq 2011; Downs and Manley 2014). Strangely, federal “terrorism” prosecutions are not required to have identifiable links to terrorist activity to be considered as “terrorism” according to reports and analysis of thousands of Department of Justice records by Transactional Records Access Clearinghouse at Syracuse University (Transactional Records Access Clearinghouse 2009). This gives prosecutors a free pass to label almost any of the hundreds of possible federal crimes as an act of terrorism, or not an act of terrorism, depending on who is accused of the crime. It could therefore be argued that the terms and conditions that define “terrorism” are at the subjective

discretion of various government authorities, allowing them to manufacture imaginary “terrorism” crimes.

Examining this phenomenon, anthropologists Joseba Zulaika and William Douglas have argued that, “nothing feeds the growth of the [terrorism] phenomenon itself more than the inability of terrorism discourse to distinguish actual combat from ritual bluff, real violence from imaginary terror” (Zulaika and Douglas 1996, xi). In other words, the eagerness of state agents to discover a “homegrown terrorist” component in any activity carried out by Muslim Americans helps to feed the view that terrorism by Muslims is a pervasive and existential threat to the modern liberal state. Not defining “terrorism” or “homegrown” and associating all and any criminal activity as terroristic reinforces liberalism’s agendas concerning Islam and modern state’s power to manage religions and populations. The accused, often targeted for Islamic speech, become useful and valuable to the secular state that wants to consolidate its expansive regulatory authority through the spectacle of “terrorism” and the demonstration of absolute power over Muslim bodies as well as Islam.

Managing fears about security and risk by marginalizing religious minorities is a long-standing practice in the U.S. The scholar of religion Rachel Weil, for example, has shown that people who feel themselves under threat often turn to religious identity as a way to determine political loyalty (Weil 2011). In the current U.S. climate, Muslim Americans are viewed as potentially disloyal to the secular state, and the surveillance, entrapment, and predatory prosecutions of Muslims can be seen as a means of relieving majority fears by conducting loyalty testing and exclusions targeted at this religious population. Preventative mechanism of prosecution is one of the ways the liberal state distinguishes the politically disloyal from loyal and between who is or is not an acceptable citizen. This demarcation revolves around the figure

of the terrorist, the bare life in state of exception--that is, the Muslim “Other.” These prosecutions as part of broader securitized machinery operate as regulation of Islam and Islamic institutions by refashioning a certain type of acceptable Islam. In other words, by these “terrorism” cases, the secular liberal state scrutinizes Islam to reconstruct it in certain way, and, at the same time it uses Islam to control Islam (i.e., entrapment cases discussed later in the chapter). In order to confine Islam, liberalism has to continuously construct an image of Islam as politics, and not religion, by designating Islam as barbaric, violent and uncivilized. Consequently, liberalism’s secular securitized state exists and functions in and through Islam through the “bare life” of the Muslim “Other” at this current political historical moment.

In the following section, I discuss some of these preventive “terrorism” prosecution cases in the federal judicial system. External non-state armed actors can be more easily stripped of their rights as a result of their political beliefs and affiliations, but when it comes to the “homegrown” threat, a more theatrical legal performance is needed to scrutinize the Muslim religious practices and ensure Islam remain under the control of liberalism and the secular state. The entanglement of such secular political loyalty testing with religious practices brings into question the secular state’s claim to demarcate between religion and politics.

Rituals of Terror in the State-of-Emergency Judiciary

Similar to military commissions where detainees are pre-judged and denied access to legal fairness, Muslim Americans who are caught up in “terrorism” cases are weighted with the unfair burden of a “state of emergency” mentality. During my fieldwork, I observed several “terrorism” court proceedings and noted the way in which federal courts were prepared for these trials. Courts in general are sites of conspicuous power and authority, where some are allowed to speak

and others are limited to providing answers to questions. Rules of speech and behavior are very different in courtrooms compared to everyday language and communication. In addition to this usual controlled and intimidating setting, federal courts typically institute extra measures for “terrorism” trials. In my courtroom observations, conspicuous security measures surrounded the proceedings, far beyond the regular security inspection that all members of the public who enter federal buildings must go through. Bags, purses, and identifications were carefully searched, and everyone who attended was required to sign and print their names before passing through two separate metal-detector checkpoints. No one except the attorneys was allowed to carry laptops or cell phones into the courtroom.

As though to ritually prepare for the exceptional nature of these trials, armed U.S. Marshals lined the gallery of the court, standing behind the seated visitors and next to the attorneys. At least three or four Marshals surrounded the defendants at all times. The defendants themselves appeared dressed in in prison smock, and they were sometimes brought into the room wearing shackles on their hands and feet, connected with a belly chain to limit their range of motion. These exceptional security measures broadcast and induced a unique climate of “terror” and moral panic in the courtroom. Members of the Muslim community consistently described these measures as intimidating, and did not hesitate to tell me that they were afraid to attend the legal proceedings. The general consensus among my interlocutors was that any Muslim attending a terrorism-related case would be identified as “sympathetic” to terrorism and would be treated as a suspect by the authorities for future monitoring or prosecution.

During these trials, it is not unusual for prosecutors to invoke figures such as Osama bin Laden and even to display photos of the Twin Towers, despite the fact that the World Trade Center attacks have nothing to do with the trials at hand. The goal of these tactics is to create an

atmosphere of anxiety for the jurors and the public, and to directly associate the Muslim Americans who are on trial with the unrelated non-state armed actors and their violent actions. The presentation of violent viewpoints from people who are actually not in the courtroom produces a kind of guilt-by-association mentality that undoubtedly has an impact on the emotions and psychological reactions of jurors and observers. This blatant pandering to prejudice indicates that prosecutors are well aware of how Muslims accused of terrorism are pre-judged by the public. The legal scholar and defense lawyer Joshua Dratel has noted:

In certain jurisdictions, such as New York City, fundamental irremediable juror bias exists due to shared experiences, such as 9/11, which traumatized and still affects many New Yorkers (and Americans) and which create a barrier to fair consideration of a particular defendant and the specific facts of the individual case. While juror questionnaires and a more extensive, probing *voir dire* can help alleviate some of the problem in finding impartial jurors, they cannot, in my experience, overcome the prejudice that has been established and that endures through world events, media reports, and political pandering, as a result of the impact of terrorism on potential jurors. (Dratel 2010, 36)

Even some of the judges who have overseen “homegrown terrorism” cases agree that the atmosphere surrounding these cases and the behavior of prosecutors make it extremely difficult for the accused to get a fair hearing. In many instances, the prejudices and adversarial theater of the proceedings seem more substantial than the actual evidence against the accused, as noted by the Federal Judge James Carr of the Northern District of Ohio:

To label defendants “terrorists,” as government press releases and the media commonly do, is, to say the least, an overstatement, much more often than not. It is, however, this highly prejudicial and ill-fitting label that invariably attaches and sticks to the case throughout its existence . . . the press release, headlines, and breathless commentary that accompany the indictment and arrests are one thing; the risk that the judge potentially may be influenced, albeit only subconsciously, is another. . . . Indeed, there is a not-so-subtle underscoring that occurs where the judge and his or her staff undergo security clearance background checks Most often, as one peels away the layers of rhetoric and deals with the peculiarities one sees that the defendants are ensnared in a gossamer web. Though they wove the first strands, its enlarging and expanding were the government’s handiwork. (Carr 2010, 29–31)

Invoking prejudice, moral panic, and fear in this fashion is likely one of the reasons that state prosecutors have been securing such a high rate of “terrorism” convictions, often by plea negotiations. Most judges, in my observations and those of my interlocutors, seemed to unquestioningly allow prejudicial evidence and inflammatory rhetoric to intrude into the trial ecosystem of these “terrorism” cases.

These internal and external courtroom atmospheres that instill panic and promote a culture of fear around the accused and their non-violent behavior raise questions about the law’s claim to neutrality, objectivity, and equality. They reveal the way in which the law is embedded within the broader cultural, social, and political spheres. As a variety of scholars and observers have noted: “Life in the law is not lived in a vacuum. It is part of a pervasive world of *culture* . . . it [is] an extension or reflection of . . . culture” (Amsterdam and Bruner 2000, 2, emphasis in the original). Most Americans believe that the judiciary is supposed to be a neutral (secular) space for impartial and evidence-based adjudication distinguishing true facts from falsehood, but there appears to be little respect for this process when it comes to Muslims accused of “terrorism.” As an extension and a product of the broader culture, judges, prosecutors, and other legal practitioners are shaped by and rely upon culturally informed processes and external influences (Amsterdam and Bruner 2000). The courts reproduce the broader national sentiments, categories, and stories about Muslims. That is, as the legal scholar Sahar Aziz noted, “The current preventive paradigm for countering terrorism misguidedly uses political beliefs and religious practices as proxies for criminal activity” (Aziz 2011, 438). Instead of relying on factual evidence to find people guilty of crimes, and in absence of overt criminality, this prosecutorial paradigm seems more strongly aligned with the government’s international policy of

preemptively detaining and imprisoning Muslim suspects by virtue of their group identity with a religion or political affiliations.

When state officials target Muslims for such “terrorism” prosecution, and then use tactics like fear-mongering and inciting moral panic as part of the judicial processes, religious prejudice becomes mixed with the practice of the law. As discussed in the previous chapter, this is a continuation of a long history in the U.S., blending secular law enforcement and judicial practice with a religious and racial agenda (Sullivan et al. 2011; Johnson and Weitzman 2017). The co-constitution of religion and law in the terrorism cases has been observed by defense lawyer Sagel Patel, who remarked:

To analyze coercion in our post-9/11 world, we must begin by asking who is being coerced today, more than a decade after the passage of the Patriot Act and FISA [Foreign Intelligence Surveillance Act]. Without opining on whether the Patriot Act is good or bad, it is clear that Muslim-Americans have been coerced, and scholars have written extensively about how Islam is often viewed as antithetical to American patriotism . . . A wider enemy than Al Qaeda arose from those feelings. As a result, our contemporary enemy has become an entire religion. (Patel 2011, 29)

The following section describes some of these cases in detail and provides examples of particular ways in which secular legal practices encroach on religion and violate Muslim Americans.

Muslims in Exceptional Federal Courts

One of the results of the climate of fear and prejudice that surrounds “terrorism” cases is that Muslims, community members, and advocates are often worried about the consequences of becoming involved in the legal proceedings. During my fieldwork, I did not see a single Muslim spectator in these trials other than family members, legal advocates, media representatives, or government officials. Two of the federal trials that I observed, *United States v. Ghaith* and *United States v. Masri*, involved men who were not U.S. citizens but were extradited from other

countries. In these two cases I did not even see any activists or advocates present at the trials. Presumably part of this lack of attention was because those men did not have family members in the country, but I also suspect that the high-profile nature of the cases simply made Muslims terrified about being associated with the trials and therefore coming under surveillance. I had hoped to see at least a few civil-liberty advocates present at these trials, but both Muslim and non-Muslim advocates appeared to deem it more prudent to stay away. I found it unfortunate that no one really cared to “humanize” these two individuals or bring public attention to their plight. Unfortunately, I was also unable to obtain detailed court records and analyses for these two cases, so they are not included in the descriptions below. Instead, I will summarize three cases in which I have ample documentation from interviews, legal documents, court transcripts, and media reports.

United States v. Hashmi

I first heard about the case of Fahad Hashmi in 2006, but I did not know much about it until I met the family of this imprisoned Muslim at a conference in 2008. Since then, I’ve gotten to know his family members and learned about the details of the case. Hashmi’s family had moved to New York City from Pakistan in 1982 seeking a better education for their children, dreaming of a prosperous life in America. As new immigrants, the family worked hard and lived a normal, regular life. Growing up Hashmi and his brother attended public schools and in college Hashmi became politically active in social justice causes. He was overtly critical of U.S. foreign policies in Muslim countries. After finishing college, he went to the United Kingdom to pursue a master’s degree in International Relations. While traveling to Pakistan, he was detained and then put on trial on charges of providing material support to Al Qaeda, though he was never accused

of being a member of this organization, having any direct contact to the group, or being involved in any conduct or business with the group. He was detained by British authorities and then returned to the U.S. to face criminal trial. As in many of these cases, there was a widespread media coverage and hysteria at the time about how government agents had successfully captured a “terrorist” in the summer of 2006. According to his family and advocates, there was little mainstream media attention, however, to the internal working of the case, the evidence against Hashmi, or the draconian procedures followed by the authorities and the court.

Hashmi was placed in solitary confinement while awaiting trial. This is a common procedure in “terrorism” cases and it sometimes continue for years while the government prepares its case against the captive. Going even further than this, however, the authorities decided to take “Special Administrative Measures” (SAMs) in regard to Hashmi based solely on the nature of the accusations. This severely restricted the ability of the accused to communicate with his lawyers and immediate family members. SAMs also constrained Hashmi from reading certain materials and communicating about his prison conditions to his family. It is well-established that prolonged periods of solitary confinement can lead to cognitive and psychological deterioration, which affects the ability of the defendants to work with their legal counsel in preparing for court (Grassian 2006). The additional “special” communication restrictions in Hashmi’s case further hampered his defense preparation. Since these actions alone constitute a violation of rights of the accused, they led many organizations and activists to protest against the harsh treatment of Hashmi.

A variety of other exceptional securitized legal methods were used in Hashmi’s case, including applications of the Foreign Intelligence Surveillance Act (FISA) and Classified Information Procedures Act (CIPA). FISA allows for wiretapping, search and seizure, and

collection of records that goes beyond the ordinary criminal justice authority granted by the U.S. federal court system. Using this statute, state agents need only to have vague suspicions that the accused is an agent of or associated with foreign non-state entities in order to target that person for surveillance. The evidence to justify surveillance and searches is provided by this secret court under FISA is not accessible to defense lawyers (Dratel 2010; Patel 2014). In a similar fashion, CIPA places restrictions on evidence in terrorism prosecutions that allows only the defense counsel, but not the accused, to have access to the classified evidence. The accused is not allowed to see the evidence against him or her. These securitized measures are similar to and an extension of the military tribunal practices enshrined in the Detainee Treatment Act of 2005 and Military Commissions Act of 2006.

Hashmi's case also raised important First Amendment issues, as many believe he was targeted due to his political activism and speeches against the wars in Iraq and Afghanistan. Jeanne Theoharis, who taught Hashmi when he was a student at Brooklyn College, elaborates on this point in *Chronicle of Higher Education*:

These laws have created a climate in which certain political and religious beliefs are deemed questionable and dangerous. In its prosecution of Hashmi, the government will likely focus on political statements Hashmi made about American foreign policy and the treatment of Muslims here and abroad. Hashmi drew the attention of *Time* and CNN in May 2002 as a student activist and potential homegrown threat; he was quoted at a 2002 Brooklyn College meeting as calling America "the biggest terrorist in the world." (Theoharis 2010)

There is no question that Fahad Hashmi was an outspoken activist in the Muslim community and that he was opposed to the U.S. government's treatment of Muslims in the Middle East. He was familiar with the group Al Muhajiroun, which was critical of U.S. policy but has never been regarded as a terrorist organization even under the government's expansive criteria for that designation.

Despite his lack of affiliation with any terrorist group, Hashmi's religious and political speech were used as a justification by government agents to monitor him and keep a close watch on his activities. Ultimately, although there is no evidence to connect Hashmi to Al Qaeda, he was arrested on the basis of the "material support" statutes due to his association with another individual who was in turn alleged to have donated socks, raincoats, and ponchos to some individuals affiliated with Al Qaeda. Connecting Hashmi to this acquaintance, the state accused Hashmi of aspiring to engage in "violent jihad." Hashmi never went to trial and under government pressure plead guilty. In other words, Hashmi was guilty by association through a rather Byzantine chain of supposed support for terrorism. These kinds of convoluted "material support" prosecutions have been challenged by human-rights advocates, but in *Holder v. Humanitarian Law Project* the Supreme Court upheld and legitimized the government's expansive interpretation, allowing for the persistence of indeterminacy in defining "terrorism" and ongoing prosecution of outspoken individuals.

United States v. Mehanna

Tarek Mehanna is a U.S. citizen and a well-known pharmacist as well as Islamic scholar. I was invited by activist friends to attend events related to the Free Tarek campaign in Boston, and there I interviewed family, friends, advocates, and one of his defense lawyers. Mehanna's Egyptian family immigrated to the U.S. and settled in an upper middle-class community in a suburb near Boston. A well-respected member of the Muslim community, his family was popular and active in community social events. Mehanna took a greater interest in religion when he was a teenager and delved into learning more about his faith and the history of Islam and Muslim cultures. As he began to seriously pursue his knowledge of Islam, faith, culture, and history, he

joined online forums where he discussed and shared his thoughts about books, scholars, and what he was reading and learning. He also started translating Islamic scholarly and political literature for a Muslim website. These online communications and his translations eventually came under state surveillance and were used against him at his trial. With access to his online communications, federal agents threatened to arrest Mehanna if he refused to become their informants and spy on the Boston Muslim community. Mehanna declined to become their informant, and as a result they did in fact arrest him.

Mehanna's prosecution has been cited as one of the most egregious examples of anti-Muslim bigotry and Islamophobia in the U.S. through the legal system, and as a clear demonstration of the government's targeting of religious and political speech (Human Rights Watch 2014). The state alleged that Mehanna had traveled to Yemen to seek out and join a jihadist training camp, even though by the government's own admission Mehanna never actually visited such a camp. Mehanna claimed that he was travelling to study language and religion and had no interest in joining a jihadist camp. The authorities also prosecuted Mehanna for translating and sharing various documents and videos with his online acquaintances that were regarded as promoting "violent jihad," even though this activity was not carried out at the behest of a terrorist organization and there was no evidence that Mehanna had contact with non-state armed actors or any terrorist organization.

At Mehanna's trial, his translation work became a topic of heated discussion. The question before the court was whether Mehanna's activities in translating and sharing pro-jihadist materials were political speech protected by the First Amendment. The government claimed that Mehanna sought to advance the cause of jihad by proclaiming its message, thereby providing "material support" and encouraging violence. For example, one of the documents he

translated into English was called “39 Ways to Serve and Participate in Jihad.” Mehanna’s lawyer requested, in a preliminary hearing before the trial proceedings, that the court should exclude his translation activity from entering the trial on the basis that it was First Amendment protected speech. The defense lawyer also noted that all of the translated documents were available on the Internet from other sources, which were not being prosecuted. The legal argument about this from his lawyer, Mr. Carney, is worth citing at length:

Mr. Mehanna believes that United States soldiers should not be in a Muslim country killing Muslims who are in that country. He believes that. I can recall many people 40 years ago who believed that U.S. soldiers should not be in the Republic of Vietnam killing citizens of that country. That’s directly comparable to the beliefs that Mr. Mehanna holds. I submit that this is core political speech. This is advocating for, or against, a United States policy and is entitled to the greatest protection available under the First Amendment. . . . What the United States is trying to do in this case, your Honor, is control the speech that is available to United States citizens on the Internet. If a person could read it in Arabic, there’s no problem, but if Tarek Mehanna translates it into English, then he finds himself indicted for providing material support to a foreign terrorist organization. By the United States’ efforts to control the ability of United States citizens to read the views of other people around the world is engaging in the type of censorship that is directly comparable to what China is trying to do to the Internet. (*United States v. Mehanna*, page 9, 5-14; page 10, 6-15)

The prosecutor’s response to this argument was to rely strongly on the “material support” statutes and to claim that a jury must decide whether Mehanna’s “mental state” and his speech was acceptable or whether it was an act “intended” (*mens rea*) to help an enemy of the United States. The prosecutor, Mr. Chakravarty, remarked:

[Mehanna] attempted to provide and provided material support to terrorists and to a designated foreign terrorist organization. That is what the defendant is charged with, a crime under federal law, not for the substance of what he believes; not for his political dissent; not for perhaps his motivations for why he chose to unlawfully and knowingly provide support to an entity and individuals who are actually acting against U.S. interests. . . . And it’s ultimately for the jury to . . . determine whether, in fact, this was, as the defendant argues, purely an independent expression of advocacy for the objectives of al-Qaida and other terrorists, or whether he wanted to help them. And it was his state of mind, his understanding that by doing things like translating documents, making them available, making them accessible to American-born youth who may not know Arabic, by being able to have them make an impact, whether that was actually going to provide

assistance to the organization that he idolized and he revered, that ultimately is a jury question. (*Unites States v. Mehanna*, page 12, 6-13; page 12-13, 25-14)

In other words, the prosecutors argued that political speech that would otherwise be protected by First Amendment rights is not protected when it is perceived as supporting “terrorism,” despite the lack of any concrete definition of “terrorism” and extremely vague notions of what constitutes “support.”

As the trial continued, a large portion of the proceedings were devoted to showcasing Mehanna’s purported jihadist sympathies and his mental state. The prosecutors focused strongly on painting a picture of what the accused had supposedly believed in, rather than providing factual evidence of what he had done. In pursuing this tactic, they provided the jury with some very questionable legal assessments asking them to pay attention to what Mehanna said, read, translated, watched, and consumed visually and intellectually to determine whether he cultivated a certain type of “desire” and “intention” that the jury should understand and translate that as committing act of terrorism. As is common in these “terrorism” prosecutions, the case played strongly on inflammatory rhetoric and prejudicial views by associating Mehanna with activities in which he never participated. At his trial, government prosecutors showed the jury a number of completely unrelated materials, which included videos of Bosnia martyrdom, Osama bin Laden, the World Trade Center, photos of other Al Qaeda members, and photos of masked soldiers and weapons.

Islamic Law in Mehanna’s Trial

Both the prosecutors and the defense invited expert witnesses on Islam to clarify to the court about Mehanna’s religious speech and political views. Many issues pertaining to Islamic law were prevalent in Mehanna’s case. The state presented several Islamic legal doctrines regarding

war in Islam and claimed that Mehanna supported murdering of American citizens, as evidence of Mehanna's jihadist inclination, support for Al Qaida, and intent to commit violence. To counter those claims, the defense pointed to debates that Mehanna had on online forums about how targeting American citizens is unacceptable under Islamic law. An expert on Islam at Yale University, Andrew March, was also called by the defense to testify that Mehanna's religious argument about this issue was in direct opposition to the ideology of Al Qaeda. The defense discussed in detail Mehanna's belief in the Islamic legal doctrine of *aman*, which stipulates that Muslims can live in a non-Muslim country if they are free to practice their religion without obstacles, and in that case, they must not harm the country. This social contract is to be respected and upheld even during a legitimate war, and even when Muslims are taken as prisoners by the enemy. It requires that Muslims living in a non-Muslim country cannot fight unless the contract is broken by the other side. This concept is more significant than a Muslim's obligation to aid other Muslims who are facing religious persecution. The defense also discussed, regarding *aman*, the belief in Islam that making a promise, even a small one, carries enormous religious significance, and is not taken lightly. The defense asked their expert witness, March, whether *jihad* was synonymous with violence, to which March responded in the negative, while adding that there is a small section of *jihad* that is about fighting and explaining the specific circumstances in which armed *jihad* is considered permissible.

The state prosecutor cross-examined Andrew March by asking him whether Islam is entirely opposed to killing. March replied by saying that no religion is pacifist. The prosecutors continued to pester March about whether Islam was a "non-killing" or violent religion. The state prosecutors continued talking about *aman* and argued that people in the U.S. break *aman* by highlighting Muslims who have been imprisoned. The prosecutors asked if *jihad* justified the

killing of American citizens, and the defense expert witness replied that Mehanna did not support killing civilians.

Mehanna (like other Muslims accused of “terrorism”) was portrayed by the prosecution as a deviant who used irrational religion to justify violence, and who was unable to separate religion from politics. However, the accused actually preferred to rely on secular reasoning to explain his political beliefs. This reality emerged quite strongly during Mehanna’s sentencing statement, which is the only time the accused is permitted to speak at length, beyond their own trial testimony. These statements typically serve multiple purpose, from seeking redemption, communicating remorse, expressing religiosity, making a political statement, explaining the conducts in question, or just providing an account of the case from the perspective of the accused. An excerpt from Mehanna’s sentencing statements is worth quoting at length here, because it illuminates how secular authorities impose their version of Islamic concepts and construct stories for the law by de-contextualizing the actual position and outlook of the accused:

When I refused to become an informant, the government responded by charging me with the “crime” of supporting the mujahidin fighting the occupation of Muslim countries around the world. Or, as they like to call them, “the terrorists.” I wasn’t born in a Muslim country, though. I was born and raised right here in America and this is something which angers many people: how is it that I can be an American and believe the things I believe, take the positions I take? Everything a man is exposed to in his environment becomes an ingredient that shapes his outlook, and I’m no different. So, in more ways than one, it’s because of America that I am who I am. . . .

By the time I began high school and took a real history class, I was learning just how real that paradigm is in the world. I learned about the Native Americans and what befell them at the hands of European settlers. I learned about how the descendants of those European settlers were in turn oppressed under the tyranny of King George III. I read about Paul Revere, Tom Paine, and how Americans began an armed insurgency against British forces—an insurgency we now celebrate as the American Revolutionary War. . . . With that, my attention turned to what was happening to other Muslims in different parts of the world. And everywhere I looked, I saw the powers that be trying to destroy what I loved. I learned what the Soviets had done to the Muslims of Afghanistan. I learned what the Serbs had done to the Muslims of Bosnia. I learned about the Gulf War, and the depleted uranium bombs that killed thousands and caused cancer rates to skyrocket across Iraq. I learned about Abeer al-Janabi, a fourteen-year old Iraqi girl gang-

raped by five American soldiers, who then shot her and her family in the head, then set fire to their corpses. . . . My sympathy for the oppressed continued, but was now more personal, as was my respect for those defending them.

I mentioned Paul Revere—when he jumped on a horse and went on his midnight ride, it was for the purpose of warning the people that the British were marching to Lexington to arrest Sam Adams and John Hancock, then on to Concord to confiscate the weapons stored there by the Minutemen. By the time they got to Concord, they found the Minuteman waiting for them, weapons in hand. They fired at the British, fought them, and beat them. From that battle came the American Revolution. There's an Arabic word to describe what those Minutemen did that day. It was a word repeated many times in this courtroom. That word is: *Jihad*, and this is what my trial was about. All those videos and translations and childish bickering over "Oh, he translated this paragraph" and "Oh, he edited that sentence," and all those exhibits revolved around a single issue: Muslims who were defending themselves against American soldiers doing to them exactly what the British did to America. It was made crystal clear at trial that I never, ever plotted to "kill Americans" at shopping malls or whatever the story was. The government's own witnesses contradicted this claim, and we put expert after expert up on that stand, who spent hours dissecting my every written word, who explained my beliefs . . .

So, this trial was not about my position on Muslims killing American civilians. It was about my position on Americans killing Muslim civilians, which is that Muslims should defend their lands from foreign invaders—whether they are Soviets, Americans, or Martians. This is what I believe. It's what I've always believed, and what I will always believe. This is not terrorism, and it's not extremism. It's the simple logic of self-defense. It's what the arrows on that seal above your head represent: defense of the homeland. So, I disagree with my lawyers when they say that you don't have to agree with my beliefs—no. Anyone with common sense and humanity has no choice but to agree with me. If someone breaks into your home to rob you and harm your family, logic dictates that you do whatever it takes to expel that invader from your home. But when that home is a Muslim land, and that invader is the U.S. military, for some reason the standards suddenly change. Common sense is renamed "terrorism" and the people defending themselves against those who came to kill them from across the ocean become "the terrorists" who are "killing Americans." The mentality that America was victimized by when British soldiers walked these streets two centuries ago is the same mentality Muslims are victimized by as American soldiers walk their streets today. It's the mentality of colonialism. . . . I wasn't tried before a jury of my peers because with the mentality gripping America today, I have no peers. Counting on this fact, the government prosecuted me—not because they needed to, but simply because they could. . .

In your eyes, I'm a terrorist; I'm the only one standing here in an orange jumpsuit, and it's perfectly reasonable that I be standing here in an orange jumpsuit. But history repeats itself. One day, America will change and people will recognize this day for what it is. They will look at how hundreds of thousands of Muslims were killed and maimed by the U.S. military in foreign countries, yet somehow I'm the one going to prison for "conspiring to kill and maim" in those countries—because I support the Mujahidin defending those people. They will look back on how the government spent millions of dollars to imprison me as a "terrorist," yet if we were to somehow bring Abeer al-Janabi back to life in the moments she was being gang-raped by [U.S.] soldiers, to put her on

that witness stand and ask her who the “terrorists” are, she sure wouldn’t be pointing at me. The government says that I was obsessed with violence, obsessed with “killing Americans.” But, as a Muslim living in these times, I can think of a lie no more ironic.

A number of issues can be drawn from the above excerpts, but it is worth paying attention to Mehanna’s explanation about his belief in *jihad*. Mehanna does not use justification from the Quran, prophetic traditions, or the history of Islamic caliphate. He also does not seek justification from some other external authorities or people associated with founding Islamism, or involved in salafism or jihadism, such as Syed Qutb, Ibn Tayymiah or Al Qaeda, to explain his understanding and viewpoint about *jihad*. Instead, he emphasizes common sense, logical rationality and values that are quite familiar to the modern secular state. While the state prosecutors sought to describe the threat of external authority (i.e., Al Qaeda) to make *jihad* appear as coercive form of political power, Mehanna explained this concept using the American Revolution and theories about colonialism. Jihad in this context, then, appears to be not derived from religious or political irrationality but rather from a logical human reaction that is not alien at all but product of Western secular sensibilities. From the perspective of the accused, it is a form of logical self-defense, one that anyone would engage in when faced with an invasion and a life-or-death situation. It is also important to note that the entire discussion (like the trial itself) focused on the defense of political beliefs and speech, rather than any actual violent or criminal activity on the part of the accused.

Judges play a very important role in mediating constitutional protections, but as with many “terrorism” cases, Mehanna’s trial judge gave significant leeway to state prosecutors, allowing them to introduce evidence that would normally be excluded on free-speech grounds as well as irrelevant evidence that was clearly intended to manipulate the jury (Human Rights Watch 2014). In the end, the jury convicted Mehanna on all counts. The legal scholar Amna

Akbar, who followed Mehanna's case closely, has argued that the courts allowed the government to prosecute his speech simply because he is a Muslim who was critical of the United States. She also concurred that the case rested more on arguments about the beliefs and speech of the accused rather than his overt actions:

At trial, Mehanna's defense put forth evidence that he disagreed with many of Al Qaeda's views. But even if Mehanna did support the views of Al Qaeda, and even if he spent time trying to convince others of the righteousness of its positions, that should not be enough to invite criminal prosecution. . . . The government offered no evidence that Mehanna provided material support to any designated terrorist organization, as the plain text of the material support ban requires. Nor did it show that Mehanna's translations caused harm, or that he intended the translation to incite imminent criminal conduct. Instead, the speech-as-material-support theory appears to have turned largely on his attempts to convince and "inspire" others to support opinions the United States government finds objectionable. (Akbar 2013)

The erosion of protected rights that is represented by the prosecution of religious speech and religion needs to be further understood in the context of the exceptional targeted surveillance that led to Mehanna's arrest and the exceptional conditions under which he and other Muslims are held within the federal prison system. Taken together, these factors indicate that there is really a continuum between federal "terrorism" prosecutions, the extra-judicial detentions in sites such as Guantanamo Bay, and the broader cultural and political sentiments and views towards Islam.

United States v. Siraj, Matin

The case of Shahawar Matin Siraj sheds light on the role of entrapment in predatory terrorism prosecutions. Siraj was in his early twenties, a Pakistani immigrant in the U.S., when he was convicted on several conspiracy counts related to an alleged plot to blow up a subway station. The defense lawyer, Mr. Stoller, described Matin in the opening statement of his trial in the following terms:

The evidence in the case is going to show you that . . . [Matin is] now a twenty-four-year-old young man; that he was born in Karachi, Pakistan; that he belonged to a rather secular and somewhat frowned-upon branch of Islam known as the Ismailis; that he was educated in Christian schools in Pakistan; that he was neither a great student nor a great scholar of Islam. He once visited the U.S. in 1996 to be with his aunties, he immigrated to the U.S.; he got various jobs. He went to school, tried to get a GED, went to computer school, and he hung out with his friends and he played video games. . . . How do you square this picture of a somewhat carefree, videogame playing, not religious, particularly . . . with the criminal conspirator that the government says that they are going to prove and that I say they are not going to prove? How did he get from here to there? What was this transformation? How did he change from being somebody who would not even think about being involved in a violent conspiracy to somebody who was involved? (trial transcript *United States v. Siraj* 2006, 497)

Siraj had no prior convictions or any connections to terrorism activity. The case was built around the testimony of an informant, a fifty-one years old Egyptian immigrant named Osama Eldawoody who was hired by the government to frequent local mosques and conduct surveillance on the Muslim community. When this informant met Siraj, he began to goad him about the conditions of Muslims abroad and their treatment by the U.S. authorities, and he suggested that Siraj should take revenge for the mistreatment of Muslims. He pestered Siraj about taking actions against the U.S. for the abuses of Muslims in Abu Ghraib. It's worth noting this information is clear from the trial transcript, as the defense lawyer explained:

Eldawoody comes to him [Siraj] and talks to him about engaging in violent conduct, because he needs to have-somebody to make money off of. So, he goes to this young, pliable, not the brightest lightbulb in the chandelier young man, and starts to try to convince him that it's his duty as a Muslim to cause economic harm to the United States to stop the horrors that are going on. . . . What does he do? He presents him with the pictures of the atrocities at Abu Ghraib, the prison where Americans are degrading and torturing Muslims, and says, Look at this. . . . He presents him and directs him to get the film Fahrenheit 911, and points particularly to the section of Fahrenheit 911 where American soldiers are recorded degrading and joking about Muslims, treating them as less than human. He points out articles in newspapers and reads him an article from an Arabic newspaper about how Americans are committing atrocities in Afghanistan and in Iraq, and says, "It's your duty as a Muslim to do something." (trial transcript *United States v. Siraj* 2006; 500)

The informant proposed an attack plan and supplied methods to create weapons. At the trial, Siraj's lawyers made an entrapment defense and argued that the accused had no predisposition to commit the crime for which he was being charged prior to his encounter with the informant. In essence, the government informant took Siraj, who was not predisposed or not inclined to commit a criminal act, and turned him into someone who he was not. This secret agent of law enforcement manufactured a crime where none had previously existed.

In an effort to bolster the assertion that Siraj did in fact have a predisposition toward violence, the government prosecutor submitted as evidence various books and videos that Siraj had viewed that praised *jihad*. The defense argued Siraj was introduced to such materials by the government informant. Similar to the other cases described above, these materials would ordinarily be considered protected speech and would be disallowed from trial proceedings. However, the judge dismissed the defense's First Amendment argument regarding these materials. By admitting such evidence as part of the case intended to prove Siraj's predisposition for violence, the court accepted that the mere possession of jihadist literature could be used as evidence of a desire to commit terrorist crimes. As it seems to be inevitable in predatory "terrorism" prosecutions, the case came to focus on evaluating whether or not the religious and political beliefs of the accused were antithetical to U.S. agendas, rather than evaluating whether or not his actions were criminal in nature.

Using the evidence of jihadist literature in Siraj's possession, the state prosecutors moved to connect those documents to the argument that Siraj intended (*mens rea*) to commit violent jihad. In the closing argument on May 22, 2006, the prosecutor, Mr. Miller, argued to the jury:

Talking about all Muslim countries fighting jihad against the United States. He is hoping for that. He is saying suicide bombers are engaged in the real jihad. What kind of jihad? That's violent jihad. He doesn't need introduction from Mr. Eldawoody to concepts that he is not only conversant with, that he not only understands, but that he is telling other

people about. He is explaining to the undercover officer what the real jihad is, violent jihad, suicide bombers. That's the real jihad. That's what Islam says is the real jihad is what he's telling the undercover officer here. . . . These are the defendant's own statements. (trial transcripts *United States v. Siraj* 2006; 3584)

The assumption of the state seemed to be that Muslims who are exposed to anti-American viewpoints and possess provocative materials are necessarily criminals just waiting for an opportunity to transform those beliefs into violent action. The court in this case negated the normative legal assumption of freedom of expression and sanctioned political and religious beliefs as evidence of criminality.

In preventive “terrorism” prosecutions, Muslims risk losing their liberty for their religious associations and political beliefs. If state agents are allowed to induce Muslims to engage in provocative speech and then use this speech to secure a conviction, it follows that Muslims (or any targeted group) might come to fear expressing their views and refrain from associations with others who possess those viewpoints. In other words, these cases provoke members of the Muslim community to self-censor themselves and produce them as self-governing individual subjects. Cases such as those of *Siraj*, *Hashmi*, and *Mehanna* set legal precedents that in “terrorism” prosecution evidence of religious beliefs can be used to win against an entrapment claim. These cases create a foundation for a jury to convict an accused Muslim even when entrapment and First Amendment protections would ordinarily render the evidence inadmissible.

Secular Law and Islam in Terrorism Prosecutions

In the presentation of the cases above, it can be seen how the secular state prominently employed religion, both normative Islam and cultural expressions of Islam, to convict the accused of criminal conduct. One of the central themes that emerges in these cases is the focus on *jihad* as

an Islamic doctrine and as a threat to society. In reality, the Arabic term *jihad*, which means “struggle,” has had many expansive and contested meanings throughout Muslim history and *shariah* (Islamic law). The most common understanding is that it describes a religiously sanctioned *defensive* struggle, carefully confined by rules and ethics, against aggressors who have wronged Muslims (Abou El Fadl 2001). Others have interpreted it as a call to deny the imposition of secular authority over the Muslim community, but even in this context most proponents today do not emphasize the substitution of an Islamic-run government with the exception of the members of the self-professed “Islamic State of Iraq and Syria”). In other words, this form of *jihad* calls for Muslims to implement *shariah* which has been viewed by western liberal societies as punitive and irrational legal and political system. However, as historian of Islamic law Wael Hallaq (2013) pointed out that *shariah* in premodern Muslim societies was community-centered ethical social structure and system which was destroyed by European colonialism that instituted modern secular liberal system in the Muslim world (Hallaq 2013; Esmeir 2012). As a consequence, some Muslims, specifically certain non-state actors and political organizations, who find themselves living under oppressive secular regimes desire to change their government or social system. In other words, *jihad* that intends to replace secular governance is actually wanting to implement a more ethical social institution from the viewpoints of those who desire to establish such system. Moreover, not all political struggle in Islam is considered *jihad* and not all *jihadis* use violence to pursue their goals (Abou El Fadl 2001; Li 2015; Li 2015a). Most Muslims understand the term as referring primarily to the internal struggle to overcome personal and spiritual obstacles in daily life and thereby lead a more virtuous existence. The prophetic traditions praise non-violent *jihad*, and a number of

hadiths explain that the highest form of *jihad* is to speak the truth before a tyrannical ruler and to struggle for one's soul and passions in the way of God.

Muslims in terrorism trials are inevitably accused of waging a war of “violent jihad,” and in entrapment cases such as that of Matin Siraj, government agents *incite* the accused into declaring their commitment to *jihad* against the United States. In federal indictments and criminal charges, “violent jihad” is defined as planning, facilitating, preparing for, and engaging in acts of physical violence, including murder, kidnaping, maiming, assault, and damage to and destruction of property, against civilian and government targets, in purported defense of Muslims or retaliation for acts committed against Muslims. State authorities and the public also define *jihad* as “holy war,” claiming that jihadist desire to overthrow existing political structures and establish authoritarian Islamic governance with religious authorities, as is noted for example in the report to United States Congress titled “The Domestic Terrorist Threat” (Bjelopera 2013). This definition of jihad rests on a common Orientalist understanding, prevalent in the Western imagination, that jihad means “holy war.” However, the word “holy war” in Arabic is actually *al-harb al-muqaddas*, and this is something that does not exist in the Islamic tradition. Instead, “holy war” is a purely Western concept (Abou El Fadl 2001; Massad 2015). The earliest “holy wars” were often wars by Christians against other Christians, where each party saw themselves as carrying out the will of God through violence against each other. In Islamic traditions, offensive or preventative warfare is viewed as inherently evil (Abou El Fadl 2001).

The limiting notion of *jihad* exploited by the securitized secular state is mistaken, because it falsely reduces and frames a complex Islamic concept with western liberal sensibilities that is familiar and useful to modern nation states (Li 2015). Observing the mainstream liberal

legal and political debates concerning *jihad* in the United States, the legal anthropologist Darryl Li noted:

They treat law primarily as a set of rules and texts and often read the fiqh [discussions of jurisprudence] of jihad through the lens of international law's canons of *jus ad bellum* and *jus in bello* (rules on the resort to force and the conduct of warfare, respectively) in the search for equivalents, compatibility, or foils. Moreover, they approach jihad as a discrete analytical problem about violence, a pathological form of "extremism" or "radicalism," without also critically interrogating the state and the international order based on it. (Li 2015, 4)

What seems to be occurring in many "terrorism" prosecutions is, then, that *belief* in *jihad*, a broad Islamic concept with multiple historical interpretations, is reduced to a narrow Oriental and liberal definition to be used as factual "evidence" by secular law to identify Muslims as disloyal political subjects. The denial of secular authority that is often associated with *jihad* is seen as a threat to the modern state's monopoly on violence and is often viewed as a declaration of allegiance to a foreign power.

However, in the majority of terrorism cases examined for this research the accused were never in contact with Al Qaeda or other external non-state armed aggressors, and they did not in fact make any statements of allegiance to these groups. Nor did they declare allegiance to the self-proclaimed Islamic states of Iran or Saudi Arabia, which are the only two internationally recognized Islamic governments in today's world though with modern liberal state structures. Thus, this disloyalty issue is not really about Muslims pledging allegiance to some existing foreign power or non-state jihadi group as is indicated in most indictments; it is rather about the *belief* in a community-centered ethical Islamic governance system as an ideal and the potential *political* opposition to secular political systems that is based on individualism. In the modern secular sensibilities, religion is deemed a private individual matter, and when religious viewpoints leave the private sphere and impinge on the realm of community governance they are

regarded as suspicious and potentially disloyal. Expressions of belief in *jihad* fall strongly into this category and therefore they attract intense secular scrutiny as the secular state seeks to determine whether or not they will lead to threatening actions. Since *jihad* can be interpreted in many different ways from prophetic traditions and in Islamic jurisprudence, the secular authorities tend to cast their net of suspicion and surveillance widely. There is a strong tendency among liberal state agents and the mainstream U.S. society to associate not only *jihad*, but any expression of Islamic piety, with an inclination toward political violence, and to forcefully oppose any expression of Islam as a threat to the universal authority of secular governance and liberalism.

When liberalism imposes its own definition on an Islamic doctrine such as *jihad*, removing it from the political, ethical, and social context of justice and fairness in which it is embedded, it is attributing a liberal legal meaning to Islamic doctrines and concepts that operates in a governance system that has its own development, history and trajectories. It reduces this complex ethical concept to the logic of the modern state's liberal law based on archaic concepts from Christianity, and then regards it as pathological, something dangerous that has to be banished and punished. Transferring this Islamic doctrine to the logics of modern state's liberal and international secular legal definition of "violence" is one way in which liberalism subjugates Islam. The secular state regards the activities of non-state actors as religious and irrational, while its own violence, whether through external wars or in the internal legal system, remains sacrosanct as an activity undertaken for the greater good. By attributing the concept of authoritarianism and "holy war" to Muslims, the secular state claims that its violent actions are not based on religious prejudice or oppression, but the examples given throughout this dissertation suggest that is not the case.

The anthropologist Hussein Ali Agrama (2012) has noted that secularism is not only concerned with maintaining a monopoly over violence but is also profoundly based on suspicion and skepticism toward others. Suspicion is not just “initiating an investigation and being put to rest when it is over. It is also part of the overall disposition of the law, which receives claims with skepticism and distrust and constantly demands verification and explanation” (Agrama 2012, 130). A religious, legal, political, and ethical concept such as *jihad*, which threatens to expand beyond the bounds of liberalism’s limited understanding of religion that are permitted by the secular state and to challenge the universal authority of the modern sovereign state itself, is a particular candidate for secular suspicion. Yet, it appears that the securitized secular law does not simply want to remove this concept from consideration, but to actively use it, by employing informants to lure Muslims into conversations about *jihad* that they would not otherwise have been engaged with. In other words, secular law uses Islam to control Islam. This is an example of how secularism and liberalism, structurally founded on a particular religion, needs to continually marginalize other religious groups in order to maintain modern state power and expand its claim to universal superiority. It is notable that the intense suspicion toward Muslim religious beliefs is not duplicated in the prosecutions of Christians or others when they are accused of committing/supporting acts of violence.

The secular law has a strong tendency to identify subversion or disloyalty in not only Islamic legal and political doctrines but in any cultural expressions of Islam. For example, according to my interlocutors, and from observations during my advocacy work, sometimes the accused Muslims and some Muslim spectators in these trials refuse to stand up when the judge enters the room, as is customarily expected in the U.S. courts. They do this because they believe that showing respect by standing up is reserved only for God. In other cases, accused Muslims

have asked the court that they be judged by the Quran rather than by secular law (Mehta 2015). This could be interpreted in a variety of different ways, but obviously it raises questions about their acceptance of the court's sovereignty as well as the secular court's authority to adjudicate on religious issues. Prosecutors, predictably, have pointed to these actions as an indication that the accused are disloyal to America and that they follow the laws of Allah *instead of* the laws of the United States. Logically speaking, however, this may not necessarily be true from the perspective of some accused and many contemporary Muslims residing in western societies, unless you believe that there is an inherent contradiction between respect for Islamic religious doctrine and conforming to the secular laws.

Since the emergence of secularism and the reorganization of European societies in the sixteenth century after the Protestant Reformation, secular states have in a way made up their own religion (or philosophy) by rejecting religion—even though the presence of Christian beliefs remain strongly influential in these societies. One of the features of secularism is a particular understanding of the nature of life and consciousness in the material/temporal world and a particular understanding of how knowledge is attained. This viewpoint is seen as opposed to religion or religious views where some other Being is regarded as universal and above the state. Therefore, it should not be surprising that many practitioners of religions view secular authorities as trying to replace God or to deem their own judgments as superior to religion. This is one reason why many of my Muslim interlocutors expressed the feeling that the secular state authorities are trying to force them to abandon their religion. They feel that the secular U.S. authorities want to govern Muslims as the only ruler, but that many Muslim have prior obligations, not to a foreign power or non-state aggressors but to the authority of a transcendent God. In Islamic prophetic traditions, the obligation to God comes first, then the obligations to

one's parents, family, and then to the rest of society. Secularism appears to invert this hierarchy, and to deem the obligation to the liberal state as the highest authority. Indeed, liberalism understands itself and wants to exert itself as the only transcendent universal power (Massad 2015). It appears that in order for liberalism to accept Muslims as equal participating "civilized" citizens, Muslims have to renounce Islam and claim liberalism as the ultimate authority.

Many of the criticisms of how Muslims are treated in predatory "terrorism" prosecutions center around the violations of human rights as defined by secular traditions, and of statutes such as the First Amendment of the U.S. Constitution. Defense lawyers inside the court and advocates outside of the courts continuously fight for these priorities. While it is absolutely vital for everyone to fight for human rights, I am also concerned about the domination exerted by secular law and its regulation of Islam. Even if all the traditional rights and norms of the legal system were fairly extended to Muslims, and even if all those who are unfairly imprisoned were granted their freedom, it would still be the case that Muslims as a religious minority in the U.S. are subjected to the power of the liberal/secular law and its suspicions. It would still be the case that Muslims in the U.S. must live under the administration of the secular law and under authorities who seek to subjugate their religion to secular values. Many scholars of religion and law, such as anthropologist Winnifred Sullivan (2007), have argued that there is no real religious freedom in the U.S., and that the laws related to religion are rather intended to allow authorities to inspect and regulate religious practices. Secularism in this way deems itself as the only "true religion" and insists on dominating all others.

As a consequence, the secular state controls the codification, interpretation, and to a large extent the production of violent action, while also forcing its own interpretations onto the definition of religious concepts such as *jihad*. Although the modern state clearly wants to

regulate and control violence, it does not really appear that they wish to eradicate it, as is evidenced by the ongoing wars of choice across the globe and their continuous history of legalized repression at home. Secular criminal law has been used as part of this repression, and in particular as a part of attempts to re-shape and confine the meanings and expressions of Islam. This is occurring in the present moment, and as noted in the previous chapter it has been occurring for hundreds of years, going back to colonial times and earlier. Securitized secularism, I would argue, is involved in reconstructing and re-shaping religion so that it can continue to intervene, administer, and control religious life, promoting its own domination.

CHAPTER FOUR: REGULATING ISLAM WITH SPECIALIZED PRISONS

After Suhana's son was arrested, government agents held him in a solitary cell in a high-security detention center and imposed sensory deprivation by placing headphones over his ears. He was held in complete solitary confinement for fifteen months before his trial even began, and allowed only one hour a day of recreational activity, which was also conducted in isolation. To visit her son during this time, Suhana had to go through metal detectors and endure a long wait, often sitting on the floor of the prison facility, before finally being allowed a short visitation in a very cold room without any physical contact with her son. "I saw a lot of suffering there," she described to me. "It's psychological and physical torture for inmates and prisoners. They would harass my son calling him "Bin 11"; they would call him by names of terrorists that would upset my son. They shouldn't do things like this. Inmates have rights too. They are human—breathing, living human beings." After her son was found guilty and sentenced, government agents relocated him to the specialized Communications Management Unit (CMU) in Indiana, where he was under 24-hour surveillance. "It's like a small Guantanamo Bay," remarked Suhana, who was unable to visit her son for four years after he was moved to the CMU. Her son also describes prison conditions in his letters, writing for example:

How I do my time in prison for the past 13 years? I keep my Rab [Lord] Allah close. He is my only true friend. I pray 5 times a day and that keeps me sane and happy. I fast Monday and Thursday and enjoy Ramadan like it is the last one. I also love to recite Quran, love all my books that teach me the straight path of the Oneness of Allah. I don't pay any mind to fitnah [distress/affliction], I believe in Allah's Qadar [divine destiny]. That is how I do my time in prison.

Although negative stereotypes about Islam have a long history in the West, they are particularly prominent today in the dehumanizing treatment inflicted on Muslim Americans by secular securitized suspicion of Islam. Alongside the application of security-obsessed laws that

target Muslims, there is a continuous reproduction and legitimization of narratives that characterize Islam as inherently violent and as something that must be forcefully restrained to the private sphere, or else eradicated completely. The liberal modern state's skewed representation of Muslim Americans in general as potential "terrorists" can be understood as a form of epistemic violence, where the construction of knowledge about Islam erases the subjectivity of its practitioners and way of being and their varied situations in the global social and religious landscape. The imposition of such images and knowledge about Islam also operates as a way to consolidate national identity, maintain social order, and reinforce the power of the secular state. Within the federal criminal justice system, and in addition to manufactured "terrorism" trials, the security state has reinforced these narratives by creating special prison units to quarantine unacceptable expressions of Islam, thereby creating a specter of terror that helps in regulating both Muslims and the larger U.S. community. By confining certain types of Muslims in exceptional prisons, the liberal state plays on Americans' fears of outsiders to expand and solidify its own sovereign power.

The special Communications Management Units (CMUs) inside the Federal Bureau of Prisons (FBOP) operate in such a way, not only to discipline Muslims and regulate Islam through various securitized legal and penal processes, but also as a space where religion and secular law interact and challenge the authority of each other. In these exceptional prison facilities, the liberal state is not only targeting Islamic practitioners and strengthening its control over Muslim, but also actively promoting a state-sanctioned version of Islam by differentiating between "good" and "bad" Islam, according to liberal secular sensibilities and worldviews (Mamdani 2002; 2005). In this chapter, I discuss (a) the CMU as an exceptional space, (b) the conditions of imprisoned Muslims in the CMU, (c) the regulation of Islamic collective ritual worship in the

CMUs, and (d) the positionality of the scapegoated citizen-subjects within Islam and liberal politics.

Exceptional Prisons: The Communications Management Units

The United States is home to the largest prison population in the world, over two million individuals. The criminal justice system plays a major role in vetting the religious practices of these prisoners (SpearIt 2009; Sullivan 2009; Kusha 2009). Diverse Muslim groups exist behind the iron doors of prisons, including Sunni and Sufi organizations as well as very powerful and organized African American Muslim groups such as the Nation of Islam, the Moorish Science Temple, the Nation of Gods and Earths, and others (SpearIt 2009; Kusha 2009). Through these organizations, prisons have become one of the major channels of Islam in the United States. Islam is disproportionately represented among imprisoned non-white populations, specifically African Americans, who make up nearly half of the entire state and federal imprisoned population. In federal prisons, Muslims make up about 6 percent of the population (SpearIt 2009). Although there is no firm data on Muslim prisoners in the much larger state prison system, it is estimated that about one-third of African Americans in those prisons identify as Muslims (SpearIt 2009). Religious practitioners who are imprisoned face severe restrictions on their rituals and worship practices, particularly in the CMUs.

Prisons, in general, are often regarded as a tool to produce docile subjects of the modern state by removing large number of people from regular society, most often specifically marginalized communities of color (Foucault 1979; Kusha 2009). Many social critics believe that the powerless and disenfranchised members of the society are scapegoated and routed through the prison system and are prepared by this process to become a permanent social

underclass (Irwin 1988; Alexander 2012; Rhodes 2004). Like police brutality and many aspects of warfare, the prison system exerts violent power on the bodies of “others,” a violence that is mostly hidden from view as an abstract site in the public imagination that magically vanishes people from sight (Gordon 1999). In the context of the current exceptional endless war and the expanding powers of the secular modern state abroad, special federal prison units function to confine the bodies of Muslims who are immigrants and citizens of the United States. While direct violence is applied on the bodies of Muslims in Guantanamo Bay, Abu Ghraib, and other offshore extra-judicial prison-camps as a means for the secular state to manage security and consolidate its power (Caton and Zacka 2010), special federal prison units provide a somewhat more sanitized version of this confinement for punishing Muslims who are also U.S. citizens or immigrants.

The violent treatment of detainees in offshore sites manifests disturbing aspects of the modern liberal state that go against its own values by causing physical pain to the detainees, most of whom have not even been convicted of anything. Reducing pain and suffering was one of the value-concepts that came out of modernization and secularization project of the liberal state starting in the sixteenth and seventeenth centuries (Asad 2003; Sullivan 2009). This entrenched liberal sentiment has driven much of public’s outrage against the punishment, torture, and suffering of Muslim detainees in offshore camps. At the same time, the role of control and imprisonment of populations through the federal system has been widely ignored.

Early colonial penal practices in the U.S. were founded on Christian doctrines, from Calvinism and Quakerism, among others. Colonial residents believed that there existed a relationship between religious sin and crime that required a paradigm of confinement in controlled conditions and/or banishment (Kusha 2009; SpearIt 2009). Sins according to the

Church were treated as crimes with severe penal measures enacted against problematic behaviors in order to protect the social order and community life. Those who violated the public safety and social order were incapacitated through imprisonment, banishment, house arrest, and similar actions (Kusha 2009). Such punishments were aligned with the larger objectives of penal philosophy in sixteenth- and seventeenth-century Europe. To secularize the political and legal system and maintain public space free of “bad” religion, secular philosophers such as John Locke and Thomas Hobbes proposed to quell certain behaviors that threatened secular law and the liberal social orders (Kusha 2009). Behaviors that the state considered disruptive to social order, such as the activities of dissidents who supported anti-Anglican outlooks, were criminalized by these secular regimes (Weil 2011). In other words, imprisonment as a form of punishment played a significant role in these crime-control policies in order to promote secularism. As the secular regimes developed over time, concepts of humane imprisonment became prevalent as a way to maintain order while also reducing pain and suffering (Kusha 2009; Asad 2003).

Despite modern efforts to secularize penal measures, American penal philosophy has remained many of its Christian roots (SpeartIt 2009; Kusha 2009; Sullivan 2009). Though liberal penal practices aimed to replace bodily suffering, the paradigm of control and punishment remains strong in the U.S. as can be seen in policies such as solitary confinement and in the tendency to segregate prisoners in distant locations to deprive them of their freedom, dignity and community. Michel Foucault summarizes this aspect of liberal penal punishment as having changed from “an art of unbearable sensations” during pre-modern religious and monarchical system to “an economy of suspended rights” in modern disciplinary institutions (Foucault 1979, 11). However, while Foucault viewed disciplinary penal practices as circumventing the issue of

direct violence from the state by managing life through institutional power, other commentators such as Giorgio Agamben and Hussein Agrama have characterized this management of life as being not that distant from direct violence (Agamben 1998; Agrama 2012). Prisons such as Guantanamo Bay have been used to suspend the rights of Muslims and to punish them in a very direct fashion. Detainees in these sites are dehumanized and subjected to a liminal existence somewhere between life and death, where no law can exist to protect them. Through this process the state expands its security apparatus, confirms the dominance of Western liberal society, and extends its power.

The situation of offshore detainees is similar to stateless people in the works of Hanna Arendt, where such excluded communities exist between nation-states and cannot have rights or be recognized as part of the human community (Arendt 1973). Muslim detainees are denied legal subjectivity and political recognition, which render them “excessive” to the law (Agamben 1998; 2005). Thus, the detainees in these offshore camps, the majority of whom have not been convicted of any crimes, exist in a legal and political limbo. The non-legal and non-human status that is ascribed to detainees helps in regulating and governing Muslims collectively as it spreads fear that individuals who step out of line or promote undesirable viewpoints will be targeted by the secular security state.

Within the boundaries of the U.S., the CMU prison units serve a similar function to spaces like Guantanamo Bay. They serve to instill fear and to demonstrate that Muslim life is devalued and that Islam is carefully controlled and regulated by the secular state. CMU prisoners need to be viewed and understood through this broader lens of efforts to discipline Muslims and to limit the influence of Islam. Although modern liberal law demonstrates a supposed repulsion for physical pain, it nonetheless inflicts pain when the accused are deprived of their autonomy

and treated as less than human. The goal of avoiding pain and suffering is unachievable so long as the state is committed to punitive legal punishment (Kaufman-Osborn 2002). The secular power of the state is concentrated in the CMU prisons, similar to the extra-judicial sites like Guantanamo Bay, and, in each case, it instills a very harsh regime in its treatment of Muslim prisoners. Secular power is also evident in the way that CMUs are used to gather information and supervise Islamic speech and association. These exceptional prison units are spaces where one cannot get away from the secular state's oversight of religion, and the practice of Islam in these prisons has become an important issue of contention, as I will discuss later in this chapter.

State-of-Emergency Confinement Units

The CMU units in the federal prison system were initially created in conditions of secrecy, without any public notification. There are two such units, located in Terre Haute, Indiana, and Marion, Illinois. The Marion unit is located inside of a wildlife refuge. It is a massive compound that includes two huge towers, peering out over the calm green spaces of the surrounding natural area. The larger prison complex at Marion, of which the CMU unit is a part, was first opened in 1963 to house prisoners from Alcatraz, which was being shut down at the time (Committee to End Marion Lockdown 1992). In 1968, Marion initiated a behavior-modification program perversely called the "Control and Rehabilitation Effort," or CARE, which involved placing prisoners in solitary confinement and conducting psychological "attack sessions" to subjugate them to prison life (Mitford 1973, 134; Committee to End Marion Lockdown 1992). During the 1970s the inmates at Marion engaged in a strike and protest after the beating of a prisoner, which led to a mass reprisal in which many of the protestors were placed in the CARE program (Committee to End Marion Lockdown 1992). Continuing hunger and work strikes took place

throughout the early 1980's over topics such as allowing Native American prisoners to practice purification rites, allowing Muslims to wear the fez and turban, and a variety of other dignity-related issues. This resistance, and the guards' experience in repudiating it, eventually led the Bureau of Prisons to adopt the practice of sending its most dissident and politicized prisoners to Marion (Committee to End Marion Lockdown 1992). It is therefore not surprising that this prison complex came to house one of the specially designated CMU sites for Muslims convicted of "terrorism."

During my visits to these facilities, I found that visitors were always under the microscope of guards from the shadowy towers, as well as ubiquitous surveillance cameras in these specialized units. Visitors' conversations are not considered private, and the CMU prison guards watched and documented every move, word, and action as part of managing security. According to legal documents obtained by the Center of Constitutional Rights, federal agents concurrently monitor and eavesdrop on conversations remotely from Washington, D.C (Center for Constitutional Rights 2010a; 2010b). The CMUs require visitors to schedule their arrival in advance so that authorities can ensure appropriate personnel are ready to listen in live during their visitations. Unlike other state and federal prisons where the warden is in charge of daily operations, CMUs are special administrative units under the direct control of the Federal Bureau of Prisons office in Washington, D.C. Although these prison units have been labeled by the government as "general population," the reality is that the Muslims held in CMUs do not actually have the same privileges and standards as general-population inmates. A typical general-population prisoner can have physical contact visit with visitors, make multiple phone calls, and engage in a variety of recreation activities, religious services, and educational opportunities. Those held in CMUs lack all of these privileges, and are also subjected to constant audio and

video surveillance, some of which is visible to prisoners and some of which is hidden from view (Center for Constitutional Rights 2010a; 2010b; American Civil Liberties Union 2010).

According to Bureau of Prisons documents, the U.S. Department of Justice (DOJ) established CMUs to house prisoners whose communications must be monitored to ensure the safety and security of the public. They are self-contained, and all of the prisoners' activities take place inside of the unit. (Center for Constitutional Rights 2010a; 2010b). All of the prisoners' conversations, except for communications with their lawyers, are monitored by the authorities, and their calls are restricted to two per week, each for fifteen minutes. In contrast, other general-population inmates are allowed up to 300 minutes of calls each month. The Center of Constitutional Rights (CCR from hereon) has claimed that a variety of harsh conditions in the CMUs violate prisoners' rights, and also that placement in these units is retaliatory, with Muslim prisoners vastly overrepresented. The CCR reported in 2010 that 72% of CMU-Marion prisoners were Muslims, a 1,200% overrepresentation compared to the general prison population. Similarly, 67% of the CMU inmates in Terra Haute, IN, were Muslims, which is 1,000% higher than the general federal prison population. The organization filed a lawsuit in 2010 (*Aref et al. v. Holder*) that questioned the legality of the CMUs' existence, challenged the lack of procedural protections before prisoners are placed in the CMU, and argued that the confinement of Muslim Americans in these units is in retaliation for protected political and religious speech. The CCR also raised the issue that segregating Muslims in these facilities has been devastating for families, including young children who are unable to interact with the family members who are held there.

Government documents obtained by the CCR in *Aref et al. v. Holder* revealed that the Bureau of Prisons did not draft formal criteria for designating who would and would not be

consigned to these facilities until 2009, long after they had begun operation. Furthermore, different offices within the Bureau of Prisons, each of which plays a role in the designation process, have a different understanding of how the CMU prisoners are selected. A very similar situation exists among various government agencies about their designation of what exactly constitutes “terrorism” crimes. This lack of formal criteria creates the conditions for arbitrary treatment that circumvents normal legal protections. The reasons provided to CMU prisoners for their assignment to the sites have often been incomplete, and sometimes even demonstrably false. Documents obtained from the government for *Aref et al. v. Holder* indicate that political speech was used as a factor in CMU designation. The Bureau of Prisons has denied many of these prisoners, who are mostly Muslims convicted in preventive “terrorism” cases, the opportunity to understand or rebut the rationale for their placement in CMUs, or a meaningful review process to earn their way out of the CMUs. As a result of these discriminatory policies and practices, as well as the way these units were created secretly and the way in which Muslims are treated in these units, the CMUs are often referred to by the prisoners, their families, and activists as “Guantanamo North.”

Juridical Punishment: *Aref et al. v. Holder*

Despite evidence that the Center for Constitutional Rights uncovered about due-process violations related to the CMUs, the district court ruled in *Aref et al. v. Holder* that those imprisoned there do not have a “liberty interest” in avoiding placement in the CMUs. Regardless of the severe communications restrictions, harsh treatment, stigma, and years-long segregation that come with such placement, the court declared that CMUs are not more restrictive than standard administrative segregation, where prisoners are routinely placed when waiting for

transfer. A typical stay in administrative segregation is only a few weeks, whereas the average stay in a CMU is fifty-five times as long. Moreover, administrative segregation has no relationship to religious identity or political speech, whereas the placement of Muslim prisoners in a CMU is blatantly based on those factors and thus uniquely stigmatizing. Despite these issues the district court did not see a concern with due-process violations. Denied legal recourse to overturn these injustices, advocates have been reduced to documenting the rights violations and collecting information about conditions in the CMUs. Muslims held in these facilities have written extensively about their conditions, and I was able to collect some of these letters during my fieldwork.

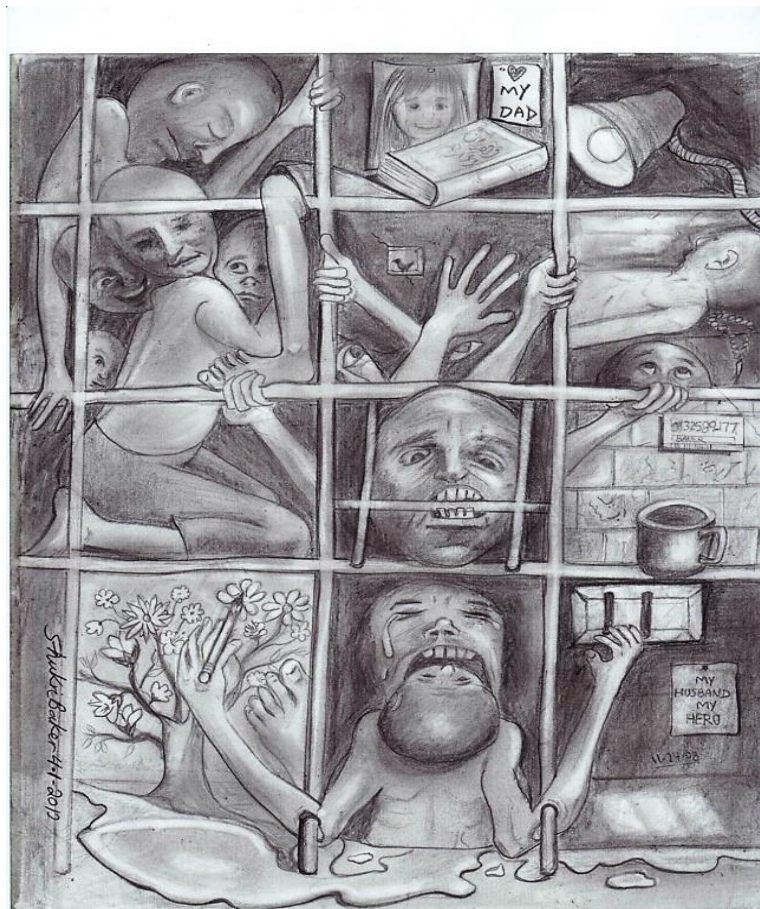


Figure 2: Artwork of an imprisoned Muslim from the CMU expressing life in prison

To describe the experience of these prisoners, it is worth quoting at length from one such letter, in which a Muslim imprisoned in the CMU explains his personal views and experiences of imprisonment:

Inmates are only allowed to talk to their loved ones, children, and wives through a thick glass window with a phone hookup that is monitored and recorded by a live person sitting in the next room while another person is watching you as well. Even though no physical contact is allowed in the visit, yet inmates of the CMU must go through a comprehensive body search before the visit and after the visit they must go through strip search (meaning you get totally naked, take off everything and you are searched thoroughly). The ban on physical contact during the visit violates the BOP's own policy that stresses the importance of family visits as a way to rehabilitate inmates and prepare them to enter normal civilian life after serving their sentences. . . . Every inmate has his own cell. Every cell is small square box. Inside the cell, a raised concrete flat pad that acts as flatbed (about one foot high off the floor). Each cell has a wall locker where inmates keep their personal properties. Each cell has two very small concrete shelves (1 ft x1 ft). Everything here is made up of concrete, even the chairs and the shelves. The only two things that are not made up of concrete are doors and windows. The unit has what is called a recreation area made up of four connected cages that are fenced from all directions. They are exactly like bird cages only they fit human size. Each cage is approx. 20 feet by 20 feet.

The inmates here come from different Muslim countries (majority are Palestinian, yes Palestinians!!!! that was not a surprise, was it? Palestinians make up 34% of all Muslim inmates here at the CMU?!!!! Pakistan, India, Jordan, Uzbekistan, Turkey, Somalia, African American, Kurdistan, Egypt, and Bangladesh). We cannot touch, hug or kiss our families while the rest of the inmates in the rest of the prison can have BBQ and enjoy, hug, kiss and touch their loved ones. My daughter tells me that she wants to sit in my lap and wants to see my smile and feel my assuring hug. She asks me why I cannot touch you or kiss you. She said that she hates the thick glass window that separates us.

Among the various themes that appear in this letter the one that stands out is the exceptional restrictive power of the CMU. The letter describes highly unusual physical confinement procedures that severely affect the imprisoned individuals and their families, causing emotional pain and distress. Practices such as conducting strip searches, even when there is no contact with visitors, seem to be little more than gratuitous efforts to shame and control Muslims in the CMU. These practices have no parallel in other general population units. It seems to have more in common with the practices of humiliation as a form of demonstrating power as was seen in the

torture and abuse of detainees in Abu Ghraib (Caton and Zacka 2010). Thus, CMUs are more than just ordinary criminal prisons. They exist to single out individuals whom the secular state considers politically “dangerous” and to demonstrate the modern state’s absolute power over those individuals, while also carefully managing their political and religious expression and communication.

From the perspective of the law, the court indicated that imprisonment is about deprivation of liberty, which means it only suspends individual’s “rights” rather than enacting physical and psychological deprivations as punishment. This issue of depriving imprisoned Muslims of their liberty is connected to liberalism’s own legal understanding of the concept of human and autonomous rights. Liberal legal theory employs an ethics of disembodiment that views the human as devoid of attachment to any transcendental and social entities and replaces such attachments with individual rights. The individual is viewed in isolation from any social and familial connection, that is, apart from other sovereign bodies. In this legal understanding of the human being, or the juridical human, the individual person in whom legal rights reside is defined by autonomy and free will (Halewood 1996). Such a viewpoint erases the fact that all humans are social beings, with psychological connections to multiple social identities, the environment, and other people. Thinking in this liberal way makes it seem less terrible to strip individuals of their rights to family contact, community practices, and social belonging.

Observant Muslims have a different concept of embodied life, which is seen not only as a set of psychological attributes but as a corporeally felt sense of home, time, and space. The individualist concept of rights is closely tied to Calvinist and Protestant concepts of the individual, and this outlook is not the same in other traditions such as Islam. The secular liberal understanding of the autonomous human is imposed on Muslims and then they are judged based

on those liberal categories and sensibilities. In other words, liberalism and secular liberal law, which dictates humane treatment without causing pain, does not fully appreciate the psychological and mental suffering that is inflicted when it takes away social freedom of individuals by treating people as disembodied and disconnected material objects. Moreover, when the court denies prisoners contact with their families and community, it does not seem to consider that the rights of others (i.e., the rights of the family and community) could also be violated. As a consequence, the only issue the liberal law is concerned with is how long should the imprisonment last. The secular liberal law does not deal with the fact of how much the imprisonment has caused suffering and pain to the imprisoned, their families, and their communities.

While the logic of the secular modern state supposedly tries to avoid the punishment of the human body, this does not seem to be as much of a concern for the Muslim body in the current political climate (or, as noted in chapter 3, for Muslims and other minorities throughout the history of the U.S.). Muslim corporeality is the object of liberal and secular assault in the “War on Terror,” and the regular normative prison regulations and provisions are not extended to Muslims under this punitive regime. The CMU exercises many arbitrary regulations and practices concerning Muslims that are not applied to prisoners from other religious or ethnic backgrounds. One CMU prisoner described his views of disciplinary hearings related to accusations of prisoner misconduct:

[According to Bureau of Prison regulations] staff is supposed to investigate the incident and get all the facts first and know what really happened prior to the UDC [Unit Discipline Committee] hearing. But what really happens is something totally different. . . . In every UDC hearing held here at the CMU, every inmate has been found guilty regardless of the evidence presented and regardless of the facts of the alleged violation. The UDC hearing officers themselves acknowledge that they are told to find every inmate guilty regardless of the evidence. Sometimes we ask them to review the video tapes from the cameras in the area where the alleged violation occurred and they refuse to

do that. We ask them to allow for statement from witnesses or ask a staff to be a witness and they refuse to allow that. No matter what you say and no matter what the facts are, you are guilty, guilty, guilty. Even when the incident report and the alleged violation is fabricated by staff, you are still guilty. The UDC staff blatantly and intentionally ignores all the rules which they are responsible for respecting. . . .

Let me give you an example: about two years ago, when I arrived here at the CMU, I was given an incident report of an alleged violation of praying in congregation with other Muslim inmates in the outside recreation area. I told them that I had prayed by myself and did not pray with anyone else. The UDC hearing was held on a Thursday in the morning, and I gave staff a sworn signed statement (under the penalty of perjury) that says that I did not pray with anyone else and that I prayed by myself. Also, I asked them to bring the Chaplain as an expert to testify on my behalf, and I also asked them to view the tapes of the outside camera which will show clearly that I prayed by myself. The UDC staff refused to accept any of these requests and found me guilty and sanctioned me for two weeks of no phone and two weeks of no commissary. I told them the cameras will prove to you that I did not pray with anyone else, and they told me that they will not review any cameras or allow any witness and that their decision is that I am guilty as charged and that's final.

A couple of hours later, the ex-Warden was making her round of inspection of the CMU unit, and I talked to her and showed her my sworn statement and told her that I was found guilty by the UDC this morning of a bogus and fabricated incident report. She asked her assistant to look into the matter, and he left the unit and reviewed the camera tapes just like I asked the UDC to do. His review of the tapes revealed the truth and confirmed that I prayed alone. He came back an hour later and told the officers that the incident report has been expunged and completely removed from the record. He also told them to remove all the sanctions levied against me. The incident report was simply fabricated by staff, which is a violation of the law. I never received anything in writing about that incident report. No staff was punished for the fabrication of the incident report, as if it never happened. I was told verbally that I no longer had a violation. Had I not talked to the warden and presented her with my sworn statement, the incident report would still be on my record, and I would have been punished without any reason. These UDC hearings are a sham, waste of time and a true joke. . . . All UDC hearings are is a show just to give the impression that inmates are afforded due process.

In this letter, the imprisoned Muslim not only makes claims about unfair and illegal punishment procedures, but also clarifies some of the arbitrary rules and regulations that are imposed on prisoners. The court delegates internal prison disciplinary issues to the realm of prison administration, where the claims from imprisoned population are unregulated by law and left up to the whim of prison authorities. This give rise to a situation where abusive treatment is likely,

as the writer of the letter communicates. While prisoners in general struggle with this same situation, there is an additional layer of discrimination against Muslims in the CMU, as they are subjected to regulations such as those against group religious activities that are not applied to most of the prison population. When CMUs also deny imprisoned Muslims the proper administrative hearings that are required by Bureau of Prison policies, it perpetuates the distress and alienation of the captives. In this way, the CMUs ensure that the harms and discomforts of imprisonment are maximized for Muslims but not for others. These types of incidences with prison administration continue to shape the grief and experiences of families outside of the prison as well.

The social features and abuses that I have discussed throughout this dissertation are hardly invisible to Muslim prisoners, and many of them comment in their letters on these interrelationships between their own situation and the larger geopolitical climate. For example, another imprisoned discusses how Muslims are treated in the “War on Terror” while again reiterating common claims about prisoners’ rights violations:

Even with the limitations already imposed on us, the administration still finds ways to tighten it on us even further. For example, I’ve been sick for the last two weeks and a half and the administration refused to schedule my phone calls for a week. Despite that it’s routinely done for non-Muslims in the unit. This, among many other violations, is what this administration repeatedly engages in. In other cases, there have been fabricated incident reports and sanctions that have been withheld within this administration, then when it has gotten to the Regional office the fabricated incident report is expunged and we aren’t notified until our sanction is completely served. . . .

[Muslim defendants] are entrapped in this country by agent provocateurs and their handling agents using inflammatory material, whether it be videos depicting Muslim victims around the globe, the agent provocateurs telling the defendants’ that you’re not a Muslim if you don’t act, the agent provocateurs telling the Muslim that you’re a coward if you don’t act, the provocateur telling the Muslim all you do is talk All this doesn’t matter when it comes to a Muslim whose life and liberties are disposable and no longer in existence in this country, any country which is a puppet to this one, or any country occupied by the U.S. These atrocities and more are well documented and the injustices against Islam and Muslims’ are clear for all to see, and there is no real need for me to

remind everyone, it's just that many a time we feel as though we're forgotten about. We ask Allah to expose the truth and give victory to those who have been wronged.

One of the most significant points in this letter is how the prisoner has come to understand that Muslim lives are “disposable” and that they have no value in the eyes of the authorities. By treating CMU Muslim prisoners in this way, the security-obsessed secular state emphasizes its absolute power over those who hold different political and religious viewpoints. Muslims in these units have been scapegoated and used as specter to produce fears of monstrous terror and thereby strengthen the power of the state. This affects not only those who are imprisoned but also the broader Muslim collective, and ultimately the entire U.S. population. The specter of terror and the need to control it is useful for the secular authorities and liberalism, because it justifies the state's control over the social and religious lives of Muslims. In other words, these CMU units serve a political purpose in helping the secular state to sustain its power over Muslims. The figure of the dangerous yet punished and imprisoned Muslim “other” is one of the conditions upon which the legitimacy of secular power of liberalism depends. The CMU thus operates as a “space of exception” where Islam is cast under the suspicion and the necessary authority of the secular state is reaffirmed.

Islam as a “Toxic” and Unacceptable Religion

In addition to questioning the legal protocol for the very existence of the CMUs in the Center for Constitutional Rights' lawsuit, Muslims captives also brought (and eventually won) another lawsuit questioning the restrictions that have been placed around religious practices in these prisons. This lawsuit demonstrated that while invoking “security” and the “protection of public order,” prison officials made a concerted effort to repress the religious activities of Muslims in the CMUs. This repression is a continuation of a long history in which the legal system has been

a part of enacting religious discrimination in the U.S., as demonstrated in previous chapters. Despite the formal belief in separation of church and state in the U.S., Christian religious ideas and practices have vastly informed the construction of the criminal justice system, and this religious bias plays an instrumental role in the daily lives of prisoners (Spearlt 2009; Sullivan 2009). The anthropologist Winnifred Faller Sullivan has argued that prisons in the U.S. are places where the modern state is intimately connected to religion:

[The modern state is] most religious when it exerts total control over its citizens and attempts to coercively remake them into new human beings. Religious and political authority and sovereignty in prison are homologous with each other in several ways: state/church, judge/god, crime/sin, prisoner/penitent. Even when explicitly religious language is absent, the sacred haunts the prison and all who work there . . . Religion in prisons and prison religions are distinctive products of the modern state and its ongoing interest in producing certain kinds of subjects (2009, 6).

In a practical sense, this interweaving of the secular state and religion in prisons can be seen through the fact that a variety of chaplains, religious organizations, and groups attached to various religious traditions are prominently present in the prison system (Sullivan 2009; Kusha 2009). Most U.S. prisons have formal chaplaincies and religious programs, and most of these programs are based on Christianity. Similar to the projects of early-nineteenth-century Christian prison reformers, these modern-day programs require the prisoners' full immersion in a Christian environment of penitence and reform (Sullivan 2009; Kusha 2009).

The influence of state-confirmed Christian programs in prisons is a continuation of long historical precedent; for example, the state policy of attempting to convert imprisoned Native Americans in the eighteenth and nineteenth centuries (Sullivan 2009; Grobsmith 1994). The overt goal of these early prison systems was to "civilize" the natives and turn them into modern citizens through the application of Christian conversions, thereby enabling the captives to assimilate into the larger Christian society after they were released (Grobsmith 1994). Today,

prison ministry continues as a modern reforming project, and secular state agents continue to work closely with various religious traditions to form modern selves and modern understandings of religion that are acceptable to the dominant Euro-American society. Faith-based initiatives in prisons have broad support across the political spectrum in the U.S., with the idea that faith-based programs can address social problems and reform individuals (Sullivan 2009; Dubler 2013). Prison staff generally welcome religious interest and mainstream religious activity among prisoners—as long as this interest and activity does not appear to be undermining prison authority or subverting dominant norms (Sullivan 2009; Dubler 2013).

While state-approved religious traditions, specifically Christianity, have been largely welcomed into the prison environment, Muslim prisoners who have sought to perform Islamic rituals and activities have often experienced strong resistance from prison administrators. Groups such as the Nation of Islam have been an important leader in ministering to prisoners for decades, but they have always done so under a cloud of suspicion and resistance from prison authorities (Beydoun 2015; SpearIt 2013; Kusha 2009). Today, as the cultural diversity and different types of Islam represented in the prison system has increased, it appears that authorities have taken steps backward in exerting greater limits on religious expression requests. This is particularly true for Muslims in the CMUs. Litigation against CMUs brought by the American Civil Liberty (ACLU from hereon) has focused on prisoners' rights to congregate five times to conduct daily worship, as is customary in the Islamic tradition. Invoking security and public safety, prison officials have made a concerted effort to ban these worship practices.

According to documents in the ACLU case *Lindh v. Warden-Terre Haute, FCI*, communal religious services in the CMUs take place in a multi-purpose room, which has a mesh door and barrier between it and the hallway so that the activities inside can be seen and heard by

guards. The multi-purpose room is used for educational and recreational programming and other approved group activities in addition to weekly multi-religious services. However, severe restrictions have been imposed on the religious practices of Muslims and their use of this room. Letters from imprisoned Muslims in the CMU give voice to their own perspectives on various religious restrictions:

Assalamu Alaikum. I appreciate your concern and continuous effort to expose the conditions in the CMU. As for the justification given to prevent us from Halal food, they tell us that the vegetarian or Kosher trays are sufficient to meet my religious requirements. Which is of course a frivolous and false claim, because we aren't forbidden from eating meat, and the Kosher tray is a far cry from Halal. We have given them many different options on ways to provide us with Halal, yet they have refused every option we've put on the table. We told them we'll buy it ourselves, our families will provide the Halal food, the Mosques will provide it, but despite our best efforts we haven't been able to get Halal food.

As for the congregational prayers, they have no excuse for it except that they hate and discriminate against Islam and Muslims. They allow every other type of congregation whether it be religious, social, or learning. They have blocked any effort for any Islamic learning as well. The Hunger Strike took place because of the ongoing harassment and hostilities of the administration against the Muslim inmates. There were even non-Muslim inmates that participated because they were unhappy with the way the administration has been harassing the Muslims. We came off of it, Alhamdulillah, we were able to get some of our issues resolved. The harassment is still ongoing, and we are working very hard to try to file a proper lawsuit in this matter.

Please highlight the facts that we aren't being provided Halal food, congregational prayer, the ongoing harassment of Muslims; they are even trying to stop us from praying the Fajr prayer in our cell alone while we're locked in. These are some of the issues I hope you can highlight. I'm not sure when the next time is that I can email, because I have been given two frivolous incident reports in retaliation for me trying to expose our situation in "GITMO North."

Another prisoner writes about some of the restrictions against communal worship in the CMUs, and how these restrictions were partially lifted during the month of Ramadan:

The staff who run Gitmo North have claimed that Islamic congregational prayer will lead to radicalism. They say that whoever is leading the prayer will become an influential religious figure and somehow convince all of the other Muslims in the federal prison system to become terrorists. Thus, they banned congregational prayer. Really, they just hate Islam and wanted to punish Muslims for their beliefs, but they will not explicitly say that on paper. However, they have cited the fact that Islam is the fastest growing religion

in the prisons as a reason to ban group prayer, and they have also equated Islam in general with radicalism.

. . . Anyway, in Ramadan, Gitmo North staff has apparently concluded that it is safe to let us pray together. Somehow the radicalization aura which is supposedly emitted from us when we pray together does not work during the Islamic holy month devoted to fasting and worship, so they the ban is lifted. It is an amazing blessing which we all take advantage of. Normally, we can only pray together under the fear of disciplinary action. I hope that the Muslims will reflect on this, and on the difficulty their brothers are enduring with regard to their prayers, and that they will not let their freedom pass them by without their taking advantage of this opportunity. Please keep us in your prayers, and raise awareness of this unjust policy.

Another prisoner writes:

I am in a unit which is known in the media and elsewhere as Guantanamo North, because it is used to house many of the Islaamic cases, and the only reason they even have non-Muslims in this unit is to prevent lawsuits over discrimination. What I am about to relate is part of the hidden war on Islaam being waged by the United States. They cannot possibly justify it as anything but an assault on Islaam, because it has nothing to do with jihaad, politics, terrorism, or whatever word they want to use for what they supposedly claim to be fighting.

Yesterday, during the Maghrib prayer, a number of inmates and I were praying together. One of the guards came in upon us, and when we were finished he took down our names. He then went to write us all incident reports as a retaliation In the year and four months I have been in Guantanamo North, I have received four incident reports for praying, and I have been sent to isolation twice for speaking about it in the Senate report which was published on me. I was also sent to isolation for trying to have a religious question answered. I spent three months in isolation and I have spent four other months without being able to communicate with my family due to being accused of praying. Now, I am likely to face another three months without communication with my family, just because I am fulfilling a basic obligation which every Muslim attests to.

I am not the only one who has gone through this. Many brothers have received incident reports for praying, rolling their pants above their ankles, fasting, and other religious activities. We do not engage in violence, drugs, or other things which the regular criminals engage in, but we receive the most penalties out of anyone for doing nothing but peacefully obeying our Lord. It is not enough that they have thrown us in prison, taken from us our parents, brothers, sisters, wives, and children. It is not enough that the older members of our families are dying without being able to see their children and grandchildren. It is not enough to lock someone in a small space for decades. No, they have to take our prayer, our fasting, our religious books, our copies of the Qu'ran, everything that involves serving our Lord.

From these excerpts, it is clear that Muslims in the CMUs feel they are in a Guantanamo-like prison where the normal rules of legal process do not apply and where they are specifically

targeted for punishment due to customary religious practices. It appears in these descriptions that prison authorities are using narratives around “counter-radicalization” to justify the criminalization of Islamic worship activities. As discussed in the previous chapter, “counter-radicalization” perspectives seek to create a distinction between “good” and “bad” Islam and reshape the religion in a way that is amiable to secular authorities. Often it is the very common and basic practices of Islam that are deemed toxic/unacceptable. This raises questions about the relationship between the supposedly secular prisons and religious prejudice, a relationship that has in fact existed since the very inception of the secular state.

The issue of congregational religious service is tied to Muslims’ understanding of traditions in Islam, where it is believed there is more spiritual reward when this ritual is conducted communally. The larger the group or congregation, the more spiritual reward there is for each participant in the congregation. In other words, there is a religious meaning that one experiences through this ritual service that is not just individual, but also depends on communal interactions. According to anthropologists such as Roy Rappaport (1999), it is through such ritual that beliefs about the universe come to be learned, reinforced, and eventually changed, a process that not only gives meaning to one’s life and the universe, but it also becomes part of the universe for those who observe or partake in such piety practice or rituals. In Islamic traditions, one cannot perform this service individually if one is to reap the maximum benefit. Participation in collective religious services therefore helps imprisoned Muslims maintain their piety and their sense of self and to remain resilient in the face of their everyday difficulties in confinement (Sullivan 2009; Dubler 2013). Observing this daily worship service collectively, participants identify with the larger Muslim community (the *ummah*) and reaffirm their social identity. The communal custom helps prisoners experience a sense of connectedness in a disconnected space.

The CMUs' barring of Muslims from daily congregational worship is grounded in a complex set of assumptions and prejudices. One problem is the way that secular law understands Muslim worship ritual, which in Arabic is termed as *salah* (or *salat*). This word gets translated in English as "prayer," which is not really an accurate translation of the Arabic term. From a Protestant Christianity's understanding, prayer is a private, individual activity conducted in silence with little or no bodily gestures or movements. Muslim daily worship can be conducted individually or collectively, but it is always understood as a public, ritual act with physical movements, gestures, postures, and orientation towards a geographic center, the Mecca. The English term prayer is more accurately rendered in Arabic as *dua*, and this is not the same thing as Islamic daily worship rituals. Some Muslims continue to use the word "prayer" when explaining or talking about *salah* to English speakers, a confusion that perpetuate this mistranslation.

The barring of this ritual service could be also seen as a generalized lack of respect and suspicion about external/communal religious experience. The secular authorities claim that such gatherings will "radicalize" prisoners and threaten public safety. In other words, the communal religious experience of Islam itself is regarded as a threat, and, thus toxic/unacceptable. The mainstream understanding of "acceptable" religion in the United States is linked to Protestant Christianity, where religion as a spiritual phenomenon is understood to be located primarily within the private individual, as an internal matter (Sullivan 2009; Dubler 2013). The scholar of prison religion Joshua Dubler has remarked about this aspect of American culture:

The nominally nonsectarian rules by which Americans regulate religion belong to particular theological tradition: namely, liberal Protestantism. . . . The liberal notion of religion imposes Protestant presumptions that locate the essence of religion not in peoples or public works but in individuals and their private convictions—faith in God paradigmatically, or in a secularized version. (2013, 25)

This prevalent comprehension of religion as an individual belief may be one of the reasons why the CMUs' denial of Muslims' communal worship is not regarded as impinging on the freedom of religious practice. Another common view of prison officials is that the piety of prisoners is just a deceptive tactic used for covering up subversive political plotting or for material gain. These characterizations are a result of the way that secular modern law conceptualizes the role of religion narrowly and remains profoundly suspicious of communally oriented religious practices.

CMU authorities are also likely to be anxious about the power of collective identity that results from prisoners remaining grounded in their social and religious group. This power of resilience interferes with the goal of altering prisoners' behavior and their subjectivity. According to legal documents in *Lindh v. Warden-Terre Haute-FCI*, prison authorities argued that allowing the Islamic daily worship rituals would allow frequent interactions between prisoners and thereby cause problems that would require additional surveillance and regulation. In other words, the authorities were concerned about these practices specifically because it would strengthen the practitioners' sense of community and belonging. The anthropologist David Kertzer (1988) has shown that rituals have political power and can provoke powerful emotions that help mobilize the group for action and self-assertion. What appears to be concerning to CMU officials, then, is their anxiety that Muslims will build a stronger personal and political identity if they are allowed daily religious congregations, and, that this poses a threat to the security of the prison and the general public. This anxiety about the growth of religious community is again related to the way secularism defines sanitized/acceptable and toxic/unacceptable religion. A "good" or "acceptable" religion is internal with no connection to social power or material gain, but if adherents are creating a community based around religion then it becomes a danger to the dominant society or power, because establishing community is

about building power of the community and possibly a collective political identity. Such religion is considered “bad” and “unacceptable”—or else it is considered not religion at all—and therefore it is not eligible for secular legal protection.

It is notable that this fear of a “threat” is not a major concern for officials when Muslims congregate for non-religious activities, but it comes to the forefront when imprisoned Muslims want to congregate for Islamic worship. The ACLU commented on this phenomenon in post-trial findings to the district court:

While out of their cells the CMU prisoners are allowed to engage in a host of peaceful congregate activities at the various places in the unit and in the outside recreation areas, including: talking, snacking, playing board games or cards, watching television, exercising, and playing sports. Indeed, they are allowed to congregate and discuss anything, as long as their behavior is good, they do not make too much noise, and the conversation does not escalate into a confrontation. Inmates in the CMU are also allowed to visit other inmates’ cells during the day. (*Lindh v. Warden-FCI Terre Haute* 2012, 2–3).

From this account, it is evident that the CMU officials treated religious gatherings as particularly offensive. It was not merely the congregation of Muslim prisoners, but rather the congregation of Muslims to perform religious worship that was deemed toxic/unacceptable. Again, this perception is likely based on the Protestant Christian view that congregation is not necessary for religious worship and that there must therefore be something nefarious about Muslim’s desire to gather in this fashion. It appears that while officials in the CMUs (and in the prison system in general) do not have an issue with Christian ministries and the spread of Christianity in prisons, they do have a problem in allowing Islam to be fully practiced by its adherents.

This indicates that the supposedly secular legal system is not truly neutral toward different religions in practice, and that there appears to be a strong imperative to discipline Muslims by restraining basic Islamic worship and ritual. It could be argued that these actions of CMU prison authorities are a particularly intense expression of the broader secular suspicion

directed at Muslims' congregational and worship activities, as evidenced by the intense scrutiny and surveillance that authorities have directed toward mosques and other Islamic religious organizations (as described in the previous chapter). These discriminatory practices, in the CMUs and elsewhere, indicate how secularism is asserting its dominance over the most fundamental aspects of a religious tradition. From reviewing the actions of prison officials, it appears that what concerns authorities the most is the ability of Muslims to form a collective identity and a social bond based around religion. In other words, it is the secular suspicion of religion-as-politics that is operating here.

Secular anti-Islamic policies do appear to be functioning to disconnect Muslims from building spiritual bonds and a sense of community (*ummah*) with other Muslim practitioners, and especially with Muslim prisoners. This may be considered an effort to prevent Islam from becoming "political." According to the scholar Salman Sayyid (2014), from the perspectives of liberalism being political means being modern, and when people become modern, they are considered as people with history and civilization. From this, it could be argued that if Muslims are able to form a collective political identity, then they would become secular, civilized, modern and rational—that is, their religious tradition would be on an equivalent plane with liberalism and secularism. Preventing Muslims from achieving this religious-based collective power is likely the reason for suppressing collective Islamic worship activities in the CMUs and elsewhere. By demarcating collective piety service as an unacceptable version of religion, secularism seeks to maintain its own sovereign power. It applies securitized laws to scrutinize and reshape Islam by confining Muslims with restrictive measures until they agree to modify their beliefs, practices, and disposition in a way that is acceptable to liberal modern sensibilities.

Islam, Religious Freedom, and Secularism: *Lindh v. Warden-Terre Haute*

Imprisoned Muslims in the CMUs have been resisting the secular regulatory abuses on their faith and taking actions to address the violations of their religious rights. One of these actions is the lawsuit filed as *Lindh vs. Warden-FCI Terre Haute*. The plaintiff in the case, John Walker Lindh, is well known as the “American Taliban,” or sometimes “Detainee #001.” He is a Euro-American convert/revert to Islam who was captured in Afghanistan and brought to the U.S. in 2002. Lindh pled guilty to supplying services to the Taliban and carrying an explosive; however, according to his lawyers his conduct in prison paints a different portrait. His mild and pleasant behavior has warranted him a classification as a low-security prisoner within the CMU, which has allowed him to engage in a variety of social activities such as playing sports, playing cards, and watching movies and television, including Muslim videos in the Arabic language. In the lawsuit, Lindh sought permission to engage in congregant prayer in accordance with his religious understanding. This action was brought under the Religious Freedom Restoration Act of 1993 (RFRA), which was explicitly passed to guarantee the free exercise of religion.

Like other U.S. laws concerning religion, the RFRA is grounded in the religion clauses of the First Amendment, which reads rather simply: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. This wording authorizes two different kinds of actions in which citizens may challenge the activities of government agents. Under the Establishment Clause, people may bring actions against the government when it unconstitutionally favors an establishment of religion. Under the Free Exercise clause, people may bring actions against the government when it prevents them from practicing their religion. Lindh case is based on the latter clause. The RFRA further stipulates that government shall not substantially “burden” a person’s exercise of religion through any kind of general rule, unless the

government demonstrates that: the application of the burden to the person (a) is in furtherance of a compelling governmental interest; and (b) is the least restrictive means of furthering that interest. Under the RFRA, the plaintiff first has to show that a challenged practice creates a substantial burden on his or her religious exercise. If the plaintiff does this, then at that point the burden of persuasion shifts to the government, which has to prove that the burden is necessary by a “compelling government interest,” and that the restriction in question is the “least restrictive means” that the state can use to meet that interest.

I observed four out of five days of the trial in Lindh’s suit, and also engaged in conversations with his family members about the case and their life in general. On the first day of the trial, there were only four people observing in the courtroom, including Lindh’s parents, my mother, and myself. Three U.S. Marshals in black suits stood around Lindh, guarding him from all sides. Lindh himself wore a white skull-cap and prison garb as he took a seat in the witness booth. His lawyer opened the case by asking Lindh to identify himself and describe the tenets of his Islamic faith and daily religious worship. Lindh went over the daily worship services in detail for the court, prompting questions from the Judge, Jane Magnus-Stinson. Lindh claimed to be a follower of the *Hanbali* school of Islam, and stated his belief that congregation for all five times daily worship service is mandatory rather than optional. The state brought forth Islamic “experts” to prove that mainstream Islamic doctrine does not require daily communal worship when people find themselves in restrictive situation such as prison. Nonetheless, the judge held that the question under RFRA is whether or not the plaintiff is “sincere” in his professed beliefs, not whether his beliefs conform with an external authority’s interpretation of religious doctrine.

The plaintiff continued on during the trial to show that in the CMU in Terre Haute, where Lindh was held, imprisoned Muslims had been allowed to perform communal worship service in the past, as well as during special occasions such as Ramadan. These seemed to indicate that the act of gathering for worship service was not an intrinsic danger. The prison warden responded by indicating that more frequent congregational worship activities would lead to a security risk for the prison and the larger public due and lead to prisoners becoming violent or “radicalized.” According to the warden, group activities like congregational service must always be supervised, and frequent group religious activities would interfere with the provision of adequate security in the prison. As an alternative, the warden proposed that Muslims could perform group ritual in their individual cells, with one congregant leading the collective ritual from their own cell and others joining in from wherever they were located. The plaintiff responded that such an arrangement would defeat the whole purpose of congregation. Participants in group religious service, the plaintiff’s lawyer stated, need to be aligned properly and have visual and aural contact with the *imam*, the person leading the service. Lindh’s lawyers argued, rather logically, that group worship can only occur while Muslims are physically together. Moreover, the plaintiff suggested that the language of “security concerns” was merely being used to prevent Muslims from practicing their faith. The ruling in the case was mostly in Lindh’s favor. The court concluded that CMU officials had substantially burdened Lindh’s free exercise of religion in accordance with his beliefs:

Mr. Lindh is being caused irreparable harm for which there is no adequate remedy at law. . . . Furthermore, the balance of hardships also weighs in Mr. Lindh’s favor because while the Warden may further his goal of maintaining safety through less restrictive means, Mr. Lindh has no other way to practice his religion with others. Because the Warden may maintain a safe and orderly prison while permitting Mr. Lindh to engage in group prayer, the public interest would not be disserved by a permanent injunction. The Court therefore grants Mr. Lindh’s motion for a permanent injunction. (*Lindh v. Warden-FCI Terre Haute*, 2013, 32)

In this case, collective religious activity was considered by the court a religious exercise motivated by Lindh's sincere, personal beliefs that his religion requires him to perform his worship ritual in congregation with other Muslims.

Several interesting issues emerge in this discussion in relation to the way that secular law understands religion. First of all, it appeared from the trial that all parties were trying to define what "religion" means. For the secular state (i.e., the government lawyers representing the CMU), religion was something objective, with rules, texts, and external authorities that individuals either passively believed in or rejected. To prove its point that there is a single authoritative interpretation of religion, the CMU invited an expert on *Hanbali* Islamic law to demonstrate what beliefs are accurate and acceptable under the religion. In contrast, for the plaintiff Lindh, it appeared that religion included a certain amount of creativity, in which an individual's personal interpretations of texts was important in how one conducted oneself and interacted with social and communal life. In other words, religion from the perspective of the plaintiff is flexible and open to subjective interpretations. From the plaintiff's vantage point, the freedom to practice religion meant to be able to freely act on one's individual beliefs.

What has happened in this situation is that the secular state's understanding of religion as an individualized and private matter got reversed. The state—that is, lawyers representing the CMU—brought forth an outside expert on Islam and attempted to apply a coercive, external authority to verify what was acceptable religion. At the same time, the Muslim plaintiff, making use of the secular Protestant focus on individual belief, argued that religious group worship should be allowed because engaging in it was part of his *personal* belief system. By ruling in favor of Lindh, the court defined religion as sincerely held personal convictions, and indicated that the free exercise of religion is based on protecting the individual's right to carry out his or

her subjective religious understandings. It is quite likely that the reason why Lindh won this case is because he appealed to Protestant sensibilities of individual religious conscience, whereas the state appealed to external concepts of authoritative religion.

The anthropologist of law and religion Winnifred Sullivan has noted that all freedom of religion cases like this present a potential “catch-22” for the court in trying to define religion (Sullivan 2005). Individualized and privatized religious beliefs are typically posited as the “correct” and protected type of religious practice by the law, and yet this concept can be turned inside out simply by the individual believing that collective practice is necessary. It is notable that in the preventive “terrorism” cases discussed in the previous chapter, the Islamic concept of “jihad” was often viewed negatively as coercive power influenced by external political forces on Muslims. Because of its association with external authority and political power, it is not considered as part of religion but rather as a crime. Yet, in this RFRA case, the state resorted to displaying the arguments of an “expert” authority to define religious standards. That is, the state tried to coerce the subjective individualized interpretations of the plaintiff by using an external authority. The CMU in the litigation, as part of the modern secular state, adopted an understanding of religion that is antithetical to the Protestant viewpoint as well as to the traditional interpretation of secular law. This makes it seem that at least some of the agents of the secular state are fragile and do not know what their actual beliefs about acceptable religion really are—except perhaps a perception that acceptable religion is simply Christian religion.

It is also worth noting Lindh’s lawsuit challenges Agamben’s understanding of “bare life” in the prisons, in the sense that Agamben believes prisoners such as those in the CMUs are entirely helpless and have no recourse before the power of the state (2005). In contrast, it seems clear that imprisoned Muslims such as Lindh have found a way to exert their own power, at least

to some small extent, by using the secular law. To do so, however, they must rely on individual rights claims of the liberal state that reinforce the power of secular ideologies and the subordination of other traditions such as Islam. These gains are therefore different from truly liberating religion from the clutches of the secular state and its security apparatus. For example, while the CMU in Terre Haute has allowed daily group religious service as a result of Lindh's suit, it has defined "congregation" as consisting of two people—thus permitting two (and only two) inmates to perform daily "group" religious worship together in a cell. This type of perverse interpretation continues to make a mockery of religious freedom, and indicates that discrimination will not be resolved through appeals to individual rights, but only by challenging the assumption that religion is an individual and personal matter.

Finally, although courts are generally regarded as excluding religious authority or religious bias as a basis for their decisions, it is notable that in *Lindh vs. Warden*, the court was specifically assigned with examining detailed religious tenets of Islam concerning its most important daily activity, and then deciding what does and does not constitute protected religious practice. The secular state's engagement with Islam has historically focused on issues of identity politics and integration of Muslims as discussed in previous chapters. But the federal court's engagement has increasingly focused on identifying, regulating, and consolidating certain version of Islam as correct or incorrect (i.e., violent or not) in the post-9/11 political climate. Since secular power reigns supreme through suspicion, it seems questionable whether there will ever be a true separation of the assumed link between Islam and terrorism. It is remarkable that the court in this case is playing the role of a theologian and directly addressing matters of religious practice and belief.

This religious freedom case of a citizen subject convicted of terrorism-related offenses and labeled as an “enemy combatant” provide a window onto the ways secular law continues to influence the boundaries of exclusion and inclusion, while entering into the most private realm of practitioner’s religious life and interfering with the most basic aspects of the Islamic faith tradition. In doing so, it blurs its own concept of the distinction between religion and politics. This mode of conduct allows the modern state to continue to engage in the investigation of and suspicion against Islam. Secularism as project of liberalism and the modern state seeks to establish a set of distinctions between what is or is not toxic/acceptable religious practice for the purpose of consolidating universal liberal governance and secular power. The isolation of Muslim prisoners in the CMUs operates as way to keep Islam under perpetual suspicion.

CHAPTER FIVE: POLITICAL TERROR AND THE LIFE-WORLDS OF FAMILIES OF THE IMPRISONED

Colorful handmade greeting cards from her imprisoned son were spread across the center table in her living room as Suhana told me about her life since the arrest. She described how the newspapers published photos of the family and labeled them as “the bomber family.” This experience has alienated her from her community: “Just think when our community hears things like that, what will they think? They are already afraid, and they will simply run away from us and stay away. They don’t even say *salam* on the street when they see us; they turn around and walk away.” Relatives and other community members distanced themselves from Suhana because they were concerned about coming under surveillance or possible arrest. The feeling of this, Suhana described to me, is that “[The authorities] have killed us but we are somehow living, dead but alive; this is how much they have committed injustice on us and wronged us. They have destroyed us. If we go for a job like when my daughter went, they said no your brother is a terrorist in prison.” Suhana worries about whether her daughter and son will ever get married and enjoy a normal life.

Although a growing number of Muslim women have also been targeted and convicted on “terrorism”-related offenses, in this research I focused on the wives and families of imprisoned men. The discussion in this chapter reveals how the security-obsessed secular legal practices of the state have affected the lives of family members of the accused through the spectacle of arrest, trials, and imprisonment. While most analysis of concepts like “states of exception” and “bare life” have focused on the camp-like physical structures—and the operation of power on those who are confined in these structures—these concepts are also relevant to the affected community

members who are not directly imprisoned (Agamben 1998; 2005). Spaces of exception as a political condition exist far beyond the camp-like structures and throughout the broader society. What happens to the relatives and families of those prisoners who exist in between law and politics, for whom normative law stops to work? How do the practices of the security-obsessed state affect men and women differently, as most of the imprisoned are men? Answering these questions requires going beyond the camp-like physical structures and the legal system to examine places where a state of exception takes hold in the broader society. The experiences of families of convicted Muslim men reveal the gendered aspects of “bare life” and the way liberal democracy operates to exclude certain groups from the realm of legitimate religion, citizenship, and belonging.

The consequences of state power and violence can be quite complex for the women and family members of the Muslim men who have been ensnared in “terrorism” prosecutions. For example, I will describe in this chapter how secular authorities sometimes appropriate the pain and suffering of women and family members as a way to further marginalize and control Islam and Muslim cultures. The effects of such political aggression are not always physical or visible, but they are violence nonetheless. According to anthropologist Veena Das and colleagues, violence is not always present in sudden and dramatic ways, but can also emerge through the “soft knife of laws and policies . . . that disrupt the life worlds of people,” destroying families and communities (Das et. al 2001, 1). This type of violence takes the form of “reign of terror” or “culture of terror,” which not only serves to discipline and manage the overall population, but also to further marginalize and regulate individuals and communities that are perceived as dangerous to the state’s discourse (Foucault 1979; 1982; Das et al 2001; Taussig 2004). This type of state power creates, according to anthropologist Michael Taussig (2004, 40), a “space of

death,” serving to silence and control colonized people. The same securitized laws that reproduce Oriental representations and relationships through judicial and penal measures also operate on the lives of Muslim women, families, and the community as a whole.

In order to understand how legalized state violence affects lives at both the subjective and collective levels, scholars have examined the lives of many different types of targeted communities and individuals (Kleinman, Das and Lock 1997; Bourgois and Scheper-Hughes 2004; Das 2000). Stories of people and communities who endured violence point to the location of the pain, trauma, and suffering of the collective social body (Das 1997; 2000). These experiences communicate the underlying message of the way that the state views and treats a group collectively. Through the stories of those direct experiences it is possible to better understand how the secular state enacts suffering to help define the boundaries of acceptable human subject.

Following the work of these previous scholars, I discuss in this chapter how securitized state power operates to dehumanize, control, and exclude Muslims in an attempt to reconstruct a way of being for women and family members of the accused. I examine family members’ encounters with the state at different stages of their ordeals such as arrests, courts/trials, and the imprisonment of their loved ones and discuss the impact of these experiences on subjective life and social relationships. In doing so, this chapter will show how the secularization process attempts to dominate and regulate individual life and families, causing pain and suffering and altering people’s way of being in the world. The pain and suffering of Muslims from such violence operates as a spectacle to reinforce the state’s sovereign neocolonial political power and authority.

Terrorizing by Militarized Surveillance

Zarine's voice cracked with tears as she recounted the invasion of her peaceful home by counter-terrorism agents in 2007. She was washing dishes on a quiet evening when the door to her home exploded as if someone had bombed her house. Ten or more massive men in SWAT suits stormed in, pointing rifles and guns at her. Terrified, she lifted up a chair to protect herself from the intruders and screamed at the agents, "Don't touch me, I am Muslim. Please let me put my headscarf on." In moments, the agents threw her onto her kitchen floor, slammed her to the ground, and pushed her face down. They handcuffed her hands behind her back and forced her to stay in that position. Then they ransacked her home for over five hours, looking for guns. But they found none.

Anyone who knows Zarine has heard her tell the story about how the governor of her state, then head of the U.S. Attorney's Office in 2007, burst into her home with a SWAT team. Zarine and her husband and their three little sons had escaped Albania just before the ethnic cleansing that ravaged and broke up the former Yugoslavia. Fearing persecution at the hands of Christian Serbians, they fled Albania for the dream of a beautiful life in America by a long and arduous route, first to Italy as refugees and from there to Mexico. Constantly afraid for their lives, they crossed the Mexican border to Texas and then relocated to New York City in 1984. Dispossessed and traumatized from such displacements, they were still resilient and wanted to start a new life. With the help of family and friends, they quickly found a place in the new country they called home. Their family roofing business thrived. When the three sons grew up and were married, took over the business, and cultivated an extended family circle.

In many ways, Zarine and her family were living the American dream. But their lives were turned upside down when a paid government informant entrapped the three sons in an FBI

sting operation that began in 2006. The three brothers and two additional friends were persuaded to talk about a hypothetical attack on a U.S. Army base in New Jersey. After a controversial trial, all five men were convicted in 2008, in a case that has come to be seen as one of the most egregious post-9/11 entrapment cases (Hussain 2015). Since her sons' 2007 arrest, the family has barely made enough money to sustain themselves. Zarine's youngest son supports the extended family now, including his nieces and nephews. Counter-terrorism state agents harassed their neighbors, friends, business clients, and even the grandchildren's teachers, actively instilling fear in them about Zarine's family. The family lost their business contracts and, for the most part, the community has turned away from them as well.

Muslim families such as those of Zarine and Suhana are subjected to an enormously painful and traumatic journey when the securitized state decides to pursue them as a target for "terrorism" cases. They are dehumanized and treated horribly after the imprisonment of their loved ones. According to families and advocates, their experiences at the time of arrest and their pre-trial situations are often shockingly unbearable, as both the public and the state treat them and their loved ones as "guilty" even before any judicial process has begun. All of the families in my study expressed a sense of feeling out of place and out of control, as if they were "in a movie."

I met Serpa through her brother, who was imprisoned in an entrapment case. During my fieldwork, I was communicating with some of the prisoners to see what kind of help they needed, and he asked me to meet with his family and support them. I caught up with Serpa just two days before she was planning to leave for Turkey. She has been unable to find a good job in the U.S. after her brothers' imprisonment. Having lived in the country since 1998, and cherishing her work at her family's restaurant, she was not eager to depart. When her brother was targeted,

however, her family began to lose friends and relatives, and eventually all contacts stopped. Her father lost most of his customers, and their restaurant business was later shut down. In my conversations with her, Serpa shared a little about her family, what had happened, and her feelings when the family was targeted:

I was at work when my brother's wife called. She was crying and crying. I could hear a lot of background noise. I said, what happened? She said, "they took him." I thought they took him for traffic violations, because he wasn't careful about paying his traffic tickets. She says about terrorism. I'm like what? They burst into her house. At the time, she was pregnant. I got the news from her, and right after that, my father found out from people at the restaurant. They were all over her place, the media. My brother's wife opened the door for the media. I said, give me the phone and I told them, if anything happens to this girl, it's on you. We didn't know what's going on. We didn't know why they took him. I called my father, called my husband and went home. I remember, when I was on the train going home. It's like you're in, like they dropped you in a hole, and you are just flying there. Nobody around. It's only your brain and yourself. It was crazy and I didn't know what to do. Do we go to work tomorrow? Or, do we stay home? What do you do? It was like, you cannot even talk, the voice doesn't come out from your mouth, and if you talk you're gonna blow up so you don't talk.

We just sat together until the morning. My father, my husband, and myself. No food. No drinking. We were thinking what to do, where you are going to go? I thought life was ending, but me personally, I'm kind person in the family trying to be strong. I tried to put my family together, and we didn't know if it was real. We're not sure. We're numb and didn't know how big it was. We were friends with neighbors, but they were probably thinking, oh my God terrorist living next to us. My husband and I were very social, going here and there. But after this, I was going to work and come home, work and home, even relatives stopped calling. No one even from Turkey called. After this, I became like a rock. I used to be emotional, it's like I used to say it's like a movie. I feel like I'm telling you a story from a movie. I don't know why, but at that time I was thinking like this.

Serpa's feelings are echoed by many of my interlocutors whose loved ones are imprisoned. They typically include terms such as "uncertainty," "disharmony," and "emotionless." Women and their families felt they were dropped into a hole or caught in a whirlwind, as if they are the only ones in the entire world going through such terrifying moments by themselves. As Serpa realized in shock, when her brother was charged with "terrorism" they have been singled out as an enemy of the state. After that surreal experience she became

dissociative, going back and forth between work and home in monotonous rhythm. She felt like she existed in a space between real and unreal. Her way of being and how she imagined herself and her world seems forever disrupted. Yet, in these moments of insecurity or being in unreality, Serpa like many others had to try to find a way to be strong, to be real, for herself as well as for others in her family.

Once when I went to see Zarine, her daughter was visiting her and both women shared their sentiments about their family being targeted. Zarine began:

I was scared. But, I was trying to stay strong and worried for my children and didn't know what was going on. [The authorities] said, where is your son Emran? I looked at him not knowing what was going on. He was laughing loudly. Then he went to the basement. He destroyed everything because he probably thought we had guns, but found nothing. And, I still didn't know what was going on. It was scary, very scary.

Zarine's daughter, Nadia, continued:

We didn't know anything. We were clueless! We didn't know why they got arrested. What happened or anything. When I saw on TV the next morning, then I knew what was going on. We saw it in the news, and we always saw my brothers' pictures and others. That's when we're like, "what?"

Many families had similar stories about the spectacle of arrest in the media, complete with a celebrated broadcast of how the intelligence community captured a dangerous "monster" or an "enemy." Sometimes police and media helicopters hovered over their homes at the same time as they were surrounded by FBI agents, police officers, and SWAT teams, terrifying the families and their neighbors. The securitized state has allotted a tremendous amount of resources to the intelligence gathering and apprehension of Muslims (Ahmad 2009; Aaronson 2012), and all of this power is conspicuously on display during arrests. Some of my interlocutors indicated that they believed government officials had informed media outlets to appear at the time of the arrest so as to glorify the capture of a "terrorist" as "breaking news" with sensationalized images. This

theatrical media display not only instills public panic, but it also prompts the public to share views and comments about the captives. Everyone seems to dive into the discourse of the presumed monstrosity of the captured individuals, while no one seems to speak for the captives or their families or to caution against assumptions of their guilt.

This type of media coverage tends to portray each case as if it were a high-profile “terrorism” incident connected to some dangerous foreign organizations spanning multiple countries (Ahmad 2009). These dramatized arrests have a chilling effect on communities and the larger society, acting to silence those who might be inclined to question the authorities’ narrative. They also act to stigmatize and stereotype the Muslim community at large. According to the journalism scholars Erin Steuter and Deborah Wills (2009), the media have been doing even more than the state in creating the stereotype that all Muslims are terrorists by using dehumanizing and genocidal language and representation. Such news needs to be understood as perpetuating the narrative of fear and violence that leads to security-obsessed laws. It is an unfortunate role for professionals who are nominally tasked with reporting and investigating the truth.

Irene, a Palestinian American, was in high school when her older brother was targeted and entrapped. She described the way her family home was ransacked by state agents:

My mom went home around 9 PM, and she just saw cars, SUVs, and our house doors open and the FBI was already in our house, searching the place, and they told us that we weren’t allowed to enter our house. My mom wasn’t allowed to enter. But, my mom told them that, “I have to get in the house, and I have to pray and I have to know what’s going on. Why are you in my house? I have to see a warrant.” And, they told her that they arrested my brother. They didn’t tell her why. I was still at my aunt’s house. While I was on the way back home, my sister called and told me what was going on. And, I rushed [there] . . . and they were still searching the house. And, they didn’t allow me to come in the house. They didn’t allow any of my sisters [to enter] either. I had to take my sisters and we went back to my aunt’s house. We stayed there until about 1 AM. Then my parents told me that the search was over.

Gesturing with her hands and with a distressed expression, she continued:

When we got back home, we still didn't know what my brother was charged with, what was going on. We had no [knowledge] of anything. The next morning when I turned on the news actually, that's when I found out from the news what happened to my brother. We still didn't have any attorney. We had no idea. We didn't know what to do. We thought it was something small like we didn't know. We were trying to comfort ourselves that it was something small. [But] we didn't feel like it was something small because of the drama, the different FBI cars, all of the drama that was going on. So, I woke up around 8 AM, I turned on my TV, and I see all over the news that six young men were planning, plotting, and conspiring to attack the [Army base] and that's when I said there's got to be a mistake. There's no way! I mean, if I were to bet my whole life on that, I would because it's not true. I was so confused. It made me feel so angry. What I was hearing, it made me feel like that; there's no way I could connect it, relate it, believe it. I just thought that past year, my whole past with my brother was something totally different than what I was hearing. Like they just pictured a different person on TV that's not my brother. Being his sister, I know that's not my brother. But the way they pictured him on TV. I mean any person that were to see what they were saying on TV would say that he would definitely attack, and they [the government] are the hero because they stopped this attack. Whereas if anyone were to live with us just a day before, they would know we're normal family. My brother is a normal. They are typical normal young men.

Sana, a British Pakistani married to a Pakistani American man, shared her similiar experiences when her husband was entrapped and accused of planning to bomb a subway:

My husband's face was plastered all across the news. Our home was on the news. When I saw his pictures, I couldn't look at it, plastered on the Internet, plastered on the news, that picture, his eyes. I've read blog posts that said he looks like a "terrorist," that he is evil. Just in that face, I can see that he's hurt. . . . All I kept thinking about how it would've been when they took him in. His family was everything to him. We didn't know what was going on. Where's he been held? We've not spoken to him. I remember that night it was awful. It was like, is it ever going to end? . . . His face was shown not only in the US but media across the world—from local to satellite TV channels to Pakistan.

These narratives illuminate the sudden and dramatic ways in which terror is unleashed on the lives of people when their loved ones are arrested as "terrorists." With such experiences of fear and uncertainty, these women are confronted with a reality that is not of their making. But, they have to live with this state of being which is made by some external force, and figure out some way to understand it. Through such unexpected assaults with hyperbolic, exaggerated arrests, women are made to live in a terrifying not-knowing existence which can be extremely

traumatizing and dehumanizing. In this moment of not-knowing, it appears that the women are questioning their subjective understanding of what they believe is true and what is being portrayed about their loved ones, and by extension about them and their families. The women are conflicted and confused internally. From their perspective, they know their loved ones have no criminal history, and some have never even encountered law enforcement officials. The resulting effect of the shocking arrests and the terror that these women felt is experienced as a tremendous invasion of their private lives and mental spaces.

Following her brother's arrest, Irene and her family realized they were wiretapped and under surveillance and she felt very disgusted as well as fearful and exposed:

I mean all you think about is what types of conversations you used to have on telephone and you know, your personal life being out there. It's just that you feel violated. After finding out that we have been wiretapped, we felt uncomfortable in our own house. You are even afraid of your own thoughts. What you think, you feel like you are being recorded, or like you are even afraid to think. Honestly, I do stop thinking about what I am thinking of, but then I realize, "Hey, I'm thinking. It's something that's going on inside of me. No one can record or tap this." Then I try to continue on with my thinking. But that always interrupts your thoughts. What are you going to do? I mean, even friendship. I can't trust anyone. There's no one I can trust now. I feel like everyone has a different purpose behind what they are doing, and I never know what their intentions are.

During their ordeal, Zarine also felt her family was under surveillance. She could not trust anyone or rely on anyone to help her. To this day Zarine is unable to trust anyone:

I can't trust anyone now. I can't trust anyone with my grandchildren. After my children got arrested, I always feel someone is watching us. I saw it with my own eyes. I have a feeling that they [the government] are going to do something to my family. I have a feeling they are going to kidnap my grandchildren. I still have this feeling. I am scared that they are going to do something to my family. . . . They don't want us to talk.

Rania was living in Qatar with her family, while her father was working in a good company. Rania and her four siblings were all born in the U.S., where her two brothers were residing in Michigan at the time of her father's arrest when he was traveling to the U.S. She is the oldest amongst her five siblings and had just graduated middle school when her father was

arrested, after which, the family relocated to the U.S. to attend his trial. Her father was targeted and imprisoned for operating a Muslim charity. Rania shares her experiences of being under surveillance:

I think [at home] it's more like paranoia after 9/11, like am I being watched. Is this a person or an FBI agent? Is this person who they say they are? After 9/11, I think it struck me with paranoia with everything. I have this thing like this house is like infra-red so it shows you people inside what they are doing is weird like paranoia that you have within yourself. I can't even stand being watched when I'm visiting [my father]. I don't even know how he feels he is in an isolation unit. They keep neon light on all the time [in his cell]. I think I have like paranoia of people leaving or taken away from me. I think it's because of my father and how it's like eight years and he is still not here. I think the main paranoia is the trust, it affected a lot too. This paranoia has cost me from having close friends. You are trying to fill the void of your father not being there with other individuals, friends and stuff. It's really hard to do that when you can't trust the person, you are in constant fear of them leaving or taken away from you.

Surveillance is an important mechanism of the securitized apparatus and disciplinary power of the liberal state. It allows the state to structure the actions and behaviors of its subjects and regulate their life by penetrating and controlling the soul, body, and mind—that is, people's way of being in the world (Foucault 1979; 1982). It prompts individuals to self-police and self-manage their thought, behavior, and actions, and to internalize the perspectives of the observer. The way that my interlocutors felt and continues to feel about being watched and not being able to trust others is a direct result of being under surveillance, or even thinking that one might be under surveillance. It is the feeling that something external and profane has entered one's internal, private, and sacred space. As demonstrated in the stories related here, this experience can agonize the mind, muddling and dislocating one's inner being. Surveillance usually creates an intractable state of hypervigilance, and it affects the ability to trust, a usually taken-for-granted necessity in establishing normal human relationships. The subjective experience of

surveillance described by these women suggests that they have been subjected to a type of mental torture.

The normal, ordinary lives of these women are directly affected by the exercise of state power. They, too, are existing in a state of exception where their normal life is disrupted and ordinary norms of human relationship and society seem to no longer apply. While Muslim men are whisked away to serve real time for unreal crime, their women relatives and families are often used and exhibited as examples to show that “terrorists” exist. The experiences of these women are very similar to the experiences of families of the “disappeared” in Latin America who were traumatized and dehumanized by state repression and militarized violence.

Anthropologist Antonius Robben analyzed state violence in Argentina and indicated that it’s goal was, “traumatizing people and dismantling their self and sociality by destroying their social trust. This attack on social trust was also suffered by the relatives” (Robben 2005, 270). Muslim American women whose loved ones have been pulled away to prisons across the country have to live between the truth of their own experiences and the prominent illusion that is promulgated about them by the state and the media. The anthropologist Michael Taussig described such existence as a culture of terror and also compared it to situations such as that in Latin America, where state terror was used as a preemptive attack against citizens (Taussig 2004; Robben 2005).

The conducts of the modern liberal state in predatory prosecutions of Muslims appears to be paradoxical, if one takes seriously its declared principles of humane treatment and rational justice. One of the main principles in liberal modern state is that secular law is based on norms and rules that have supposedly replaced the coercion and violence that existed under ancient religious law and during the Middle Ages in Europe (Asad 2003; Lokaneeta 2011). Those who celebrate this paradigm argue that they stand against violence and create free institutions where

the public can engage openly rather than living in fear and coercion (Lokaneeta 2011). The experiences of my interlocutors reveal a different story about modern liberal laws and state practices. Their experiences illuminate how the modern state actually operates and justifies its power to use repressive measures to exert control over excluded, marginalized populations. In this way, the securitized state assaults both specific families and the larger Muslim community as a whole, condemning them to fear and silence. It appears that, as Foucault has argued, disciplinary and surveillance mechanisms have replaced sovereign torture in the modern state, where it appears that the existence of violence and resulting pain is central in maintaining the power of the modern liberal state in policing and upholding security-obsessed secular policies and practices (Asad 2003; Lokaneeta 2011; Foucault 1979).

The Torture of Indeterminacy

Families of arrested Muslims are subjected to experiences of the legal system—courtrooms and prisons—that can be quite traumatic. As immigrant Muslims, many of the women and families in my study had not had any encounters with law enforcement, and most of them have never seen the inside of courthouses or prisons. U.S. courts and prisons are an unknown foreign land with exotic and mythical languages and rituals that were often described as incomprehensible by my interlocutors. When the legal practices of the state are mired with uncertainty and operate in secrecy due to “national security” concerns, navigating the judicial and legal landscape can be even more confusing and mystifying. Families often feel lost, frightened, and overwhelmed by their experiences with terrorism courtroom procedures and trial processes. Going to the court the first time, many families were in disbelief. Irene, for example, though born and raised in the U.S., had never been to a courtroom:

I mean just being there, I was in this disbelief. I never thought that I would be sitting in a federal court or sitting in front of a judge or seeing my brother handcuff or shackled. Or just seeing my brother a couple of feet away from me and not being able to speak to him or touch him or not have any contact. . . . It's just that I can't explain. It was just a very, very awkward and weird feeling. I'd be so sad and mad that I know I can't speak or touch my brother. The first time when I went to the court, I was intimidated. I was very scared just because I didn't know that if what I heard on TV was a reality. Maybe the media is making it up, maybe it's not what they are saying so that's what made me feel very scared and anxious. I wasn't sure what was going on. But then, during the trial, that's when I was like, very, very, very intimidated.

Serpa also shared how she felt about the trial and being present in the terrorism courtroom:

I didn't know what to think when I went home I saw in the news the governor on TV. I can't forget his face. He kept saying that we caught a terrorist right before they were attacking the Army base, so he said it already. He punished them already so there is no need for any courts or trials. They were terrorists. . . . So what's point of court anymore? It's already a punishment. Then I was thinking, maybe they caught him right there when he was doing something to the Army base. That's how they were [portraying it] on TV. But, it was unbelievable to me. Someone you know and they are calling him a terrorist. . . . The times in court were a different story, it's like watching a TV and you're on TV, because we've seen those movies about courts and everything. I never even had a driving ticket or parking ticket. I never had a face- to-face with a police officer, nor my father, or my mother. It was like a movie theater. You're sitting and watching it, and you are seeing things happening there, but it feels like it's not you. That's not real and it's going to end when the court ends, and the movie will end. Then you will go out you are in a different world, back to your regular life. This is just a movie you are going in and out. It was like that.

Suhana, who moved to the U.S. as political refugees, also elaborated her encounter with the judiciary:

The courtroom was empty during pre-trial. My family would go, or when father was here he would go, or some days my daughter would go, but no one else. The first day, I remember when I went to the court was with my father who was visiting me from Pakistan and went to the court with us in 2006. My father is a lawyer in Pakistan. This was the first time I went inside a court in my life. . . . I couldn't even understand where things were, what floor, and what's going on. Thank God my father was with me or I'd be totally lost. I wasn't allowed to attend the trial because I was a defense witness, but I went every day and sat outside of the court during my son's trial. People would stare at me wondering who I was or what I was doing there since I would sit there from beginning to end of trial each day.

When family members travel to visit their loved ones in prisons, they often experience a similar kind of disconnection or unreality. Maria lived with her six children after her husband, who was a founder of a Muslim charity organization in the U.S., was taken away. She shared in detail how she prepared to visit her husband in the Communications Management Unit in Marion, IL, and her response to the standard ritual of being stamped with invisible ink and taken into the glass-walled visitation room:

I know they say its security. I don't know if its intimidation. This is just humiliation. It's an abuse of power—"we're gonna do whatever we want to do," that's how I feel about it. We visit behind glass. We can't touch. We can't hug. Lack of privacy. Sometimes I want to discuss about my daughter or son, and I don't want the rest of the family to be there and we're trying to find a solution to the problem, but I can't do that. I want to discuss intimate things with my husband. I can't do that; it has to be open to the whole world. No privacy in our lives whatsoever. And then, it's just humiliation. I have knee problems. I'm crunched in a small space. I want to release some tension but sitting in certain way would be inappropriate. I put up my leg up but then the one in Washington, DC is watching me, so, to me [this is] dehumanizing. I'm like an object at that point. They don't care about me as a person. But I am a person and I have needs.

Rania likewise talks about her experiences of visiting her father, who was arrested on the accusation of operating a charity organization:

Marion is about 10 to 12 hour drive. . . . It's a long thing. We stay at a hotel over there. At the prison, you have to fill out paperwork and sign in which takes about 20 minutes. You give them your IDs, they check you in. You have to take off your shoes, everything metal for the metal detector, you walk through, if you beep, they have to do the metal detector thing with a machine. You have to stamp your hand and after the metal detector you have to wait for them to clear for you to walk inside. The cage door opens and then it's like a hallway then you wait for another door to open. Then you're inside another cage and then you have to go through another door to open a very heavy steel door. You are then directed in this big room with bunch of plastic chairs. . . . It's a different room where he is sitting, on the other side of a wall.

Another woman, Sana, explained about visiting her husband at the Communications Management Unit in Terre Haute, IN. Her description was interspersed with profuse moments of crying and discomfort:

It's so horrible. When we first went to the prison, we had to go through 2 or 3 security checks. When we get there, you give them your name, you go through a security check and then you walk through this open space, because you are going through to the main building. You just take your ID with you and may be your keys for the car. And, I remember seeing a huge big sign that says what you [can't] have, this you don't wear, no low necks, no tight clothes. . . . Then you look up at this tall building and you see narrow window. Then you know these are the cells, and we're going, showing your ID, and then they put you in the system, and then an elevator comes. You can't call the elevator, they call it for you. The elevator comes and you go in, and it takes you up to whichever floor you need to go and the door opens then you go out. . . . all we could do in the beginning is just cry. When they started speaking to him, attorneys started speaking to him about time that he would be facing. I can't imagine what went through his mind. We were not even married three years. This is our life that they took away—my son's life, my life, his life. He wasn't going to do any *jihad*. He wasn't going to kill anyone. He didn't want to do any of that. He just wanted to live his life with his wife and son.

For these family members, the violence inflicted by the state does not end at the perimeters of their loved ones' captive bodies. It extends beyond the doors of the prison and into their private lives as well. They feel they are humiliated and dehumanized and made into an object. Just like the imprisoned men, these families are also victim of secular state's disciplinary technology. This form of state-inflicted pain and suffering is, however, rendered invisible from the broader society since the political nature of the targeting and imprisonment is not publicly recognized. The prison system that is constructed as a supposed alternative to sovereign torture and violence has in fact only changed personalized torture into an institutional form of torture. Moreover, when the existence of these women is noted by the dominant society, they are often portrayed as living, breathing examples of the supposed harms caused by "unacceptable" Islam. In this way, the securitized state uses their existence to terrorize the rest of the society and solidify its own domination. This form of treatment and existence assists the state in reducing Muslims to "expendable nonpersons," and intimidating the community into silence (Bourgois and Scheper-Hughes 2004,19).

Secular Terror and the Appropriation of Suffering

The families of imprisoned people are often referred to as the “invisible” victims of punishment or crime, since the hardships they experience are not obvious to most people (Comfort 2008).

The effects of prison on families can be considered a collateral or ripple effect of imprisonment.

The families of the captive Muslims experience a growing level of isolation, and in many cases they become marginalized in their own respective communities. To have a loved one accused, arrested, and taken away on accusations of “terrorism” and held in special prisons like CMUs adds a terrible stigma to their pain and suffering.

Linda’s experiences are a good example of the impact of securitized secular state violence on personal and community life. I first met Linda at a conference in 2009, and since then we’ve remained friends and supported each other through our ordeals. Linda was born in the U.S. to a Palestinian father and an American mother. She was raised in Jordan but later returned to the U.S. to live with her husband. According to Linda, her American-born teenage son was targeted when he went to Jordan to get married. He was charged for a scant association with his co-defendants, and convicted for conspiring to provide material support to an unspecified “terrorist” group. A single, working-class mother, Linda was overwhelmed with depression when her son received an unusually lengthy sentence. She expresses her silent suffering in poetry and prose:

My tears flow inwardly so no one can see
And seep through my veins then mix with my blood
I wait patiently for the night to come
Then hide between my blankets and pray through the night
I doze for a moment and dream of my son
Then reality kicks in and the nightmares begin.

When asked how she felt about her son being convicted on charges of “terrorism” and violence, she stated in an agonized voice:

I felt so betrayed. I felt so humiliated. I felt like my rights were violated. I felt how could something like this happen to us who did not do anything wrong. It didn't make sense to me at all. I was hurt, beyond hurt. There's no word actually to describe it. I cannot describe. It was too crazy. The feeling that I felt. I felt so violated. I felt raped. I felt that my life was ripped apart. How can you be part of a society for so long and how could you do good all your life help people out, pay your taxes, work hard and do nothing wrong, and something like this happen to you? I felt so betrayed, back stabbed, violated; I felt so separated. It just all of a sudden it became them against us. It was just so wrong. I was so hurt. I cried so hard. I was so alone and I had nobody at all.

Everybody in the Muslim community got scared they just stayed away. They were confused too, probably. Some of them told me if something like this happen to my son this could happen to them, and that's why they were scared and stayed away. I became very depressed. I became very unhealthy. I would sit down instead of moving. I wouldn't take care of my apartment. I used clean it all the time. I just became sedentary, sitting down in one spot in the couch and staring into space. I have problems sleeping and I have nightmares all the time. . . . Just my whole life is ruined, and my body too, and I realized that there is somebody doing this, mentally. . . . It takes every part of you and every minute of the day, every second of the day it's on my mind. It consumes you mentally and physically. It ruins you; it cripples you. You are no longer the human being you used to be. You are no longer an intelligent human being, the one with goals, bettering society, volunteering. I wanted to do so much more, but you're like a breathing machine, and living one minute at a time, just waiting. And hoping some president or some law is going to change all of this.

Linda has been enduring this pain from the loss of her son alone by herself for so long that it immobilizes her and makes her feel non-human. The arrest of her son was incomprehensibly unjust to her. There was no one else she knew in the beginning stages of her ordeal who was going through the same with whom she could relate or share her experiences. According to Mamphela Ramphele, "Personal pain is a degrading and dehumanizing experience unless meaning is vested in it. The investment of personal pain transforms it into suffering, which then becomes a social process. The individual derives dignity out of the acknowledgment of her pain and is thus in a better position to feel worthy of the suffering, and available to the possibilities for healing" (Ramphele 1997, 114). Linda, however, did not have anyone else to turn to for comfort or healing. No one acknowledged her pain or her loss. The unjustness of the situation and disconnection added to her dehumanized feelings.

The designation of “terrorism” itself can be very upsetting for bereaved families. The label identifies someone as a violent murderer, and can be seen as a sign of weakness in which conscientious, good people do not engage. The families of prisoners have to tackle this dishonor and simultaneously confront hardship and tribulations, which they sometimes manage to do with astonishing dignity and courage. Nonetheless, they continue to feel helpless in confronting this externally imposed identity marker of “terrorist.” The experience disrupts their subjective understanding of their loved ones and their subjective perceptions of themselves. The experiences these women undergo are created by militarized secular laws that designate Muslims as “monsters.” It is a myth created by the secular state about them and their loved ones through preemptive prosecutions (Taussig 2004). This feeling of being used as scapegoats also makes some of the women feel deeply betrayed by their own government. Linda and Zarine both broke down in tears when reminiscing about being assaulted by counter-terrorism agents.

Despite their psychological devastation, the family members have to figure out a way to function as “normal” and to conduct daily household activities. In some families, the women face financial hardships and are also trying to fulfill the role of the father for their children. Maria described the experience of trying to raise six children without her husband:

Nisa became her father’s advocate. Hunan, my second daughter, became an introvert, didn’t want to share any feelings, and didn’t want to talk to anybody. She just closed on herself. To this day, I think she is suffering. It took a big toll on Nisa when she was 16 and spoke about her father. She gave support to her father and moral support to her mom. Mahmud and Omar were young. They didn’t know what was going on. The boys suffered the most—a boy needs a father at this age. They really needed care. They have big conflicts between them and tear each other apart. For a long time, they stopped talking to each other. Just recently they started talking with each other. If their father was here, this wouldn’t have been the case. Their father would have found ways to get them to reconcile. I feel like the turmoil inside them made them very uneasy. They have so much stress and anger inside. . . . The moment the FBI attacked us and until now, there are scars on the boys in particular. Anger, anger, anger. Fights. Lack of direction sometimes. I do my best, and I’ve cried so many times in my closet so they can’t see me, thinking how I can make them friends, how can I remove their stress and make them happier. My

daughters are scarred too. A lady once said, “oh your daughters won’t get married now since their father is in prison.”

Maria, like a lot of the other married women in my study whose husbands are in prison, aspired to have an ideal family in the traditional Muslim style and perform her gendered roles as prescribed (in her viewpoint) by her culture and Islam. However, she is unable to accomplish this as a result of the destruction the secular state has brought on her family. The effects of such assault against these families has been to disrupt the bond between parents and children and between wives and husbands. This circumstance places immense stress on children who lack a conventional mentor while growing up. Like Maria’s children, other parents talked about how their children have been tasked with negotiating the absence and separation from their fathers in their lives. This type of painful experience in the family unit expands and deepens due to encounters with anti-Muslim public discourse and the growing intolerance toward Islam. Facing the combination of personal tragedy and public disdain, it can be hard to stave off despair. Often during my interviews with the women, personal narratives were followed by tears or silence.

According to some Islamic traditions, the family is a divinely inspired institution and forms the foundation of one’s life and community. Having their families torn apart can feel worse than death. One of the ways these participants expressed the pain of forced separation from their loved ones was by using the metaphors of “harm to the soul.” Maria says, for example, about her husband’s imprisonment: “It’s like breaking our soul. Breaking their [prisoners’] souls and damaging us all. It’s like sometimes you blame yourself and the community thinks you must have done something bad and deserve it. You become very depressed thinking like that.” When asked to explain what she meant by damaging the soul, Maria continued:

My sons, one is very introverted and the other one is thinking if [his father] didn't do anything wrong why is he in prison? I brought my son to the conference. Very kind, very sweet, but he doesn't want to learn about [his father's] case. Mahmud for a longtime thought may be his dad did something wrong. He started reading more and he finally had sense of relief. Then he started opening up for his dad and communicating with his dad more about the case. At the last two visits at the prison, at first, he used to go very sad, he would make trouble on the way with a lot of anger. I felt his soul was damaged, his heart was damaged. As he grew older and reads more, he is becoming more of a believer that dad is a great man, and it was an injustice to him. He was talking on the phone and saying, "Am I going to graduate college and you're not going to be there?" After the call, he said it looks like he's never coming out. He is getting old, when is he going to be out? Now with this amount of emotion, I feel it's killing him. Its killing his brain.

The feeling of "breaking the soul" and "damaging the soul" are not only a result of disdain from secular society, but also emerge from these family members' experiences when interacting with their own Muslim community. For example, Suhana stated she is hurt by the attitude of community members who tend to blame and "otherize" her:

Sometimes I feel people look at me differently, like they blame me . . . My son was everything to us. He is my best friend, my son, and now I'm living like a dead person. They [the government] snatched my son away from me. I breathe, eat, and sleep but my life feels empty. Dead. We don't have any friends anymore. No one visits or calls us. My relatives are all scared of us. This is how we live now. It's very unfair!

"Living like a dead person" is another metaphor some women use in their narration of the sudden targeting and loss of their loved ones to distant prisons. They are alive, but time has stopped. They are unable to function in their day-to-day lives because those lives are preoccupied with the thought of their imprisoned loved ones. The women feel the pain of forced separation from loved ones in the core of their very being. They are, however, not just speaking about their own embodied, individual pain. In Islamic philosophy, the human soul is central to the personhood of a human being. The soul is considered the site of emotions, spirituality, and life, connecting the body to family members and to the community at large (Shahzad 2007). In this context, the repression from the securitized state is perceived internally and subjectively as a form of personal annihilation in which the soul is cut off from family and community and

thereby destroyed. Separated by prison walls, family members are unable to truly support each other and perform their personal duties to one another, which in Muslim outlooks are obligations enshrined by God. Thus, coercive imprisonment erodes the ability of Muslims to feel that they can properly live out their faith and be a part of the community in the way God intended.

The experiences and stories of these family members demonstrate how they have been cast into a “state of exception” by predatory “terrorism” prosecutions, reduced to a form of life in which the norms and bonds of society cease to function. Living in terror and suffering from such force or violence is destructive at both the subjective and the collective levels (Kleinman, Das and Lock 1997; Bourgois and Scheper Hughes 2004; Das 2000). This experience is a paradigmatic example of political traumatization, and it results in severe psychological distress (Herman 1992). Such experiences dissociate people from their own sense of self that usually allows people to create and feel a sense of control, connection, and meaning in their life (Herman 1992; Rosemary 2009). The harmful effects of manufactured “terrorism” cases are experienced by these women and families as violence—the law has disrupted and fractured their family, kinship ties, mental stability, and relationships.

Some of the women also speak in the collective “we” when talking about their suffering—“we are suffering.” Their speaking in a collective voice can be interpreted to mean that they are speaking for all of the affected families, and perhaps also for the Muslim community as a whole. The stories of people and communities who have endured violence are a vital indication of where pain and suffering is located in the collective social body (Kleinman, Das and Lock 1997; Das 1997; 2000). When these women speaking in the collective “we,” perhaps their voice is communicating something about the collective experience of the larger Muslim American society, and perhaps even the global Muslim community. Perhaps they speak

for others who are unable or afraid to communicate what they are feeling and experiencing when Muslims are viewed as “dangerous” and targeted for secular surveillance and imprisonment.

Political Violence on the Muslim American Community

The stories of women about their ordeals are also an example of the erased voices of Muslim women and families who have directly experienced the terror of securitized state practices. These families, and specifically women relatives, have to navigate several trajectories constructed about Muslim women in the “War on Terror,” in addition to their own life’s journey as relatives of those convicted of “terrorism.” There seems to be no unified outlook on “Muslim women”; instead they must contend with a whole spectrum of stereotypes. At one end of the spectrum, they are understood through an Orientalist lens as “backward,” “oppressed,” and “in need of liberation,” passive victims of Islam and of “barbaric” Muslim men (Zine 2006; Aziz 2012; Abu Lughod 2002; 2013; Jiwai 2011; Maira 2009). On the other end of the spectrum they may be viewed as victimizers and dangers to society just like their male counterparts.

The stigma of guilt-by-association for families who are related to prisoners is magnified when their loved ones are convicted on “terrorism” charges. This stigmatized identity first becomes solidified through experiences with secular courts, and it is then further manifested when women, families, and communities encounter each other in day-to-day interactions at the micro-level (Goffman 1986; 1961; Comfort 2008; Das 2001). In other words, the stigmatized identity or understanding of oneself as a stigmatized person is first inflicted by the state, but is then reinforced by the way in which the broader community treats the one afflicted. For a personal account of such situations, I turn to Irene, who described interactions with her extended family and community after her brother was arrested:

They were scared to call us. They were scared to come over. They were scared you know, they never asked us if we needed anything. They used to come over. And then they would not contact us, and I remember my sister contacted my cousins, and my father's uncle actually got on the line and he said, "hang up the phone." So, yeah, it made us feel like the government got into them and made them be afraid of us, you know, so they were mainly afraid, and it really hurt, because these are the people that you have been associating with all your life. You'd definitely think that they would be there for me and when they were not there that definitely hurts. We definitely felt isolated and lonely. We felt like we really didn't have a back. They [the government] basically broke all of our ties with my father's family. . . .

[The Muslim community as a whole] were very scared to help us in any way, even to just make prayers out loud on the speakers to pray for my brother. We asked them to pray but they wouldn't, they were even scared to do that. They would tell my dad and they would say it was for the security of the masjid. Muslims aren't even doing the smallest. One of the small thing they can do is pray, that's the least that they can do, and they are not doing this for us. I mean the FBI scared them from supporting us in any way.

In a similar fashion, Linda explained what happened when she approached the community for support:

When I first went to my community for support, they told me that there's nothing they could do that this was the government and they didn't want media attention. I felt that everybody was so worried about themselves personally. I heard [a community leader] in the news saying, "oh how now the people are going to look at us because we are Muslims." Instead of saying that she could've said, "I know these kids; I know they did nothing wrong," and stand by us. People were just quiet and scared. Everyone worried that it was going to happen to them.

The existence of these women and the interactions they have with their communities is a way the secular state uses to discipline Muslims around their religious practices. Studies and reports have demonstrated how surveillance and guilt-by-association operate to chill or silence Muslim religious and political speech and expression (Shamas and Arastu 2012; Human Rights Watch 2014). These stories and experiences of families of the convicted show how their suffering is attached to the larger project of marginalizing Islam and maintaining the domination of the secular state. These women and their experiences are in a sense "produced" by the state; that is, their identities are stigmatized and their corporeal presence are created as a source of terror for their own communities. People distance themselves from these women and their families for

fear of coming under surveillance or being targeted. Another way of looking at this is that the securitized secular law attempts to separate these women and families from their faith community, which in the Muslim worldview is something that has spiritual consequences. Their suffering terrorizes the community members, because it reminds others about what could happen to them, situations or experiences that they want to avoid by any means necessary. The community is afraid of being targeted due to guilt by association.

Modern liberal state practices have the power to terrorize people's everyday experiences and infuse them with fear, mistrust, and anxiety, impacting personal, familial, and social life-worlds. When people are engaged in these social behaviors of otherization and internal exclusion within the community, as well as social and political exclusion from the state, it demonstrates how vulnerable members of society are to secular state power and violence. The security state does not have to directly assault everyone; it instead uses selected individuals to demonstrate its power to decide who lives or dies, who can or cannot have rights, who is acceptable and not acceptable, and what religious practices are "toxic" or "sanitized." Those selected individuals are used as scapegoats to expand state control and violence to govern not only excluded groups but the larger dominant society as well. The existence of the families of captives and their suffering becomes a symbol of the state's absolute power.

In this way, state violence further perpetuates the marginalization of the Muslim community from the broader society as well. It reproduces Orientalist representations of Muslims through the figure of the "violent terrorist" as a way to cut Muslims off from the larger society and maintain them as an enemy "other." This form of targeting by secular law through legal-penal disciplinary institutions continues to draw upon logic derived from colonial discourse and practices. It perpetuates the secular project of generating change in people's way of being

and life-worlds by applying experiences of suffering and pain to selected examples of non-conformism. The way in which the presence of these families affects community members by pushing them away from collective religious duties could also be said to function as a secularization process.

Irene indicated that while her brother was specifically targeted for his practice of religion, she viewed his prosecution as an attempt to scare Muslims in general away from practicing Islam:

We can compare [this historical moment] to many times and to the Prophet Muhammad when he came with the truth to Quraish. His people, they were all against him. And they accused him of separating their gatherings because he brought the truth. It was a different way of life that they didn't want to accept. Because it changed the way they would have to live. They tried to torture him physically and psychologically. Then they accused of him being crazy and accused him of being a magician and tried to move people away from him. They labeled him as being magician and crazy, the same way Muslims are labeled today. We are being labeled as "terrorists" and blamed that we're the ones that are basically destroying this country. . . . They call us "terrorist radical Muslims" and extremist, so they can tell rest of the Muslim, "hey look if you are going to do this, if you are going to pray in the masjid, if you're going to give this donation, if you're going to do like these other Muslims, we are going to target you as well. We are going to label you with same label." They are definitely doing that to move people away from Islam.

Irene drew parallel between the situation of Muslims in America with experiences of the Prophet Muhammad to rationalize what is happening today. Islam was at first considered a false religion invented by a man named Muhammad. Like Irene, many other family members also believed their loved ones were targeted for their expressions of religious piety, and compared this to the prosecution of important figures in Islamic history.

In sum, through the use of ambiguously defined "material support" statutes, manufactured "terrorism" cases are targeting broad external religious expressions, Islamic concepts and worldviews, and the cohesiveness of the Muslim community. External Islamic expressions have been the target of state's anti-radicalization programs, while pervasive

surveillance influences Muslims to withdraw or distance themselves from communal religious activities. Although secularism claims to value and respect all religions equally, the history of American secularism seems to have consistently prosecuted non-Protestant religions, from Catholics to Muslims to Native Americans (Howe 2016). The impact of such exclusionary violence is prominently available in historical records and shows how ritual practices were targeted, eradicated, or changed in an effort to inculcate a secular/Protestant worldview (Sullivan et al 2011; Howe 2016).

Through predatory prosecutions and other securitized government programs that target Islamic religious expressions, secular law has attempted to influence which Islamic practices will be allowed to survive. The state declares its right to decide whether Islam is or is not an acceptable religion to thrive in public space. While punishing Muslims who are seen as practicing a toxic/unacceptable version of religion, the secular state holds out the promise that it will include a sanitized/acceptable version of Islam if Muslims privatize and alter their religion. However, one wonders if even a modified and assimilated version of Islam will ever really be acceptable in the U.S., or if the goal is to continue reducing Islam to the point of extinction. It is important to note that this secular state violence that attempts to modify religion is targeted at Islam as a whole, not just at individual scapegoated Muslim victims. The imprisoned Muslims and their families are instruments that secular law uses to oblige people to privatize religious practices that are deemed unwelcome in public space. Some of the women and families of prisoners in my study have recognized these injustices. They have started to work toward humanizing their loved ones, and by extension their own selves, as a way to expose this reproduction of colonial worldviews and resist the state mechanisms of secular repression. This resistance is the topic of the following chapter.

CHAPTER SIX: SECULARISM, HUMAN RIGHTS AND JUSTICE

Suhana showed me her hand-made paper necklace with a photo of her son and a written summary of his case. She was excited about preparing to attend the 11th anniversary demonstration against the ongoing existence of the Guantanamo Bay camps. This demonstration was taking place in January 2013, in Washington, D.C. Protestors wearing iconic orange detainee jumpsuits stood in a row with their hands tied behind their backs during the rally at the United States Supreme Court, while hundreds more gathered in the cold winter weather demanding the closure of the U.S. camps in Cuba. Following the rally, Suhana, her daughter, and I marched to the White House with the activists holding signs of “Close Guantanamo Bay.” Some of the advocates from New York City recognized Suhana and stopped to greet and chat with her for a few minutes before walking on. A second rally followed in front of the White House where everyone gathered to hear human rights lawyers and activists speak. Suhana was not a speaker at the demonstration, but she felt it was an important duty for her and other Muslims to support the members of the community who are imprisoned and suffering just like her son. As she stood there watching and listening to speakers, people around her stopped to ask about the string of paper she was wearing around her neck, which gave her a chance to share with them about her son and what happened to the family.

During our four-hour drive to the demonstration, Suhana told me about her ongoing advocacy work for her son, and what she had done more recently for other marginalized people whom she had gotten to know during her family’s ordeal with the law. She described how difficult it was for them to get assistance. When she did not find support from her community, Suhana tried to connect with major social justice and civil rights organizations for help, but these organizations seemed to her to be ineffective. It was her experience at the detention center that

she said finally opened her eyes and drove her to become committed in advocating for her son and working for justice:

At the detention center, I saw so many things that helped opened my eyes and my awareness. They [the government] commit injustice on us when we're silent. We did nothing, but they still framed my son. I thought about this a lot in those eleven days [in the detention center]. I saw so much injustice, so I thought just sitting in silence isn't working. It won't change anything. Slowly, slowly, I started thinking and doing something about it.

Since then, Suhana has become part of a local South Asian organization and has participated in numerous meetings, demonstrations, and panels to talk about her son and other families who have endured similar experiences. She started speaking in public about the injustice meted out to her family saying, "If they [the government] are going to do wrong, and we have to endure it, then why endure it in silence, why don't we speak about it? Because either way, we are the victims of this injustice. I do what I have to do for truth and justice."

In this chapter, I describe the advocacy work that families, social justice organizations, and activists have engaged in to "humanize" imprisoned Muslims accused of terrorism and to challenging the state's predatory legal practices. The result of the violence inflicted on these families, as I indicated in the previous chapter, is that they live in the absolute margins of U.S. society, as a form of "living dead," often excluded within their own Muslim community. Yet they are also involved in social justice activism and resistance against their situations. This is an aspect of power that Agamben's (2005; 1998) and Foucault's (1979) theories do not quite address—that is, whether or not resistance is possible by those who exist in a state of exception and who the authorities have attempted to reduce to a state of dehumanization. As I will discuss in this chapter, there is evidence that such people, despite living in a state of "bare life," can in fact resist their excluded status, rise up for redemption, and provide counter-narratives about the realities of their lives and their treatment at the hands of the authorities.

While the relatives and families of imprisoned Muslims show resiliency, often extending into resistance against their circumstances, they can experience great difficulties in connecting with those who wish to help them. The main focus of broader public campaigns against the treatment of Muslims in the U.S. is generally the equality of formal legal rights and human rights. These rights claims are themselves based on the paradigm of secular law, which raises the question of whether such advocacy is truly a form of resistance against the state or whether it just further entrenches and legitimizes the power, domination, and violence that is committed in the name of the secular system. In the following discussion, I address the issues of rights, justice, and humanity from the perspectives of Muslim families as well as from the perspective of non-governmental organizations (the National Rights Coalition) and public advocacy groups (the National Justice Campaign). I show that, unfortunately, the perspective of these different groups are often incommensurable in regard to their views on rights, justice, and humanity.

Humanizing the “Human”: Muslim Families’ Advocacy for Justice

Finding limited or no support from their immediate community members and leaders, some families of captive Muslims try to reach out and connect with organizations and activist communities for support, guidance, and representation. Thus, they begin their journey into social movement spaces, social justice activism, and the advocacy world in general. The primary concern for many families in the beginning stages of their ordeal is finding an affordable lawyer for their imprisoned loved ones. A majority of the families of imprisoned Muslims in this study shared their disappointment with Muslim and civil rights organizations’ inability to assist them. As a result, some families started their own campaigns and public advocacy work, including their own nonprofit organizations to address the specific issues of their cases and circumstances. Some

families indicated that they received almost no help throughout their entire ordeal while others have been able to obtain some public assistance. Some of the families worked individually on their own by going to mosques, talking with community members, and attempting to raise funds for legal representation. Some of the women and families felt dehumanized when trying to raise funds for legal defense because people ignored them out of fear of government surveillance or treated them badly.

Suhana shared some of her experiences in trying to acquire assistance from advocacy organizations and her local community for her son's defense fund:

I was in a lot of trouble and I went to several places for help because I needed money for a lawyer. It was like we've become beggars. They [the government] made us beggars. It was very difficult to find a lawyer as they ask for millions of dollars. It was like we became beggars so we put out an advertisement in the newspaper for help. I went to several organizations but they were not able to assist. I went to CAIR [Council on American Islamic Relations] but I didn't get any help or support from them or from anywhere, but I still went. I went to mosques for help but no help from anywhere. They didn't help because they didn't want the same thing happening to them. They probably thought if they help us they will be targeted too as terrorists. They targeted charity organizations before, so people are afraid to help us or give us money for the lawyer.

Linda, who's story I introduced in chapter 5, said that after her son was arrested she was like a "mad woman" trying to find assistance. Soon she began to delve into the world of advocacy for her son:

I started going to places and speaking. I went to organizations like Stop Torture Now. I went to speak with them. They just looked at me, and I was shocked they didn't help me. I went to the ACLU and spoke many times. I went to Amnesty International and spoke to them. There was no support. It was just like people would listen and basically do nothing. ACLU told me that they don't help with these cases. I couldn't understand what cases do they help? They just choose and pick what they want. Amnesty International, I wrote to them, I never got a response. They never responded to me. I went to them personally. I needed help with something to do with the law. . . . I didn't even know what kind of help I needed. I was confused what kind of help can you get for somebody who did nothing wrong. You can't get any help. It makes me feel, you know, if your son is thrown into the fire, or you see somebody come and try to hit your son. I wanted to help my son but my hands were so tied. I was a chicken with her head cut off and kept going in circles. It made me very frustrated, very depressed, very angry.

A member of another family, Samir, was frantically searching for a defense lawyer after federal agents visited his home asking questions about his younger brother. His family later started a Muslim nonprofit organization after finding no support for his brother, who was accused of providing “material support” to terrorism. Samir shared his experiences about this:

All the Muslim organizations we reached out to were a big failure in this regard. MLFA [Muslim Legal Fund of America] didn’t get back to us. CAIR [Council on American-Islamic Relations] said they would do a report but never did. It made me really think of them how they say this and that, but they do not really do what they say or what they say they stand for. Outside of Muslim organizations, civil rights and legal organizations were also incapable of helping us with my brother’s case. ACLU [American Civil Liberties Union], CCR [Center for Constitutional Rights], Human Rights Watch, and other groups were not able to do anything. They did not know what to do because they were not criminal defense lawyers or organizations. No one was able to help us or address the issues in my brother’s case. That’s why we started our own campaign to address those issues.

Trying to seek support for legal defense has been a difficult process for many families. Major nongovernmental organizations, and national civil rights / human rights organizations, have been unable to assist families of the accused or represent the accused in the federal court system because their cases are designated as “criminal.” Many families felt that some of the reputable human rights organizations preferred not to closely examine the nature of these cases when families approached them, a phenomenon that raises questions about the organizations’ understanding of the “War on Terror” and their human rights work in relation to the secular modern state and Islam. (I discuss this topic in more detail later in the chapter.) As a result, a few family members, like Samir, took the initiative to establish their own organization. Samir shared how he was able to garner public support for his family’s situation:

My brother’s friend and I got together and started a campaign. We got some local imams who started talking in local mosques about his case. One of his professors joined and started writing about his case. Then other people started to become part of the campaign and help out to raise awareness. Theatre Against the War is a group that joined once they read an article his professor wrote. They started holding vigils in front of [a federal

prison]. People just organically started to join the campaign and do whatever they could to help. We didn't reach out to [major human rights groups] for the campaign after all those organizations failed us.

When families are targeted and find themselves lost in a whirlwind and reach out for support, local activists and organizations sometimes reach out to them. Often, however, it is in seeking legal representation that families of the accused, usually female relatives, connect with various members of social justice activist and legal communities. When the accused or one of their family member is known in the community, it helps to build a stronger base of support and to not feel so isolated. A few family members such as Samir have successfully mobilized their community around their cause, but they are the minority.

Other family members of prisoners were involved with local mosques, or with other religious and cultural activities. Some publicly advocated for Palestinian rights. However, most of the families in my study have never engaged with social justice activism, social movements, or civil rights groups. Only a handful of families in my study participated in public advocacy for their loved ones. Part of the reason for this is that defense lawyers tend to discourage family members of the accused from speaking to the public or to the media, out of concern that it could impact case proceedings. Moreover, social movements and civil-liberties spaces in the U.S. are also strongly secular spaces, where liberal, leftist, and progressive politics and worldviews predominate. In this context religion is frequently viewed as a superstitious remnant of antiquity. These outlooks are prominent in spaces such as the Left Forum where some families have appeared to speak in panels. The Muslim immigrant families who do participate in advocacy work have to enter yet another unknown space, that of U.S. activism, which can be just as alienating as their encounter with the judicial and legal system. They are generally not familiar with the culture and history of social movements or political activism in the U.S. This can result

in a form of disempowerment where advocates, sometimes in consultation with defense lawyers, decide, design, and dictate what is needed for their campaign. Families' interactions with the social justice and civil liberties communities is mired with complexities at multiple levels. There is an imbalance of knowledge, power, and access to social justice resources and language resources on the part of families. In some cases, the families have been victims of activists or activist-scams as well, when families paying activists for their service but those they pay never return to assist them.

Campaigns that activists design for imprisoned Muslims typically focus on civil rights, human rights, and legal rights advocacy, using a variety of public performances such as panels, vigils, demonstrations, and videos to humanize the accused. It is an uphill battle for families and activists when trying to make an appeal to the anonymous public to garner support and change public perceptions, just as it is difficult for defense lawyers to do the same inside the court. Although they come from different ethnic and political backgrounds, activists of various stripes and civil liberties groups do try to collaborate and work together on strategies to humanize the accused Muslims and their legal cases as a way to educate the larger public about the abrogation of "rights." When families meet these supporting activists, whether Muslims or Euro-Americans, they show tremendous trust in depending on them for guidance to walk them through advocacy work for their loved ones.

Activism of Women Family Members

Women like Suhana and Linda, among others, have become the voice for their loved ones by sharing with the anonymous public about how the government's targeting of their families shattered their lives. As Suhana articulated:

It's important to get support because of the injustice I endured. I want people to know about this and help release my son and others, so I tell people about this and what they can do for me and for people like me, because I want justice. You have to build support; no one gives it to you. It's not [a problem] with you, people get scared just hearing our names or case. We have a scar, terrorism, so people believe we are terrorists; because of this scar, no one helps or supports us.

While advocates working around the predatory “terrorism” cases tend to focus on individual “rights” violations of imprisoned Muslim men, there is a simultaneous direction for affected women in which they are also advocating for the restoration of their private domain, the right to their family life. This component of their appeal is very rarely addressed by the larger civil-rights and human-rights community. Family is one of the foundations of Muslim society and an integral part of Islam, with traditionally assigned duties for each member of family towards the other members. Individuals in this tradition do not exist in isolation but are always situated within a family context. This family life often takes precedence over the individual and serves as a profound supporting network in an individual's everyday life in many Muslim societies. In the familial setting women and men perform their duties to each other, but as well they fulfill their duties to God by supporting the family. As discussed in the last chapter, many of women who shared their stories with me during this project felt that they existed as a form of “living dead” because the state had invaded the very heart of their family by taking away their loved ones. This violence has made it difficult for these women to completely fulfill their understanding of Islamic family duties and responsibilities.

Hoping to free their loved ones so they could resume their accustomed family ties, women are defending the private domain of the family as well as resisting the increasing state repression. When some women rally for the “rights” of their loved ones, they are also voicing the way their own lives have been devastated. In the public venues, they are reaffirming their identity as Muslim women, and particularly as mothers, wives, daughters, and sisters. They are

highlighting what they see as their Islamic domestic gender roles. This form of resistance differs significantly from most other social movement activism in the U.S., wherein women typically seek a gender- and religion-neutral right of participation in the public sphere. For many Islam-based women's rights activists (also known as Islamic feminists), faith-based gender roles are not seen as a hindrance to their social, political, or spiritual progress (Mahmood 2005). The women relatives of imprisoned Muslim men in my study do not generally see themselves as Islamic feminist activists, but in speaking out against the harm to their families they have found themselves moving steadily into a more political role.

This form of activism is also similar to how women, specifically mothers and wives, organized in Latin America when they were searching for their loved ones who were disappeared by the state during the "dirty wars" in Argentina and El Salvador (Stephen 2005; Robben 2005). Such women are not only asking for the individual "rights" of their imprisoned loved ones, but also demanding the "rights" to their domestic life that has been taken away from them. Some feminist scholars might look negatively on this as reinforcing women's subjugation, but it is probably more useful to understand that the social situation of each woman is unique and complex, intersecting with a wide array of different age, ethnic, culture, class, and educational backgrounds. Muslim women's activism is an intermediary space where women are negotiating agency as Muslims as well as their personal experiences as relatives of political prisoners.

Many rights advocates have little patience with what they see as reactionary gender roles, and for this reason they have not paid much attention to the claim these women are making to their domestic life and whether or not this could be considered a violation of religious freedom. The violation of prisoners' legal rights is not the only freedom that has been taken away from this population. Muslim women have endured a variety of negative portrayals by the dominant

Euro-American society, the media, and even some liberal women's groups since the start of the "War on Terror." They have been construed as victims of "terrorists," of unenlightened Islam, and of Muslim patriarchy. They have also been painted as "terrorist" sympathizers and disloyal Americans, particularly if they express religious identity with markers such as the *hijab* (headscarf) (Aziz 2012). As a result, many Muslim women have removed the *hijab* and other religious attires since 2001. Some view this as an assault on their faith and an insult to their loyalty to America. The popular liberal understanding of Muslim women is that they need to be: (a) removed from patriarchal Muslim societies, (b) "saved" from uncivilized terrorist men, and (c) protected from the darkness of Islam and its oppression (Abu Lughod 2015; Zine 2006; Aziz 2012).

These views about Muslim women who wear headscarves and other religious markers can become just another mechanism of dehumanization—a part of the function of secularization. There is a long history of such prejudice that can be traced back to Christianity and Orientalism. In early Christianity, Apostle Paul declared that Jewish rituals and customs like the veil women wore after marriage were unenlightened, superstitious, and proof of the subjection of women (Yelle 2011; Anidjar 2006). As discussed in earlier chapters, throughout the European encounter with Islam, and particularly during European colonialism of the eighteenth and nineteenth centuries, discourses of Orientalism transferred Christian imaginaries about Jewish traditions onto Islam and the Arab world and created Western conceptions of unenlightened and superstitious Muslims who needed to modernize and become civilized (Anidjar 2006; Al-Djazairi 2007). That Muslim women are subjected to this structural violence of Western and Christian patriarchy through Orientalist representations of the colonial state, while their freedom to have domestic life of their choosing is taken away, is something not typically addressed by

liberal women's and human-rights activists. It should be noted that after the liberal state has accused and removed the men from these women's lives and destroyed their families, no liberal actors or agents of the liberal secular state appeared to free these women and save them from their difficult existence. No one has yet provided a different kind of life where these women can feel free and complete.

When Muslim women rally, protest, and speak in public spaces about their loved ones, this has helped them to obtain more support and a broader platform for sharing their stories. From the perspectives of my interlocutors, they participate in public speaking and advocacy to share their version of the truth. They hope to educate and change the minds of the anonymous public by sharing their truth. Suhana explained this aspect of her advocacy work to me, stating:

At first, I didn't know what to write but now I know what to write and say. I give speeches to speak the truth. People don't know the truth, and they think we are terrorists, but it's not true. It's a lie and people don't know this. To scare the world, to scare the public and the Muslims, they [the government] created a false drama. I want the world to know about this. I want people to open their eyes and ears. This is how many people will learn the truth of what's going on. There are many activists and organizations that now know me as a result of the organization I'm part of. This has helped me and now people know me and support me.

Suhana further expounded about her purpose in sharing her version of the truth with others:

Truth will come forward one day and the lie won't last forever. People are coming to hear the truth, and one day, they will know the truth. I know these things have happened to black people to Latino people and poor people. Since I joined the local organization I learned these things. Tell the truth so that people will hear and see. It's slow but slowly there will be a lot more people.

To share their truth, some of these families not only speak in panels and conferences, but with the help of advocates, make short videos of interviews for wide dissemination through social media and the Internet and also produce their own creative pieces for sharing. Linda shared her side of the story by expressing herself through poetry. Part of one of the poems she published on the Internet reads:

As I sit contemplating life
What has it brought me but grief
Dished to me like a bowl of poisoned soup
Multiplied every time I take a sip
And that sip I take with grief
multiplied again with every breath I breathe

O life your shadow has followed me
Cast upon me folds of clouded skies
Fanned and spread your gloom all around me
O Dear Dear life of mine

In my dreams I chant free Zahid⁶
In my sleep I chant free Zahid
When my soul is stuck between
The heavens and Earth
I chant free Zahid
To the Master of the Universe
Who holds the planets from falling like bowling balls
On the people's greedy heads

Now I lie on my bed wide eyed
thinking it is time for a new beginning
It is time for a new beginning

Sometimes these women and other family members share letters or messages from their loved ones at public events or write and publish their own stories. For example, Noor Elashi's father was prominently known in the community and was politically active around Palestinian rights; he was targeted for this and for running the largest Muslim charity in the U.S. Held at the Communications Management Unit in Marion, Illinois, her father was accused of sending "material support" in the form of humanitarian aid to charities in Palestine. State prosecutors claimed this aid was associated with designated terrorists. Ironically, government agencies such as the United States Agency for International Development (USAID) also used the same charity to distribute its aid in Palestine. Elashi wrote about her father in the *Huffington Post*:

Until recently, the walls of my father's 9-by-5-foot cell were covered with eleven photos of children from all over the world—children who were injured or killed during recent

⁶ This is a pseudonym for Linda's son.

political events. My father wrote my family, heartbroken, to say that even though he had collected these images from The New York Times, The Chicago Tribune, and other publications, they were still seized—with no notice. (Elashi 2014)

Mariam Abu Ali likewise shares stories about her brother and the family to raise awareness about the injustice they experienced. Her brother, Ahmed Abu Ali, was held in Saudi Arabia without any charges or access to an attorney and then transferred to U.S. custody. The U.S. government later brought charges against him and presented a confession tape obtained under torture in Saudi Arabia as evidence for his support for “terrorists.” She wrote about her brother and family in *Muslim Matters*, an online publication:

Today, my brother Ahmed turns 35. He could have graduated from college. He could have started a career. He could have met a woman and fallen in love. He could have started a family. Instead, he has spent the last 13 years behind bars, completely alone. More than 1600 miles from home, incarcerated in the Supermax in Colorado, my family can only afford to make the trip out to visit him once or twice a year. My parents receive two 15-minutes phone calls a month, either on a Tuesday or a Thursday. My mom has spent every Tuesday and Thursday of the last decade, at home, sitting by the phone, patiently waiting for a call that sometimes did not come. And when the call does come, what can one even discuss in 15 minutes? (Abu Ali 2016)

These women’s stories and accounts of the truth provide an alternate version of the stories and truth broadcast by the state. The voices of these women denounce the abuses and unlawful treatments their loved ones have been subjected to and the effects this treatment has had on their own lives. In the process of public storytelling, the impact of secular laws on their private lives is revealed. Their stories, however, need to be understood as not only communicating their victimhood, even though they are talking about how the securitized laws have harmed them. Speaking truth in public space is a way of claiming that space and can at least partially reverse their victimhood, transforming them into agents of change in their own lives and the lives of others (Stephen 2005; Nash 2005; Ross 2001). Through such public story-sharing, these women seek to raise the consciousness of the general public for support.

Moreover, this storytelling needs to be understood as a form of testimony, because it is one of the ways in which these women are seeking to redeem their loved ones and themselves from the accusations, convictions, and scars of “terrorism.” Testimonies are widely recognized as part of victim’s healing process or coming to terms with their circumstances (Herman 1997; Ross 2001). What is happening through these public stories and testimonies is that women are making their grievances visible and seeking redemption through public spaces, since formal judicial bodies were not able to give them justice. Another way of understanding this effort is that the very act of sharing their truth publicly can be regarded as a form of justice or a function of justice, because these alternative versions of truth challenge the secular state narratives of what happened to them and what their loved ones did or did not do. Their public stories and testimonies of suffering challenge the modern liberal morality’s claims of reducing human pain and suffering.

Women’s public advocacy efforts to challenge the narratives of state authorities can blur the conventional public and private spaces of social justice movements (Stephen 2005). They reveal the private impacts of the climate of terror and violence endured by Muslims. The public testimonies of these Muslim women also convey their determination not to remain silent in the face of repression from secular juridical power. Their storytelling advocacy efforts can also function as a kind of history-making, by documenting the suffering of a religious minority that results from the violence of the modern secular state (a form of experience that the liberal state would prefer not to publicize). Their advocacy work and storytelling reveals both the violence of the secularizing process and the resiliency of those whom it has devastated.

Although some of these women and their families came into their advocacy through necessity, as a means to reach out to the public for assistance, some of them have remained

engaged in advocacy even after all legal recourse has been exhausted for their cases. This persisting involvement reveals the way in which destructive experiences can awaken people to the need for resistance. Some of the Muslim women have come to feel that the rituals of advocacy in the public sphere, an activity that they would probably not have otherwise discovered, helps them to feel connected and empowered to creating meaning that extends even beyond their own immediate need. Through this engagement, they have learned that those who face terrible violence and discrimination can nonetheless find ways to resist their alienation and exclusion (Butler 1990; Agamben 1998; 2005).

Conceptions of Justice Held by Family Members and the Imprisoned

With testimonies and stories, women relatives of imprisoned Muslim men boldly share their truth and seek justice. When asked about her thoughts on how the women could envision justice for their loved ones and imagine hope and freedom, Suhana explained:

I'm doing this for justice to expose the injustice that happened to us. Today, there is information out there about these cases. My efforts won't be fruitless. I want other people who come here to know about this, so this does not happen to them. We didn't come to this country for this. We were hard working people and this shouldn't have happened to us. They shouldn't destroy lives of innocent peoples. I want people to know about this and help release my son and others, so I tell people about this and what they can do for me and for people like me, because I want justice. . . .

When someone hasn't done anything, but you are doing something wrong against them and then punishing them, then how is this justice? You take oath in the court, but you give money to others to trap people, it's not right! But, laws will change one day, because these laws will get applied to more people. You must have seen since they started surveillance of Muslims now other people are getting pulled into it too. Today it is us, tomorrow it might be them. So who is going to protect them? We have to think for everyone! . . . They made laws that will suspect citizens, and I'm sure they made these laws for Muslims. But still these laws may be applied to others and others could also suffer like us. Let's not do this! Let's change this!

While the secular court has pronounced confinement and punishment as a just course of action against her son, who was ensnared in an entrapment case by government informant, Suhana felt

that the court's judgment was unfair and that speaking out would be a step toward obtaining justice. Spreading the word about the injustice to the anonymous public is one way in which people try to appeal for recognition of their suffering and seek justice (Niezen 2010). However, Suhana also hoped on a more pragmatic level to mobilize mass support to release her son. In general, I found that more first-generation immigrant family members (compared to second-generation Muslims) held the view that somehow their loved ones could still obtain justice through the secular court system.

Suhana seemed to be concerned not only about her son but also about new immigrants and the society at large. She suggested that laws made specifically to target Muslims could later be extended to affect other groups, and argued that these laws can and should be fixed. This reliance on the secular law indicates to me her belief in a liberal understanding of justice, and the hope that secular society could, at least in theory, become a welcoming place for Muslims. Though I admire her optimism, I am not so hopeful about liberal secular state given its historical trajectory. Suhana supports a need for collective responsibility towards others to bring about fairness and justice. She is calling on people to help the oppressed and those who experience injustice. This emphasis on collective responsibility and collective support is for her not irreconcilable with the liberal/secular law. She is calling on people to transform their sense of understanding and responsibility, that is, to change their subjective worldviews and orientation to the world. Since justice from the current secular legal system seems to be absent, she hopes to inspire people to make adjustments within that system to reduce its discrimination and prejudice.

Like Suhana, Linda continues to rally and speak out, asking the anonymous public for the laws targeting Muslims to be changed. Though she has been actively advocating for her son, her financial situation limits her ability to travel to participate in public events. She also expressed to

me a feeling of mental exhaustion, and said she was suffering from depression. Although she sometimes finds it difficult to be engaged, she strongly believes that the family members of prisoners need to do things actively for their loved ones. Getting more people involved and the media attention for Muslims who are unjustly imprisoned is necessary in her view to raise awareness about cases such as her son's. When asked how she hoped to gain justice for her son, Linda indicated:

Justice is when people start treating each other equally without being biased towards them because of their religion, or how they look or the way they dressed or anything that is different. We are all human beings and we are all made with same substance. We all have flesh, blood, and bones; our organs are all the same. We feel the same and we all get hurt. If you slap a white person he is going to feel the same pain, and when you slap a black person that person is going to feel the same pain, and when you slap a Muslim the Muslim is going to feel the same pain. If we all start realizing that we are human beings who feel the same and we all need to be treated equally then there will be justice, but as long as a group of people think they are better than other human beings and they have the right to hurt other people then nothing is going to change.

Justice, according to Linda, is found in being human and by receiving and giving equal treatment and consideration to all people for belonging to the common human family. Making such claims to humanity has been one of the main ways these families have been organizing their justice campaigns for their loved ones, since they have experienced dehumanization and been excluded as mythical "monsters." Mobilizing "humanity" by claiming "rights" through the liberal law has been one of the frameworks used by advocates for their campaigns to challenge state narratives. But, while Linda speaks out about gaining equality by affirming her humanity, she also believes it is necessary to change the way that the secular justice system and the larger society works.

Linda's example about everyone feeling the same pain as human beings raises issues about the experiences of racial and religious minorities and the lived conditions of the colonized under imperial rule. Hierarchy and mechanisms of exclusion and dehumanization remain common political exercises for the modern liberal state, and state power is still maintained by

disregarding the pain and suffering of excluded groups (Agamben 1998; 2005; Asad 2003). For many years, European nations (like many other historical empires) have promoted narratives and actions that refute the humanity and rights of colonized people. This phenomenon has been noted by numerous scholars, for example by Samera Esmeir, who stated in regard to Egypt's encounter with British colonialism that, "the power of colonialism [was] in the exclusion of the colonized from the realm of 'universal humanity' in their 'thingification'" (Esmeir 2012, 1). As described throughout this dissertation, such exclusion has been a consistent aspect of U.S. society and modern nation state, and continues to be so up to the current moment. Linda's concept of justice through reforming the broader society (and in particular through challenging the superiority complex of the Protestant majority in the U.S.), is a project that would require a systemic change in the existing social paradigm.

Jaffar is a father who believes that his son was targeted and imprisoned because his son was politically active in faith-based Islamic social justice and political movements. He argues that the government violated his son's First Amendment rights to free speech and association, and is upset about how the court approved injunctions favoring the state prosecutors. He does not think Muslims can get justice in the current political and judicial system as it is part of an exploitative economic structure. He explained:

Justice means common sense. Justice [in this society] means laws are made when and what man thinks is right. We should apply common sense and make laws that are fair for human being in society. There's no justice in this system, because it is part of the capitalist system and run by capitalist interests, media, and yellow journalism—manipulative media that instills fear and hatred for Muslims. This whole war on terror is manufactured by capitalist interests.

Common sense in justice, according to Jaffar, means application of fairness and equality to all people regardless of race and religion. This interpretation is similar to Linda's concept of justice in that extends far beyond the individual and far beyond the specificity of their own legal cases.

It is about changing the system so all people are treated equally following fair law. These family members indicate that one can make fair law or interpret the law fairly through common sense or common human intelligence. In this regard, Jaffar and Linda are also using secular liberal reasoning about justice and law, not Islamic religious concepts.

It appears that Jaffar is very aware of the American legal structure and its grounding in secular understandings of justice. To the legal positivists of modern secular law, laws are made, administered and controlled by human beings, not handed down from a transcendent source (Amsterdam and Bruner 2000; Esmeir 2012). The secular legal system is, at least in theory, a closed, logical, scientific system without any consideration to religious dogmas (Lopez 1996; Amsterdam and Bruner 2000). However, according to Jaffar, this rationalist juridical order is also connected to the capitalist economic order and, thus, adjudicates prejudicial decisions in favor of wealthy elites. Justice-making, in this viewpoint, becomes corrupted when it is tainted by greed. I believe it can be argued that the very foundation of the secular judicial system in the U.S. is connected to the capitalistic worldview of the surrounding society, making it impossible for Muslims and other economically marginalized groups to obtain justice (Lopez 1996; Rosen 1989; Sullivan et al 2011; Clarke 2006; Weber 1968). If a particular kind of individualist and capitalist morality is structurally rooted at the foundation of secular legal logic, then other communities such as Muslims who do not subscribe to those principles cannot hope to achieve justice under the secular system.

Jaffar added more to his understanding of justice, however, saying, “If the Muslim community followed the path of predecessors like Martin Luther King, Jr., then they could get justice. We have to struggle for it. Justice is a process. At this moment you cannot get it, but it’s a process—a struggle.” It is interesting that Jaffar invokes the Reverend Martin Luther King, Jr.’s

concept of justice, as that movement was strongly influenced by the religious morality of Southern black, Christian churches. Talal Asad (2003) has written in detail about the way black leaders such as Reverend King (MLK) and Malcolm X mobilized public life in the 1960s. Asad noted that MLK was able to mobilize the wider Black community because his call was religion-based, but Malcolm X was not able to generate the same level of support because he relied primarily on liberal, individual human-rights claims (Asad 2003). When Jaffar indicates that Muslims should follow in the footsteps of MLK in seeking justice, I take this comment to mean that he is suggesting mosques and Islamic religious sensibilities can be the basis for organizing and articulating a path to justice for oppressed Muslims in the U.S. through religion-based collective identity and activism.

Irene, however, believed that justice can be obtained purely through the secular judicial system, by holding that system accountable to its own principles. According to Irene, whose brother was entrapped by a government informant:

If they were to give my brother justice, he and other defendants in this case, I'd define that by actually showing everything the way it happened. And that would be justice to me, you know, having the jurors sit there and hear the real conversations, and not hide any of the evidence. And charge them not based on their intentions but based on solid evidence. How would we be able to get justice is if we'd be able to change the laws that were created after 9/11. The PATRIOT Act. And also, if there won't be such a thing as "classified evidence." If everything can be just brought to light the way it happened, and all those conversations can be shown to the public as they really happened, if that was the case, and if they'd like to try the case again, they are more than welcome to, and then justice would prevail. That's what justice would be.

Justice in Irene's understanding is fundamentally connected to the secular judicial and legal system. The abrogation of rights or equal access to rights in criminal trial procedures were not allotted to her brother and other Muslims in the same ways that they are for other American citizens. Access to secular laws, or changing the new securitized laws to better implement secular/rationalist principles would get her brother justice, Irene believed. In this view the

struggle for justice is one of gaining “rights to access” normative secular legal procedures. The principles of secular law, Irene believed, should be as accessible to her brother as they are for everyone else. Justice to her depends on the expectation that the law treats every person equally and seeks to resolve disputes on the basis of facts and truths, objectively rather than subjectively. Irene seems to hold an extremely liberal understanding about secular law’s ability to be objective. This view of the law is widely prevalent among people in modern secular societies such as the U.S.

Like Irene, other family members still held out hope that the jurors and the court would eventually realize the manufactured nature of the charges against their loved ones and set them free. Their faith that the criminal justice system would eventually give or make justice may be a result of their unfamiliarity with the long history of criminal justice in the U.S. and an unwillingness to understand oneself as part of a marginalized population. Some members of affected families stated significantly conservative beliefs about the U.S. system during our conversations, such as arguing that the disproportionate number of African Americans in prisons is because blacks committed more violent crimes than whites. At the same time, they characterized their loved ones as “political prisoners,” distinguishing between their own experience of prosecution and the struggles of other minority groups. I have not met any affected family members from South Asian or Arab backgrounds who have worked in conjunction with African American families of prisoners in their local communities or reached out to African American Muslim communities for help with their campaigns or cases.

The optimistic perceptions of some family members in this study about eventually obtaining justice through the secular legal system is understandable when examining Muslims’ pattern of immigration and incorporation into U.S. society. Many immigrant Arab and South

Asian Muslims in the U.S.—the communities most affected by “terrorism” prosecutions—are educated and professional-class and have achieved an affluent social status that, at least prior to 9/11, had lead them to expect inclusion. Moreover, the connection of liberal law to justice is a common and extremely normative understanding of how justice is allotted to people in the modern state, and so it should not be surprising to find that even those who have been terribly affected by discrimination still continue to believe that eventually their truths will be heard and vindicated by the state. As demonstrated in chapter 3, however, the history of the secular law and U.S. criminal justice procedures does not provide much cause for optimism (Alexander 2010; Lopez 1996; Sullivan et al 2011; Howe 2016; Beydoun 2013).

Many of the affected family members—even those who expressed optimism for attaining justice in the secular courts—expressed the importance of religious faith in the continuation of their hope. For example, Linda stated:

Justice is going to come from God to change the mindset of people, to change things. God doesn't say for us to stay quiet and sit down and wait for things to happen, but we also have to go out and work for things in order for things to happen. By working hard and by praying, with these two things combined, eventually something good can happen. God is not just going to say “Oh these people are working hard,” and then turn His face other way. God is going to be on the side of the oppressed.

In a similar fashion, Suhana valued the importance of keeping faith in God and working hard for justice:

Only God knows how he is going to create the road for justice. But we have to keep our faith. We have to work also; our hard work won't go wasted and this will impress God and He will help us. But, these laws need to be changed and all laws should be same for everyone. God will create the road. Sometimes God sends someone good and righteous who can speak out and say how these laws are wrong.

It appears that justice-achieving domains are multiple for these women. Though it has not yet arrived, justice can ultimately be found in the profane world by appealing to the influence of the

sacred. Their invoking or relying on the Divine for justice is a way of ensuring that secular, profane law will function or change in alignment with their moral principles.

Samir took a different stance, arguing that justice is found in Islam and not by subjecting oneself to the secular legal system:

Justice is how it is defined in the Quran and the Sunnah. What we have in this system is not justice. It's a charade. It's oppression. It's a crusade and inquisition. General Boykin once said, "my God is better than your God." Michelle Bachman and Peter King say the same thing. Obama, on the other hand, says Muslims are great but I'm going to oppress them. . . . [Muslims] should not be victims but should do something efficient. Most of the families have taken inefficient course of actions. They are hoping things will change. Hope is to mitigate the harm, and that's all that it guarantees. And, you are subjected to the system.

Samir argued that Euro-American politicians have distinguished Islam from Christianity with their statements of superiority for the Christian God. Indeed, numerous U.S. legislatures, politicians, and Christian religious leaders have designated Islam as an inferior or "false" religion since 2001. Oklahoma State Representative Pat Ownbey and Christian Right-Wing leader Pat Robertson, among others, proposed to quarantine Muslims and indicated that Islamic speech should not be protected by the First Amendment (Jenkins 2016). Republican state legislator Allen West has stated, "And that enemy represents something called Islam and Islam is a totalitarian theocratic political ideology; it is not a religion" (Zornick 2010). These views about religion emerging from officials of the modern liberal state are simply continuations of a perspective that has long been dominant in U.S. society.

By referring to a "crusade and inquisition," Samir seems to be linking the current moment in U.S. politics to the very long history of Christian prosecution of other faiths (Anidjar 2006; Hoover 2011). In his view, a legal system that is not based on Islamic morality will always be prejudiced against Muslims. This view is not as outrageous as some may think, given the conflation between Protestant worldviews and the secular law that was traced in detail in

previous chapters (Asad 2003; Sullivan 2005). Many Muslims follow in this outlook by regarding justice as only truly attainable through Islam, as expressed in the precepts and laws of Islam. Justice is not a legal theory independent of Islam in Muslim traditions, but is rather an intrinsic part of the belief system that encompasses social, political and legal structures.

Samir seemed to be advocating for legal avenues in which Muslims do not have to be subjected to the secular court system. Some imprisoned Muslims hold similar beliefs. For example, an excerpt from a letter of one Muslim prisoner indicates in which he writes about his sentencing where he was sentenced fifteen years and his co-defendants received sixty years for identical offense.

I am writing a short letter to express my gratitude to Allah that my conviction and the conviction of my friend and “co-defendant”. . . served to expose the hypocrisy and injustices of the so called “American Justice”. . . I chose to have a bench trial and forgo the “right” to a jury trial to be able to present my own closing statement. After the judge convicted me of the “crime,” I face 15 years in jail. Yet [my co-defendant]. . . chose to exercise his right. . . of having a jury trial. . . And after the jury convicted him on all 4 counts, he faces 60 years in jail. Yet the actual actions or “crimes” for which we both are charged are almost identical. So the problem is that if it is justice that I face a 15 year sentence for my “crimes,” then it is extreme injustice that another person faces 60 years for basically the same “crimes.” But if those “crimes” deserve a sentence of 60 years, then it is a mockery of justice to let one go after mere 15 years. . . . The truth is that there is no justice. It is all a system created by the whims and desires of the politicians, who were chosen by the whims of the public at large. And it is implemented by the bureaucracy at its whims and desires. . . . The essence of the problem is the ignorance and injustice that will ultimately results from following the laws based upon and implemented at the whims and desires of men. As opposed to the Truth and Justice that is the fundamental quality of the laws of God, be they on individual, interpersonal, communal, or universal aspects of human life and existence. . . . Truth and falsehood, and justice and injustice, do not switch places with each other based upon the whims of the people—be they majority, rich, powerful, elected, or appointed, or any other factor through which some men seem to exercise authority and lordship over other men. And, thus, anytime a people will choose to disregard the revelation from Allah and the truth and justice it contains, in favor of following the dictates of human beings—be it themselves or others—they will bring upon themselves corruption and ruin that will be directly proportional to their turning away from the message of Allah.

Justice in this view is about a truth and morality based on Islam, with the laws attributed to the Sovereign God put in place rather than those of the sovereign secular state. The imprisoned Muslim distinguishes between man-made secular law and justice vs. divine law and justice, with a preference for the latter. These sensibilities shape the outlooks of some faith-centered Muslims, and influence their views about the type of authority that they want to follow in their personal and communal life. Similar viewpoints were expressed by some of the family members of the imprisoned who participated in my research. It is perhaps not surprising that these Muslims would prefer to affirm the sovereign power of God over the power of the sovereign state, following their experiences with travesties of justice perpetuated in the secular courts.

Imprisoned Muslims such as the writer of the letter above are caught between two sovereignties that claim universality (that of Islamic jurisprudence and that of the secular courts). However, their focus on the Islamic concepts of Sovereign Justice takes place within a larger cultural and religious worldview that is different from that of modern secular liberal society. To understand the sense of justice in Islam requires one to cross over into a very different social and political world than what is normally experienced in by secular subjects (Hallaq 2013). Many imprisoned Muslims view justice as having an objective, universal existence, because justice derives from God and God exists apart from human speculation. Justice in this view is not simply a product of social and human consensus.

While some of my interlocutors saw their own power and contribution to justice as requiring them to work hard in every available venue, including the secular courts, others believed that this hope to change the oppressive legal system is futile because it is a system founded on Christianity. Some participants wanted to impress God by seeking divine intervention in their pursuit of justice. Some family members believed God might send a sacred

messianic character to correct and rescue the law from secularism and change the minds of people in the process. Some believed that even the attempt to seek absolution in the courts was an unacceptable legitimization of the oppressive sovereign state. However, through all these different perspectives, the idea that a collective transformation is needed for justice to prevail was overwhelmingly shared by all of my interlocutors. It is not enough for them to just change specific bad laws and rescue their loved ones; there is also a need to change the overall society to prevent people from perpetuating such injustice. The sacred, profane, human power, and the multiplicity of sovereign orders, both secular and religious, seem to be interconnected and co-existing in conceptualizing the arrival of justice for many of my interlocutors. The activists with whom the women and families work in their campaigns seemed to have a much more straightforward notion of justice, one in which it is attained through the applications of human rights, secular law, and liberal humanism.

Rights Advocacy and Civil Rights Organizations

According to families of imprisoned Muslims and the advocates assisting them, national security regimes and laws are applied to Muslims in a discriminatory fashion. Progressive social justice advocates and organizations who work with this targeted/scapegoated population challenge the state to apply the law correctly by bringing public attention to the legal contradictions and human-rights violations. Through campaigns and collective actions, advocates and civil rights organizations try to resist these policies by giving visibility to the plight of those imprisoned and their families as a way to humanize them and provide services.

Some organizations newly established to assist population affected by surveillance, profiling, and “terrorism” cases operate as nonprofits and work to protect the legal rights of those

who have been targeted and imprisoned. Frequently, these organizations also try to educate the public about the abuses of rights in the criminal justice system. A characteristic mission statement of one such organization is:

To educate the public about the erosion of civil and political freedoms in the society, and the abuses of prisoners within the U.S. criminal justice system especially after 9/11, and to advocate for the preservation of those freedoms and to defend those rights according to the U.S. Constitution, the Universal Declaration of Human Rights and its related UN Conventions, and the Geneva Conventions.

Another organization's mission statement reads in the following manner:

To assist Muslims who are the victims of government-sponsored pressure tactics in prosecuting terror cases, including illegal discrimination, police misconduct, prosecutorial overreaching, and inhumane jail and prison conditions. [The organization] conducts public education campaigns to assist them in asserting their rights. Additionally [it] refers people to other organizations that may be able to help. [The organization] also acts as public advocates for individuals and campaigns to support justice in specific cases.

One of the newly established organizations is a collaboration between of a number civil-rights and human-rights nonprofit organizations and is supported by community elites. This organization, the National Rights Coalition (NRC), has established programs and services that the organization's officials believed were needed for the accused and convicted Muslims and their families in post-9/11 climate. As noted earlier in this dissertation, I was recruited to help this organization carry out the tasks for their committee that deals with imprisoned Muslims and their families and to develop educational and support programs for families. As soon as I joined, I realized I was the "tokenized" affected family member in the leadership team, who also happened to be a researcher with affiliation to educated classes of society in a similar fashion as rest of the leadership team. Members of the steering committee of this organization who ran the day-to-day operation consisted of older men and women from Euro-American background and elite Arab Muslim men. On a number of occasions, I shared my views that it might help for

organizational staff to obtain anti-racist, anti-imperialist, and anti-classist pedagogy training to ensure there is no abuse of power and that people knew how to work collectively in a multi-racial organizational environment. I suggested that it might be helpful to include more affected family members and individuals in the leadership team. These suggestions were not considered.

The refusal to devote resources to the development of internal anti-racist practices raises questions about the extent to which elite human-rights organizations are concerned about the broader marginalization issues that are important to people of color and other minority groups. It appeared that the organization's operational practices are more based on their understanding of issues around legal rights rather than social justice and collective values. The fact that the organization did not prioritize racial justice issues brings into question their ability to provide effective services to affected Muslim families, who come from diverse racial, ethnic, age, economic, and Islamic denominational backgrounds. It often appeared that the organization used a one-size-fits-all model of service designed by the male founder and top board members who were working on issues of legal rights. The principle public outreach was, unsurprisingly, a presentation called "Know Your Rights," which provided valuable legal information but did little to address the more substantive, community oriented justice issues that were equally important to the affected populations. Furthermore, though this organization has taken up many important issues related to predatory prosecution, they don't legally represent Muslims charged with "terrorism" in the courts. Instead, the organization "connects" such people to private lawyers. Like other not-for-profit organizations, they are unable to directly provide representation for those charged in "criminal" cases.

The orientation of the NRC is similar to other nongovernmental organizations which, according to Andrea Smith, tend to work on formal issues that are separated from a broader

commitment to social justice work and social advocacy movements (Smith 2007). These organizations operate from a top-down model, where decisions of the founding members are valued over the lived experiences of those most affected, and many critics have accused them of reproducing and maintaining a racialized and gendered power structure within their institutions (Smith 2007). The stories and videos that the NRC created about Muslim families were inevitably stories of helpless victims in need of assistance, and these cultural productions were usually carried out with a consideration for their potential use in organizational fundraising.

The strategic plans of the Prisoners and Families Committee, which I was tasked with developing and leading, only enlisted social services programs for affected families. The organization wanted to provide monetary assistance and material services to individual families, but did not seem particularly concerned with their psychological and social need for empowerment. It soon became apparent to me that the organization just needed to have the families in their database to claim that they are working with affected populations. NRC's main concerns were about formal "rights" violations and the criminal justice process. This was of limited utility to the affected Muslims, because in most cases their experience with the system had already given them a reasonable amount of direct knowledge about its operation and their supposed rights. It often appeared that some members of the organization viewed these women as ignorant or infantile. I noticed the tasks and goals of the organization did not include building a mass base for political mobilization of women and families, or strategies to deal with the individual and collective trauma of affected population. There was nothing in the organization strategic plan about how to transform the social experiences of this population who have been silenced and excluded from U.S. mainstream. There was no mention of whether these women

and families experienced trauma and how to support them find their voice and self and collective agency.

As I had established a rapport with many families of prisoners before joining the organization, I introduced these affected Muslim community members to the organizational rosters. This allowed me to carry out what I believe to be some valuable work. I knew that many of the affected families had expressed a desire to meet each other, so I proposed to the leadership team bringing the families together at a retreat or conference which could engage in a process toward collective healing and building resiliency. From that concept, the idea developed into conducting a national families of prisoners conference, which I was tasked with organizing. We helped to bring together these family members in a collective gathering for the first time in 2012, in Washington, D.C. For some families, this was the first time they had met other people like themselves. Even Suhana and Linda, who both had engaged in public advocacy, had never been able to have the experience of seeing so many affected families together in one place. NRC's advocacy works usually involved panel presentation and demonstration, in which participating family members were usually only "tokens," appearing alone among a sea of advocates. Women such as Suhana and Linda had become accustomed to appearing in formal panels and demonstrations. But this gathering was different; it was something they have not experienced before.

The collective space established at the national families of prisoners' conference allowed those directly affected by "terrorism" prosecutions to connect with others who were going through similar harms. Such connections helped individuals to build a shared analysis, with the help of a professional facilitator who specialized in healing trauma, transformational empowerment, and social justice movements, whose family was also impacted by predatory

prosecution. The facilitator prepared specific activities and conversation pieces for the families so that they could relate with each other and find patterns in their experiences. Having a facilitator who has had similar experiences as the families helped in generating a common language and collective understanding about their situation, something the founding members of the organizations and other activists working with them have not been able to accomplish.

The woman facilitator led the discussion through storytelling and provided insights to which participants could engage and relate. She outlined the circumstances and the nature of the legal targeting the families had experienced, and suggested interpretations about how the power relationships developed by the state affected their interpersonal relationships and societal experiences and responsibilities. As the family members adapted to the process, they began to openly and voluntarily discuss action-items that could be taken at the personal, interpersonal, sociocultural, and structural levels that would enable the women to see themselves as agents of change and to develop resilient personalities, families, and communities. What the facilitator was doing in the storytelling session was to have families see that their personal experiences were part of collective experience, shaped by public discourse and political identities. Through these processes, the participants were able to learn what it was like for others who were similarly situated, and to discuss their various cultural perspectives.

Suhana found the gathering to be quite valuable in confirming her experience and feeling more positive about her relation to the community:

I liked it, because they are affected family like me. You can share your story with them and learn about them. There's a lot of people like me. When I meet other families, the first thing is that we understand each other, the pain they feel is the same pain inside me too. That which is inside me is inside them. We are suffering in a number of ways—financially, legally—and our children or loved ones imprisoned unjustly. We understand each other's suffering and of course seeing their suffering causes more suffering to us. But we are so many and we learn from each other about our cases and about our lives,

similar cases, and tactics the government used on their cases too. So many of them left their country for better lives here, but this is what happened to us.

The purpose of this storytelling workshop was to transform trauma into action and build the leadership capabilities of the most vulnerable people in their struggle for justice. The facilitator had envisioned it to be a space for strategizing and mobilizing the directly impacted people by building their collective power. In describing these goals, the facilitator spoke automatically in the collective voice of “we,” as she is also directly affected by these cases:

As an impacted family, we do hold particular experiences. Once we get smart in how to articulate that, we’re going to be able to transform ourselves, everybody, and anybody. That’s why it is important to have us being empowered. That’s why the conscious activist communities understand as a principle that impacted people of different issues or across different issues have to be the one that rise up and speak up because they have a particular reality to share and teach the world. That’s a principle. That’s like overall vision or the overarching principle that can be applied to all the issues. That’s what exercising or speaking our voice is all about. We just have to get smart with how to do that in a way that’s going to be heard. Transform your pain into something that’s actually meaningful and translatable to the listener. If we are not able to just articulate to ourselves our own experience, trauma, pain or whatever it is, then we’re not helping ourselves or being helpful to anybody. And, there’s going to be disconnection. So, if some people are moving or shifting a bit and changes are happening in how people see things.

Now, when trauma comes in, what most people do when trauma comes into their experience, the natural human tendency is to shut down, to get depressed, to feel isolated, to feel fear—that’s the natural human tendency. That’s what trauma does. So, therefore, as a collective group of people that have been experiencing political trauma or trauma from result of political violence, then that’s what we’re going to do. We’re going to get silenced, shut down, isolated, fearful. So, that’s just human condition. But the conscience mind and human can say, “Oh I’m experiencing this fear and pain. What do I want to do about that? Do I want to just mind my own business? Don’t worry about it. Just live life. Go to work. Pay my bills. What am I going to do? Or am I going to use this pain and fear and see that everybody else is experiencing this too, so, I am going to go connect with them and do something collectively.” And, that’s what empowerment is about. Or, “Oh, wait, so I do want to do this. I do want to talk to other families. I do want to change other people, my community, my neighbors and talk to them about this frustration, about this fear, and how wrong it is. Oh, I do. So, ya, now I’m empowered.”

These gatherings, however, were not always harmonious. One time when Suhana and her daughter were sharing about their experiences of being Ismaili Shia in Pakistan, I was pulled out

by another woman of Arab descent charging me to stop them from speaking about Shia and Sunni conflict in Pakistan. I told her that they were just sharing their experiences of immigration to the U.S. and this was part of their story. The same family member pulled me aside another time when two Muslim women facilitators, whom I had invited to lead a workshop, identified themselves as feminists, saying that we have Islam and don't need feminism. While the first gathering was attempting to generate a collective transformative identity for the women as agents of change, the facilitator specialist who interacted with them realized there is a lot of work needed in order to achieve that. As a result of individualized advocacy work and impersonal formal speaking activities that some women engaged in (or declined to engage in), it appeared to me that facilitators who are experienced with working with victims of state or political violence are needed to help this population closely in supporting their collective transformation and moderating conflicts.



Figure 3: Solidarity Banner. Advocates hold demonstrations at the Department of Justice to raise awareness about the rights abuses of Muslim Americans in preemptive prosecutions

Other NRC staff members focused on developing public education events and panels inviting legal experts, community leaders, or the staff of various civil- and human-rights organizations to speak. Sometimes they invited renowned elite speakers like Glen Greenwald or Tarik Ramadan to talk about the conditions of Muslims in the post-9/11 climate. When I was tasked with organizing such a panel, I always made sure to include at least one interested family member to share their story. The organization's public panels are all available on their YouTube channel. In reviewing these panels for my research, I was struck again by how nearly all of the speakers are concerned about the law, surveillance, as the formal details of "terrorism" cases. In one example, a staff member uses a PowerPoint presentation with images of imprisoned Muslims and their families while summarizing of their legal cases and rights violations. Despite the appearance of individuals in the accompanying pictures, there is no real mention of the women in the pictures as people or discussion of how they have experienced the secular law and its effects on a human level.

One of the Euro-American retired lawyers who worked with the organization created a wall with names and images, labelled "Victims of Preemptive Prosecution." In addition to Muslims targeted after 9/11 this display also included other imprisoned people going back to the 1960's COINTELPRO era. I found this interesting in that it demonstrated a certain awareness of how the current legal issues are simply an extension of long-standing state policies, particularly those targeted at African Americans. Despite this occasional sign of awareness, however, the organization seemed disconnected from the larger grassroots social justice movements and prisoners' rights movements that are widely considered responsible for the political and legal gains of the civil rights era (Rodriguez 2007; Smith 2007).

I asked a prominent African American former political prisoner, who was held in the Federal Prison in Attica, New York in the 1960s, whether he had heard about the preemptively prosecuted Muslims and events concerning their cases. Though he had a general awareness of the way Muslims have been targeted after 9/11, he has not attended any public events related to these cases because he felt the issues were narrowly focused on specific legal rights of Muslims, rather than broader social justice considerations. He also added that Muslim immigrants have historically tended to distance themselves from African Americans and behaved as white, and he suggested that Arab and South Asian Muslims could benefit from reaching out to African Americans, who have been dealing with this oppressive system for centuries. All communities are under surveillance of the state, and certainly no one knows more about this state violence than African Americans. Unfortunately, the NRC organization has not made any efforts to connect their advocacy work with the experiences of black Americans, or Japanese Americans, or Native Americans, or any of the other groups that have a long history of experience with discriminatory imprisonment in the U.S. The organization also does not organize public panels or events about political prisoners in Islamic history. NRC's narrow focus on the legal "rights" of individual prisoners in the American liberal system tends to disassociate those formal issues from the larger social movements and political struggles that could provide the context for discriminatory practices as well as the means to combat the personal and interpersonal effects of state oppression.

Rights Advocates and Human Rights Activism

Like the leaders of the NRC, human-rights advocates tend to invoke the laws of the securitized state, the United States Constitution, and international norms such as the United Nations'

Universal Declaration of Human Rights as a means of protecting targeted Muslims. A group associated with a local campaign for an imprisoned Muslim, for example, after observing no public outrage about the “rights” violations occurring in the federal judicial system, decided to create a broader campaign involving prominent international nongovernmental human rights organizations. After a year of conversations and strategizing with multiple civil-rights and human-rights organizations, legal advocates, academics, and some affected family members, the National Justice Campaign (NJC), was established with the mission of raising awareness about the human-rights violations and abuses in the federal system. The hope of this organization was to prompt a similar public outcry as has been seen against the abuses in Guantanamo Bay.

Though the conversations and designing of the campaign was dominated by liberal legal advocates, and attendance of families dwindled after first few meetings, a consensus was reached among the group members to hold a monthly vigil before a federal prison to highlight rights violations of imprisoned Muslims in the United States federal courts across the country. The collective act of vigil is historically rooted in Christianity, though over time it has evolved as a secular activity disconnected from any overt religious meaning. There was no conversation about this history at NJC meetings, and no questions were raised about what kind of activism would be perceived as amiable by affected Muslim family members. The official campaign description and message from the NJC website reads:

The human rights and civil rights abuses taking place in the military prison at Guantanamo Bay have, rightly, been placed under a spotlight by people of conscience around the world. Some believe that if only those detained at Guantanamo could be transferred to American soil, to be held and tried as civilians, then abuses would end and justice would be done.

Yet many of the same abuses can be found in the hundreds of “War on Terror” cases that have been processed through courtrooms and federal prisons across the United States since 9/11. These abuses—which include inhumane conditions of confinement both pre- and post-trial; secret evidence; intrusive surveillance; vague material support

charges; FBI-created plots brought into communities through paid informants; and the criminalization of Islamic speech and association—remain largely invisible.

The mission of the . . . campaign is to place these abuses, taking place in prisons and courtrooms across the United States, firmly on the agendas of human- and civil-rights organizations, the media, and the U.S. public through education and activism that draws directly upon the experiences and voices of those most directly affected.

Over time, the NJC began to reach out to various other groups to expand support and build connections to other movements. On the first Monday of each month, the group, primarily from Euro-American background but sometimes including members of marginalized communities, focused its vigil on one imprisoned Muslim and tries to connect the plight of Muslim captives with other issues and communities in struggle. Family members of the imprisoned and speakers from various communities were often invited to speak about issues involving their circumstances. The vigils ended with poetry or song recitations by local opera artists, with the hope that the people in the prison could hear the public support and solidarity. These vigils were videotaped and uploaded onto the Internet for distribution and public view. However, these events proved unable to garner significant public attention, and members from the local Muslim community rarely attended them. Members of the campaign, who are mostly Euro-American, did not attempt sustained outreach efforts to the Muslim community for the vigils. Some Muslims whom I invited to these vigils suggested that the organization needed to work more closely with Muslims and understand how to make their activities more Islam-centered. Others were simply surprised to hear that non-Muslims were regularly going to a monthly vigil for Muslims.

The NJC vigils, as part of social justice activism bearing witness to the injustice taking place domestically, involved outreach to the unknown public for possible sympathy and action regarding the plight of imprisoned Muslims. To generate interest and help provoke legitimate public indignation, the campaign founders enlisted the support of several prominent civil-rights

and human-rights organizations, including Amnesty International. By engaging an international human rights organization, it sought to make the plight of imprisoned Muslims a universal human rights concern, drawing on concepts of common humanity and universal standards of human dignity and international laws. This connection locates the agenda of the “rights” of Muslims in the context of a global governance project that appears to be universal and beyond the specific law of the U.S. state.

However, critics such as the legal scholars Kimberly Crenshaw and Alan Freeman have argued that addressing oppression through claims to legal “equality” and “rights” are usually instruments for maintaining unequal social and economic arrangements (Crenshaw 1996; Freeman 1996). Such a focus on legal rights operates as power and control in liberal legal institutions, which function from a top-down model of law rather than the grounded experiences of marginalized communities (Crenshaw 1996; Freeman 1996). Scholars such as Hannah Arendt have pointed out that attaining human rights often entails the acceptance of modern state organization and an affirmation of the liberal-secular system of governance, thereby further enhancing the system’s power (Arendt 1973). In a similar fashion, Michel Foucault’s analysis of disciplinary control suggests that resistance work using the law in challenging power tends to misunderstand the mechanisms of power employed by the state. The power of the state is not unified but dispersed, and the adoption of its narrative models can often simply serve to further legitimize and internalize the same structures of the state that enact harm on excluded populations (Foucault 1979).

As part of a human-rights and civil-rights campaign, NJC has been trying to create public indignation about the experiences of Muslim men accused and convicted of “terrorism.” By focusing on legal rights, it reproduces the legally constructed identity of these imprisoned

Muslims and by extension that of their families. Though the group created a political space for protest using the universal language of human rights to generate public support and shame the U.S. government, the United States is not a signatory to the United Nations Declaration of Human Rights (UNDHR), and it has no technical obligations to abide by those stipulations. One might argue that depending on the legitimizing contribution of major liberal organizations such as Amnesty International places members of the affected community (bare life) in a position of supplication where they must beg for the approval of the secular system that largely continues to refuse to recognize their “rights” as a non-negotiable requirement.

Secular Law, Human Rights, and the Muslim Minority

“Rights” discourses and advocacy focused on the sacredness of the human individual can have the effect of reducing the human being to a liberal legal entity. A Muslim activist who organizes communities for transformative justice and is familiar with families of imprisoned Muslims explained to me the drawbacks of this approach:

A human being is more than just rights. Human rights and civil rights advocates just touch on one plane, the legal plane. It doesn't get beyond to other experiences, and when you have that approach, the legal side of things, it drags in the system of laws and regulation, and these are usually limiting the human being and maintaining the system at the end of the day. It's not radically challenging the system but supporting the status quo. It's not transformative. And, so, therefore, that's why I think radical organizers are always criticizing these other types activists and legal people. But, both are important. Because the legal process has to be transformed as well. It can't be neglected. And so, at the end of the day, the community organizers are pushing for the moral envelope, the human, the actual organic stuff—like how does it impact us all that is really human experience. The community organizers keep that in perspective and push that envelope. The legal and civil liberties group, they are pushing the legal envelope that is already in place—they say the system is broken, we need to fix it, and this is what needs to be fixed. So, one is a map road and the other is a liberal platform.

Demands for civil and human rights became a popular catchphrase among advocates and activists in the U.S. starting in the 1960s (Clarke 2006). The NRC and the NJC both ground their

“rights” advocacy on the United Nations Universal Declaration of Human Rights and the United States Constitution. Privileging the universality of the human individual, these claims insist on the privatization of religion and the repudiation of cultural practices that are deemed to be illiberal (Clarke 2006; Feldman and Ticktin 2010; Yelle 2011; Asad 2003). This framing of “rights” based on individual autonomy, equality, and justice is an intrinsic part of the secular project and secularization discourse (Asad 2003; Hurd 2015; Clarke 2006). According to the scholar of religion Robert Yelle, as well as legal anthropologist Kamari Clarke, the privatization and diminishment of religion is necessary for creating the space for secular law and liberal claims to universality (Yelle 2011; Clarke 2006).

The concept of individual rights as sacred emerges from ideals of natural law that emerged after the Middle Ages in Europe. This tradition is connected to Christian heritage, particularly Protestantism and Calvinism, which emerged alongside or as a response to the development of secularism. Ultimately, the paradigm achieved the height of its current expression in the founding of the United Nations after World War II (Clarke 2006; Yelle 2011; Asad 2003). Both the domestic U.S. concept of civil rights and international human-rights laws allow more freedom to internal and subjective religious beliefs than they do to external religious expressions (Yelle 2011; Clarke 2006). When this happens, it becomes impossible for communal-based religious traditions to thrive in public spaces, thus subjugating (or eradicating) non-Protestant religious traditions (Sullivan 2005; Yelle 2011). This structurally entrenched understanding of religion in the human-rights and civil-rights discourse and movements is likely a contributing factor to the failure of many rights-focused groups and organizations to connect with Islamic groups when focusing on the oppression of Muslim prisoners. The theorization of religion as internal conscience is not shared by many religious traditions around the world. Islam,

Hinduism and Judaism, among other traditions, place a much stronger emphasis on collective and communal practices and external piety expressions; these beliefs and practices must necessarily be pushed aside to create the space for a secular liberal political regime.

A number of scholars have argued that human-rights paradigms contribute to the continued marginalization of colonized peoples by placing them in a position of dependency related to modern state power, instead of empowering those people to control their own destiny (Clarke 2006). An additional concern with this paradigm is that the most significant nation in question in discussion of contemporary rights violations, the United States, is not actually subjected to the international human rights regime's rule of law. The U.S. has consistently resisted entering into accords that would make it legally obligated to adhere to the international standard of human rights (Clarke 2006; Sullivan et. al 2011; Asad 2003). Therefore, the universal human rights and civil rights framework that advocacy groups utilize to demand justice has multiple problems, including a failure to address the root causes of historical, social, and political exclusion; a practical inability to generate broad support for imprisoned Muslims and their families; and a lack of non-negotiable accountability on the part of the U.S. government.

Advocacy that is centered on legal reform, legal equality, and legal justice operates under the belief that if laws of the secular modern state are applied "correctly," then Muslims would receive justice in the federal judicial system. Such advocacy work has failed to achieve meaningful results, and for the most part has not even tried to empower Muslim families by addressing their trauma. The public speech and conversation of civil liberties groups revolve around the government, law enforcement, legal institutions, and policies, making the state the center of their focus and thus privileging and bolstering it over the victims of secularism and liberal state violence. Rights claims based on the law are inevitably tied to state power and

control, raising the question of whether advocacy focused on the law is a meaningful form of resistance to the state or if it just further entrenches and legitimizes the power, domination, and violence of the state on the Muslim population.

As noted in previous chapters, the secular regime is invested in reconstructing a form of Muslim subjectivity and ontology that is nonthreatening and amiable to the sociopolitical domination of liberalism and capitalism (Massad 2015; Asad 2003). As a result of this urge to limit the influence of religion, human rights advocacy work fails to understand why Muslims feel such a strong “nostalgia” or need to experience collective Muslim identity and community and to engage in external piety expressions. Likewise, they fail to understand why Muslims are so immediately concerned with the struggles of other Muslim peoples in other parts of the world. From a modern secular advocacy perspective, if U.S. Muslims simply stopped worrying about the global Muslim collective and only worried about their personal “rights” and material success, they would be much more effective at achieving equality within the secular system. Unsurprisingly, such a shift in concerns would also be quite conducive and useful for the expansion of U.S. capitalism and imperialism.

The perspective of “rights” advocacy can be understood as a kind of circular reasoning, in which Muslims can achieve a claim to humanity and justice, and a protected status for Islamic speech, so long as they accept the absolute sovereignty of the secular state over Islam. In other words, human rights need to be obtained through the secular law by domesticating Islam first. This construction allows Muslims the opportunity to convert and enter into the framework of the secular worldview, but at the cost of forsaking the concept of an Islamic society. In this way, the Muslim subject in a liberal state is always tied to the state and limited by the domination of secular law.

As a result of this underlying mechanism and sensibility of the law then, one could argue, the so called secular regime tries to reconstruct a form of secular Muslim out of protestant values and concepts that does not quite accept Islam but rather forges a version of the religion that is useful for the transcendence of liberalism and capitalism. To explain this point about liberalism's mission to turn Islamic traditions into an image of liberalism, Massad quotes Paul Kahn, who writes about American's view of themselves and the modern state of United States:

Our contemporary missionaries preach democracy, free markets, and the rule of law- all institutions founded on our belief in the equality and liberty of every person. This dogged commitment to a universal community is a product of both our Christian and enlightenment traditions. We experience this commitment simultaneously as a kind of open-ended love and as a faith in the capacity of each individual to enter as a rational debate that will result in mutual agreement. No one, we believe, is beyond conversion to our values. When we dream of a global order, we project our own values onto it. We do not imagine that the global community of the future will be led by an Islamic cleric. (Kahn 2008: 6- 7; quoted in Massad 2015, 2)

This view is connected to the German sociologist Max Weber ([1918] 2002), who believed that the Protestant work ethic was suitable and needed for economic expansion based on liberal, progressive and rational industrial qualities in search of profit ventures, whether by war or exploitation. Though capitalistic adventures existed everywhere, only modern Western societies have or could develop because of their Protestant work ethics and values. Weber believed that Islam (Hinduism, Catholicism and other religions) was not a rational and profit-seeking religion but was rather connected to superstitious transcendence, rituals and feudalism that did not have the qualities needed to become an economically independent rational religion and liberal national subject (Weber [1918] 2002). In this way, a secularized individual legal identity and subjectivity based on protestant view of the world and ontological self-orientation is imposed on Muslims.

During my fieldwork, I noted that the language of “human rights” often seemed incommensurate with the Islamic concepts of rights and justice held by some of my Muslim interlocutors. The international human rights and civil rights regime based on individual rights and secular public sphere devoid of religion is absent in Islamic juridical and theological order. Islam is observed privately and publicly with duties and communal activities toward one’s own faith community and the general public. In the Islamic worldviews, human beings are not conceived as individual detached from the transcendence but depended and obligated to the supreme sovereign first and foremost (Khadduri 1984). Thus “rights” claims through the secular law of the modern state creates a problem for some observant Muslims as it obligates them to the secular state by privatizing or discarding their obligation to a higher sovereign. Some Muslims feel as though they are committing idolatry when appeals to the power of the modern secular state eclipses the authority of God. Replacing God with a secular state could be considered a sin with repercussion for transcendental life. The frameworks of “rights” claims that obligates some Muslims to the secular liberal sensibilities is a form of violence against such religious traditions. However, other Muslims do not perceive such contradiction, and many of those affected by predatory “terrorism” prosecutions feel no concerns about engaging in the secular dialogue of “rights” if it can help them to attain justice.

In sum, there seems to be significant gaps in understanding between Muslim families and prisoners vs. most secular human rights advocates about what justice is and how to access it. Advocates generally believe that legal “rights” would bring justice to the accused Muslims, but some people who are actually affected by “terrorism” prosecutions are likely to be ambivalent or uncomfortable with the entire paradigm of appeals to secular rights. Justice, in the view of some imprisoned Muslims and their families, comes from God and not from a man-made

secular state. The women relatives of imprisoned Muslims in my study are focused on an entirely different concept of personal needs and harms that is tied to their ability to participate in domestic life, to feel feminine and safe, to be intimate with their spouse, and to engage in the obligation of collective responsibility. These viewpoints are seldom considered as legitimate or valuable in “rights” discourses and in secular advocacy, which focuses on the autonomy of the individual.

Sometimes common ground can be discovered in the shared desire to break the silences imposed by oppression. Muslim family members engaged in advocacy work see their public activism for their loved ones as beneficial and feel empowered, even if some aspects of this work may unwittingly bolster the power of the secular state and does not really change the fact that secular law (even when not obsessed with security) is forever suspicious of religion. Speaking in public and sharing stories can also help to expose secularism’s intolerance toward religion, or toward Islam specifically in the current political climate. It reveals through personal experiences how the exclusionary practices of modern state, and the internal colonization of Muslims in the West, is a means of governing and regulating the practices and worldviews of Islam. By publicly voicing their resistance and alternative worldviews, Muslim family members can challenge the absolutism of the secular state’s dominance.

CONCLUSION: SECULARISM AND POLITICAL/THEOLOGICAL VIOLENCE

This project deepens our understanding of the racialization of Muslims by examining the specific ways in which religion has been altered and controlled by the secular state. Understanding this process makes it possible to place the current anti-Muslim hysteria and discrimination in the United States into a cohesive historical perspective. Despite the fact that people of diverse ethnicities, nationalities, cultures, and languages, with varying bodily markers, including Euro-Americans as well others, all claim Islam as their faith tradition, Islam has nonetheless been racialized as a non-white religion by the U.S. national security machinery and the dominant Protestant American society. As such, Muslims are involved in the long history of combined racial and religious discrimination that has always informed U.S. politics. In the various chapters of this dissertation I have discussed the ways in which the modern state is using security-obsessed secular laws to regulate Muslims and limit or redefine their religious practices. I have also related the personal stories of individuals who have been directly affected by these discriminatory state practices, and described how they express resistance and challenge their subjugation.

The exclusionary boundary constructions employed by the securitized state to demarcate whether one is or is not an acceptable citizen employ a large set of interrelated dichotomies—what is or is not Islam; what is or is not religion; who is or is not a “good” Muslim; what is or is not legitimate violence; what is or is not civilized; who is or is not an American; and whose lives are valuable or worthless. Through this process, the state entrenches and perpetuates colonial and Orientalist perceptions of Muslims. During the course of predatory “terrorism” prosecutions, humanity is stripped away from the accused Muslims through legal-penal procedures that operate

outside of standard U.S. judicial norms. This kind of treatment can affect one's way of being, sense of identity, and self-understanding (Agamben 2005; Asad 2003). Placing Muslims in such liminal states of existence, both at camps abroad and in domestic prisons, helps the state to forge changes in subjectivity and generate certain kind of ontology that can alter the worldview not only of those who are imprisoned, but also those who observe this display of power. I have argued that one of the important outcomes of this process is to transform the Muslim into a self-governing modern liberal subject, one that is acceptable for worldview of liberalism and secularism. These militarized security and legal measures of the modern state closely resemble the way in which colonial empires governed native people and religions and restricted or altered native way of life and colonized their mind (Yelle 2013; Camaroff 2001; Esmeir 2012; Asad 2003).

I have shown how the U.S. courts and media, instead of challenging colonial archaic Orientalist languages and concepts about Islam that the security state employs in “terrorism” trials, continue to reinstate and reproduce those same Orientalist ideologies and negative political perceptions of Muslims. As a secular institution, the court is mandated to remain separated from matters of religion, but this is ultimately impossible since the authority of the court itself is based on a particular theological/philosophic outlook that is incommensurate with other ontological traditions. Thus, it is not surprising to see that in specific cases, as I have shown, the court assumes an authoritative position on theological interpretation (while also being largely unable to demonstrate competency on matters of Islamic tradition). By continually formulating Islam and Muslims as the “Other” and authenticating manufactured “terrorism” cases, liberalism continues to promote itself as a superior way of life.

To further impose upon Islamic religious life and disempower Muslim communities, secular state authorities have engaged in an immense project of surveillance and scrutiny of the Muslim American population, including the surveillance and infiltration of sacred sites such as mosques. These intrusions have effectively altered Islamic religious life in the U.S., by driving Muslims away from traditional practices and religious sites, and instituting a condition of paranoia and suspicion within the community. I have argued that through these practices the modern liberal state aims to generate an altered version of Islam by disconnecting Muslims from the piety activities and expressions that connect them to their religious community and to their spiritual cosmology.

Imprisoned Muslims face even greater constraints on their subjectivity and religious practices. Confining Muslims into camp-like structures gives the state tremendous power to monitor and alter their behavior. Despite the guarantees of religious protection supposedly offered by the U.S. Constitution, imprisoned Muslims have been forced to abandon their piety practices and have found it extremely difficult to win meaningful legal accommodations for basic Islamic obligations such as group worship. These practices are treated as highly suspicious by prison authorities, while Christian proselytizing and prayer does not receive similar scrutiny. By demonstrating its power over Muslim bodies and religious practices in these spaces, the secular state exerts its assumption of sovereign power and intimidates the Muslim community as a whole into silence. This process helps liberalism to further its domestic and imperial agenda, and it is a direct continuation of the long history of colonialism, racism, and religious prejudice that I have charted as part of this dissertation.

The relationship between Islam and secular laws is inherently contentious. Muslims, specifically observant Muslims, are caught between two regimes that lay claim to sovereign

authority—the modern, liberal, secular regime that traces its legitimacy to rationalism and democracy, and the transcendental cosmology of Islam, which traces its legitimacy to a divine mandate. While many Muslims perceive no contradictions or difficulties in balancing the requirements of secular vs. religious authority, some of my interlocutors have concerns about making claims through secular law that substituted human authority in place of divine justice. Some of the participants who contributed to this study also consistently expressed an awareness of the historical ties between the modern secular state and Protestant Christianity, as well as the historical and ongoing violent colonial subjugation carried out across the globe by liberal regimes. Some felt that in the context continuing to pursue justice through the U.S. legal system was a pointless exercise, while others were committed to engage with the system as best they could.

The relationship between Islam and the West, as demonstrated by Edward Said (1981), Talal Asad (2003), Joseph Massad (2015), and others, has been historically fraught with stereotypes and imaginings of the Muslim as barbaric, violent, backward, evil, and unenlightened, in need of external discipline and religious conversion. This colonial project of “saving” and “humanizing” Muslims has remained part and parcel of European modernity. In its aspiration toward its concept of human progress, secularism uses rational discourse such as law to dominate the supposedly irrational world of religion, myth, and magic. When discourse does not accomplish the intended purpose, it has used coercive force instead (Asad 2003). The current “War on Terror” which has proceeded unchecked can be understood as a straightforward continuation of the underlying colonial project of attempting to colonize Muslim conscious and ontology.

The personal stories that I have related in this dissertation about the experiences of Muslims affected by predatory prosecutions demonstrate the tremendous suffering that is inflicted as secularism violently asserts its authority over other traditions. It is ultimately impossible for secularism to accommodate the communal rights of religious groups, because secularism has claimed that social space for itself, as the site of its own authority. The only type of religion that is in fact conducive to secular spaces is the religion of the majority, that is, Protestantism, due to the Protestants' strong interpretation of religion as a private (not public) matter. This congruence is indicative of the way that secularism and Protestantism emerged together historically as closely related components of the same European capitalist worldview. Other religions, with their claims to communal practice and social authority, must be forcefully "adjusted," "secularized," or "eradicated" to make way for the absolute social authority of the liberal state (Sullivan et al 2005; Mahmood 2015).

The human soul and its modification is at the heart of the secular disciplinary project, including its exercise of power in "states of exception" and its attempt to infiltrate and apply surveillance in sacred spaces. When Muslims can be reduced to a sub-human status, it then becomes possible for the modern state to uplift them once more in a new configuration and a new way of being and new form of subjectivity. What I suggest in this dissertation is that the global "War on Terror" and the related carceral networks are charged with the task of changing the soul of the Muslim and adjusting Islamic self-orientation and ontology. The impact of these violent sites affects not only those whose bodies are imprisoned by the state, but also their loved ones and the Muslim community as a whole. However, even while undergoing such a violent experience, the human soul is also capable of and constantly engaged in resistance against the state. Despite the terrible subjugation of Muslims' religious practices carried out in the "War on

Terror,” many of those who are affected have discovered ways to speak out about their truths and re-establish their social bonds, thus challenging secularism’s dominance.

The need to exercise violence on Muslim’s way of being in the world is grounded in a combination of racial and religious supremacy that has long defined the liberal project. Even if the diverse Muslim populations of the West agree to the project of privatizing/secularizing their religion, it remains questionable as to whether they will ever really be deemed fully acceptable as citizens, since their practices have been so long and so closely associated with concepts of the “non-white” in America. The violence of the secular state against Muslims has many complex but interrelated roots: violence related to the normalization of Protestant Christian culture; violence related to perceptions of the Muslim as non-white; violence related to colonial economic imperatives; and the violence associated with the replacement of spiritual community with secular individualism. The modern liberal democratic state must commit this violence on minority religions, and is intrinsically unable to accommodate religions that are not privatized, because liberalism’s social structures have never truly been separated from a particular religious worldview.

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