Origin Stories: Critical Race Theory Encounters the War on Terror

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In a fractured age, when cynicism is god, here is a possible heresy: we live by stories, we also live in them. One way or another we are living the stories planted in us early or along the way, or we are also living the stories we planted—knowingly or unknowingly—in ourselves.

—Ben Okri, 1997

The goal is to have the public read something crazy in the newspaper and immediately think “critical race theory.” We have decodified the term and will recodify it to annex the entire range of cultural constructions that are unpopular with Americans.

—Christopher Rufo, 2021

I. INTRODUCTION

Stories matter. They matter to those intent on maintaining structures of power and privilege, and to those being crushed by those structures. In the United States, the space to tell, and to hear, our stories has been expanding. This means that the histories and lived realities of those who have been excluded, particularly people of color, are seeping into mainstream
discourse, into the books our children read, the movies and television shows they watch, and the many websites comprising social media. Critical race theory has played a role in this expansion. It insists that we recognize the legitimacy of the stories of those deemed “Other” because they have been erased or distorted beyond recognition in the dominant narrative. Critical race theory has helped ensure that the legacies of genocide and broken treaties, of the cruelties imposed upon enslaved persons, of the forced inclusion and exclusion of those regarded simply as disposable labor, have worked their way into the realm of what can be talked about. Critical race scholars have exposed immigration injustices and called out xenophobia and Islamophobia. All this discomfits those who benefit, or believe they benefit, from the status quo.

These stories have always been there, of course—an organic aspect of life and identity for many and generally accessible to others willing to put in a bit of effort. But the increasingly widespread acceptance of the notion that racialized privilege and subordination permeate American society has created numerous cultural shifts, shifts that emerged quite dramatically in 2020 with the mass social justice mobilizations triggered by the death of George Floyd at the hands (or, more accurately, under the knees) of the Minneapolis police. Sweeping across this country and around the globe, the uprisings generally associated with the “Black Lives Matter” movement could not be ignored. These widespread protests reminded us of the uprisings of the mid-to-late 1960s, when hundreds of urban neighborhoods burned and the National Guard rolled in to “restore order,” encased in tanks and suited up for war. At that time, the powers-that-be were concerned enough that President Johnson convened the Kerner Commission, whose surprisingly accurate assessment of cause and consequence prompted a raft of anti-poverty programs. Programs that

3. See infra notes 52-54, 74-76 and accompanying text.
4. While “American” more properly applies to the entirety of the North and South American continents, for lack of a better alternative it is used here to refer to entities, actions, or policies associated with the United States.
8. Cf. KERNER REPORT, supra note 7, at 1. The Commission was established pursuant to Exec. Order 11365, issued July 29, 1967. Id. at v.
worked remarkably well until the “war on poverty” was supplanted by the “wars” on crime, drugs, and terror. This time, however, we did not get a presidentially appointed commission or federal funding for programs to address the underlying causes of discontent. Instead, “diversity, equity, and inclusion” became the mantra of mainstream institutions—governmental, educational, and corporate.

In 2020, critical race theory was still a relatively obscure vein of largely academic inquiry, and it certainly cannot be credited with the sudden willingness of major social institutions to openly address racism. That credit arguably goes to those willing to dismantle those institutions in a much more literal manner. Critical race theory, however, had articulated certain key concepts that moved the conversations within these institutions, and in American society more generally, beyond assimilationist aspirations focusing on acceptance and inclusivity to some foundational questions. Is “race” really an objective reality? What purposes are served by the ways racial identities are constructed? Can we account for the persistence of racial disparities in every aspect of life—employment, education, housing, healthcare, incarceration—without looking at structural factors? How does discrimination based on national origin or immigration status differ from racial discrimination? What about all the histories being omitted from the master(s) narrative? And whose land are we actually on, anyway?

Cultural shifts create rifts. Or bring them to the surface, at any rate. With the social upheavals of 2020, the discussions about race and its role in American history were starting to cut through the many layers of denial that protect the United States’ origin story and, ultimately, the legitimacy of the state. This threatened to open the door to the existential angst that has always lurked in the shadows of American exceptionalism; angst apparently intensified by census data indicating that the number of people


11. See infra notes 59-74 and accompanying text.

identifying as White is shrinking in both absolute and relative terms.\textsuperscript{13} It is against this background that critical race theory—or what is said to be critical race theory—has come under attack in executive orders issued by Donald Trump and legislation proposed or passed in over 20 states, as well as heated local school board meetings and impassioned debates across the media spectrum.\textsuperscript{14}

While “critical race theory” provides a convenient label, the real targets are the burgeoning efforts to come to terms with historical and contemporary manifestations of racism and xenophobia within the United States and in its foreign policy. Those launching the attacks intend to restore the narrative of righteousness that weaves its way through U.S. history, from its foundational violence through its assertions of global hegemony and its current “war on terror.”\textsuperscript{15} Launched with great fanfare following the attacks of September 11, 2001, this war on terror has become a permanent fixture.\textsuperscript{16} Settler colonial regimes, including the United States, envision their endpoints not as decolonization but the permanent normalization of settler hegemony.\textsuperscript{17} To ensure that hegemony, the war on terror is not meant to end but—like ongoing colonization—is intended to be taken for granted as a constant of contemporary life in the United States and around the world.

This essay addresses the attacks on critical race theory as a logical extension of the ideological foundations of the war on terror. After briefly summarizing some of the presumptions that undergird justifications for the war on terror and the means it employs, it turns to the attacks on critical race theory, and provides a short analysis of why critical race theory is seen as a threat to those intent on defending the status quo. The final section juxtaposes the narrative lenses of the war on terror and critical race theory.


Throughout, I rely on insights into storytelling found in Nigerian poet and novelist Ben Okri’s *A Way of Being Free*.

**II. CERTAINTIES IN THE WAR ON TERROR**

“In the name of certainties,” Okri observes, “people have had an almost medieval belief in the rightness of the violence they have wreaked on others, in the destruction of other people’s ways and lives. In the name of certainties, nations and individuals have come to regard themselves as gods.” This is an apt description of the rhetoric as well as the underlying precepts of the global war formally launched by the United States when, just a few days after the September 11 attacks on the Pentagon and the World Trade Center, Bush declared from the National Cathedral that “our responsibility to history is . . . to answer these attacks and rid the world of evil.” This presaged a shape-shifting military and ideological engagement with neither geographic boundaries nor a clear definition of what would constitute victory.

Named enemies have included Osama bin Laden and the evolving al Qaeda network; the Taliban in Afghanistan; Iraq and its then-president Saddam Hussein; variations of the so-called Islamic State (ISIS); “radical Islam”; the hundreds of men and boys of many nationalities detained at the U.S. Naval Base at Guantánamo Bay, Cuba; and select U.S. citizens declared to be “enemy combatants.” Within the United States, Muslims, Arab Americans, and South Asians have been profiled as terrorists and subjected to governmental surveillance as well as personal attacks. Globally, over 900,000 deaths have been attributed to armed conflict in Afghanistan, Pakistan, Iraq, Syria, and Yemen between October 2001 and September 2021.

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18. OKRI, supra note 1, at 25.
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2021, to which we must add deaths attributable to lack of access to food, water, medical care, infrastructure collapse, or other trauma associated with warfare. As the United States withdraws from Afghanistan in 2021, there is no end to the violence in sight.

Nonetheless, those who speak for the United States continue to project, with certainty, the righteousness of their quest for global hegemony. They are able to do so because the war on terror evokes precepts of American exceptionalism so deeply rooted that they “fade[] almost immediately from [] consciousness into transparency.” There are many ways to untangle the ideological presumptions undergirding the military, political, social, cultural, and economic initiatives that claim to be combating terrorism. Here, I focus on some foundational precepts that illustrate the genealogical links between the attacks on critical race theory—or, more accurately, racialized critiques of U.S. history and institutions—and the ideology of the war on terror.

First, a Manichean world is posited. Because this is a war, there is an enemy, and that enemy is evil, “evil” used as both a noun and an adjective. In 2000, George W. Bush had been unable to identify an enemy, noting that, when he was growing up, “It was us versus them, and it was clear who they were. Today we are not so sure who the they are, but we know they’re there.”


25. These precepts are discussed in more detail in Saito, Meeting the Enemy, supra note 15, at 11-19.


27. Saito, Meeting the Enemy, supra note 15, at 11.

28. Paul A. Chilton, Deixis and Distance, President Clinton’s Justification of Intervention in Kosovo, in At War with Words 95, 95–126 (Majrana N. Dedaic & Daniel N. Nelson, eds., 2003) (quoting George W. Bush’s speech at Iowa Western Community College, Jan. 21, 2000).
could tell West Point graduates that “[w]e are in a conflict between good and evil,” and name “terrorists” as the enemy.29 Terrorists, however, were not identified solely by their actions. By September 11, 2001, Arab Americans and Muslims in the United States had already been “‘raced’ as ‘terrorists’: foreign, disloyal, and imminently threatening.”30 As a result, they—and anyone who might look similarly “foreign”—also became “the enemy,” perpetuating a process in which the “other” is “constructed, excluded from the realm of law, attacked, liberated, defeated, and transformed.”31

The 2002 National Security Strategy also proclaimed that “we make no distinction between terrorists and those who knowingly harbor or provide aid to them.”32 This opened the door to military attacks on “rogue” states, defined as those that not only sponsor terrorism but “[r]eject basic human values and hate the United States and everything for which it stands.”33 As the United States embarked on its war on terror, many scholars argued that terrorism was most effectively countered by addressing its root causes.34 Moreover, terrorist acts could have been addressed within extant systems of law. This happened when, for example, those who bombed the World Trade Center in 1993 were convicted in a jury trial “replete with due process, an excellent defense team, and protection of the government’s security needs.”35 Terrorism is prohibited under international treaties, customary law, and the laws of war, and an extensive body of international humanitarian law, binding on the United States, applies to international


30. Natsu Taylor Saito, Symbolism Under Siege: Japanese American Redress and the “Racing” of Arab Americans as “Terrorists,” 8 ASIAN L.J. 1,12 (2001); see also id. at 11-15. This article, published in May 2001, was written well before the September 11 attacks.


32. See NATIONAL SECURITY STRATEGY 2002, supra note 19, at 5.

33. Id. at 14-15.


armed conflict, whether or not war has been declared, and to conflicts between states and nonstate entities.36

Thus, the United States had many options. Nonetheless, the choice was made by American leaders to resort, immediately, to armed conflict. Bush later recalled, upon learning of the September 11 attacks, “I didn’t need any legal briefs, I didn’t need any consultations, I knew we were at war.”37 At his 2009 inauguration, Barack Obama noted that “[o]ur nation is at war, against a far-reaching network of violence and hatred”38 and it remains at war well over a decade later. In this apparently perpetual war, U.S. officials claim that the usual rules of engagement do not apply because the enemy is uncivilized and irrational, motivated by “evil” rather than political or economic interests.39 This facilitates framing otherwise unlawful policies and practices as preemptive self-defense.40

A key development in the ideology of the war on terror was that those who “hate us” became legitimate targets of attack, literally as well as figuratively.41 The war on terror is being fought, its proponents argue, not just to enhance American security or global influence, but “because the allies of terror are the enemies of civilization.”42 “Civilization,” in this context, is not used “interchangeably with culture, so that other peoples might have other ‘civilizations’” but rather “to distinguish Western super-culture, or the one true ‘civilization,’ from so-called primitive cultures.”43


37. Freedman, supra note 35, at 323 n.2 (citing 60 Minutes: The President’s Story: The President Talks in Detail About his Sept. 11 Experience (CBS television broadcast Sept. 11, 2002)).


42. NATIONAL SECURITY STRATEGY 2002, supra note 19, at ii.

As Bush declared to the German Bundestag, the “values” shared by the United States and its European allies are “universally true and right”; they “bind our civilizations together and set our enemies against us.”

The notion that the war on terror is being fought to “save civilization” undergirds a final precept: that there is but one path of human progress and the United States represents its highest stage. The philosopher Ludwig Wittgenstein observed that Western civilization is not only “characterized by the word ‘progress’” but “[p]rogress is its form rather than . . . one of its features.” Progress, in turn, is understood in a linear and intensely Eurocentric manner. We are taught that there is “an entity called the West,” Eric Wolf notes, and that it has a genealogy that leads us from ancient Greece to Rome to Christian Europe. Christian Europe gave us the Renaissance and the Enlightenment, political democracy and the industrial revolution. “Industry, crossed with democracy, in turn yielded the United States, embodying the rights to life, liberty, and the pursuit of happiness.”

Introducing the National Security Strategy, Bush noted that the Cold War had “ended with a decisive victory for the forces of freedom—and a single sustainable model for national success: freedom, democracy, and free enterprise,” values that “are right and true for every person, in every society.” Thus framed, the United States has not simply a right but a responsibility to remake the rest of the world in its image. These certainties rationalize the wielding of American military, economic, and political might across the globe as well as the expanding surveillance state and the militarized maintenance of “order” at home. They are invoked to justify, or legitimate, the occupation of this land and the construction of the world’s richest and most powerful state. As Obama proclaimed in 2009, the United States is the world’s most prosperous and most powerful state, and “[w]e will not apologize for our way of life, nor will we waver in its defense.”

45. See Saito, Meeting the Enemy, supra note 15, at 25-32.
46. Ludwig Wittgenstein, Culture and Value, 7e (Peter Winch trans., amend. 2d ed. 1980).
47. Wolf, supra note 15, at 5.
48. Id.
50. Cf. President George W. Bush, Graduation Speech at West Point, supra note 29 (“America cannot impose this vision, yet we can support and reward governments that make the right choice for their own people.”).
51. Obama, Inaugural Address, supra note 38.
The American master narrative, with its stories of righteousness “planted in us early,”[^52] strives to nullify the diverse range of experiences that comprise our realities. But the stories of those who have been subordinated are not that easily disappeared and, as Okri notes, “[i]f we change the stories we live by, quite possibly we change our lives.”[^53] Critical race theory challenges the stories that undergird the war on terror and that is, at least in part, why it has come under attack.

III. CRITICAL RACE THEORY: ATTACKING THE MESSENGER

On September 4, 2020, President Trump directed all executive departments and federal agencies to identify “divisive, un-American propaganda training sessions,” specifically those referencing “critical race theory,” “white privilege,” or suggesting “either (1) that the United States is an inherently racist or evil country or (2) that any race or ethnicity is inherently racist or evil.”[^54] It was the opening volley in a concerted effort to “portray[] anti-racist ideas as extremist and politically radioactive, so that they should be denounced by ‘reasonable people on both sides.’”[^55]

This directive, which seemed to come out of the blue, can be traced to documentary filmmaker and journalist Christopher Rufo who, in the course of compiling information on anti-racism trainings, had decided that critical race theory was “the perfect villain” for the conservatives’ culture war.[^56] On September 2, on Fox News, he pronounced critical race theory “an existential threat to the United States” and called on the president “to immediately issue an executive order to abolish critical-race-training from the federal government” and “stamp out this destructive, divisive, pseudo-scientific ideology.”[^57] Within forty-eight hours Trump had done so and, by June 2021, Rufo was reporting that “lawmakers in 24 states [had] introduced, and six [had] enacted, legislation banning public schools from

[^52]: OKRI, supra note 1, at 37.
[^53]: Id.
[^57]: Id.
promoting critical race theory’s core concepts, including race essentialism, collective guilt and racial superiority.\textsuperscript{58}

The depictions of critical race theory as anti-American propaganda intended to denigrate White people are wildly inaccurate. But critical race theory does ask, “What does race have to do with it?”\textsuperscript{59}—a question many Americans would prefer not to confront. It considers how and why race plays a role in any given issue and formulates strategies for contesting racial subordination.\textsuperscript{60} This approach, long utilized by individual scholars of color, was introduced as a conscious framework in the late 1980s by professors committed to incorporating the struggle against racism into their analysis of U.S. law and legal institutions.\textsuperscript{61} Many of these scholars had been involved in the civil rights movement and brought with them a “redemptive” vision, a conviction that “[j]ustice remains possible, and it is the property of whites and nonwhites alike.”\textsuperscript{62} The genealogy of critical race theory in the legal academy can also be traced to the movements that brought African American studies and ethnic studies more generally into colleges and universities.\textsuperscript{63} In turn, conceptual frameworks inspired by critical race theory are now utilized across a range of other disciplines, including education, psychology, cultural studies, political science, and philosophy.\textsuperscript{64}

Recognizing that all analyses arise from particular perspectives, critical race scholars have made “a deliberate choice to see the world from the

\begin{itemize}
\item \textsuperscript{59} Dorothy A. Brown, \textit{Introduction to Critical Race Theory} in \textit{Critical Race Theory: Cases, Materials, and Problems} 1, 1 (3d ed. 2014).
\item \textsuperscript{60} See Natsu Taylor Saito and Akilah J. Kinnison, \textit{Perspectives and Methods: Critical Race Theory} in \textit{Oxford Handbook of Children’s Rights Law} 139-157 (Jonathan Todres & Shani M. King, eds., 2020); see generally \textit{Critical Race Theory: The Cutting Edge} (Richard Delgado & Jean Stefancic, eds., 3rd ed. 2013); \textit{Critical Race Theory: The Key Writings That Formed the Movement} (Kimberlé Crenshaw et. al., eds., 1995).
\item \textsuperscript{62} Angela P. Harris, \textit{Foreword: The Jurisprudence of Reconstruction}, 82 Cal. L. REV. 741, 743 (1994).
\item \textsuperscript{63} Devon W. Carbado, \textit{Critical What What?} 43 Conn. L. REV. 1593, 1600-01 (2011) (noting with respect to the establishment of ethnic studies that critical race theory can be thought of “as both an extension of this history and a replication of it in legal education”).
\item \textsuperscript{64} See Kimberlé Crenshaw, \textit{Twenty Years of Critical Race Theory: Looking Back to Move Forward}, 43 Conn. L. REV. 1253, 1256 (2011); Carbado, \textit{supra} note 63, at 1620-23.
\end{itemize}
From this methodological foundation a consensus has coalesced around some substantive principles. Most fundamental, perhaps, is that “race” is a powerful social construct, not a biological reality. Building on the insight that “race” is best understood as a verb rather than a noun, critical race theory recognizes racial identity as both imposed and “performative” and views identities as complex, dynamic, and intersectional. Particularly disturbing to those who want to see racism as a thing of the past is work demonstrating that unconscious racism is not only pervasive but often more destructive than intentional bias. Empirical research supporting this premise is often used in training programs designed to help employees and administrators within corporations, government agencies, and nonprofits recognize implicit bias. Decoupling racial disparities from animus or discriminatory intent has made it easier to see racism as structural and to understand how biases or historical inequities in one sector of society can spill over to create interconnected and often inescapable networks of inequality.

Critical race theory has exposed racialized privilege as neither exceptional nor simply a vestige of past inequities, but an ordinary and integral aspect of American life. In doing so, it undermines the dominant narrative’s reliance on colorblind assimilationism to rectify racial wrongs. Where racism has been normalized, it cannot be effectively remediad by

66. See generally MICHAEL OMI & HOWARD WINANT, RACIAL FORMATION IN THE UNITED STATES (3rd ed. 2015) (discussing the social construction of race); IAN HANEY LÓPEZ, WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE (rev. ed. 2006) (tracing shifts in the interpretation of the racial prerequisite requirement in naturalization cases).

Critical race theory insists on including the voices of all peoples and complicates the American master narrative—the origin story that provides a highly sanitized version of the violence employed against, and the exploitation of, Indigenous peoples, persons of African descent, and many immigrant groups, and relegates these actions to a past for which no one is today responsible.\footnote{75. See Natsu Taylor Saito, Tales of Color and Colonialism: Racial Realism and Settler Colonial Theory, 10 FL. A&M U. L. REV. 1, 31-32 (2014); Saito, SETTLER COLONIALISM, supra note 15, at 26-34.} This is why the current attacks on critical race theory are closely aligned with efforts to prevent teaching of the 1619 Project, which focuses on the enslavement of people of African descent in the United States, or to dismantle ethnic studies programs in public schools, as Arizona attempted in 2010.\footnote{76. See generally Caroline Mala Corbin, Terrorists Are Always Muslim but Never White: At the Intersection of Critical Race Theory and Propaganda, 86 FORDHAM L. REV. 455 (2017).} By rejecting a triumphalist American narrative, critical race theory challenges many of the presumptions underlying the war on terror, beginning with the division of the world into “good” and “evil” and the association of Islam, or people from North Africa, the Middle East, or South Asia, with terrorism.\footnote{77. See generally Crenshaw, Twenty Years of Critical Race Theory, supra note 64; Mutua, The Rise, Development and Future Directions of Critical Race Theory, supra note 61.} It insists on looking at context and causation, rejecting assertions of exceptionalism that preclude equal application of the law to all.\footnote{78. See generally Crenshaw, Twenty Years of Critical Race Theory, supra note 64; Mutua, The Rise, Development and Future Directions of Critical Race Theory, supra note 61.} The stories it introduces complicate the
premise that Western civilization—and the United States, in particular—is the culmination of human history. 79

Those who employ a critical race perspective are often accused of being storytellers rather than serious scholars because they use narrative to illustrate that law, history, and even the sciences are never simply objective and empirical, and to emphasize the importance of truth as perceived by those “at the bottom.” 80 “In storytelling there is always transgression,” Okri observes. 81

There is nothing more shocking or more dangerous or more upsetting to individuals and nations than truth. Giving truth direct narrative expression is to give it a public explosion. . . . It wakes up all the hidden bullies, the hidden policemen, and the incipient dictators and tyrants of the land. 82

Those bullies have emerged as politicians and media personalities take up the attacks on critical race theory, loudly condemning it as intent on humiliating White children, racist rather than anti-racist, unpatriotic, and possibly a communist plot. 83 In Rufo’s words, “We have successfully frozen their brand—‘critical race theory’—into the public conversation and are steadily driving up negative perceptions. We will eventually turn it toxic, as we put all the various cultural insanities under that brand category.” 84

79. See WOLF, supra note 15, at 5; SAI TO, MEETING THE ENEMY, supra note 15, at 18-34.
81. OKRI, supra note 1, at 52.
82. Id. at 52-53.
84. Meckler & Dawsey, supra note 2 (quoting Rufo).
IV. DANGEROUS NARRATIVES

The attempt to “rebrand” critical race theory as a toxic source of cultural insanities is part of a larger process in which we see the emergence not only of the bullies but of the hidden policemen and incipient tyrants as well. In this sense, the current “culture wars” are a natural extension of the war on terror. After September 11, 2001, no time was lost in expanding long-standing efforts to suppress those who challenge the political, economic, social, or racial status quo.85 Initially, we saw this in the rapid passage of the so-called USA PATRIOT Act86 and the implementation of the National Security Entry–Exit Registration System (NSEERS).87 Foreshadowing the “Muslim bans” later implemented by the Trump administration, NSEERS required men from twenty-four Muslim-majority countries to provide detailed registration information to the government, making it much easier to track and, potentially, intern or deport them.88

The USA PATRIOT Act opened the door to repressive governmental tactics previously condemned as illegal and unconstitutional in the mid-1970s, most notably in Senate investigations of the FBI’s COINTELPRO operations and similar programs used by other national security agencies to quash internal “enemies”—most of whom were people of color.89 It significantly expanded the surveillance authority of federal agencies, limited the rights of immigrants, blurred the line between criminal and intelligence investigations, and created a new crime of “domestic terrorism.”90 Domestic terrorism was broadly defined to encompass a range of activities intended to “influence the policy of a government by intimidation or coercion.”91 Quite predictably, it has since been used to threaten those engaged in social or political protest (and those who provide them with “material support”) with felony charges and long prison terms.92 The construct has

88. See Vanita Saleema Snow, Reframing Radical Religion, 11 GEO. J. L. & MOD. CRIT. RACE PERSPECTIVES 1, 24 (2019); on the “Muslim bans,” see id. at 25–26.
90. Saito, Whose Liberty?, supra note 85, at 1115-1123.
91. Id. at 1120 (citing USA PATRIOT Act, Sec. 802(a)).
92. Id. (citing USA PATRIOT Act, Sec. 805).
also opened the door to increasingly militarized responses to situations that are presumptively matters of ordinary law enforcement. Thus, for example, in 2016, Indigenous-led opposition to pipeline construction at Standing Rock, North Dakota, was met by “heavily militarized police . . . who arrived in armored vehicles and assaulted them with purportedly less-than-lethal weapons, LRAD sound devices, and water cannons,”93 and similar attacks on water protectors around the country have continued well into the summer of 2021.94 At Standing Rock, local and federal officials implemented “military-style counterterrorism measures” with the help of TigerSwan, a defense contractor active in the global war on terror.95 TigerSwan, in turn, described the water protectors camped on unceded Indigenous lands as “an ideologically driven insurgency with a strong religious component,” explicitly likening them to jihadist fighters.96 In subsequent prosecutions of water protectors around the country, numerous states have enhanced penalties for protests aimed at “critical infrastructure” such as pipelines, and individuals continue to face terrorism charges.97

Similarly, those participating in anti-racist protests stemming from police killings, or other actions associated with the Black Lives Matter movement, often face serious felony charges, including terrorism.98 In other instances, the FBI has attempted to create a false equivalence between the deadly violence inflicted by White supremacists and what they term “Black identity extremists.”99 Illustrating the contestation over narrative that often frames these cases, in the summer of 2020 felony charges were

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95. Brown, Parrish, & Speri, supra note 93.

96. Id.


brought “against the Virginia State Senate pro tempore, a local school board member, local NAACP leaders, and public defenders for injury to a monument and conspiracy, in relation to the destruction of confederate statues.”

The stories we choose to live by have consequences; that’s why they’re so intensely contested. The war on terror builds on a deeply rooted and triumphalist narrative of American exceptionalism. Its foundation is being challenged by grassroots as well as theoretical efforts insisting that accurate histories of people of color be included in the stories we tell. The virulent reactions to critical race theory—or just to acknowledging slavery, for that matter—illustrate that we cannot let just a little bit of honesty in the door. Those who are reacting recognize that this is a dangerous path, dangerous because so much has been built on a foundation of denial and half-truths. Unraveling contemporary manifestations of racism will, in fact, take us back to the genocidal policies of the earliest European settlers and the reality that we live, still, on Indigenous lands subjected to colonial occupation. Nonetheless, returning again to Okri, “if we refuse to face any of our awkward and deepest truths, then sooner or later, we are going to have to become deaf and blind. And then, eventually, we are going to have to silence our dreams, and the dreams of others.”

100. Lacy, supra note 98.
102. Okri, supra note 2, at 42.