

# Terrorism and the Limits of Citizenship: Remaking Citizenship in a Time of Crisis

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## ABSTRACT

### Terrorism and the Limits of Citizenship: Remaking Citizenship in a Time of Crisis

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The goal of this project is to analyze the confluence of factors that is resulting in a changing understanding and application of citizenship in the United States. As fears of citizen terrorism rise and the government implements new policies to combat terror, there is a shift in policy taking place as well as a divergence between policy and practice. Using the story of the targeted killing of Anwar al-Awlaki, an American citizen who left the United States, joined Al Qaeda, and began advocating for the destruction of the West, I explore how these changes have led to a broader change in citizenship as a concept. By reviewing scholarly literature on citizenship, by examining American policies and practices with regard to citizenship across all three branches of government and across history, and by linking the concept of a collective American identity to citizenship, I have shown that there are several factors simultaneously facilitating continuity and change taking place in the realm of citizenship.

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## Part I: Anwar al-Awlaki, Citizenship, and Targeted Killing

Throughout the chapters of this thesis, I examine the biographical information of Anwar al-Awlaki, an American citizen who left the United States, joined a jihadist organization, and was killed by the American government. Using the story of the life and death of al-Awlaki as described below, it is possible to probe the current understanding of citizenship and to explore the ways that the very meaning of citizenship is changing and evolving. Al-Awlaki's history provides insight into what may be a turning point in the way the state interprets, characterizes, and protects the rights of citizens. By employing one of the most drastic measures a government can take against one of its citizens – killing him on foreign soil – the United States has indicated that it too is adhering to a different understanding of citizenship than it has traditionally. With an increase in the number of American citizens (and others with Western passports that grant them visa-free access to the United States) enlisting with terrorist organizations as foreign fighters, the seemingly unprecedented actions taken against al-Awlaki by the government of the United States may be repeated.

On April 6, 2010, President Barack Obama authorized the killing of Anwar al-Awlaki, a high-ranking member of the Al Qaeda terrorist network who had spent much of his childhood in Yemen, where he held citizenship. This in itself was not unusual, as the American government, its military, and the Central Intelligence Agency have long utilized “kill lists” of terrorists approved to be targeted and killed. What was extremely unusual was that al-Awlaki was also an American citizen; he was born in New Mexico, lived in the United States for the first seven years of his life, and then returned to the U.S. for college and much of his adult life. Al-Awlaki eventually developed a so-called “radical Islamic ideology,” and he was placed on the target list in accordance with

international law, which as a general principle permits the use of lethal force against individuals and groups that pose an imminent threat to a country.<sup>1</sup> He was killed in a drone strike in Yemen on September 30, 2011.

For some time, the killing of an American citizen by an American attack authorized by the American government was considered unprecedented and extraordinarily unique. In fact, al-Awlaki was the first U.S. citizen added to the list of suspected terrorists the CIA is authorized to kill (Bjelopera 2013: 16). Now however, as international terrorist groups such as the Islamic State of Iraq and the Levant (known as ISIL, ISIS, or the Islamic State) specifically recruit Americans and others with Western passports, the notion of Americans as potential targets for government killing is becoming a more plausible consideration. Approval for targeted killing by the state without a trial is a clear indication that the government no longer considers that person to possess the complete rights of a citizen, and possibly none at all. Targeted killing could then be considered an informal ejection from the state, and had al-Awlaki not also held citizenship in Yemen, this would have essentially forced statelessness upon him. The ability to remove the rights of a citizen raises clear questions about the limits of one's citizenship. As hundreds of American citizens continue to “radicalize” and pledge allegiance to terrorist groups intent on harming the United States, how are the policies and practices related to terrorism changing? How has the killing of Anwar al-Awlaki impacted the role of citizenship in the United States? Most importantly, what does this

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<sup>1</sup> The threshold of an imminent threat is crossed upon satisfying the “Caroline Test,” named after an 1837 incident in which British forces attacked the steamboat *Caroline*, which was carrying men and supplies from the United States to Canadian rebels. When the British claimed this to be an act of self-defense, US Secretary of State Daniel Webster laid out specific criteria for self-defense concerning the necessity and proportionality of response. These were accepted by the British and came to be seen as customary international law before being recognized by the Nuremberg Tribunal. The criteria are as follows: 1) The use of force must be necessary because the threat is imminent and thus pursuing peaceful alternatives is not an option and 2) The response must be proportionate to the threat. (Elsea 2012: 6-8)

mean for our concept of citizenship in general, and how has this change altered the protections afforded to those members who hold citizenship? To answer these questions, it is first important to examine the protections, securities, and responsibilities afforded by a nation to those considered to be citizens.

This project uses the story of the life and death of Anwar al-Awlaki as a means to explore these questions. Throughout the project, I will return to the al-Awlaki killing in order to examine the most extreme measure a government can take against one of its own citizens: execution. Of course, execution is not unfamiliar in the United States, with thirty-one states currently allowing the procedure. However, each state-sanctioned execution sentence is the result of an arrest, a trial, and a conviction based on evidence. In al-Awlaki's situation, none of these factors were present and there was no due process involved. Because of this, by using the al-Awlaki case as an anchor, I am able to delve into questions of citizenship, belonging, terrorism, and the reciprocal relationship between a state and its citizen. Al-Awlaki also provides a useful touchstone to relevant policy debates and implementations, as many of the evolving policies in the United States and around the world were inspired by the desire and necessity to combat him and others like him.

Here in Part I of this project, I will trace the life and death of Anwar al-Awlaki, especially the events leading up to and following his departure from the United States. By doing so, I will be equipped to examine the changes occurring in the conception of American citizenship. By exploring such an extreme case, it will become apparent that there are certain instances in which the government can exclude a citizen from the rights and protections of citizenship. In order to best understand the implications of this



confluence of factors, I will review several explanations of citizenship and theories on the expectations a citizen can have from his or her state. The assessment of the literature and various views on citizenship grounds the project in theory that will be applied in subsequent chapters and offers a basis for an ideal citizen-state relationship. Following this, I will explain the organization of the remaining sections of the project.

### *Al-Awlaki's Transformation*

Important to the story of Anwar al-Awlaki's death are the events that unfolded throughout his life, especially after his return to the United States as a young college student and his eventual move to Washington, DC. By September 11, 2001, al-Awlaki was a regular on the Islamic speaking circuit throughout the United States, giving lectures, recording CDs for sale, and even giving a sermon at the United States Capitol. He maintained a regular relationship with the media and often spoke at interfaith conferences. Al-Awlaki was not always an adherent to the ideals of radical jihad; on the contrary, he often preached unity and brotherhood for America and the world's Muslims. At his mosque, al-Awlaki often spoke of the complicated relationship between America and its Muslim citizens:

“Yes, we disagree with a lot of issues when it comes to the foreign policy of the United States. We are very conservative when it comes to family values. We are against the moral decay that we see in the society. But we also cherish a lot of the values that are in America. Freedom is one of them; opportunity is another. And that's why there is more appreciation among the American Muslims compared to the Muslims in other parts of the world.” (Shane 2015: 88)

Though often critical of America's record in the Middle East, he strongly condemned the attacks of September 11, 2001. Becoming somewhat of a spokesman for the Muslim community after the attacks (al-Awlaki was interviewed and covered by ABC, NBC,

CBS, the *Washington Post*, and the *New York Times*, among others), al-Awlaki called his congregation “the bridge between America and one billion Muslims nationwide” (Shane 2015: 87).

Despite wanting to serve as a uniting force for the world, al-Awlaki eventually turned to a radicalized and violent interpretation of Islam. An analysis of the language used by al-Awlaki shows a marked change from the rhetoric of inclusion and unity after the attacks of September 11<sup>th</sup> and the calls for jihad against the United States that he preached in the years preceding his death (Shane & Mekhennet 2010). There are two conflicting viewpoints on al-Awlaki's drastic shift in tone. One idea put forth but not confirmed by the 9/11 Commission maintains that al-Awlaki was a longtime secret agent for Al Qaeda preceding the attacks of September 11<sup>th</sup>. This viewpoint assumes that the violent rhetoric was simply a return to true form for al-Awlaki (Shane & Mekhennet 2010). The other version of events, as explained by al-Awlaki himself and his family, follows a different narrative. Here, al-Awlaki had always been a nonviolent moderate until the United States used military force in Afghanistan and Iraq, covert operations in Pakistan and Yemen, and (in the eyes of al-Awlaki) targeted Muslims for raids and arrests even within the United States itself (Shane & Mekhennet 2010). Under this version of events, the cleric was driven from the United States not by a sudden hatred for America or a desire to become a terrorist ring leader, but instead because he feared the United States government would expose details of his personal life that contrasted the teachings in his sermons (Shane 2015: 119-121).

During the course of an FBI investigation into al-Awlaki's connections to the 9/11 hijackers, it became apparent that the cleric – a married man who preached abstinence

during Ramadan and decried Hollywood culture for promoting sex outside of marriage – was visiting prostitutes fairly regularly. Records were kept of each visit. The FBI was not specifically targeting this aspect of al-Awlaki's personal life for investigation, but after the agency discovered that at least two of the 9/11 hijackers had prayed at al-Awlaki's mosque in San Diego, they interviewed him three times. Al-Awlaki's wariness around the agents (he declined to show them his passport or answer questions regarding whether he had lectured on Jihad) did not allay their suspicions, and a formal 24-hour surveillance team was ordered for the cleric. His day-to-day movements were tracked, his calls were monitored, and his associates were vetted for any possible connection to terrorism. As Scott Shane notes in his book, this sometimes resulted in odd quirks due to al-Awlaki's position as a public speaker: on one occasion, his FBI tracking team followed him to the Pentagon, where he was to give speech at a luncheon dedicated to outreach to the Muslim community.

Al-Awlaki's brother Ammar testified that Anwar had intended to stay in the United States for the rest of his life, and reiterated that on the day of his last sermon. Ammar further explained that after his brother learned the FBI had an extensive file on him, including his personal life, Anwar feared that if the information were made public it could “destroy his life” (Shane 2015: 119). With his career and family at risk, al-Awlaki chose to leave for Yemen.

Still, it seems as though al-Awlaki planned to return to the United States. In fact, he even contacted the FBI in 2003 in order to set up a meeting with agency officials regarding a possible return to the United States. As the two sides emailed back and forth, he went so far as to reference media reports of him fraternizing with the 9/11 hijackers

because they had appeared at his mosque; he called the reports absurd. Al-Awlaki did not know this, but at the time the FBI was actually considering charging him with solicitation if he ever returned to the United States (Shane 2015: 154). The meeting never took place, as the FBI treated it as a low priority and al-Awlaki eventually stopped answering emails. In an interview conducted in Yemen, al-Awlaki's uncle Saleh bin Fareed al-Awlaki told Scott Shane that even as late as 2004, his nephew would reiterate the possibility of a return: "He would always say, 'Thank God I'm an American citizen and I have a second home to go back to if things go wrong in Yemen'" (Shane 2015: 156).

By 2005, al-Awlaki's rhetoric had grown decidedly more violent and anti-American. In 2006, he was arrested and imprisoned in Yemen for eighteen months without any charges being filed against him, at least partially because of American pressure (Shane & Mekhennet 2010). By the end of 2007, he had retreated to the Shabwah province of Yemen, his family's ancestral home and the hideout for Al Qaeda. He joined the group soon after, and quickly became involved in plotting attacks against America. In 2010, President Obama put him on the authorized kill list, and that killing was carried out in 2011.

### *What Is Citizenship? – A Literature Review*

In this section, I explore the views of several prominent scholars of citizenship in order to compare theories on the rights, securities, and protections of citizenship with real-life practices. By introducing their various ideas, it is possible to examine how citizenship is changing as a concept due to the policies and practices of the United States. Many theorists emphasize that citizenship is more than just an abstract concept, but also

affects the lives, outlooks, and potential for success of real people. Though some of the thinkers have similar and intertwining viewpoints, each provides an interesting perspective and a unique approach to understanding the protections, responsibilities, and other functions of citizenship as a construct.

Christian Joppke, for example, has analyzed decades of citizenship literature and offers a broad examination of that construct in his book *Citizenship and Immigration*. Based on his extensive research, he contends that citizenship as a concept is constantly in flux, with world events and societal norms influencing the perception of the term. Some of the influences Joppke cites include the changing norms of universal human rights and the outlawing of racial and ethnic discrimination, which have prompted lawmakers to liberalize access to citizenship and expand inclusiveness. Some proponents of a more inclusive state have been inspired by the success of migrants' efforts to become contributing members of American society, but mass immigration has also provided opportunities for advocates of a less inclusive state to constrict citizenship, both legally and rhetorically. Consequently, since the perception of who should be considered a citizen is under debate, the construct of citizenship itself has also been in flux. Joppke, drawing from a wide range of scholarship on citizenship, focuses on three distinct dimensions of citizenship: status, rights, and identity. He defines status as formal state membership as regulated by a state's nationality laws. With that citizenship comes certain rights, which will be explored in depth in relation to the al-Awlaki killing.

Joppke also discusses the concept of a collective identity that serves to link citizens to their nation, bringing them into a national community and inspiring a feeling of belonging. Other scholars explore this idea of a collective identity as well, with

Natalie Masuoka and Jane Junn noting that early definitions of national identity are based in political ideals such as equality, liberty, and democracy (Masuoka and Junn 2013: 40). The two authors also suggest that not all groups are equal in the politics of belonging, and that along with political ideas come the external influences of history and group consciousness that can affect both assimilation on the part of the outsider and acceptance on the part of the established citizenry (Masuoka and Junn 2013: 197). In today's America, they assert, both the rhetoric of the country's lawmakers and the policies they create seek to answer the question of “Who does *not* belong?” Sometimes more nuanced measures must be examined in order to attempt to answer that question. Though rarely inserted into a bill for consideration or mentioned in a political party's official platform, issues such as democratic participation, integration in schools, and mixture into the labor market can be greatly affected by factors such as visible religious or ethnic differences (Hinze 2013: 54). As I will show later in the thesis, some Muslims – especially those who wear traditional dress – are being increasingly ostracized from American civic life.

Hinze further discusses the political effect of this divergence in identity. With policymakers reluctant to go against public opinion, those making the laws will perpetuate negative feelings in their constituents for political reasons (Hinze 2013: 58). By creating these irreconcilabilities between “outsiders” and those considered to be the general public, politicians influence who can rightly be deemed a citizen. The status of “citizen” is granted by the government's policies, which determine not only who is a citizen of the country, but how a person can achieve that status.

In the United States, there are two pathways to citizenship: birthright citizenship, in which an individual is automatically deemed a citizen upon his or her birth, and

naturalization, whereby an immigrant applies for citizenship, fulfills a series of requirements, and is granted access into the country and bound and protected by its laws. Regardless of the method of being granted citizen status, that status creates certain rights and entitlements that accrue equally to all persons. According to Joppke, there is a sort of spectrum of emphasis, with some countries stressing the responsibilities of its citizens to the state and an obligation to participate and give back, while others instead focus on the rights and economic opportunities granted to its citizens. The United States Citizenship and Immigration Services website, for example, has a section that lists the rights and responsibilities that come with citizenship. Among the listed rights are the freedom to express yourself, the freedom to worship as you wish, and the right to a prompt and fair trial by jury. With this emphasis on citizen rights, the killing of an American by the government without any regard for due process in a court of law is that much more of an affront to the concept of American citizenship.

Richard Bellamy, like Joppke, also investigates and distills a collection of citizenship literature, and he too sub-divides his definition of citizenship. Where Joppke finds three aspects, Bellamy focuses on three as well: what he calls “membership or belonging,” rights, and participation (Bellamy 2008: 12). Though the idea of membership or belonging, as described by Bellamy, is quite similar to Joppke's own interpretation of identity, an important difference is that Bellamy focuses on a two-way interaction between the individual citizen and his community. This sense of belonging refers generally to a “common civic culture:” the capacity to participate in the political and social community and the willingness to recognize that the ability of the state to tax them and otherwise regulate their lives are both important (Bellamy 2008: 13).

Nonetheless, Bellamy also emphasizes “a degree of trust and solidarity among citizens” and even the benefits of a common language (Bellamy 2008: 13).

Bellamy's interpretation of the rights of a citizen leads him to a paradox. Because these rights are not always explicitly stated, many are in flux and decided upon by the citizens themselves (Bellamy 2008: 15). However, the existence of these rights depends on the “existence of some form of political community” to ensure that they are protected and properly assured. In this sense, Bellamy utilizes Hannah Arendt's description of citizenship as “the right to have rights” (Bellamy 2008: 15). In contrast to Joppke, Bellamy does not include “status” as one of his three aspects of citizenship because, as he explains earlier in his book, he assumes that only citizens – not residents or any other class of person living in a country – have those “unqualified rights” associated with citizenship (Bellamy 2008: 10). While conceding that all people in any country are deserving of having their basic human rights protected, Bellamy asserts that citizens of “well-run democracies” are usually entitled to rights far beyond what is normally considered “basic.” Perhaps justifying this, Bellamy does name “participation” as a crucial component of citizenship, which is more exclusive to citizens (Bellamy 2008: 16).

Joseph Carens expands on the differences in the rights afforded to citizens and non-citizens in his book *The Ethics of Immigration*. Primarily focused on equality, Carens states that “no one is to be subjected to social disadvantage based on arbitrary criteria” (Carens 2013: 66). However, Carens also introduces the theory of social membership. Carens argues that living within the territorial bounds of a state makes a person a member of that society, and that person grows a deeper moral claim to the political protections of citizenship over time (Carens 2013: 158). One question this theory begs is whether the



reverse is true as well. If a citizen born and raised in this country largely disassociates himself later in life, living outside the territorial bounds and far outside of the accepted moral and cultural norms, is he then no longer a member of the society? Has he lost that claim to protection from the state?

These questions will be considered throughout the rest of this project. The interplay between the distinct feelings of identity and belonging and the legal protections afforded by citizenship has evolved in the post-9/11 era. Now, the rights and protections traditionally understood to be afforded by citizenship may not necessarily apply to all citizens equally. By examining these foundational approaches to citizenship as scholarly theory, it will be possible to further explore the citizenship policies and practices of the United States government. With a combined study of theory, policy, and history, the possibility of a true new era of citizenship becomes apparent. The goal of this project is to uncover what these discoveries mean for the broader understanding of American citizenship.

### *Citizenship in Context*

In order to answer the questions posed above, a wide variety of sources will be used to examine the issue of citizen terrorists and their rights as protected by citizenship. The work of Linda Kerber and Rogers M. Smith is especially useful in that each author bridges theory and American policy, offering a structure for subsequent parts of this thesis. Their work will be used to provide background information on the rights of dissident citizens, as well as the ability of the state to strip those rights away, which can lead to a condition of statelessness. Kerber asserts that rendering an individual stateless

leaves him with no one to protect his human rights (Kerber 2007). She argues, for example, that stateless people are routinely abused by the United States in prisons such as Guantanamo and Abu Ghraib, and that in these instances it is the state who decides “who is entitled to the protections of international law and who is not” (Kerber 2007). In the case of Anwar al-Awlaki, the government removed the rights of a citizen through both official and unofficial means, and thus exempted itself from having to protect that citizen. Here, as Kerber suggests, the state has become a moral entity, “creating a moral international law of their own devising” (Kerber 2007). “Those who are outside the state system can easily be understood as being outside the law,” she says, and al-Awlaki – despite his status as a natural-born American citizen – was apparently understood to be outside the protections of American or even international law, as evidenced by his killing by the state meant to secure his rights (Kerber 2007).

Rogers Smith has examined the historical development of American citizenship as well, and he traces the way the September 11, 2001 attacks were used as justification to increase restrictions on suspected terrorists and ordinary citizens alike by way of the USA PATRIOT Act. Following its enactment, the government began to hold unlawful enemy combatants at the US naval base in Guantanamo, Cuba without determining their citizenship status. Sometime in 2002, President George W. Bush also authorized the National Security Agency to monitor the communication of those with suspected links to Al Qaeda, also without regards to citizenship status (Smith 2007). Despite this broad authority, the Supreme Court has continuously protected the rights of U.S. citizens, even those suspected of potential terrorist activities. In *Hamdi v. Rumsfeld*, the Court ruled that Yaser Hamdi was entitled to habeas corpus relief and the rights of Due Process,

including notification of why he was classified as an enemy combatant (Smith 2007). In his conclusion, Smith notes his outrage at the abuses and denial of due process rights occurring in US detention facilities (Smith 2007). However he also makes a prescient prediction:

We are likely to face ongoing difficulties with the abuse of Islamic and Arab immigrants in particular at the hands of American law enforcement and military forces, and the ways they are denied procedural protections may continue to rebound and erode the rights of American citizens generally. (Smith 2007)

Smith likely never predicted that the level of erosion of citizen rights would progress to targeted killings.

### *Project Layout*

Here in Part I of this project, I have offered a survey of the life and death of Anwar al-Awlaki. By returning to his story and the circumstances of his death throughout this work, I will ground the project in the context of an American citizen killed by his government. As groups such as ISIS continue to recruit Americans to their cause, the threat of American-led domestic terrorism continues to grow. As the United States and other sympathetic nations work to contain the crisis, ISIS has instead continued to expand its diaspora throughout the Middle East and Northern Africa, and also throughout the world with its successful social media campaigns. In December 2014, Thomas S. Warrick, Deputy Assistant Secretary for Counterterrorism Policy at the Department of Homeland Security, testified before Congress that “more than 100 U.S. persons and over 2,700 Westerners have traveled or attempted travel to Syria to participate in the conflict” (U.S. House Committee on Foreign Affairs 2014: 23). More recent numbers released in January 2016 indicate that approximately 250 Americans have

tried to go fight for ISIS in Syria or Iraq, and that over 6,600 foreign fighters come from Western states (Dilanian 2016). Furthermore, the Congressional Research Service released a report to Congress estimating that “there have been 63 homegrown<sup>2</sup> violent jihadist plots or attacks in the United States since September 11, 2001,” with 42 cases resulting in arrest and two in actual attacks (Bjelopera 2013: 1). With an increasing number of American citizens defecting to these radicalized organizations, as well as other Western-nation citizens with visa-free access to the United States, the targeting of these citizens for killing could become a more common reality.

If the factors discussed above can be considered causes, then some of the effects would be the policies and laws that have been developed and implemented in the era of citizen terrorism. Part II of the project will examine these evolving policies. This section will delve into the changing policies of citizenship both in the United States and around the world. Changes will be explored with regard to a past/present dynamic, across the three branches of the United States government, and internationally. Since the attacks of September 11, 2001, and especially since the rise of the Islamic State and their well-documented recruiting tactics aimed at Westerners, numerous governments around the world have reacted by altering their citizenship policies. Some have made official changes to policy or law, and others are experiencing more subtle changes as reflected by what may be considered the national mood. Increases in state security, new methods of officially removing an individual's citizenship, and means of preventing citizens from joining radical organizations have all become priorities in this evolving age of citizen-perpetrated domestic terrorism.

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<sup>2</sup> The report defines “homegrown” as “the term that describes terrorist activity or plots perpetrated within the United States or abroad by American citizens, legal permanent residents, or visitors radicalized largely within the United States.” (Bjelopera 2013: 1).

In Part III, I will explore the idea of “identity” as it is traditionally understood by various theorists of citizenship. Each of these thinkers places great importance on issues such as identity and belonging, and while they differ in their ideas and even in their definitions, they all recognize the tensions that emerge when a citizen's identity is too far outside of what is considered to be “the norm.” Here I will return to the story of Anwar al-Awlaki and examine the events that led to his killing in terms of a sense of belonging to his country of birth, the United States. Utilizing the work of Orla Lynch, I will examine the potential for an “identity crisis” in one's country of citizenship and how that crisis can lead to radicalization. Like Joseph Carens, Lynch examines what it means to be “British,” or “American,” or “French,” or a citizen of any liberal democracy. By not fitting in to the “norm” of one's country, one may be prohibited from exercising one's rights as a citizen, not because of an official law or policy but instead because of a fear of being perceived as an Other. When a citizen moves too far outside what is considered the normal bounds of being “American,” as Anwar al-Awlaki did when his rhetoric became more violent and decidedly anti-American, the government may choose to act in a way incompatible with the concept of citizenship as it has been traditionally understood. Though the “identity crisis” may not be a direct cause, it is certainly a factor in changing the conception of citizenship in general. In this section, I will examine how this evolving over-emphasis on identity is remaking citizenship and leading to exclusion. As policies and practices in the United States change in reaction to new security threats and increased fear of the Other, the end result is a shift in the construct of citizenship itself.

Part IV of this project will serve as a conclusion. It will summarize the arguments and evidence of the previous three sections while indicating how they interact with each

other. I will also examine the implications of these arguments, including what they mean for the current state of citizenship and whether there is a confluence of factors effecting a fundamental change in the protections and understanding of citizenship. Finally, I will discuss what other research could be conducted to further the lessons of this project.

## PART II: Citizenship Policy in the United States and Abroad

This section examines the changing policies of citizenship in the United States and around the world. These changes in United States policy, both official and otherwise, will be compared across several dimensions: across time, across the three branches of the United States government, and across space by comparing developments in the United States with those abroad. Since the attacks of September 11, 2001 and especially since the rise of the Islamic State and their recruiting tactics aimed at Westerners, governments around the world have reacted by altering their citizenship policies. Some have made official changes to policy or law, and others are experiencing more subtle changes as reflected by what may be considered the national mood. Increases in state security, new methods of officially removing an individual's citizenship, and means of preventing citizens from joining radical organizations to begin with have all become priorities in this new age of citizen-perpetrated domestic terrorism.

I begin this section with a look at the evolution of citizenship policy in the United States in order to show that there have been a variety of checks and balances put in place by all three branches of government in order to protect the rights of citizens. However, as I will show, there have been recent legislative attempts to change some of these historic precedents. This is useful to highlight the disparity between stated American policy and actual American practices. I also discuss two historical examples of extreme breaches of the rights and protections of citizenship by the government in the United States: reactions to the communist “Red Scare” of the 1940s and 50s, and the internment of Japanese Americans after the attacks on Pearl Harbor in 1941. Both are helpful in examining some of the recent changes to citizenship policy and offer insight into singling

out citizens or groups of citizens based on either ideology or ethnicity. I also explore changing citizenship policies abroad and the methods employed by various nations to mitigate the risks of citizen terrorists and returning foreign fighters. I then return to the killing of Anwar al-Awlaki and question the legality of the practice of targeted killing using the stated and established policies of the United States. All of this is evidence of a confluence of factors, some new and some old, which is resulting in a changing conception of American citizenship.

### *A Brief History of Citizenship-Related Punishment in the United States*

In this section, I will briefly examine the policy history of citizenship in the United States in terms of legislative acts, Supreme Court cases, and actions of executive branch departments in the decades before September 11, 2001. As will be described, the removal of citizen rights as punishment is not exclusively a post-9/11 phenomenon. Forced statelessness, or removal of citizenship, as a punishment began during the Civil War, when a statute provided for the removal of any war deserter's "rights of citizenship." This was changed to simply removal of "citizenship" in the Nationality Act of 1940, which provided for the "loss of nationality" when a citizen "engag[es] in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them."<sup>1</sup> It is also important to note that these provisions under the Nationality Act cannot be invoked unless the citizen has been "convicted thereof by a court martial or by a court of competent judgment." This is an important requirement, as it specifically excludes Anwar al-Awlaki's case since he was never convicted of any such

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<sup>1</sup> TITLE 8 of the U.S. Code: ALIENS AND NATIONALITY. Chapter 12, Subchapter III, Part III: Loss of Nationality.



crime.

The removal of citizenship wasn't addressed again until the 1958 Supreme Court opinion *Trop v. Dulles* which held that using denationalization as a punishment was unconstitutional under the 8<sup>th</sup> Amendment (which prohibits cruel and unusual punishments). In the same year, the Court ruled in *Kent v. Dulles* that passports could not be withheld from otherwise eligible citizens because of their beliefs or associations. Though designed to protect those affiliated with Communist groups, this ruling is relevant to today's discussion regarding ISIS. This provision protecting free speech under the First Amendment was inserted into the updated Passport Act in 1991 (Lee 2014b). Furthermore, in the 1967 case *Afroyim v. Rusk*, the Court ruled that Congress had no power under the constitution to revoke a person's citizenship unless he or she voluntarily relinquished it (Lee 2014a). In that case, the Court specifically stated that the Fourteenth Amendment to the Constitution bars Congress from revoking U.S. citizenship without the person's consent. In fact, Justice Hugo Black, writing for the majority, declared, "Once acquired, this Fourteenth Amendment citizenship was not to be shifted, canceled, or diluted at the will of the Federal Government, the States, or any other governmental unit." It is made explicitly clear and reiterated several times that citizenship cannot be revoked without the voluntary relinquishment of it by the person in question.

Furthermore, in the 1980 case *Vance v. Terrazas*, the Court once again reinforced its interpretation of the Constitution and declared that no American citizen could have her citizenship taken away against her will. Though this decision also stated that intent to relinquish one's citizenship must be specifically established, it goes even further than the *Afroyim* decision in that the Court also held that relinquishment cannot simply be

presumed because a person performed an act that would by law expatriate him. The Court makes it clear that neither Congress nor any other entity in government has any right to remove or revoke someone's citizenship without her explicit consent.

In 1990, the U.S. State Department strengthened this ruling by making it so that citizens could commit one of the so-called “expatriating acts” listed in the Immigration and Nationality Act and still retain their citizenship, provided that they did not intend to give up their citizenship at the time the act was committed. These 1990 regulations held that a citizen's answer that he did not intend to give up his citizenship was sufficient enough to allow him to keep his citizenship. Here, the executive branch is ostensibly aligning with the judicial branch with policies of citizenship retention.

### *Recent Legislation*

More recently, legislation has been proposed that would conflict with the policies described above, and this legislation aims to codify the changing understanding of citizenship that is taking place. Despite the clear and repeated opinion of the Supreme Court that firmly establish that revocation of citizenship without that citizen's consent is unconstitutional and agencies throughout the executive branch working to comply with those rulings, some elected officials within the legislative branch of the United States government have responded to recent threats of terrorist acts being carried out by American citizens by introducing policies that would *de facto* revoke their citizenship and remove their Constitutional rights. Though the majority of these efforts have failed, in recent years the average number of co-sponsors has trended upward, bills have moved further through the legislative process, and others have actually been passed in at least

one House of Congress. This could suggest that there is a rising security threat to the United States from its own citizens or that there is a growing political benefit to advocating such positions. Regardless of the inspiration, there are efforts in Congress to change the ways citizens are protected by the citizenship they hold.

The first attempt in recent times to codify a new circumstance for removing citizenship due to participation in terrorist activities occurred in 2010 with the Enemy Expatriation Act (alternatively known as the Terrorist Expatriation Act). Introduced with bipartisan co-sponsors in both Houses of Congress<sup>2</sup>, had it been enacted this bill would have served to amend the Immigration and Nationality Act by adding several new justifications for revoking citizenship: providing material support or resources to a foreign terrorist organization, as well as engaging in or supporting hostilities against the United States. Designating a group as a “foreign terrorist organization” would fall under the purview of the Secretary of State. After its introduction, several prominent legal scholars and libertarian-minded groups decried the bill as not just unnecessary but also unconstitutional, and editorials appeared in major newspapers across the nation. Ultimately, the bill was not voted upon in either House of Congress.

Also in 2010, some lawmakers in the United States singled out individual actors instead of entire groups. In April of that year, Representative Charlie Dent introduced a resolution with seventeen Republican co-sponsors to urge the State Department to issue a “certificate of loss of nationality” to Anwar al-Awlaki himself. Dent claimed that al-Awlaki had renounced his citizenship by way of treasonous acts and “preach[ing] a culture of hate.” Dent also asserted that by revoking al-Awlaki's citizenship, it would be

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<sup>2</sup> Senator Joe Lieberman (D-CT) introduced the bill in the Senate, and Representative Charlie Dent (R-PA) introduced it in the House of Representatives. They were joined by Senator Scott Brown (R-MA) and Representatives Jason Altmire (D-PA), Robert Latta (R-OH), and Frank Wolf (R-VA).

easier to target him for covert operations and would have kept him out of US civilian courts. Here, the goal was to actually keep al-Awlaki out of America's justice system. The bill was never introduced in the Senate or voted upon in the House.

In September of 2014, however, Senator Ted Cruz (R-TX) referenced this bill when introducing his “Expatriate Terrorist Act,” which would also have amended the Immigration and Nationality Act. In this case, loss of citizenship would occur if the person in question “tak[es] an oath or mak[es] a declaration of allegiance to a foreign terrorist organization after attaining the age of 18.” Furthermore, the bill would provide for loss of citizenship for someone “becoming a member of or providing training or material assistance to any foreign terrorist organization that such person knows or has reason to know will engage in hostilities against the United States, or will commit acts of terror against the United States or U.S. nationals.” In practical terms, this went further than the 2010 Lieberman bill. Lieberman's bill specifically targeted those who fought alongside or provided assistance to terrorist groups. Cruz's bill would have gone even further, amending the Act to include membership, training, and oaths of allegiance as grounds for removing citizenship as well. Each of these terms was loosely defined, and it was unclear in the bill who would determine what exactly qualified as membership, training, or an oath of allegiance.

While clear from their statements that the two bills were aimed at different groups, with Lieberman's focusing on Al Qaeda and Cruz's targeting ISIS, they are textually similar. The punishment for participation in a terrorist organization is loss of citizenship. However, Cruz's bill differs from Lieberman's in the rhetoric used to present it. On the floor of the U.S. Senate, Cruz engaged in scare tactics by portraying opponents of his bill

as soft on terror, describing imagined scenes of murder on the streets of major U.S. cities should the Senate fail to pass his bill. Despite this, Senator Mazie Hirono (D-HI) blocked consideration of the bill on the grounds that the bill affected “fundamental constitutional rights” and thus required deliberation by the Senate Judiciary Committee and then the full Senate, and therefore was unable to be passed by unanimous consent as Cruz was requesting. Despite this setback, Representative Steve King (R-IA) introduced a companion bill in the House of Representatives in January 2015<sup>3</sup>. Both the House and Senate versions of the bill have been referred to committee. Once again, established case law (*Afroyim* and *Vance*) is being ignored in favor of alterations to the nation's citizenship policies that would enable the government to revoke a person's citizenship.

Some legislative actors are continuing to work to roll back the progressive actions of the executive and judicial branches of government. On January 1, 2015, Representative Ted Poe (R-TX) introduced the “Foreign Terrorist Organization Passport Revocation Act.” Under the terms of this bill, the Secretary of State may revoke a passport previously issued to any individual “whom the Secretary has determined has aided, assisted, abetted, or otherwise helped an organization the Secretary has designated as a foreign terrorist organization.” The bill gained ten bipartisan co-sponsors by June (seven Republicans and three Democrats), and was passed by a voice vote on July 21, 2015. Because the bill was passed by voice vote only, there was no roll call and thus no vote totals are available. The bill now awaits a vote in the Senate and has been referred to the Committee on Foreign Relations. Though the contents of this bill do seem to contradict the Supreme Court's decision in *Kent v. Dulles*, which specifically prohibits the

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<sup>3</sup> Senator Cruz's and Representative King's bills were co-sponsored by three other Republican Senators and six other Republican Representatives, respectively.

revocation of passports due to a citizen's beliefs or associations, he is not alone in trying to do just that. Like Poe's bill, Cruz's bill would also revoke a citizen's passport and citizenship, and not just for American citizens joining a terrorist organization abroad. In Cruz's bill, revocation would apply to any citizen who simply claims membership in such an organization, or gives an oath, training, or assistance to that group, regardless of whether that person actually fights. This would even apply to citizens still in the United States, creating the possibility of stateless would-be terrorists living within the jurisdictional bounds of the nation.

### *Major Breaches of Citizenship-Related Privileges in the United States*

Despite numerous opinions issued by the Supreme Court holding that citizens cannot have their citizenship removed due to their beliefs or associations, there have been other instances in United States history where lawmakers have called into question the “Americanness” of certain citizens and attempted to remove or restrict their rights. Examining these instances is useful in understanding how many of the practices being used today against Muslims have been utilized in other contexts, and I will show in this section that while there are many similarities between the historical cases and the present day, there are also several important differences. Perhaps the greatest example of such actions towards particular groups is the treatment of suspected Communists during the “Red Scare” of the 1940s into the 1950s. During this time, the House of Representatives revived the House Un-American Activities Committee (HUAC),<sup>4</sup> making it a standing committee with the goal of investigating “the diffusion within the United States of

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<sup>4</sup> While the Committee is most infamous for pursuing alleged Communists, previous incarnations earlier in the 1900s sought out suspected German sympathizers, Bolsheviks, Nazis, fascists, and even Japanese Americans.

subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution” (H.Res 282). This gave the Committee broad authority to investigate just about anyone performing some activity deemed to be suspicious. In fact, the Committee specifically examined the goings-on of suspected Communists in supposed positions of power within the United States. HUAC is probably most infamous for its 1947 hearings regarding Communist activity and propaganda throughout Hollywood and the subsequent blacklisting of those who refused to answer the Committee's questions. All in all, over 300 actors, writers, directors, radio personalities, and others in the media were blacklisted, leading to a loss of employment and effective ruination of their careers (“HUAC”).<sup>5</sup>

Roughly concurrent with the reformation of HUAC was the rise in prominence of Senator Joseph McCarthy, who rose to fame in the Senate by ferreting out alleged Communists in the State Department. Like the House Committee, McCarthy used tactics that could be considered fear-mongering, proclaiming that the very government agencies designed to protect the American people were in fact subverted by the enemy (“HUAC”). Also like HUAC, McCarthy famously named specific names of alleged Communists with varying degrees of actual ties to espionage-related activities (“HUAC”).

By the mid-1950s, both the Committee and Senator McCarthy had suffered significant blows to their influence and reputations. McCarthy was formally “condemned” by the Senate in 1954 (though most Senate documents refer to this as an official censure) (“HUAC”). The House Un-American Activities Committee certainly was affected by McCarthy's downfall and was later referred to by President Harry

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<sup>5</sup> Rutgers' own Paul Robeson was among these personalities.

Truman as “the most un-American thing in the country” in 1959. By the late 1960s, HUAC was engaging in farcical hearings on the floor of the House with Abbie Hoffman and Jerry Rubin of the Yippies. The Committee was renamed in 1969, and by 1975 was phased out completely (“HUAC”). Despite the eventual downfall of McCarthy and HUAC, the damage done to the careers of citizens suspected of certain activities was severe, and sometimes even resulted instances of suicide and death.

However, it is also important to consider that in some cases, HUAC and/or McCarthy were in fact correct in their suspicions of certain individuals. Some citizens were actually engaging in espionage for the Soviet Union (“HUAC”). Most historians acknowledge that many of those on McCarthy's lists of alleged Communists could have legitimately been considered security risks, but few were actively aiding Soviet spying networks. It was not the pursuit of Communists that attracted criticism, but the tactics used to investigate those alleged to have Communist ties.

As startling as the persecution of supposed American Communists was, when discussing breaches of the rights of citizens in the United States, the internment of Japanese Americans after the attack on Pearl Harbor by Japanese forces on December 7, 1941, suppressed rights in a much more concrete fashion. The day after the attacks, the United States declared war on Japan, and on February 19, 1942, President Franklin Roosevelt (D) signed Executive Order 9066. This order authorized the Secretary of War (at the time the equivalent of today's Secretary of Defense) to declare certain areas of land “military areas” and to determine who would and would not be allowed in such areas. The Secretary was further authorized to “exclude” residents from those designated areas and to use federal troops to do so (Executive Order 9066). Less than two weeks



later on March 2, Lieutenant General John L. DeWitt issued Public Proclamation No. 1, which created a designated “exclusion zone” known as Military Area No. 1 that spanned most of the Pacific Coast and stretched roughly 100 miles inland and that, eventually, would subject “such person or classes or persons as the situation may require” to exclusion orders (*Korematsu v. United States*). President Roosevelt issued another executive order on March 18 that created the War Relocation Authority, the agency responsible for the “removal from designated areas of persons whose removal is necessary in the interests of national security” (Executive Order 9102). The Director of the WRA, who reported directly to the president, was given authority to “accomplish all necessary evacuation not undertaken by the Secretary of War” and to “supervise [the] activities” of those who were relocated (Executive Order 9102).

By March 24, DeWitt had created a curfew for “all enemy aliens and all persons of Japanese ancestry” that prohibited such persons from leaving their home between 8 PM and 6 AM. The first exclusion order was also issued on March 24, 1942, with residents of Bainbridge Island, Washington being notified that they had until March 30 to prepare for their removal of the island. Furthermore, on March 27, DeWitt's Public Proclamation No. 4 banned anyone with Japanese ancestry<sup>6</sup> from leaving Military Area No. 1 for “any purpose until and to the extent that a future proclamation or order of this headquarters shall so permit or direct” (*Korematsu v. United States*). Several months later on May 3, DeWitt issued Civilian Order No. 34, which mandated that all people of Japanese ancestry (citizen or otherwise) still in Military Area No. 1 move to assembly centers before being moved to permanent “Relocation Centers” (*Korematsu v. United States*).

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<sup>6</sup> Anyone with at least one sixteenth Japanese ancestry was considered eligible under these Public Proclamations. Thus, any citizen with one Japanese great-grandparent was considered to be Japanese (*Korematsu v. United States*).

The situation at the relocation centers was not always adequate to meet the needs of the Japanese Americans housed there. In a letter to the President from Harold Ickes, the interior secretary explained that the “situation in at least some of the Japanese internment camps is bad and is becoming worse rapidly” (Ickes 1943). During this time, residents were also subjected to “loyalty questionnaires” that aimed to ascertain a citizen's patriotism and loyalty to the United States. Throughout the ten internment camps in the United States, roughly 120,000 Japanese Americans were held, and over 5,500 of these renounced their American citizenship (“Japanese American Relocation”). In *Ex Parte Mitsuye Endo*, the Supreme Court decided unanimously that the government cannot hold a citizen without charges when the government itself acknowledges that citizen to be loyal to the United States. Following this decision, President Roosevelt rescinded his exclusion orders and allowed those with Japanese ancestry to return to the West Coast.

Both of these periods illustrate a squeezing out of certain citizens. What stands out most starkly in both cases is the blanket assumption of guilt for a large group of people. Here, it is clear that the singling out of one particular group is not a new phenomenon in American history. Though the source of the impetus for legalized discrimination may vary between the two examples – political ideology during the Red Scare, ancestry and race for Japanese Americans – each represents a blatant and public assault on the rights of Americans citizens. Fundamental Constitutional freedoms were infringed upon, including some of the rights enshrined in the Bill of Rights. Today the target of that legalized discrimination has shifted once again. Again, this time the source is different, with Muslims in America being focused upon due to their religion. However, the blatant and legalized violation of the rights of these citizens represents a continuation of the

history of discrimination against certain groups.

### *Citizenship-Related Punishment Around the World*

Though certain citizens have been the focus of suspicion and even investigation based on political associations or a certain ethnic identity in the United States throughout history, the issue of citizen terrorists is unique. However, the ISIS crisis is not exclusive to the United States, and other parts of the world are implementing a diverse array of policies in order to combat similar threats. It is useful to examine other countries' responses to this crisis for several reasons. Importantly, such an examination demonstrates that the United States is far from the only nation dealing with increased challenges related to citizenship due to terror. As other countries experience similar issues, their policymakers are also experimenting with different tweaks to their own citizenship laws. Also, there is a degree of emulation occurring with regards to certain proposed policies. In some cases, legislation proposed in other Western nations can be seen as influencing bills introduced here in the United States, and the reverse is also true. It is also useful to remember that no state exists in a vacuum, and the policies of nations with strong economic, military, and diplomatic ties to the United States will certainly affect that country as well.

As an example of the scale of the problem, various international intelligence agencies estimate that over 130 Canadian citizens, 1,200 French citizens, 600 UK citizens, 50 Australian citizens, and 600 German citizens have joined ISIS (Berlinger 2015). In an April 2014 *New York Times* article, Katrin Bennhold examines the United Kingdom's "growing use of its ability to strip citizenship and its associated rights from

some Britons at the stroke of a pen, without any public hearing and with only after-the-fact involvement by the courts” (Bennhold 2014b). When the country stripped British-born Mohamed Sakr of his British citizenship in 2010, he appealed on the grounds that the government was rendering him stateless, however dropped his appeal due to fear that frequent communication with his lawyer would leave him vulnerable to a drone strike. He was killed by a drone strike in February 2012 Somalia (Bennhold 2014b). Like Anwar al-Awlaki, Sakr felt unable to utilize the court system in his home nation due to fears of being targeted and killed. The laws utilized to remove Sakr's citizenship in Britain are similar in content and in implementation to the proposed laws currently under consideration in the United States Congress.

Since 2006, forty-two people have been stripped of their British citizenship, with 20 such removals occurring in 2013 alone.<sup>7</sup> For comparison, the Cameron government, in power since 2010, “has stripped more people of their citizenship than all the other British governments since World War II combined” (Bennhold 2014b).<sup>8</sup> Of the fifteen appeals cases for British citizens stripped of their citizenship (including Mohamed Sakr's), only one has succeeded: the Supreme Court of Britain ruled that Hilal al-Jedda “could not be deprived of his British nationality because that action would make him stateless” (*Secretary of State for the Home Department v. al-Jedda*). In response, the government passed legislation that permits it to “strip terrorism suspects of their

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<sup>7</sup> Two of these people were subsequently killed in American drone strikes, raising issues of whether these actions side-stepped Due Process under British law. Senior officials from both the United States and the United Kingdom “said there was no link between the British government's decision to strip the men of their citizenship and the subsequent drone strikes against them.” However, they acknowledged that “the United States and Britain have a long history of intelligence sharing and cooperation in fighting terrorists” and “the same intelligence may have led to both actions” (Bennhold 2014a; Bennhold 2014b).

<sup>8</sup> Israel, the only other country to employ citizenship revocation against suspected terrorists, has used that power only twice since 2000, according to the Israeli Ministry of Interior.

citizenship even if it renders them stateless” and stripped al-Jedda of his citizenship a second time (Bennhold 2014a). A similar set of bills was recently passed in Canada, as well. These bills amended the Canadian Citizenship Act to allow for the revocation of Canadian citizenship from dual citizens and immigrants for crimes such as terrorism, espionage, and treason, and also expands the power of the CSIS (Canada's equivalent to the CIA) to prevent suspected terrorist activity (Hashem 2016). Legislators in Australia and the Netherlands are considering drafting similar bills for consideration (Bennhold 2014b).

Despite the authoritarian response of Britain and the United Kingdom, other Western countries have adopted more varied methods of addressing the crisis. In some nations, there have been attempts, with varying degrees of success, at increasing punishments for returnees who have committed human rights abuses abroad (Zelin 2015). Outside of Britain, most passports were revoked as a preventative measure, that is, *before* the citizen left the country to join a terrorist organization. There have also been calls in Britain and elsewhere to cancel the citizenship of those who also hold citizenship in countries where violent extremist organizations have a stronghold (Zelin 2015). Other government responses include “CVE” (Countering Violent Extremism) programs, control orders such as house arrest, preemptive arrests, the banning of returnees, deportations, and even terrorist rehabilitation programs. The European Union is also funding a British counter-messaging and counter-propaganda program and promoting that strategy throughout the E.U. (U.S. House Committee on Foreign Affairs 2014: 37).

However these actions are largely preventative, and many actions being taken by nations rely on existing laws and statutes (Zelin and Prohov 2014). As discussed above,

the United States has laws that allow the Secretary of State to restrict, deny, or revoke passports if the Secretary of State determines “that the applicant's activities abroad are causing or are likely to cause serious damage to the national security or foreign policy of the United States.”<sup>9</sup> Additionally, the Secretary can deny travel to specific countries “with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or physical safety of United States travelers” (Lee 2014b). Like the United States, Australia has used similar provisions to revoke individuals' passports both to prevent citizens from traveling to Syria and to prevent those who have already gone from returning (Zelin & Prohov 2014). The Netherlands has criminalized traveling to Syria to participate in Jihad and employed ankle bracelets to track returnees. Britain has drastically increased its removal of recruitment material from the internet, and removed over 8,000 pages of online content between January and March 2014. France has increased surveillance of Islamist websites that recruit fighters, and is working with Germany to encourage parents to “identify and report suspicious behavior in their children.” Germany has also implemented a network of hotlines and counseling centers for friends and family of radicalized young men to serve as a possible early warning system. Even countries such as Bosnia & Herzegovina, Finland, and Azerbaijan have criminalized and increased penalties for those who fight, train, recruit, or finance for terrorist organizations. In the Middle East, nations are likewise increasing penalties for terrorist actions: Saudi Arabia, Kuwait, Turkey, Jordan, and Morocco have all taken legislative action to criminalize associating with, aiding, or

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<sup>9</sup> In *Haig v. Agee*, the Supreme Court held that the Passport Act of 1926 granted power to the executive branch to revoke passports when necessary for national security. Thus far, Secretary of State John Kerry has not canceled any passports, but has prevented citizens from traveling to countries such as Syria (Lee 2014b; U.S. House Committee on Foreign Affairs 2014: 45)

financing certain terrorist organizations, including Al Qaeda and ISIS. Lebanon has been unable to change its laws due to political deadlock preventing the formation of a government, but nonetheless law enforcement agencies have increased arrests of suspected terrorists (Zelin & Prohov 2014).

### *The Problem of Returning Foreign Fighters*

One of the most complicated issues for governments to handle – and one of the issues about which the United States has most drawn on the experiences of other countries' enacted policies – is the citizens who return from stints as foreign fighters for organizations such as ISIS, for the simple reason that it is extremely difficult to discern who is returning to do harm and who is returning because they were disillusioned with the ISIS life. This of course is at the crux of the problem for the United States and the rest of the world at odds with ISIS. Since the terrorist attacks in Paris on November 13, 2015 for which ISIS claimed responsibility and which were carried out in part by French and Belgian citizens, actors in the executive or legislative branches of government in France, Belgium, Norway, Australia, the United Kingdom, and Israel have introduced policy changes that would limit the mobility of potential terrorists by stripping them of their passports and dual citizenships.

In Australia, the debate is markedly similar to the one in the United States. The bill currently under discussion is controversial due to the fact that citizens abroad could be stripped of their citizenship even if they did not commit a terrorist act as defined by the Criminal Code of Australia. Under the bill, revocation would be automatic once authorities learn that a citizen has committed a terror offense. The stated goal of the bill

is to prevent dual nationals suspected of terrorist activity overseas from returning to Australia. In Parliament, a bipartisan committee recommended that the bill include a clear definition of what constituted a “terrorist act,” but the government chose a much broader version. University of Sydney law professor Anne Twomey asserts that this bill “makes it easier to strip people's citizenship because you've got less to require evidence of. But we should be applying the same sorts of rules to people's rights whether or not it's done outside or in Australia.” She goes on to explain that, with the definition of a “terrorist act” as broad as the government has left it, citizen activists such as anti-abortion protesters and animal liberationists could be considered terrorists, “to the extent that they commit serious violence or damage property for religious or ideological reasons with the intention of intimidating the government into changing its laws or policies,” with the quoted portion referencing the government's tests for terrorist activity. Should those citizens too have their citizenship revoked? As in the United States, there is a building conflict regarding if or when a real or suspected citizen terrorist's rights can be infringed upon. (Lee and Wroe 2015).

Some countries, eschewing punishment, have actually instituted rehabilitation programs for returning jihadists.<sup>10</sup> Tunisia has implemented an amnesty program under Deputy Interior Minister Ridha Sfar, where “any Tunisian who is not responsible for killing in the Syrian war can take advantage of an amnesty procedure upon returning to Tunisia” (Zelin & Prohov 2014). Denmark and Morocco have also begun experimenting with reintegration for foreign fighters. Even the United States, drawing upon the

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<sup>10</sup> “There are countries that do believe that some of the fighters who come back have been disillusioned by their experience, participated in no terrorist activities while they were in Syria. And they believe in this case, those fighters should be monitored rather than incarcerated. That is a decision that those countries make based on the evidence available” - Robert Bradtke, Senior Advisor for Partner Engagement on Syria Foreign Fighters, U.S. Department of State (U.S. House Committee on Foreign Affairs 2014: 34).



methods and objectives of other nations' rehabilitation programs, has started to rehabilitate potential jihadists. After eighteen-year-old Abdullahi Yusuf was stopped trying to leave the country to join ISIS, Judge Michael J. Davis of Federal District Court agreed to a plan to place him in a halfway house with the support of Heartland Democracy, an educational non-profit in Minneapolis. Mary McKinley, Heartland Democracy's executive director, said the program is designed to “gradually reintegrate Mr. Yusuf into the community and possibly give him a role in countering the radicalization of young people” (Shane 2015a). The judge agreed to the plan with a hope to “reduce the chasm between Somalis and law enforcement officials” since community members are more likely to inform the police about their concerns “if they believe there is an alternative to a long prison sentence” for potential jihadists (Shane 2015a). The program has been criticized by some as unfeasible, with Rep. Gerry Connolly (D-VA) stating, “It almost sounds like deprogramming from a cult. I don't think that is going to work, given the numbers” (U.S. House Committee on Foreign Affairs 2014: 42).

### *Killing Anwar al-Awlaki*

Even as legislation surrounding citizenship is still in flux, the legality of killing of a citizen at all is still being researched. A 2012 Congressional Research Service memorandum briefing Congress on the legality of the targeted killing of American citizens under suspicion of terrorist activity explained that “the lawfulness of targeted killing during peace or war is not universally held” (Elsa 2012: 11). Remarks from members of the Obama administration and legal scholars have supported the power of the President to kill American citizens under certain circumstances, though it is important to

examine the circumstances under which Anwar al-Awlaki was killed. As mentioned, Anwar al-Awlaki was authorized to be killed in April of 2010 and actually killed in September of 2011. However, initially the Obama administration refused to acknowledge or discuss its role in the drone strike. This was controversial, as the apparent killing of an American citizen without due process defied an executive order banning assassinations, a federal law against murder, and numerous protections in the Bill of Rights and various international laws of war (Savage 2011).

The memo outlining the legal justification for killing al-Awlaki was finally released to the US Senate in May of 2014, and then to the public in June of that year by an order of the Second Circuit Court of Appeals<sup>11</sup> (Miller 2014). While the memo did reveal many details previously kept secret, many parts were redacted, including why killing al-Awlaki in a drone strike would not violate the Fifth Amendment, which guarantees due process to US citizens when accused of a crime (Miller 2014). The memo also did not reveal the evidence against al-Awlaki (Savage 2011). However, the Justice Department did situate the strike in the context of the 2001 congressional Authorization for the Use of Military Force (Miller 2014). This is itself was controversial, as that statute authorized the President to use “all necessary and appropriate force” against those who were determined to have planned, authorized, committed, or aided in the September 11<sup>th</sup> attacks. Since Al Qaeda was covered under the Authorization, and al-Awlaki worked with Al Qaeda, he was, in the judgment of the administration, eligible under this authorization to be killed. However, the FBI has stated that there was no evidence that al-Awlaki had any connection to the attacks of September 11<sup>th</sup> (Elsea 2012: 14-16).

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<sup>11</sup> The case was brought under the Freedom of Information Act, and plaintiffs included the *New York Times* Company and reporters Scott Shane and Charlie Savage, as well as the American Civil Liberties Union.

Furthermore, the lack of a geographic provision in the authorization allowed the strike to take place in Yemen, far away from Afghanistan where other uses of force under the authorization occurred (Miller 2014). The memo outlined the following criteria for using lethal force against United States citizens: the person must pose an “imminent threat of violent attack against the United States,” and it must not be feasible to take the person alive (Savage 2011; Miller 2014).

Elsea described in her memo several criteria that must be fulfilled before the administration will authorize a killing. First, the US must have the permission of the country where the killing will take place (Yemen gave permission to kill Anwar al-Awlaki, but kept it secret to avoid public outcry)<sup>12</sup>. Second, the act must be one of self-defense against a past, present, or future threat, or be a part of an armed conflict. Third, the method of killing must be proportional to the threat (Elsea 2012: 7). John Brennan, for his part, who is now the Director of the CIA, said that the Administration viewed the scope of the AUMF as global (Elsea 2012: 14). Jeh Johnson, now the Secretary of the Department of Homeland Security, stated that US citizens “do not enjoy immunity” from valid military objectives (Elsea 2012: 16). Attorney General Eric Holder noted that lethal action is lawful only when the target cannot be captured and when there is an immediate need for action. However, this immediacy requirement seems to refer more to the window of opportunity for a strike rather than the imminence of an attack (Elsea 2012: 18). Despite some vagueness, this system indicates that even without what can be considered due process, there is still some sort of process that must be carried out before a targeted killing can be approved.

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<sup>12</sup> According to diplomatic cables later revealed by WikiLeaks, Yemen's President gave permission to fire a drone missile at Anwar al-Awlaki on Yemeni soil, but mandated that his acquiescence be kept secret to avoid public outcry (Savage 2011).

The issue of the Presidential power to target U.S. citizens for killing under an Authorization for the Use of Military Force (AUMF) is relevant to the fight against ISIS, as President Obama is seeking an AUMF from Congress against ISIS specifically. Obama first mentioned this on January 20, 2015 in his State of the Union Address, and submitted a proposed AUMF text for Congressional consideration of February 11, 2015 (Katzman, et al 2015). Obama's request was made after several members of congress questioned his assertion that previous Authorizations grant him authority to act against ISIS, and like the 2001 authorization, the new request has no time limits or geographic limitations (Katzman, et al 2015). This, in light of the arguments made by the Administration, would open the door for more targeted drone killings of American citizens working with ISIS. Senator Bob Menendez proposed such an authorization in December 2014 that would have repealed the 2001 and 2002 AUMFs and replaced them with one specific to ISIS that expired after three years, but the Authorization never passed out of committee due to the Administration's view that it was not broad enough. Even Menendez's language authorizing the use of force against "associated persons or forces" of ISIS was too narrow, as John Kerry preferred the phrase "those fighting alongside the Islamic State" in order to avoid a need to determine "ideological association or other kind of affiliation" (Katzman, et al 2015). General Martin E. Dempsey, Chairman of the Joint Chiefs of Staff, further stated that a new AUMF against ISIS should not include a geographic limitation, and should be crafted to "keep all military options on the table, and then we can debate whether we want to use them" (Katzman, et al 2015). Perhaps the most troubling aspect of Obama's proposed AUMF is that the proposal "does not provide a purpose or objective for the use of U.S. Armed Forces against the Islamic State...and

therefore authorizes military operations without an endpoint” (Katzman, et al 2015).

With blanket authorization for the use of military force against any vaguely defined associates of ISIS anywhere at any time, the President could, under certain interpretations of the Commander in Chief clause, be granted grand authority to target American citizens for killing without any concern for Due Process.

Even as recently as November 2015, members of Congress have continued to call for a new Authorization for the Use of Military Force, and in early 2016 Senate Majority Leader Mitch McConnell (R-KY) introduced a new AUMF into the Senate. After an announcement by the President that special operations forces ground troops would be deployed to Syria to help in the fight against ISIS, lawmakers in both the Democratic and Republican Parties called for a new AUMF. The main issue under debate now, however, is the scope of the authorization. The positions of those in Congress range from seeking to avoid sending combat troops to Syria at all costs to those who criticize the President's plan as not strong enough. The potential new AUMF will soon be brought before the Senate Foreign Relations Committee, where an ISIS-related AUMF was approved in 2014 but rejected by the full Senate. For now, President Obama continues to act under the 2001 AUMF that authorized force against those that were involved in the attacks of September 11, 2001, or those who aided or harbored the terrorists who were involved. Since Al Qaeda formally renounced its association with ISIS in 2014, there is more pressure than ever before to explicitly outline the circumstances that can result in a use of military force.

### *Discussion*

Examinations of American policy have demonstrated an updating of past practices to fit current threats, pointing to both continuity and change simultaneously. Since September 11, 2001, the growing fear of security risks within the United States has inspired various policies that have been proposed or enacted to combat perceived threats. Gabriel Malor of the *National Review* argues that many of these actions are both unconstitutional and unnecessary. If, he asserts, the U.S. government has enough information to identify citizen terrorists abroad and intercept them upon their return to the country, the government already has enough to bring criminal charges against those citizens (Malor 2015). This detention-upon-reentry is a tool already in the arsenal of the Department of Homeland Security, and of course the Justice Department can already prosecute such individuals as well. Malor further claims that if Cruz's bill authorizing the revocation of both passports and citizenship for those who associate with a terrorist organization were ever to become law, it would simply create new opportunities for the government to abuse its citizens. This bill, in Malor's words, is “merely the latest in a series of questionable infringements by civil liberties proposed by politicians eager to exploit the public's fear of terrorism” (Malor 2015).

Despite Malor's claims, as well as the holdings of the Supreme Court of the United States, the nation has in the past acted outside of actual law. Although there are generational, contextual, and ideological differences, the pursuit of alleged Communists is still relevant to today's targeting of those suspected to be terrorists. This reflects back to Joppke's idea of identity. By not conforming to a particular identity and pursuing one seen as too much of a departure from that common identity, certain groups and

individuals may be marked as not adhering to the expectations of them as citizens. Both groups of course have strong political views, and it is precisely those views that leads to the singling out of members. Each group also saw certain enumerated rights infringed upon, from unwarranted surveillance and repeated inquiries all the way up to, in the case of Anwar al-Awlaki, targeted killing.

Of course, there are also extremely important differences between the process of sentencing suspected Communists and suspected terrorists. Firstly, the Communists in question actually proceeded through the legal system of the United States. Suspected Communists were named, charged with crimes, arrested, and given a trial. Though alleged Communists were certainly inconvenienced, and in many cases even harassed or bankrupted, most were brought to trial. In some cases, most infamously in that of Julius and Ethel Rosenberg, the defendants were found to be guilty of espionage (under the Espionage Act of 1917) and executed. However, this occurred within the purview of the justice system and only after the defendants had had the opportunity to present their arguments and evidence. By contrast, suspected terrorists killed in drone strikes have not received a trial or (in nearly all cases) not even been charged with a crime. By utilizing a targeted killing and completely eliminating the need for a trial, these suspected terrorists are presumed guilty and thus not afforded the rights guaranteed to a United States citizen.

Relatedly, the lack of a trial is not simply due to the charge of terrorism or the potential destruction that a would-be terrorist could cause. This is most evident by perusing the many cases of terrorists that *have* been prosecuted in the United States. In fact, 68 men and women (55 of whom are U.S. citizens) have been arrested in conjunction with ISIS-related terror plots in the United States just in the last eighteen

months alone. Crimes include providing material support to a terrorist organization, traveling overseas to support a terrorist organization, and attempted use of a weapon of mass destruction. Furthermore, if a citizen is merely suspected of engaging in a terrorist plot within the United States, he or she will likely be surveilled in order to build a case and potentially uncover more participants. If law enforcement can confirm a plot or other terrorist activity, that citizen will then be arrested and tried in court. It seems then that location matters; if a citizen is caught participating in terrorist activities on American soil, he or she will be arrested, tried, and sentenced. Meanwhile, if that same citizen committed those crimes (or, as in the case of al-Awlaki, was even suspected of *planning* to commit those crimes) on foreign soil, he or she can be placed on a targeted kill list and executed. Rep. Charlie Dent's proposed resolution to strip al-Awlaki of his citizenship in order to prevent a trial from taking place may actually become the norm for these extremely rare and volatile situations.

There is also an obvious variation in the burden of proof needed to be met in order to carry out an execution. For a suspected Communist in America in the 1950s or a suspected terrorist on U.S. soil in the present day, enough evidence must be presented to convince a judge that there is clear guilt on behalf of the defendant. Crimes must be explicitly stated, and tangible connections must be shown in order to connect the suspect to those crimes. However, for a citizen suspected of engaging in terrorist activity abroad, it is essentially the decision of the President whether or not to kill that person. This is not to suggest that the President makes such a decision on a whim, or that the suspected terrorists are not actually engaging in a potential terrorist plot. The criteria for putting a citizen on the targeted kill list mentioned above demonstrate that fact. However, it is still



important to note the disparity in the processes of execution: a suspected citizen terrorist outside of the United States does not have to be convicted of a crime, or even known to have committed a crime at all. The suspicion of a crime is enough to warrant execution.

In fact, Anwar's father Nasser al-Awlaki filed a lawsuit against the United States government in 2010 with the help of the American Civil Liberties Union and the Center for Constitutional Rights. Jameel Jaffer, the Deputy Legal Director of the ACLU as well as the Director of its Center for Democracy (which deals specifically with issues of free speech, national security, and human rights), stated that "the government doesn't have a blank check to kill terrorism suspects wherever they are in the world." Nasser al-Awlaki and the legal organizations named President Barack Obama, Defense Secretary Robert Gates, and CIA Director Leon Panetta as defendants, and sought to halt the killing of Anwar al-Awlaki unless he presented an imminent threat by obtaining an injunction. They also sought to require the United States government to disclose the "standards under which U.S. citizens may be 'targeted for death.'"

In an eighty-three page ruling (far longer than the average dismissal, with many being as short as a single sentence), United States District Court Judge John D. Bates for the District of Columbia dismissed the lawsuit on the grounds that Nasser al-Awlaki did not have legal standing to bring forth such a lawsuit on behalf of his son. This was controversial in itself, as the defense argued that the father had to bring forth the case, as his son couldn't seek the protection of the courts himself for fear of being killed. Judge Bates even noted that the outcome was of a "somewhat unsettling nature...that there are circumstances in which the [President's] unilateral decision to kill a U.S. citizen overseas" is "judicially unreviewable." In response Jameel Jaffer, Deputy Legal Director

of the ACLU and the Director of its Center for Democracy (which deals specifically with issues related to free speech, national security, and international human rights), claimed that the decision suggests the government can “carry out the targeted killing of any American, anywhere, whom the President deems to be a threat to the nation.” (ACLU). It is apparent that as the power of the Presidency grows and certain mechanisms of checks and balances are eroded, the protections of citizenship have been left vulnerable to fundamental alterations.

### Part III: Identity, Belonging, and Citizenship

In this chapter, I will explore the relationship between identity, treatment of Muslims in a post-9/11 world, and citizenship. First, utilizing a study of British Muslim youth, I will discuss how an “identity crisis” can lead to Otherization, and how that applies in the United States. I will then explore how, or even whether, Muslims have been accepted and integrated in the years following the attacks of September 11<sup>th</sup>, and how this affects Muslims' experiences in the United States and in the West in general. I will argue that the stigma and discrimination that result from being perceived as outside of the accepted mainstream American identity can lead to a search for a more welcoming community, and that this is an important factor in the changing conception of American citizenship. Though there have always been certain groups of American citizens that were perceived not to belong, the singling out of Muslims by both government actors and some private citizens has increased since the attacks of September 11<sup>th</sup>. By exploring attitudes about what it means to be American, I will show the alienation of some Muslims from civic engagement in the United States and how the conflation of terrorists with all followers of Islam is making life more challenging for some Muslims in America. Connecting this to the story of Anwar al-Awlaki, I discuss his decision to leave the United States in the context of feelings of non-belonging and persecution.

#### *The Identity Issue and Otherization*

Since the 9/11 attacks, national identities have become more narrowly-defined with regards to Muslims and have branded certain citizens as outsiders. This identity eventually affects the protections afforded by the state, but in this section the discussion

will focus mainly on that Otherization. For now, it is important to explore the problems that can arise when Joppke's two facets of identity – the individual and the national aspects – do not align. This can create tension between the citizen and his or her state, and between the citizen and the fellow citizens in the community in which he or she resides. With new so-called transcultural identities emerging, especially with regards to first-, second-, and third-generation immigrants, there is potential for an “identity crisis” where a citizen struggles to fit in to his or her country. Orla Lynch discusses this specifically with regards to Muslim youths in Britain, mostly young men (Lynch 2013). Though Lynch's study is British-based, the lessons can apply not just to that country but to all countries where a Muslim population is perceived by the majority (and possibly other minority groups) as somehow different than the rest of the citizenry.

Many of the youth in Lynch's study have been subjected to stereotypes based on their Muslim beliefs. Lynch explores the growth of what she calls the suspicion bubble, which originally included just a small number of violent Muslims and then expanded to include radical sects of Islam before finally encapsulating all Muslim youth (Lynch 2013). This discomfort and distrust is brought on by the identities of these young men, which do not entirely fit in with the ideal identity that the state would hope to prescribe. Prime Minister Tony Blair, for example, made remarks on multiculturalism and integration in 2006: “Our tolerance is part of what makes Britain, Britain. So conform to it, or don't come here. We don't want the hate-mongers, whatever their race, religion or creed” (“Blair stokes debate on religious tolerance”). This change was not expressed solely among everyday lay citizens in Britain. In fact, several studies have shown that the rhetoric of political leaders in the United Kingdom has evolved as well, especially

after the 7/7 attacks of 2005 in which three of the four suicide bombers were British-born citizens of Pakistani descent.<sup>1</sup> Whereas the threat of Islamic radicalization leading to terrorist violence was mostly framed as a strategic threat in the years before the attacks, since the attacks that threat has instead been constructed by political leaders, the media, and other public figures as “an existential threat to values, freedom, and the British way of life” (Lynch 2013). The 7/7 attacks gave rise to the phrase “homegrown terrorism” in the UK, and while these terror suspects were referred to as “British born” or “British educated,” much of the focus was on their foreign heritage, nationality, and family immigration history. This construction was generalized to *all* Muslims in Britain, calling into question their “Britishness,” their commitment to so-called British values, or their loyalty to the state. Otherness became seen as a pathway to radicalization, and due to these factors many Muslims have been cast as Others, with an assumption that young Muslim men are somehow especially vulnerable to radicalization and that the cause of violent extremism and terrorism are somehow inherent within them (McDonald 2011 qtd. in Lynch 2013).

The division between these young Muslim men is further exacerbated by a rejection of this one-size-fits-all Britishness, which can be generalized to any Western nation's ideal identity as prescribed by the state. While many of Lynch's interviewees expressed exclusion from the rigid “British” identity (“[Britishness] is like a certain model or something, like a preconceived figure, like you have to be exactly like that”), they expressed the opposite with regards to their Muslim identity. Many likened their religious identity to a community link that connects its members to one another through

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<sup>1</sup> On July 7, 2005, four radicalized Islamist suicide bombers linked to Al Qaeda detonated explosive devices throughout London's public transit system. After attacks on three subway trains and one bus, 52 people were killed (in addition to the four bombers) and over 700 were wounded. (Erlanger 2015)

faith (Lynch 2013). Many young British Muslims are opting to situate themselves outside of the debate over what it means to be a member of the state and instead focusing on a more global identity based on religious commonality.

### *The Identity Crisis in the United States*

Clearly, the issue of a potentially exclusionary identity exists outside of Britain as well, and in the United States the “American Identity” has also evolved. In this section, I will explore the promises made to Americans in its most sacred documents and contrast them with the practices of its leaders and citizens. From the very beginning, in the Declaration of Independence as adopted in 1776, the founding fathers wrote that “all men are created equal” and are granted by God and by the laws of nature the rights of life, liberty, and the pursuit of happiness. Regardless of one's belief in any particular god, it is clear that the founders believed that these rights were not granted by the government, but that they were instead granted automatically by birth. It is also important to note the categorization of Americans as “one people,” implying that those people share a bond of unity.

John Jay, for example, in *Federalist No. 2*, explains that this “one connected country” had been bestowed by Providence to “one united people – a people descended from common ancestors, speaking the same language, professing the same religion, attached to the same principles of government, [and] very similar in manners and customs” (Jay 1787). Even then, while explaining how America is “united to each other by the strongest ties,” Jay manages to exclude certain groups (such as those who do *not* practice the same religion or come from common ancestors), suggesting that all

Americans are equal only so long as they adhere to the common identity of the nation. Even during the Civil War, at a time when the nation was literally divided in two, President Lincoln (R) famously stressed the solidarity between the North and the South and how both regions “read the same Bible and prayed to the same God” (qtd. in Smith 2012).

Of course, it is important to note that even in the Constitution itself, there are very clear examples of exclusion towards groups not considered to be part of the majority, and that many of the founding fathers themselves were slave owners. With regards to the apportionment of Representatives, population counts were to include “the whole number of free persons...and, excluding Indians not taxed, three-fifths of all other persons.” From the very beginning of United States history, there have always been certain groups excluded. Early Western European immigrants to the “New World” harshly discriminated against the native population they found and the African slaves they imported. Over decades, the targets of that discrimination would shift to Eastern and Southern European Immigrants, and then eventually to Latin American, Asian, and African immigrants. The ongoing fights for civil rights and equal rights by Black Americans, American women, and LGBT Americans particularly highlight the struggles of those outside the majority. Though discrimination has always been an underlying (and in many cases overt) aspect of American life, Muslims are the latest group to be deemed Others. Perhaps most striking is that even Anwar al-Awlaki himself noticed these trends, comparing the struggle of African Americans to that of Muslim Americans in one of his sermons: “...there are no rights unless there is a struggle for those rights. And the history of American in that sense is very clear. African Americans in this country had to go

through a struggle. Their rights were not handed to them.” (Shane 2015: 118).

In some ways in the United States with regards to a national identity, the more things change, the more they stay the same. Even today, the United States certainly still draws on its Anglo-Christian heritage, with that influence remaining part of the American justice system, industrial history, and even the arts and education (Smith 2012). Though the pattern of accepting new immigrants into the United States has been described as institutionalized multiculturalism rather than assimilation, with new immigrants encouraged to keep their own language and religious customs (Smith 2012), this can be at odds with the Anglo-Christian influences that have persisted throughout American history. In some ways, it can be argued that as new religious customs are introduced into the country, and as Americans embrace those customs “in the name of toleration, justice, and equality...dominant cultural ties unravel, and along with them, the prevailing sense of community” (Smith 2012). There is a feeling of Otherness ascribed to those outside of the common traditional identity in the United States, and like those surveyed in Orla Lynch's study of British Muslim youth, that Otherness can serve to push members of the out-group even further out or towards other more stable identities.

These feelings of Otherness often stem from the perception of what it means to be American, or phrased another way, the current accepted boundaries of the American Identity. Several studies have attempted to quantify the attitudes of American citizens regarding what it means not just to be, but to actually be *perceived* as, American. One study showed that, when combining those who answered “very important” or “somewhat important,” 51.3% of those surveyed believed “Being born in America” was important. Other notable factors rated this way were “Being Able to Speak English” (94.1%),



“Being a Christian” (34.9%), “Having European Ancestors” (17.4%), and “Being White” (9.9%) (Schildkraut 2007). These are what could be considered exclusive traits; they are ways to separate people out as not belonging. However, inclusive traits were also polled. These were rated as “very important” or “somewhat important” much more frequently, with “Respecting Other People's Cultural Differences” (96.9%), “Seeing People of All Backgrounds as American,” (92.7%), and “Blending into the Larger Society” (73.4%) being positive attributes considered part of American Identity (Schildkraut 2007). Even within these terms there is some contradiction, as while “Blending in” might imply welcoming, it also may imply shedding one's culture in order to adapt to a new one.

The numbers above are unique in that the survey that produced them included deliberately high numbers of minority respondents (Schildkraut 2007). This is rare in that most public opinion studies on American identity are analyzed with data from White Americans (Masuoka & Junn 2013: 92). In a 2015 study, however, the Public Religion Research Institute posed the following question and divided the results by the race of the respondents: “Do you see a typical American when you look in the mirror?” The percentages of Whites, Blacks, and Hispanics who answered yes were 77%, 61%, and 48%, respectively, indicating that even among non-white Americans there is a perception that the United States is a White nation (Grossman 2015). This PRRI survey asked about certain qualities that make someone “truly American,” and respondents considered the following to be “very important” or “somewhat important”: “Speak English” (89%), “Believe in God” (69%), “Were Born in the U.S.” (58%), and “Are Christian” (53%). The importance of Christianity in the creation of an American identity has persisted from the founding of the nation to the present day.

These statistics may offer a glimpse into the psyche of American citizens, but that insight is not straightforward. From these numbers, and the responses of citizens considered to be Others, it seems as though Americans like to believe that they are a welcoming nation and that it is possible for newcomers to assimilate into American society. However, Americans may not embrace differences as readily as they claim. While emphasis is placed on respecting diversity, including others who may be different, and the fusion of different cultures, there is less acceptance for non-Christians, the non-religious in general, and especially those who cannot speak English.

### *The Identity Crisis and Citizenship*

Lynch specifically discusses the rise in importance of an “identity crisis” in terrorism literature. Once again, though her focus is on British Muslims, her observations and interpretations can be generalized to any Western state with a sizable Muslim population, and seem to resonate with experiences in the United States, especially. The literature has begun an either/or classification for Muslim youth identities, examining “whether those youth are orientated towards the British state or towards some transnational organization or construction based on religious affiliation or identity politics” (Lynch 2013). By staying true to their family, cultural, and religious heritage, young Muslims are inadvertently exposing themselves to questions of loyalty. “Belonging, fitting in, and loyalty have all become commonplace in discussions around vulnerability to radicalization and terrorism...creating binary and security-driven narratives of in-group and out-group” (McDonald 2011 qtd. in Lynch 2013). This “suspect community” of Muslims is caught in a paradox: if they did assimilate, they had

to reject to some degree their own cultural and family values, and if they did *not* assimilate they were suspected of being radicals (Lynch 2013). While this is only one perception of assimilation, this viewpoint has begun to dominate the discourse with regards to Muslim integration.

This division begins to take a toll on the possibilities of exercising one's rights as a citizen. Here another paradox exists, as for a “suspect community” such as Muslims, some of the very acts that would otherwise be considered patriotic are instead perceived as subversive, disloyal, and even dangerous. For example, forms of exercising one's rights under the law of any liberal democracy, such as peaceful protest, religious expression, or questioning the state could be interpreted as part of a process of radicalization that “begins in grievance and ends in violence” (Lynch 2013). When coupled with the fact that Muslims are among the most disadvantaged populations in Britain, with high levels of unemployment, poor health, poor education attainment, poor police relations, and high incidents of imprisonment (Lynch 2013), it is clear that a group with legitimate grievances against the state are unable to express them due to identity issues. In the United States, though Muslims are on average not as disadvantaged as those in Western Europe, they still earn less income than other groups. According to a 2007 Pew Research Center report, as a religious group Muslims have a higher percentage of group members making less than \$30,000 per year than any other group except Jehovah's witnesses. Similarly, though Muslims rank highest of any group in the second-lowest income bracket of \$30,000 – \$50,000 annually, one sub-group of Protestants, “Historically Black Churches,” does have a higher percentage in that category, suggesting these disparate incomes may be based more on race than religion (Pew 2007). Likewise,

in that same survey only 48% of eligible Muslims were registered to vote, as compared with 73% of the total population (and ranking above only American Hindus at 42% and Jehovah's Witnesses at 13%), indicating a similar lack of political participation to those studied by Lynch.

Many of the young men Lynch interviewed expressed dismay at the changing political and social landscape since the 9/11 and 7/7 attacks. Before the attacks, many suggest, there were few issues based around race or religion, but since there are tensions and barriers that have developed (Lynch 2013). Similarly, many interviewees discussed a noticeable *feeling* of being Muslim,<sup>13</sup> with a certain chill effect that prevents them from being completely at ease in their communities. Along with problems due to an identity crisis, it has become more difficult for Muslim citizens to express their religion outwardly in certain communities in Britain. For example, several of Lynch's interviewees noted that they were sometimes perceived as “extreme” due to their traditional Islamic dress: “They believe the more the person is into Islam, and that is indicated by the way they dress and all that, the more extreme they are” (Male youth, aged 19, Pakistani, unemployed) (Lynch 2013). Here is another encroachment upon a fundamental right granted to any citizen of any liberal democracy: the freedom of religion. This of course applies not to just the religion of the majority, but of minority groups as well. In a strange twist, these youths' Muslim identity is not only preventing them from being perceived as “British,” but it simultaneously is making them self-conscious about expressing that identity in the first place. In a way, these youths and other Muslims in similar situations are being robbed of two communities, and as Carens has written, lack

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<sup>13</sup>“I step outside the door I feel Muslim, d'you know?” (Young man, aged 23, Pakistan, NGO employee) or “You're not a taxi driver anymore, you're a Muslim taxi driver” (Young man, aged 24, Bangladeshi, teacher) (Lynch 2013)

of acceptance into or exclusion from a community should be a cause for great concern for any liberal democracy from both a policy and an ethical standpoint.

Even political expression becomes questionable, especially any oppositional activity such as protests or demonstrations. However, many of the debates of the day concern issues relevant not just to these citizens as Britons (or Americans, or Germans, etc.), but also to them as Muslims. Many Brits, many Muslims, and thus, many British Muslims have strong opinions on issues such as the Iraq War and other military action in the Middle East, Israeli activities in Palestine, and immigration policy. However, many of the young men Lynch interviewed expressed “fear that any form of oppositional protest or anti-government sentiment would associate them in some way with anti-Britishness and eventually, Islamic radicalism and extremism” (Lynch 2013). Several spoke of fears of being classified as a terrorist for going to a public protest that could lead to arrest or detainment without charges, and also of the fears of their parents: “Parents are scared; they're not allowing their children to go out” (Lynch 2013). In an environment where youth are made to feel like outsiders, where basic democratic rights are out of reach, and where fear keeps parents from allowing their children to fully participate in society, many youths in Britain and elsewhere are embracing their religious identities in lieu of their state-based identity.

Perhaps most tellingly in Lynch's interviews is the explanations given for the shift in identity for these youths. They describe it not as something they sought out or strove for, but instead as the result of push factors from the state and from their community. Many mentioned that they now considered themselves “Muslim” instead of traditional national markers such as “Bangladeshi” or “Pakistani” as their primary heritage because

of the way they had been grouped together in the public debate (Lynch 2013). One young man said that while he was born and raised in Britain, border officials ask where he was “originally from” or where his parents were from “because obviously we don't look British so they want to know the real background” (Lynch 2013). This indicates an internalized understanding that he, for whatever reason, is not considered to be “British” enough by the state. A similar project by Lori Peek, entitled “Becoming Muslim: The Development of a Religious Identity,” analyzed accounts by young Muslims in the United States of America. Many of Peek's interviewees indicated that their faith-based identity had become more significant to them after the increase in anti-Muslim sentiments post-9/11 (Peek 2005). Lynch, in a similar vein, describes Islam as a definitive identity option, as a protective and unifying ideology, and as an identity that can be positioned both in opposition to the mainstream but also as “evidence of the right to be British and fit in” (Lynch 2013). In this way, there is a deliberate rejection of the mainstream identity in order to assert their exclusion. This can become self-amplifying, with youth turning away from their responsibilities to the state, to their communities, and even to their families in favor of fully embracing their religious identity.

Young Muslims are occasionally using their faith as a way to show their superiority not just to others in their community, but specifically to their parents. Young Muslims are increasingly studying Islam and the Quran outside of the traditional channels explored by their parents, which were generally limited to the home, the immediate community, and the local mosque. Today however, with the advent of the internet and social media platforms, youths can choose their own interpretation of Islam and can follow clerics from all parts of the world (Lynch 2013). Those interviewed in Lynch's study nearly

universally indicated that they were better versed in Islam and in scripture than their parents, and that their parents version of Islam is mired in cultural traditions rather than the proper religious ones (Lynch 2013). A young woman interviewed by Lynch spoke of her newfound devotion to Islam, “They can't argue because they know it's right” (Lynch 2013). With Western Muslim youth feeling unwelcome in their own countries and lacking that sense of belonging so important to citizenship (Carens 2013), Islam can offer an alternative identity that can be easily embraced and in turn that community provides acceptance.

### *The Muslim Experience in the United States since September 11, 2001*

Since the terrorist attacks of September 11, 2001, American leaders at the highest level have proclaimed numerous times that Muslim Americans, like any other group, are just one particular community within the United States that contribute to the diversity and success of the nation. Despite this rhetoric of inclusion, there is evidence that these words are either going unheard or remaining ignored by the American population at large. On September 20, 2001, just nine days after the deadliest attack on the United States since the Japanese bombed Pearl Harbor in 1941, President George W. Bush (R) spoke directly to the Muslim community in America. He made very clear that Islam was a religion of peace and that Muslims in America or abroad were not the enemy.<sup>2</sup> One week later, Bush reiterated this point, saying, “Americans understand we fight not a religion; ours is not a campaign against the Muslim faith. Ours is a campaign against evil.”<sup>3</sup> That

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<sup>2</sup> *President George W. Bush's Address to a Joint Session of Congress and the American People . United States Capitol, Washington, D.C. September 20, 2001*

<sup>3</sup> *President George W. Bush Remarks by the President to Airline Employees. O'Hare International Airport, Chicago, Illinois. September 27, 2001*

December, as the holiday calendars of three of America's major religions converged, Bush again stressed unity and solidarity: "So it's a good time for people of these great faiths, Islam, Judaism and Christianity, to remember how much we have in common: devotion to family, a commitment to care for those in need, a belief in God and His justice, and the hope for peace on earth."<sup>4</sup> By spring of 2002, President Bush was making a hard sell for inclusion and a return to compassionate conservatism, pressing Americans to be inclusive and reject divisiveness. He noted that "America rejects bigotry," that "Every faith is practiced and protected [in America]," and that "every immigrant can be fully and equally American because we're one country."<sup>5</sup> Bush spent the rest of 2002 calling for Americans to recognize that "terror is not the true face of Islam,"<sup>6</sup> that Islam shared major traditional links with Christianity and Judaism<sup>7</sup>, and that Muslim Americans contribute to business, education, science, law, medicine, and other fields, serve in the American military, and "[uphold] our nation's ideals of liberty and justice in a world at peace."<sup>8</sup>

More recently, President Barack Obama (D) has echoed these sentiments and has also highlighted the positive contributions of Muslim Americans to the nation. On September 1, 2009, President Obama spoke at a Ramadan dinner at the White House of the positive impact Muslims have made in the country, saying, "Indeed, the contribution of Muslims to the United States are too long to catalog because Muslims are so interwoven into the fabric of our communities and our country...Above all, [American

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<sup>4</sup> *Remarks by the President in Honor of Eid Al-Fitr. The Diplomatic Reception Room. December 17, 2001*

<sup>5</sup> *President George W. Bush Promotes Compassionate Conservatism. Parkside Hall, San Jose, California. April 30, 2002*

<sup>6</sup> *President George W. Bush Promotes Compassionate Conservatism. Parkside Hall, San Jose, California. April 30, 2002*

<sup>7</sup> *President Hosts Iftar Dinner. Remarks by the President at Iftar Dinner. State Dining Room*

<sup>8</sup> *Remarks by the President on Eid Al-Fitr. The Islamic Center of Washington, D.C. December 5, 2002*



Muslims] are successful parents, good neighbors, and active citizens.”<sup>9</sup> In July 2014, Obama released a statement for the holiday Eid-al-Fitr and noted that “In the United States, Eid also reminds us of the many achievements and contributions of Muslim Americans to building the very fabric of our nation and strengthening the core of our democracy.”<sup>10</sup> And in February 2016, President Obama visited the Islamic Society of Baltimore, a large Muslim center in the mid-Atlantic region that serves thousands. During his visit, Obama mentioned in a speech that the on-site mosque was “an all-American story” and traced the history of Muslims in America from the founding days to the present. He also offered explicit thanks to the Muslims of the United States, saying, “Thank you for serving your community. Thank you for lifting up the lives of your neighbors, and for helping keep us strong and united as one American family.”<sup>11</sup>

However, despite the welcoming and inclusive rhetoric of America's two post-9/11 Presidents, the acceptance of American Muslims into the greater American community has not been as broad as their words would suggest. In that same speech at the Baltimore Islamic Society, President Obama mentioned an increase in conflating terrorist ideals with the entire Islamic faith and a rise in “inexcusable political rhetoric against Muslim Americans” since the attacks of September 11. He spoke further of persecution of Muslim women in traditional dress, the bullying of Muslim children at school, and vandalization of mosques throughout America. He spoke of the letters written to him by American children who happened to be Muslim, expressing fear and confusion in the face of harassment. This is not merely anecdotal, as the changes in the national tone towards Muslims in America have been studied at length. Polls taken a year and a half apart by

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<sup>9</sup> *Remarks by the President at Iftar Dinner. State Dining Room.*

<sup>10</sup> *Statement by the President on the Occasion of Eid-al-Fitr. July 27, 2014.*

<sup>11</sup> *Remarks by the President at Islamic Society of Baltimore. Baltimore, Maryland. February 3, 2016.*

*ABC News*, for example, showed that while in early 2002 only 14% of Americans believed that mainstream Islam encourages violence, eighteen months later that number was up to 34% (Peek 2011: 13).

Since September 11, 2001, there has been increased racialization of Arabs in the United States, and their minority status has become more visible (Selod 2015). Here, the term “racialization” is defined as the “processes by which Arabs are denied access to whiteness.” Specifically, these process include “rejection from social membership or belonging, acquiring the status of enemy within, and being viewed as inherently violent and oppressive to women” (Selod 2015). Though “Muslim” and “Arab” do not mean the same thing, they are often conflated by the American public, the media, and even by scholars (Selod 2015; Peek 2011: 11). This leads to the misconception that all Muslims are Arab and that all Arabs are Muslim (Peek 2011: 11). Furthermore, American Muslims are especially Otherized if they wear traditional dress, and “they experience higher levels of scrutiny and interrogation about their American identity when they are identified as a Muslim by wearing religious signifiers” (Selod 2015). Women wearing hijabs are especially vulnerable, with these women (when compared to Muslim women who do not wear a hijab) experiencing more “interrogation” by strangers in public places and higher rates of verbal and physical assaults (Selod 2015). As they are outside of the identity norm in the United States, these women are made to feel as if they are somehow corrupting American cultural values and the freedoms they supposedly guarantee” (Selod 2015).

Muslim men also felt repressed by their Other status, as well. Many of them are choosing to spend more of their time exclusively with other Muslims to protect

themselves from negative comments and to allow for true freedom when discussion religion or politics (Selod 2015). The interviewer for the study noted that “Feeling silenced was a sentiment expressed by the majority of the male participants in the study,” (Selod 2015) and without a voice, participation becomes difficult, representation harder to attain, and the full rights of citizenship more elusive.

In the immediate aftermath of the September 11 attacks, rhetoric against Muslims increased throughout the United States (Peek 2011: 5). Christian leaders, congressmen, political pundits, and various books and newspaper editorials declared Islam a menace, that Muslims were the enemy, and that they were “here to kill us” (Peek 2011: 6). Violence towards Muslims increased as well. According to the FBI's data on hate crimes, in the year 2000 there were 28 anti-Islamic hate crimes recording. In 2001, there were 481, including at least twelve murders, almost all of which occurred in the three and a half months after September 11 (Peek 2011: 28). Government prosecutors concluded that most of these crimes were directly in retaliation for the attacks of September 11, and the number of attacks rose especially in urban areas (Peek 2011: 28-29). Recent data from the FBI Uniform Crime Reporting Program “Hate Crime Statistics) suggests that while the number of anti-Muslim hate crimes has dropped since 2001, post-9/11 rates are still five to six times higher than pre-9/11 rates, though hate crime numbers in general are considered to be vastly under-reported (Peek: 2011: 30-31). Other agencies, such as the Equal Employment Opportunity Commission and the Department of Transportation, reported similar increases in complaints (Peek 2011: 31).

Of course, the increased focus on Muslim Americans is not exclusive to the private sphere, with the United States government also scrutinizing Muslims more closely. Due

to the USA Patriot Act, signed into law in October 2001 by President George W. Bush, FBI agents were authorized to spy on domestic groups without showing evidence of a crime (Peek 2001: 33). In the weeks following the September 11 attacks, the government arrested and detained between 1,200 and 5,000 Muslim and Arab non-citizens (Peek 2011: 33). None of those held were found to have any direct links with terrorists or their actions, and in one case the FBI even issued a formal apology “for its egregious investigative errors” (Peek 2011: 34). The NYPD was forced to settle two separate lawsuits that claimed that “Muslims were the target of baseless surveillance and investigations because of their religion” (Goldman 2016). The police department had been accused of gathering extensive information on New York Muslims through the use of undercover plainclothes detectives and informants (Goldman 2016). Attorneys for the Muslim plaintiffs submitted leaked documents as evidence showing that the NYPD had been investigating certain individuals for years without bringing charges, and that the NYPD also designated mosques as terrorism enterprises, monitoring them for years with teams of informants and undercover officers. Furthermore, the NYPD also used license plate readers and video cameras to watch houses of worship. None of those investigations resulted in charges (Goldman 2016).

### *What Does This Mean for Citizenship?*

As fitting in with a certain identity in order to maintain complete rights as a citizen continues to be important, the notion of citizenship as it has traditionally been conceived is changing in the United States and in other Westernized countries, especially throughout Europe. In the United States, there is a large section of the population that believes the

government is actively trying to take their rights away. This is not merely rhetoric: a September 2015 Gallup poll showed that 49% of Americans believe that “the federal government poses an immediate threat to the rights and freedoms of ordinary citizens.” When the question was first asked in 2003, only 30% felt that way (Newport 2015). In an October 2015 CBS/New York times poll, 47% of Americans said that the “federal government in Washington is violating their Constitutional rights.” In the same poll, 60% of Americans who identified as Republicans and 78% of self-proclaimed “very conservative” Republicans felt the same way (Dutton, et al 2015). Across both polls, respondents expressed concerns about government infringement on their rights to own guns, to keep the money they have earned, and to freely express their religion. No respondent in either poll expressed concern that the government had secretly killed an American citizen abroad without a trial or even a warrant. And yet, as many Americans remain troubled by the government infringing on their own rights, many likewise fully support the infringement on the rights of certain groups of citizens that can be considered Others.

Americans who report that they felt as though their freedom of religion is being threatened raised issues such as opposition to marriage between couples of the same sex or the legality of abortion in the country. Meanwhile, however, according to a December 2015 Wall Street Journal poll, a full 25% of Americans and 39% of Republican primary voters support a temporary ban on Muslims entering the United States (Hook and O'Connor 2015). An ABC News poll released in the same month put those numbers at 36% support from Americans in general and 59% of all Republicans (Gass 2015). Explanations of the proposal's intentions were unclear at the time of the polls, and official

representatives of the campaign who introduced the proposal made contradictory claims about whether it would include Muslims who held American citizenship, Muslims who already resided in the United States, or Muslim heads of state or corporate leaders. This would constitute a very real restriction on the First Amendment right to not be impeded in practicing one's religion. However, perhaps because a Muslim identity does not fit with what is perceived as an ideal American identity, the rights of those citizens are not deemed as crucial. There is a clear divide about what it means to support religious liberty. In the case of many Americans, that liberty seems to be reserved for Christians, or at least those folks who mostly agree with Christian ideals. For other groups, however, the practice of their religion is not only something that does not require safeguarding, but in fact a justification to keep them outside of the country to begin with.

According to Shai Lavi, under common tradition, “citizenship carried with it a responsibility of allegiance to the state” (Lavi 2010). As citizens shirk that responsibility in the most extreme way possible – by claiming allegiance to a foreign organization and carrying out terrorist attacks in its name – it is natural that the institutions that govern citizens would react differently than in the past. Lavi addresses issues of citizenship as security, such as those raised by the ban-all-Muslims proposal. In this context, Lavi explains, deprivation of citizenship is a necessary precondition of being able to deny the right of entrance and residence to those perceived as posing a risk to public security and safety (Lavi 2010). As security issues dominate the post-9/11 world, this dimension of citizenship is under intense scrutiny. Lavi suggests this represents a shift from traditional notions of allegiance to the state to a new paradigm of risk management. “The new conditions for the revocation of citizenship are not simply broader,” Lavi writes, “but are

governed by a different understanding of citizenship” (Lavi 2010). Citizenship revocation has been converted from a “legal sanction in response to the breach of a duty” into a risk management tool. Now, instead of a punishment for a crime, revocation is done preventatively before any crime has even taken place. This suggests not only an implied security threat from Muslim Americans, but also that Muslims are experiencing the loss of some of the protections of citizenship in a way that is different from other groups in the United States.

It is likely that the quarter of Americans (or more than one-third, depending on which poll you believe) who support a ban on all Muslims entering the country – potentially even *American* Muslims – would subscribe to Lavi's assertion that this is simply risk management. With significant support for a provision that would limit certain Americans' rights (freedom of religion, right to free travel, etc.), it is no surprise that encroachments have been made to other rights in the name of security.

The controversial USA PATRIOT Act<sup>12</sup>, originally signed into law by President George W. Bush shortly after the September 11<sup>th</sup> attacks in 2001 and renewed under President Obama in 2011 and 2015, greatly increased the ability of the government to spy on American citizens, even without a warrant. After Hurricane Katrina hit New Orleans in 2005, hundreds of thousands of residents were displaced from their homes and had limited access to food, water, and shelter. When violence and looting broke out, Governor Kathleen Blanco called in the National Guard and issued a shoot-to-kill order. Two people died as a result of that order (Gregg 2006). Under Ashley M. Gregg's analysis in the *Penn State International Law Review*, this constituted martial law (Gregg

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<sup>12</sup> Its full name is the “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.”

2006). In late December 2011, President Obama signed the National Defense Authorization Act into law. This law was nicknamed the “Indefinite Detention Act” for its provision that allows for the indefinite detention of individuals without a trial or due process, regardless of that person's citizenship status (Lennard 2011). These events and others offer stark examples of the erosion taking place with regards to the protections traditionally offered by citizenship.

### *Anwar al-Awlaki and American Identity*

As mentioned several times, the work Orla Lynch does with her young Muslim men in Britain can be generalized to that group outside of Britain as well. The lack of a sense of belonging experienced by these young men in Britain is comparable to the same feeling described by young Muslims here in the United States. In fact, according to the series of events described by those close to Anwar al-Awlaki, especially his own family, he himself felt as though his country had betrayed him. The transformation of Anwar al-Awlaki's message over time has been well-documented, including in previous sections of this project. Al-Awlaki began his speaking career in the United States by considering himself to be a bridge between Islam and the United States (Shane 2015: 150). Though he had socially conservative views, his youth and un-accented English made him approachable to other young Muslims, as he could “sympathize with their awkward position between two cultures” (Shane 2015: 59). As he became a more and more successful imam and achieved prominence both inside and outside the Muslim community, al-Awlaki's excitement about the possibility of his influence became apparent. He publicly supported Republican George W. Bush, then the Governor of



Texas, for President in 2000, explaining to his father that their socially conservative views were aligned, and he even openly spoke about the possibility that he might speak at the White House (Shane 2015: 65). While he never spoke at the White House, he did speak at the Defense Department's Office of General Counsel in front of Secretary Donald Rumsfeld (Shane 2015: 101).

After the attacks of September 11, Anwar al-Awlaki wrote to his brother Ammar, stating that he “personally thinks [the attack] was horrible,” and that he was very upset about it. He expressed interest in appearing on the major news stations, explaining, “I hope we can use this for the good of all of us” (Shane 2015: 82-3). Anwar put out a press release condemning the attacks, but also closed his mosque for several days due to safety concerns. He especially expressed worry for those who wore traditional dress, and encouraged those Muslims to “stay home until things calm down” (Shane 2015: 86). The media took notice of al-Awlaki when he declared, “We came here to build, not to destroy. We are the bridge between American and 1 billion Muslims worldwide” (Shane 2015: 87). The *New York Times* described him as a rising star “capable of merging East and West;” NPR called him “a Muslim leader who could help build bridges between Islam and the West” (Shane 2015: 87). In his interviews, he spoke of disagreeing with many of the policies of the United States, but expressed love for the nation's values, namely freedom and opportunity (Shane 2015: 88). Al-Awlaki also worked with leaders from other faiths, including Judaism, to promote unity and moderation (Shane 2015: 89).

All of this hints at a path not taken, with Anwar al-Awlaki as a “respected American spokesman for Islam, helping Muslims negotiate between their religion and their country...while gently reassuring non-Muslims that they had nothing to fear from their

neighbors” (Shane 2015: 89-90). Even as al-Awlaki condemned the attacks of 9/11, he simultaneously criticized attacks by the United States against Muslim nations, as well. When President Bush stated in a speech to Congress that “You're either with us, or against us,” the message was clear to al-Awlaki and many other Muslims critical of American foreign policy: Muslim Americans should embrace their country, right or wrong, and any attempt to link the attacks to America's foreign policy meant you were “with the terrorists” (Shane 2015: 92).

Soon, FBI investigators and immigration agents began approaching members of al-Awlaki's congregation outside their homes or places of work and also at the mosque itself (Shane 2015: 102). After Operation Green Quest, which saw two days of federal raids on over a dozen Islamic institutions, businesses, and homes in northern Virginia, al-Awlaki spoke of a campaign against the Muslim community (Shane 2015: 103). He declared the events “a war against Muslims and Islam” and proclaimed that America “is claiming to be fighting this war for the sake of freedom while it's infringing on the freedom of its own citizens – just because they're Muslim, for no other reason” (Shane 2015: 104). The day after this sermon, Anwar told his brother Ammar that he had learned that the FBI had been following him and that they had a file on him that could, in his words, destroy his life, and that he was considering leaving the United States.<sup>13</sup> Just a few days later Anwar and his family fled from Virginia to Yemen (Shane 2015: 121-2).

Anwar al-Awlaki had stated his support for the United States and his belief in the American Dream numerous times during his speeches and sermons before leaving the

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<sup>13</sup> It had long been a secret as to how al-Awlaki discovered the existence of the file. As it turns out, it was not the FBI nor an acquaintance of al-Awlaki who told him, but the manager of one of the escort services al-Awlaki frequented. The manager had been questioned by the FBI about al-Awlaki and tipped him off (Shane 2015: 119).

country to become the radicalized leader of Al Qaeda whose image we recognize from the news. According to many first-hand accounts, including by his brother, father, and uncle, Anwar al-Awlaki reveled in his role as a bridge between Americans and Muslims, and he believed that even if he didn't necessarily agree with the policies of the United States, he could be a uniting force within that nation. The FBI has rejected the notion that al-Awlaki was, at the time of the 9/11 attacks, a covert member of Al Qaeda who knew of the attacks in advance, nor have they found evidence that he knowingly provided support to any of the hijackers (Shane 2015: 113). While there certainly was a lot of smoke, it really does seem as if there was no fire. Nonetheless, feeling persecuted by the government, both as a Muslim in the general sense and personally by the FBI, Anwar al-Awlaki left the United States for good in 2002, and evolved into a virulently anti-Western leader in Al Qaeda. Like the young men in Britain, al-Awlaki no longer felt like he belonged in the country he had once considered home, and in fact felt that the government had betrayed him and was treating him unfairly. Though it is impossible to know the extent to which this disaffection led to his radicalization, the push factors that inspired Anwar al-Awlaki to leave the United States at the very least served to sour his view of America and its promise of freedom and opportunity for all.

## PART IV: Conclusion

In this final section, I will summarize the arguments and key findings of each of the three preceding parts. I will then consider the implications of these findings for the problem of terrorism that changing citizenship policies are meant to address. Finally, I will discuss questions that arose from this project that could be explored in future research. While Part I introduced the story of Anwar al-Awlaki and examined his targeted killing in the context of scholarly literature on citizenship, Part II presented American policies from all three branches of government to show a divergence from real-life practice that demonstrates an evolving understanding of citizenship. In Part III, I used concepts of identity and belonging to illustrate how this changing idea of citizenship can serve to alienate certain groups of citizens and can lead to persecution both by the government and by members of the general populace. Here in Part IV, I will argue that there is a confluence of factors that has resulted in a changing citizenship scheme in the United States of America. These changing citizenship policies are at odds with established laws and traditions maintained by all three branches of government, suggesting a divergence between actual policy and real-life practices.

In the arena of citizenship policy, there is simultaneously continuity and change. While certain factors have always been present in the United States – non-inclusion of specific groups, withholding access to due process, and discrimination in both public and private life – there are also new factors and new combinations of factors that have altered the protections offered by American citizenship. In the post-9/11 era, security has become paramount, and the targeted killing of American citizens has occurred and been established as precedent. Occurring concurrently with these broader policy changes

(whether official or unofficial) is a general insecurity for Muslim Americans. Hate crimes and harsh rhetoric are not new phenomena in the United States, nor are they exclusive to Muslims. However, since the attacks of September 11, 2001, these negative words and actions have drastically increased against Muslim Americans, and there is perhaps an increasing insecurity in simply *being* a Muslim in the United States. Though changes in the application of citizenship policy and practices should affect Americans regardless of race or creed, thus far it has been Muslims who have been most impacted.

*Lessons from Part I: Anwar al-Awlaki and Citizenship Literature*

The goal of this project has been to explore the definition of citizenship, and to ascertain whether the protections traditionally afforded by citizenship are changing. At the heart of this project is the story of Anwar al-Awlaki. In Part I, I used various scholars' ideas regarding citizenship to explore the life and death of Anwar al-Awlaki. By utilizing different interpretations of the rights and protections associated with citizenship, I was able to better ground my discussion in established theory on the subject. Introducing several scholars' work allowed me to examine the effects of modern American citizenship policies and practices on the dynamics of the rights, status, and identity or sense of belonging associated with citizenship. These changing dynamics are important not just to the story of Anwar al-Awlaki, but to all citizens of the United States.

To reiterate, Anwar al-Awlaki was an American citizen who, due to real or perceived persecution, left the United States and moved to Yemen, where he became a high-level member of the Al Qaeda terrorist organization. Due to his connections with Al Qaeda, al-Awlaki was placed on a list of individuals approved for targeting killing by

President Obama, which was carried out via a drone strike on September 30, 2011. While these facts are generally accepted, their implications have been debated and discussed at length.

In Part I, I used the al-Awlaki story to offer evidence that the government may consider certain citizens to be outside of the protection of American citizenship. Due to the precedent set by the killing of Anwar al-Awlaki, the rights of due process and to a trial in a court of law may no longer apply to those citizens. With the scholars cited in the literature review section emphasizing equality in citizenship and a reciprocal relationship between the citizen and the state, these changes in practice represent a diversion from established policy. Targeted killing highlights the placement of certain citizens as clearly outside of state protections, indicating an informal ejection from the state that could not be accomplished with formal processes.

### *Lessons from Part II:*

#### *The Threat of Citizen Terrorists and the Response of the United States Government*

In Part II, I discussed the various citizenship policies and practices of the United States across all three branches of government, across time, and in comparison to other world nations. It is important to situate those policies and practices in the context of the scope of the threat of these foreign terrorist organizations both in the United States and around the world. It is a drastic understatement to say terrorism is a major problem of the day, both domestically and throughout the world. Prominent international terror organizations have carried out attacks in major cities around the world, including within the United States. Since 2013, ISIS has claimed credit directly for attacks in Australia,

Belgium, Canada, Denmark, Egypt, France, Indonesia, Iraq, Kuwait, Lebanon, Libya, Russia, Saudi Arabia, Syria, Tunisia, Turkey, the United States, and Yemen (Yourish, et al 2016). Updated to include the airport and subway bombing in Brussels on March 22, 2016, the organization has carried out 29 confirmed attacks that targeted Westerners and resulted in deaths, killing more than 650 people (Yourish, et al 2016). In addition to plotting attacks themselves, ISIS, Al Qaeda, and other terrorist organizations are using their social media capacities to recruit citizens of western countries to join their cause. Though previous efforts focused on recruiting Westerners to actually come to the occupied Islamic State territory and be trained as militants, the new strategy seems to be to encourage these citizens to commit acts of terror within their own countries (Schmidt, et al 2015). This is what is often called “ISIS-*inspired* terrorism.” Through Facebook posts and YouTube videos, young citizens are being recruited and taught to build makeshift bombs in order to carry out terrorist attacks in their own communities. While the rate of foreign fighters leaving to fight abroad has remained relatively stable in North America, it has been steadily rising in Europe (Bergen 2016).

With mounting threats and the difficulty of uncovering “lone wolf” plots, the government of the United States has begun to address those threats in the name of state security. Though extreme measures have been taken against citizens in the past, perhaps best exemplified by the internment of Japanese Americans after the Pearl Harbor attacks in 1941, even those involved public executive orders and a prominent Supreme Court case. Now, with the precedent set by the killing of Anwar al-Awlaki, the government of the United States is able to secretly add citizens to a master list that authorizes their targeted killing. As I discussed in Part II, by utilizing laws such as the USA PATRIOT

Act, intelligence agencies, government departments, and the military are combating the threat of terrorism and seeking to uncover potential attacks before they occur. With the increased use of drone strikes abroad came new questions about their moral and ethical acceptability, and upon the death of U.S. citizen Anwar al-Awlaki, some Constitutional scholars, as described throughout the project, began to question the legality of such an action. Also examined in Part II are numerous examples of American legislation, Supreme Court cases, and executive orders that ban assassination and strictly outline the parameters by which a citizen can have that status removed or revoked. Despite the agreement of all three branches of government on this issue, there appears to be a divergence between policy and practice with regards to due process for American citizens accused of terrorism.

As with any governmental process, the state must follow certain conditions and rules in order to remove a person's citizenship. Numerous laws and even the Bill of Rights exist to protect citizens from persecution for exercising their rights to free speech, free association, or free assembly. Furthermore, there are procedures that must be adhered to involving due process, presentation of evidence, and convincing a legal body beyond reasonable doubt that a crime was in fact committed. Now, those procedures are being ignored, and the U.S. Congress is writing laws in favor of expanding the power of the executive during wartime which are being interpreted by the President to include the right to target and kill an American citizen abroad before he or she has been convicted of an actual crime.

The physical location of the citizen raises another important question, as there is also a divergence in the treatment between citizens abroad and citizens within the



territorial jurisdiction of the United States. Had al-Awlaki been on American soil instead of in Yemen, the end of his life may have played out quite differently. Due to conflicting policies surrounding captured terrorists, it is unclear whether al-Awlaki would have stood trial were he captured in the United States. He could not have been legally sent to a place like Guantanamo Bay, which is for non-citizens exclusively (though there have been exceptions to that policy) (“The Legal Basis of U.S. Detention Policies”). If the case of John Walker Lindh, who was captured by the Afghan Northern Alliance while fighting for the Afghan Taliban and then turned over to the CIA, can be considered precedent, a trial would have taken place eventually.<sup>1</sup> However, due to al-Awlaki's location abroad and the difficulties associated with capturing him alive, there was no trial or plea deal offered; he was placed on a list and killed by a drone, once again suggesting the differences between American policy and American practice.

### *Lessons from Part III: Muslims in Post-9/11 America*

As the discussions of terrorism become more public and more heated, many Muslim Americans have expressed distress at the rhetoric being used (Cornfield 2015). For many so-called “moderate Muslims,” being associated with or even accused of being terrorists is not only deeply offensive, but dangerous as well (Cornfield 2015). There is evidence of increased religious-based hate crimes towards Muslims in the years since the

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<sup>1</sup> Lindh spent several months in the custody of the CIA and the United States military before being indicted by a grand jury on ten separate charges carrying a maximum of three consecutive life sentences plus ninety years. Though Lindh initially pleaded not guilty, he eventually accepted a plea bargain. As part of his deal to serve twenty years in a high-security federal prison, Lindh plead guilty to two charges (supplying services to the Taliban and possession of an explosive during commission of a felony), consented to a gag order that prohibited him from making any public statements on the case for the duration of his sentence, and waived his right to pursue claims of mistreatment and torture by United States military personnel (*US v. John Lindh*).

attacks of September 11, 2001. Complaints of general discrimination rose as well, with both the Equal Employment Opportunity Commission and the Department of Transportation reporting increases (Peek 2011: 31). There is a noticeable disparity between the rhetoric of the nation's leaders and the practices they employ. As presented in Part III, in the years since the 9/11 attacks, both Presidents George W. Bush and Barack Obama have made it a point to give speeches extolling the contributions of Muslim Americans to the country and stressing American unity. However, in some cases, government organizations or local police forces have been caught illegally following or investigating Muslim Americans. The USA PATRIOT Act has been invoked to investigate Muslims suspected of criminal activity, and several prominent police forces, including the NYPD, have settled lawsuits accusing them of improper conduct during investigations of Muslims (Goldman 2016).

With discrimination occurring in both the public and private spheres, there is evidence that Muslims in America, even those who are natural-born citizens, are being perceived as “Others” and that they are being labeled as outsiders (Peek 2005; Peek 2011; Lynch 2013). When a citizen feels unwelcome in his or her own country, they may not connect to that country in the way citizens usually do. By not feeling included in the community, by not being able to participate fully, and by being made to feel ostracized by both the public at large and the institutions meant to protect them, it is possible that some Muslims may be moving away from an American identity and towards a religious identity (Lynch 2013; Peek 2005). This stigmatization is not exclusive to Muslims, and in many cases exclusion from the “mainstream” has led Americans of all races and religions to seek out a more accepting community. For most, embracing community

groups such as a religious organization, an activist organization, or other activities with like-minded individuals leads to a positive association. Numerous studies across many different fields in both social science and health science have shown that identifying with and participating in a community group can improve mental health (Nakashima, et al 2013), emotional health (Reblin and Uchino 2008), and even physical health (Umberson and Montez 2010). However, as is the case with any group of disaffected citizens, especially with regards to impressionable youth, some will fall into or seek out less healthy activities. For many, “social structures like gangs and family-like crime networks often develop to provide opportunities for income, protection and social bonds,” and closely-knit terrorist organizations can share that same camaraderie (Edberg and Shaikh 2015). It is no secret that the United States has a drug problem and a gang violence problem, and now in the most extreme cases some disaffected citizens may turn to terrorism. As I argue in Part III, by excluding Muslim Americans from the full rights and protections afforded to them just by being American, the government may be creating yet another group of Americans who are viewed as suspect and excluded, both by the government and among the general citizenry.

In Part III, I present evidence that by fostering an atmosphere of exclusion, the government is creating a group of citizens who do not share in the traditional feeling of responsibility to the state. With less of a connection to the state, there is an increased likelihood of those citizens acting against the state. As illustrated by the case of Anwar al-Awlaki, perceived betrayal by the government led to feelings of persecution and a disavowal of the United States and its promises of equal opportunity for all of its citizens. Though al-Awlaki's reaction was extreme, the evidence presented in Part III shows that

feelings of exclusion and non-belonging are not helpful in encouraging civic participation or cooperation with state authorities. For American law enforcement and security agencies, government alienation of the communities best positioned to help combat citizen terrorism is counter-productive.

### *In Conclusion*

With a changes in policy and a simultaneous divergence between policy and practice, I have shown that there is a clear shift taking place in the traditional understanding of the rights and protections afforded by citizenship. While there have always been groups of citizens persecuted and discriminated against in the United States, placing Americans on a list of people approved for targeted killing and the targeted killing of American citizens by the government itself is a new phenomenon. The practice contradicts accepted policy from all three branches of government, indicating that there are certain citizens the government considers to be outside of the realm of citizenship protections. Before 9/11, before the War on Terror, and before an expansion of executive power justified by a broadly-interpreted Authorization for the Use of Military Force, a citizen like Anwar al-Awlaki likely would have had to be declared an enemy combatant fighting against the United States in a proper war before he would be considered eligible to be killed by the U.S. military. Alternatively, he could have been captured and charged with a variety of crimes, including treason, which would have legally enabled the government to revoke his citizenship. Instead, in an age of fear and citizen terrorism, the government of the United States (and in essence, one man: President Barack Obama) made the decision to end the life of an American citizen without due process.

Though this is an extreme and certainly infrequently-used strategy, the U.S. government seems more broadly involved in persecuting Muslim citizens. While the fate of al-Awlaki was rare (and perhaps even the *only* case of an approved targeted killing of an American citizen), many Muslims in America are experiencing much more subtle persecution. As mentioned, there have always been particular groups in America singled out by policies and practices authorized by the government that imply that those groups either do not really belong here or do not even have a right to be here. Similarly, those groups are often ostracized by the public. However, Muslims are being targeted in hate crimes at a much higher rate than they were before 9/11, indicating that these hate crimes are not just against a certain group but are being conducted as a sort of revenge. Like Japanese Americans after the bombing of Pearl Harbor, the entirety of the Muslim population is being scapegoated both by actors and agencies within the government as well as certain members of the public in response to the actions of an extremely small part of the whole, as evidence presented in Parts II and III indicates. Whether this latest group to suffer the perception that they are outside of the “American identity” follows the pattern of the Japanese, who were eventually reintegrated, or if this alienation leads to radicalization as some scholars predicts remains to be seen. Though there are other potential resulting scenarios, it is worth noting that Harold Ickes, Secretary of the Interior under President Franklin Roosevelt, feared that Japanese Americans held in internment camps would be pushed towards anti-American sentiments (Ickes 1943). As policies become more authoritarian towards dissident citizens, and as Muslims in the United States suffer higher instances of harassment and hate crimes than other groups, it is important for the state to avoid pushing Muslim Americans (or any other group of

citizens) away from their American identity and towards a more inviting religious identity that could leave them vulnerable to radicalization and even terrorist recruitment. Though this is rare, a small number of individuals or even a single disaffected citizen can inflict death and destruction, and it is important for the government to avoid policies that may create more of these citizens.

Though that is the worst-case scenario, the more common events are not ideal for Muslim Americans either. Muslims in America, as mentioned, have seen a rise in the rate of hate crimes that, while down from its peak immediately after September 11, 2001, is still much higher now than it was before the attacks of that day. Workplace discrimination has increased as well, with a higher number of complaints from American Muslims lodged with the Equal Opportunities Commission (Peek 2011: 31). Muslims in America have a higher percentage of group members making less than \$30,000 per year than any other religious group in the United States (except Jehovah's Witnesses) (Pew 2007). Though obviously the vast majority of Muslims will never “radicalize” or intend to harm the United States or its citizens, there is evidence that Muslims in America experience the rights and protections of the United States differently than other citizens. If working to foster a sense of belonging for *all* American citizens – Muslim or otherwise – can help to better integrate a group into American civic life, policies should be enacted to promote that goal. If those same policies can simultaneously help prevent even a tiny proportion of citizens from turning to terrorism, or encourage community members to engage with law enforcement if they suspect others of terrorist activity, both the government and the American public stand to benefit from adhering to such standards.

### *Continuity and Change*

The main finding in the project has been that there is both a continuity and a change taking place with regards to American citizenship. From the very beginning of American history, there have been groups persecuted by both the government and the people. Treating certain people as second-class citizens, uneven access to due process (or none at all), and unfair treatment in the public sphere has happened to many groups throughout the past. In addition to the communists and Japanese Americans discussed in this project, groups such as Native Americans, Black Americans, and others have been (and in some cases continue to be) denied full access to American citizenship.

However, there are several factors that make this current persecution of Muslim Americans different. Though these factors themselves may not be new or unique, their combination *is* unique. As fears of another attack grew in the aftermath of September 11 and anti-Muslim rhetoric and hate crimes became more common, the government (and in turn, the people) became much more focused on security and risk management. In some cases, most famously with the USA PATRIOT Act, American citizens traded certain freedoms and aspects of privacy for a perceived sense of increased security. While this applies to all American citizens regardless of religion, the vast majority of complaints about allegations made under the PATRIOT Act have been lodged by Muslim Americans and Arab Americans (Senzai and Ahmed 2004). With this emphasis on security came the increased use of drones and targeted killings. While President George W. Bush employed these practices, it has been President Barack Obama who has relied most heavily on drones, and it was Obama who approved the targeted killing of American citizen Anwar al-Awlaki. This rise in executive power bypasses judicial due process and calls into

question the extent of the legislative branch's Authorization for the Use of Military Force. Though these practices could theoretically be used against any American citizen, thus far they have most impacted Americans who are Muslim (Senzai and Ahmed 2004).

### *Opportunities for Further Research*

There are numerous opportunities for further study in this realm of work. This project has raised many questions that would benefit from further research. When citizenship policy and practice no longer align, what does that mean for a person's security in their citizenship and in the protections it is supposed to afford? While I focused on the rights of a very extreme select few citizens – Americans who join jihadist terrorist organizations – what does it mean for *all* American citizens if the government can decide that certain citizens no longer fall under the protection of the United States?

My discussion of returning foreign fighters in Part II only scratched the surface of study in that area. An important question to answer is, “what would be the best method of punishing, rehabilitating, or otherwise facilitating the return of citizens who either joined a terrorist organization abroad before returning home or who attempted to leave the United States to do so but were stopped before departing?” Regardless of ideology the government will naturally be leery of any citizen returning from a stint as a combatant for a group whose aim is to destroy the West and harm its residents. Though the United States has a much smaller number of citizens actually traveling beyond its borders in order to join terrorist organizations when compared with many countries in Europe, FBI Director James Comey estimates that at least 250 Americans have gone to fight abroad (Dilanian 2016). In addition to these fighters are roughly 100 more Americans who were



stopped and/or arrested before reaching Syria. Now, with a population of roughly 320 million people, those 350 citizens make up an incredibly small proportion of the whole of the United States – about .0001%. Still, the United States is struggling to determine the best way to handle these would-be terrorists: is a process of incarceration or rehabilitation the best method of addressing Americans who had tried to join a terrorist group? With past groups such as American communists and Japanese Americans being persecuted for lesser crimes (if any at all) by the government, how would a group like rehabilitated jihadists be treated? As Americans suspected of terrorist activity abroad can be added to a list of individuals approved for targeted killing without due process, how will suspected or even former terrorists be received upon returning to the United States?

Similarly, I would like to delve further into the potential “push factors” that may have led al-Awlaki to leave the United States and radicalize. Al-Awlaki's death cemented his status as a martyr, and Scott Shane poses the question of whether an alternate path would have prevented this status. As Shane says:

“Part of the problem with the focus on targeted killing is that it fuels the central narrative of Al Qaeda and the Islamic State: that the United States is at war with Islam, that it is killing Muslims, and that the obligatory religious response is armed jihad.” (Shane 2015b)

If the FBI had assured al-Awlaki that the prostitution file would never be used to embarrass him, Shane asks, could he have become a responsible leader in the community? Could he have continued to serve as a mediator between the Muslim community, the media, and government leaders on issues as diverse as the wars in Muslim countries, the wisdom of drone strikes, and the fate of Guantanamo? (Shane 2015b) Is it possible that, through the attempts of the United States government to stamp out radical Islamic terrorist groups like Al Qaeda and ISIS, a sort of amplification effect

is taking place and serving only to create more followers of the very ideologies they are seeking to destroy?

Yet another area for future study is the patterns emerging across nations throughout the world in new policies for preventing terror attacks, for punishing foreign fighters, and for removing citizenship from those citizens deemed a threat to the state. Numerous countries have enacted legislation making it possible to remove citizenship from citizens involved with terrorist activities, some even without regard for statelessness. It would be interesting to further examine the similarities and differences in the policies and practices of other western nations in addition to the United States.

Furthermore, in the past, citizenship had always been seen as entailing protections both from and by the state. Unless a citizen was proven to have violated a specific law that rendered him eligible for citizenship removal, he could be secure in his citizenship and know that he was protected by the court system. Now, the government has shifted to a more preventative scheme, where citizenship is seen as risk management. As technology has increased the state's ability to locate and kill enemy combatants without even sending in a single actual human soldier, the cost-benefit dynamic of trying to apprehend suspected terrorists alive has shifted. When a citizen poses too great a risk to the security of the United States and it is not easy to reach that person in order to capture them, it is now acceptable practice – and a much easier operation – to target that person for killing. This precedent allows the government to name certain citizens outside the protection of their own citizenship. A passage from Rogers Smith that appears in Part I of this project reads:

We are likely to face ongoing difficulties with the abuse of Islamic and Arab immigrants in particular at the hands of American law enforcement and military

forces, and the ways they are denied procedural protections may continue to rebound and erode the rights of American citizens generally. (Smith 2007)

Smith predicted that the rights of Muslims in America may be eroded. He even predicted that erosion could be generalized to the American citizenry as a whole. Though it is doubtful he envisioned targeted killings when he wrote that piece, he likely would warn the general populace to oppose such a practice lest it one day be used against them.

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