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## Interview with Khaled Beydoun

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## INTERVIEW WITH KHALED BEYDOUN\*

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Hosted by Nina Mozeihem\*\* and Samuel Bagenstos\*\*\*

*The following is a transcription of an interview with Professor Khaled Beydoun, conducted at the University of Michigan Law School on March 15, 2019. The transcript has been lightly edited for clarity.*

**K. Beydoun:** Thank you so much for having me. I really appreciate the *Journal* organizing this event.

To you students here today, obviously this event comes at a very difficult time.

Today in New Zealand at two Christchurch mosques, there was another Islamophobic massacre that took place.<sup>1</sup> It was led by a couple of perpetrators, specifically one who wrote a [seventy-four]<sup>2</sup> page manifesto pushing a clash of civilizations crusade against the Muslim population in New Zealand and more broadly across the world. Forty-nine people were killed, and many more people were injured during Jumu'ah. Today is Jumu'ah, which is the holy day for Muslims—the Sabbath, if you will.

Today's event comes at a really poignant but timely moment to discuss my book *American Islamophobia: Understanding The Roots and Rise of Fear*, which looks to grapple with why events like this are taking place and looks to grapple with how the political moment, and specifically political actors like our president, are in fact inciting and emboldening these types of acts, not only in the United States but across the world.<sup>3</sup>

In the book, I define Islamophobia in a very specific way. I wrote an article a couple of years back in the *Columbia Law Review* which theorizes what Islamophobia is and what it encompasses.<sup>4</sup>

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1. Max Walden, *New Zealand Mosque Attacks: Who Is Brenton Tarrant?*, AL JAZEERA (Mar. 17, 2019), <https://www.aljazeera.com/news/2019/03/zealand-mosque-attacks-brenton-tarrant-190316093149803.html>.

2. Professor Beydoun cited the length of the manifesto to be eighty-seven pages, but reports seem to confirm the accurate length was seventy-four pages. See Jane Coaston, *The New Zealand Shooter's Manifesto Shows How White Nationalist Rhetoric Spreads*, VOX (Mar. 18, 2019), <https://www.vox.com/identities/2019/3/15/18267163/new-zealand-shooting-christchurch-white-nationalism-racism-language>.

3. See generally KHALED A. BEYDOUN, *AMERICAN ISLAMOPHOBIA: UNDERSTANDING THE ROOTS AND RISE OF FEAR* (2018).

4. Khaled A. Beydoun, *Islamophobia: Toward a Legal Definition and Framework*, 116 COLUM. L. REV. 108 (2016).

The basic definition is that Islamophobia is the presumption that expressions of Muslim identity are correlated with a propensity for terrorism. I delineate Islamophobia into three forms: private Islamophobia, structural—state sponsored Islamophobia—and finally, and I think most importantly for today, dialectical Islamophobia, which is the process and the discourse whereby state action and state rhetoric go on to authorize the kind of mass violence that we see very vividly in places like New Zealand.

**N. Mozeihem:** What prompted you to write this book?

**K. Beydoun:** There were two main catalysts.

First, I have been a law professor for six years. I have spent much of my tenure as a professor writing on the War on Terror. I have been writing on how specific War on Terror policy has affected Muslim Americans in the way they express their religious identity and the way they go about exercising their religion—that kind of dialectic between state policy but also responses from Muslim communities.

And I realized as a law professor, that few people read law review articles [laughter]—my work was not penetrating into the community and audiences that I wanted to reach. We spend a lot of time trying to write articles and to get them placed in good journals, but our audience is very small and elite. I came to the realization that I wanted my work to be read by a broader audience, and that intersected with the rise of Trump as a candidate. The specific day on which I decided to write this book, and to write an accessible book, was December 7, 2015. That was the day that then-candidate Trump announced that it was his objective to put a stop on the entry of Muslims.<sup>5</sup>

The Muslim ban, as it came to be known, drove me to want to write this book. Then I came back to Detroit, where I grew up, and I realized what kind of effect that this brazen rhetoric from the President was having on the community. This book, God willing, *inshallah*, was able to speak to the experiences of Muslims on the ground.

**S. Bagenstos:** I thought the book was terrific. It does a great job of highlighting what Islamophobia is, what it isn't, and the ways we have to confront it. You do a great job of both identifying what Islamophobia is today, but also talking about the historical antecedents to and roots of it.

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5. Jenna Johnson, *Trump Calls for "Total and Complete" Shutdown of Muslims Entering the United States*, WASH. POST (Dec. 7, 2015), [https://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/?noredirect=on&utm\\_term=.52e1ae072780](https://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/?noredirect=on&utm_term=.52e1ae072780).

Could you talk about how it has changed over time? Because it was striking to me, when I read your book, that we think about this manifestation of Islamophobia today as very much about terror rhetoric, particularly post 9/11. But Islamophobia existed for a very long time before 9/11.

**K. Beydoun:** For me, what was vital to illustrate in the book, but also in my broader advocacy, is that Islamophobia is not a new phenomenon. It was being framed as such with the rise of Trump because of his explicit rhetoric and his brazen overtures. But being a student of Edward Said and reading *Orientalism*, the way in which Edward Said laid out Orientalism, is this master discourse that effectively goes about vilifying Islam, goes about vilifying the “Orient” in mirror opposite term of the “West” or the “Occident.”<sup>6</sup> It lays the foundation and embeds the kind of stereotypes and tropes that drive how we go about demonizing Islam and vilifying Muslims today.

There was an important article by a law scholar named Leti Volpp, *The Citizen and the Terrorist*, that was published in the immediate wake of the 9/11 terror attacks.<sup>7</sup> In the thesis of that article, she argues that the 9/11 terror attacks led to the redeployment of Orientalist tropes. That thesis brilliantly captures the flashpoint when we see Orientalism evolving into the modern form of Islamophobia we have today.

Even though the political threats change over time—in the eighties, the primary manifestation of Islamic threat was the Iranian government, with the rise of the Islamic Revolution of Khomeini—and even though the political face has changed, the stereotypes and tropes that drive the underlying fear are very much the same and rooted in what Said theorizes as Orientalism.

**N. Mozeihem:** Can you flesh out more about the differences between private, structural, and dialectical Islamophobia?

**K. Beydoun:** It is important to think about Islamophobia in these three forms.

The media tends to fixate, and the media will continue to fixate with what happened today, on private Islamophobia. That is the form that is inflicted by private actors: private citizens who inflict or unleash mass violence because of specific ideas or individual hate that they might have.

Second, we have structural Islamophobia. This is the more critical form and the form that is seldom discussed, both in the legal literature but also in the broader public discourse. There has been little framing of War on Terror policy after 9/11, but even more

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6. See generally EDWARD W. SAID, *ORIENTALISM* (1979).

7. Leti Volpp, *The Citizen and the Terrorist*, 49 *UCLA L. REV.* 1575 (2002).

recently, as a form of Islamophobia that we have to be concerned with and reckon with, but also a form of Islamophobia that drives private action.

When we think about structural Islamophobia, it is key to think about structural reform of the counterterror state that happened in the immediate wake of 9/11—the creation of The Department of Homeland Security (DHS) and policies like the Patriot Act;<sup>8</sup> policies like the National Security Entry Exit Registration System (NSEERS),<sup>9</sup> which was the Muslim registry before Trump announced that he wanted to enact a Muslim registry. So we have structural Islamophobia being spearheaded by conservative governments, but we also have structural Islamophobia being advanced by Democratic administrations.

I write about how the radicalization in policing, surveillance within Muslim communities, is the most nefarious form of structural Islamophobia.<sup>10</sup> That was enacted and established under the Obama administration (in 2011). Once we grapple with structural Islamophobia as being something that can be conspicuous or latent, we understand that Islamophobia is not limited to right wing conservative actors. In the same way we think about racism in the Equal Protection context, we have facial discrimination which is typically advanced by elements on the right; however, there is latent discrimination that has a disproportionate impact, which is oftentimes advanced by the left or center. It is key to think about Islamophobia in that way as well.

**S. Bagenstos:** How would you connect Islamophobia to other kinds of structural bias or discrimination? We had this recent fight in American politics about a resolution in Congress that condemns anti-Semitism, and it becoming a broader resolution condemning many things, including Islamophobia.<sup>11</sup> Many people until this morning, I think, were making fun of that politically, and now maybe they see how important it was to broaden that resolution. But I wonder in what ways are these biases all connected. There are obviously threads we can we can draw between them, but there are obviously differences as well.

**K. Beydoun:** There is an interesting dissonance between talking about these different forms of animus in a genuine way, and there's a political conversation where they're skewed because, to

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8. Jason Villedmez, *9/11 to Now: Ways We Have Changed*, PBS NEWS HOUR (Sept. 14, 2011), <https://www.pbs.org/newshour/world/911-to-now-ways-we-have-changed>.

9. *National Security Entry-Exit Registration System*, ARAB AM. INST., <http://www.aaiusa.org/nseers> (last visited May 10, 2019).

10. Khaled A. Beydoun, *America, Islam, and Constitutionalism: Muslim American Poverty and the Mounting Police State*, 31 J. L. & RELIGION 279 (2016).

11. H.R. 183, 116th Cong. (2019).

be frank, there's greater weight given to different forms of animus, especially within walls of power, like government.

But once we think about and connect Islamophobia and anti-Semitism to anti-black racism and xenophobia and so on and have a theoretical discussion specifically within the context of American legal history, we see that there are not only bridges, but in fact, the very crux or foundation that gives rise to these distinct forms of animus are one in the same.

An important starting off point is an act that was put in place a couple of years after the enactment of the Constitution called the Naturalization Act of 1790.<sup>12</sup> This law stood in place until 1952. It mandated whiteness as a prerequisite for citizenship. You had to be white to become a naturalized citizen in the United States. Whiteness was not framed and construed in the way it is thought of today. Whiteness was framed really narrowly; initially speaking, it was almost synonymous with Protestantism. As a consequence of that, a whole host of individuals both of color but also religious minorities, were cast out of the legal definition of white. Jews, up until the early twentieth century, were not thought of as bona fide whites. Catholics were not thought of as bona fide whites. Italians, Slavs, a whole host of people that we embrace as formal whites today, were viewed to be beyond the scope of whiteness.<sup>13</sup>

So we see in that sense how per se anti-Semitism, driven by very narrow conceptions of American identity, formed how we thought about citizenship. There's this great book by law scholar Linda Bosniak called *The Citizen and the Alien*, where she talks about stratified citizenship drawn along racial and religious lines.<sup>14</sup>

Today when we have the uptick in anti-Semitism, when we have the uptick in Islamophobia, these are taking place and they're not rising within a political vacuum. They're rising from a specific underbelly of the American legal imagination and history which makes them easy to deploy very swiftly when we have a character like Trump at the top who is unleashing the kind of rhetoric that facilitates and maximizes that kind of rhetoric.

People in the advocacy space talk about white supremacy—that's kind of become a kitsch term, which for me is great because

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12. Naturalization Act of 1790, ch. 3, 1 Stat. 103, 103, (repealed 1952) ("That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof, on application to any common law court of record, in any one of the states wherein he shall have resided for the term of one year at least . . .").

13. Khaled A. Beydoun, *Between Muslim and White: The Legal Construction of Arab American Identity*, 69 N.Y.U. ANN. SURV. AM. L. 29 (2013).

14. LINDA BOSNIAK, *THE CITIZEN AND THE ALIEN: DILEMMAS OF CONTEMPORARY MEMBERSHIP* (2006).

I'm a critical race theorist. But that's in fact true. There is this vacillating conception of who is and who isn't white, and individuals who are advocates of white supremacy view whiteness as being synonymous with citizenship. They oftentimes don't view Jews, immigrants, or individuals who adopt their specific ideology as being legitimate whites or legitimate citizens. This is very much the crux that gives rise to these distinct forms of bigotry, Islamophobia, anti-Semitism, xenophobia, and so forth and so on.

**S. Bagenstos:** One of the other interesting points from your book that connects to that point is that there's a degree to which Islamophobia faces a lot of distinctions within Islam. And so you have this very quick move from people who look at what Islam is and they think it's Arab. When in fact many Muslims in America aren't of Arab extraction, many are of South Asian extraction, many are African-Americans whose families either came from West India or came here as slaves. There's also this increasing Latino population as you talk about at the very beginning the book—in a very interesting vignette. What can you say, as a critical race theorist, about connections across these different axes of identity?

**K. Beydoun:** Great question! This is something that I grapple with in the book, but also something that I grapple with more broadly. I think the most damning component of Islamophobia is that it is driven by racialized caricature of who Muslims are. We think about Muslims as being narrowly Arab or Middle Eastern, brown, and immigrant. There's a specific racial caricature that is very much the foundation of Islamophobia, specifically private Islamophobia.

I think the state has become far more intelligent in understanding the racial, ethnic, even sectarian distinctions amongst the broader Muslim American population. But within the private mind—I don't want to construct an archetypal Islamophobe—but within the private Islamophobic mind, there is this idea that Muslims are exclusively Arab, immigrant and brown, which smacks against statistics specifically within the Muslim American milieu.

Professor Bagenstos talked about how the biggest plurality of Muslims today are in fact black, they're African-American. If you understand American history, that shouldn't be surprising—fifteen to thirty percent of enslaved Africans in this country came as Muslims and continued to practice Islam while bonded to slavery.<sup>15</sup> The Nation of Islam:we have that history of black Muslim movements

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15. Besheer Mohamed & Jeff Diamant, *Black Muslims Account for a Fifth of All U.S. Muslims, and About Half Are Converts to Islam*, PEW RES. CTR. (Jan. 17, 2019), <https://www.pewresearch.org/fact-tank/2019/01/17/black-muslims-account-for-a-fifth-of-all-u-s-muslims-and-about-half-are-converts-to-islam/>.

that preceded the entry of Muslim immigrants by at least five decades.<sup>16</sup> Still today, if you look at conversion rates in the largest growing segments of the Muslim American population, they are Latino and white.<sup>17</sup>

Muslim-America, ironically enough, is a microcosm for broader American society. It's the most diverse faith. It's the most ethnically racially heterogeneous.<sup>18</sup> Arabs and Middle Eastern Muslims are in fact the third biggest plurality. The stereotype clashes strongly with the demographic steps.

**N. Mozeihem:** We've seen recently with Representative Ilhan Omar, that a lot of people have been alleging Islamophobia and the intense criticism to which she has been subjected.<sup>19</sup> Do you have any comments on that? How do you think Islamophobia has played a role in the criticism both she and Representative Rashida Tlaib have been receiving?

**K. Beydoun:** I know Ilhan, and I can tell you that Ilhan is a deeply spiritual person. She's a pioneer in the sense that she's the first *muhajabah*—she's the first Muslim American congresswoman to be in that space and to wear the hijab.<sup>20</sup>

There was a provision that Congress had that restricted individuals from wearing hats.<sup>21</sup> She had to overcome that initial hurdle. It wasn't a facially discriminatory provision; it was effectively one that was related to decorum. But she occupies and she embodies this challenging intersection in terms of what her identity is—she's black, she's Somali, she's a refugee, she's a Muslima, she's a conspicuous Muslima, she's really progressive and unapologetic about her progressive views. So she's a threat to a disparate number of elements within not only Congress but within that power space in

16. Tynetta Muhammad, *Brief history on origin of the Nation of Islam*, NATION OF ISLAM (Mar. 28, 1996), <https://www.noi.org/noi-history/>.

17. Tim Padgett, *Why So Many Latinos Are Becoming Muslims*, WLRN (Oct. 9, 2013), <https://www.wlrn.org/post/why-so-many-latinos-are-becoming-muslims>.

18. *Demographic Portrait of Muslim Americans*, PEW RES. CTR. (July 26, 2017), <https://www.pewforum.org/2017/07/26/demographic-portrait-of-muslim-americans/>.

19. See Cody Nelson, *Minnesota Congresswoman Ignites Debate On Israel And Anti-Semitism*, NPR (Mar. 7, 2019), <https://www.npr.org/2019/03/07/700901834/minnesota-congresswoman-ignites-debate-on-israel-and-anti-semitism>; see also Michelle Goldberg, *Ilhan Omar's Microaggression: Her Words Were Bad. The Reaction Was Worse.*, N.Y. TIMES (Mar. 8, 2019), <https://www.nytimes.com/2019/03/08/opinion/ilhan-omar-antisemitism-democrats.html>.

20. Andy Sullivan, *Minnesota, Michigan Send First Muslim Women to U.S. Congress*, REUTERS (Nov. 6, 2018), <https://www.reuters.com/article/us-usa-election-islam-women/minnesota-michigan-send-first-muslim-women-to-u-s-congress-idUSKCN1NC095>; see also Katherine Tully-McManus, *After 181 Years of No Hats in Congress, Dems Eye Exception for Religious Garb*, ROLL CALL (Nov. 16, 2018), <https://www.rollcall.com/news/politics/hats-congress-religious-garb-exception>.

21. *The Ban on Hats on the House Floor*, HIST., ART & ARCHIVES, <https://history.house.gov/Historical-Highlights/1800-1850/The-debate-over-the-rule-to-ban-hats-on-the-House-Floor/> (last visited May 10, 2019).



Washington, D.C. because of who she is and because she's made it a point to speak unapologetically about her views.

Now, I'll be frank, I think that the way she framed some of her critiques of Israel<sup>22</sup> were not the most intelligently framed. However, she's a green Congresswoman who is new in that space. The reality is this: there is a small, narrow, or no margin of error at all because of who she is. Somebody else who has that same sort of circumstance, being a green rookie congressperson, will be extended a lot in a margin of error. But because the microscope is being positioned so tightly upon every step she makes—and that's true for Rashida as well, a congressperson from Detroit<sup>23</sup>—by virtue of who they are, they have little room for mistakes or missteps.

**N. Mozeihem:** In light of that, how would you interpret the rise of Muslim candidates for office and in the United States, with both Rashida and Ilhan being the first Muslim women in Congress, and even here in Michigan we saw Abdul El-Sayed<sup>24</sup> running for governor.

**K. Beydoun:** First of all, I love the fact that our most visible leadership, not only within government but in the civil rights spaces and within academia, are Muslim women. In the book, I write about how Muslim women are very much spearheading this new Muslim American Renaissance or reawakening.

What I love about it is that it de-mystifies one of the core tropes that are assigned on Muslim American identity, and specifically Muslim American men, that we're this patriarchal, aggressive, violent element that is keen on subordinating Muslim American woman. But the trenchant, unapologetic, and resilient examples being set forth by people like Rashida and Ilhan erode those stereotypes.

I think it's a great thing! For me it's empowering. I went to college here, and I can remember people looked at me crazy when I told them that I wanted to go to law school. If you are Muslim American, you're either an engineer or a doctor, so [Nina and I] disappointed our parents because we didn't go on to become doctors. It was rare, and now that we see Muslim Americans rising and running for office, it's a beautiful thing. And I wouldn't limit it

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22. See BUSBOY & POETS, (Feb. 27, 2019), <https://www.facebook.com/busboysandpoets/videos/353129905294312/>. See also Karen Zraick, *Ilhan Omar's Latest Remarks on Israel Draw Criticism*, N.Y. TIMES (Mar. 1, 2019), <https://www.nytimes.com/2019/03/01/us/politics/ilhan-omar-israel.html>.

23. CONGRESSWOMAN RASHIDA TLAIB, <https://tlaib.house.gov/> (last visited May 10, 2019).

24. Stateside Staff, *For Abdul El-Sayed, "The Path Hasn't Changed" Despite Primary Loss*, MICH. RADIO (Aug. 13, 2018), <https://www.michiganradio.org/post/abdul-el-sayed-path-hasnt-changed-despite-primary-loss>.

specifically to Trump. I think that's a sellable talking point in the media space, that they're running for office because of Trump, but I think it shows a maturation or evolution within the community that Muslim Americans are beginning to realize the importance of running for office.

And I wish Abdul [El-Sayed] would have won. I wish Professor Bagenstos would have won his race to be part of the Michigan Supreme Court.<sup>25</sup> And I think they will win in the future, so hopefully it's not their only races.

Another thing worth noting is that one thing I'm struggling with right now is this emergence of, what I call, extreme identity politics on the left and right. It is important that we support candidates who look and believe like us. But I think it's more important for candidates to stand up for principles, progressive principles, that advance the interests of not only marginalized minorities but marginalized segments of people at large. I would vote for a non-Muslim candidate who is supportive of free exercise of religion and inclusion over a conservative Muslim candidate. I just re-read this article by Professor Nancy Leong called *Racial Capitalism*, which warns against this fixation that is prevalent on the right, but also present on the left, to only champion a person's identity and supplanting the importance of identity with the importance of substance.<sup>26</sup>

**S. Bagenstos:** I want to get back to another thing you were talking about, which is also an important point in the book, which is that it's not just Trump. We're talking about a policy level of this, part of structural Islamophobia. It is even Democratic administrations, like Barack Obama's administration.

First, why is that? One way of thinking about Obama is that he was elected, in part, as a reaction to what were perceived to be excesses of War on Terror rhetoric and policy in the Bush administration.<sup>27</sup> And yet as you point out, he both reified some of the stuff that was already there and created a bunch of new stuff that raises problems. Second, how do we avoid that in the future?

**K. Beydoun:** I was a strong supporter of candidate Obama's race in 2008. Like most people, probably most people in this room, I was inspired by him becoming the first black president. For me it signaled, perhaps naively at that point, a shift in this country's racial make-up toward the better. But then during his presidency, I

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25. SAMUEL BAGENSTOS: JUSTICE FOR ALL, <https://www.bagenstosforjustice.com/> (last visited May 10, 2019).

26. See Nancy Leong, *Racial Capitalism*, 125 HARV. L. REV. 2151 (2013); see also Nancy Leong, *Identity Entrepreneurs*, 104 CALIF. L. REV. 1333 (2016).

27. See, e.g., Trevor McCrisken, *Ten Years On: Obama's War on Terrorism in Rhetoric and Practice*, 87 ROYAL INST. INT'L AFF. 781 (2011).

began to realize that, regardless of the nature of the administration, that power is wed to perpetuating the War on Terror both domestically and globally because it advances very coveted economic, political, and perhaps even epistemological interests for the state.

I say that to highlight the point that Islamophobia is not only irrational. We tend to think about it, and it's broadly framed as irrational action or hatred, but grappling with structural Islamophobia reveals that it's also rational. It's used as a tool, whether it be law, whether it be foreign policy, whether it be brokering relationships with specific nation states that are the most damaging, like Saudi Arabia for instance.

These are strategic expedients the state uses to carry forward specific objectives. One of them in the region for instance, the reason we are keen on maintaining instability in the "Muslim world" regardless of whether we have a Republican or Democratic administration, is because that instability advances our ability to access oil. It advances our ability to keep tabs on nation states. It advances our ability to further American foreign policy and influence in the region. It's rational in that sense.

In the Obama administration, even though President Obama walks in—I'm half Egyptian, I was inspired when he walked into—Al-Azhar, a University in Cairo and gave his beautiful speech months after he was elected.<sup>28</sup> The thesis of that speech effectively was: it's my job to mend the wounds of the War on Terror inflicted by the Bush administration and broker a new peace between the West and Islam. He was still kind of capitalizing on this Samuel Huntington clash of civilizations type framing and rhetoric that was problematic. Yet it signaled promise.

However, as the administration advanced and began to reveal itself, it became clear that that rhetoric was only a tool to advance his specific form of War on Terror policy and the signature of his administration was counter-radicalization policing. That's why President Obama did not walk into an American mosque until seven years into his administration. He was afraid that he was being pegged a Muslim by the Right—that was one of the reasons why. But second, he only found it fruitful and conducive to engage with Muslims and Muslim Americans as a selling point for counter radicalization because counter radicalization is built upon this structure where the state needs to work with Muslims as informants, interlocutors, and stakeholders within the community to advance

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28. C-SPAN, *President Obama Speech to Muslim World in Cairo*, YOUTUBE (June 4, 2009), [https://www.youtube.com/watch?v=B\\_889oBkkNU](https://www.youtube.com/watch?v=B_889oBkkNU).

surveillance. In the same way that COINTELPRO functioned in the sixties;<sup>29</sup> it's the exact same model.

The rhetoric Obama used was beautiful, it was accepting, it was tolerant, but it was characterized by dissidents in very destructive policy.

**S. Bagenstos:** What would a good president on these issues look like? What would a good administration on these issues look like?

**K. Beydoun:** The ideal would be dismantling and doing away with the War on Terror. Statistically speaking, there has been no bona fide threat from Muslim Americans. This whole concept of homegrown radicalization, which the state peddles, is not based in anything tangible. It's all scare tactics. I analogize it to modern day eugenics. There is this belief that there is something inherently violent about Muslim identity that drives these fears. The first step would be dismantling and doing away with the War on Terror.

I'm a Bernie Sanders guy. I'm going to be a surrogate for his campaign again this go around, because I believe in his foreign policy—a less interventionist, more hands-off engagement with the region. Most saliently, retrenching relationships with Saudi Arabia. If you want to hone in on one nation state that is the greatest abettor and aider of terrorism, it would be them. Their form of Islamic interpretation, *Wahhabism*, is what drives the ideology of ISIS, al Qaida, Al Shababb in Somalia, Boko Haram in Nigeria, so on and so forth.<sup>30</sup> You can track how petrol dollars have given rise to the growth of these frightening terror networks across the world. However, they are our primary ally in the region, especially this new, whacko Mohammad bin Salman (MBS) who fashions himself as a Saudi Arabian Trump.<sup>31</sup>

That's what I would do—retrench the War on Terror enterprise and rethink our foreign policy, specifically our relationships with countries like Saudi Arabia.

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29. See FED. BUREAU OF INVESTIGATION, COINTELPRO, <https://vault.fbi.gov/cointel-pro> (last visited May 10, 2019) (compiling the surveillance activities of COINTELPRO over a fifteen year period which included monitoring of members of the civil rights movement); see also Betty Medsger, *Just Being Black Was Enough to Get Yourself Spied on by J. Edgar Hoover's FBI*, NATION (Jan. 22, 2014), <https://www.thenation.com/article/just-being-black-was-enough-get-yourself-spied-j-edgar-hoovers-fbi/>.

30. See OXFORD ISLAMIC STUD. ONLINE, *Wahhabis*, <http://www.oxfordislamicstudies.com/article/opr/t125/e2467> (last visited May 10, 2019) (providing a quick summary and history of the Wahhabism); see also Christopher M. Blanchard, *The Islamic Traditions of Wahhabism and Salafiyya*, CONG. REP. SERV., <https://fas.org/sgp/crs/misc/RS21695.pdf> (last updated Jan. 24, 2008) (providing a more in-depth summary of the history of Wahhabism and present-day issues).

31. Frank Gardner, *Saudi Arabia: Crown Prince MBS Takes Charm Offensive East*, BBC NEWS (Feb 26, 2019), <https://www.bbc.com/news/world-middle-east-47361745> (describing MBS' recent actions in and outside Saudi Arabia).

They're probably not going to let me in when I try to do the pilgrimage in a couple of years. If they read my Twitter, they definitely won't let me in.<sup>32</sup>

**N. Mozeihem:** In terms of dismantling Islamophobia, more on the private sphere, do you think that starts with talking about structural Islamophobia and dealing with that before you can transition to societal conceptions that lead to private Islamophobia?

**K. Beydoun:** That's a hard question. I speak to so many different audiences about this, and I sometimes struggle with what to lead with.

It's easy with you guys because you guys are lawyers and future lawyers, so we can understand how the law functions. But I just spoke at Oregon State University with a largely undergraduate audience, and you have to reel them in with the private Islamophobia because that's what they know. They consume what they know through mainstream but also social media. It's easier for non-legal audiences to work with a visual embodiment of who Islamophobes are. Trump makes perfect sense because of his brazen rhetoric; individual actors like these terrorists in New Zealand are good starting off point. Then you segue into the law. But because of the education in the room today, I would flip the script and lead with structural Islamophobia and lead with the law.

**N. Mozeihem:** Speaking of the terrorist attack in New Zealand, how much do you think right wing hate speech—that manifests itself in clear Islamophobia, according to your book—how much do you think that plays a role in manifesting in violence against Muslims?

**K. Beydoun:** It's clear. The Australian terrorists who committed those acts at the Christchurch mosque made it manifestly clear. He wrote this [seventy-four] page manifesto, he called Trump, he said that Trump inspired him, that he was reawakening a kind of new white identity, he talked about how it was his objective to bring about a civil war, a crusade against Muslims in New Zealand.

[Seventy-four] pages.

When these guys are writing manifestos, whether it be Islamophobia or anti-black racists like Dylan Roof,<sup>33</sup> they've spent a lot of time thinking about this stuff and writing about this stuff. These are premeditated actions. I think it's critical for us to understand that.

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32. See generally Khaled Beydoun (@KhaledBeydoun), TWITTER, [https://twitter.com/KhaledBeydoun?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor](https://twitter.com/KhaledBeydoun?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor).

33. Alan Binder & Kevin Sack, *Dylann Roof Is Sentenced to Death in Charleston Church Massacre*, N.Y. TIMES (Jan. 10, 2017), <https://www.nytimes.com/2017/01/10/us/dylann-roof-trial-charleston.html>.

Why I talk about Islamophobia as a dialectic—that the words from people like Trump isn't only political rhetoric, it is strategically used to mobilize voters. That might be the most imminent short-term objective, but it also has to be viewed as a call to action. It is irresponsible for a politician to not think that there are hateful elements on the ground who are going to interpret that language as an authorization to inflict vigilante violence against elements of the community that the President has cast as being subhuman, inferior, or inherently violent.

These acts, to be frank with you, are not surprising me. I'm numb to them now because they happen so often. We live in a political landscape where bigots like Trump are being lauded and championed by these culprits as an inspiration, and the unfortunate reality is that just as long as we have elements like him in high office, it's going to continue.

#### Q&A WITH STUDENT AUDIENCE

**Student Question:** You mentioned Saudi Arabia being the wrong key ally in the region. How else would you envision an ideal foreign policy for the United States in that region?

**K. Beydoun:** This is the clash: how do we reconcile countries that have great economic stake with us with the interest in not aligning ourselves fully with nations that have been exporting harmful ideology. Not only harmful ideology, but a country that is perhaps antithetical to American values in terms of how they go about treating their own citizenry. There's no tolerance for religious minorities, there's clearly no emphasis on women's rights—women can't drive in that country—there's no tolerance for dissidents, academic freedom, so on and so forth. So apart from Saudi Arabia being keen on exporting *Wahabi Islam* to its petrol dollars, it's also a very undemocratic and tyrannical country.

I'm not naïve. I know that nation states like the United States are rational actors where economic interests mean a great deal and the nature of the administration can have a great deal of impact on how we go about negotiating our relationship with countries like Saudi Arabia. I am very critical of President Obama; however, I think that President Obama would navigate his relationship dramatically differently than President Trump. Because of MBS, being such a violent brazen, autocrat, I think Obama would have rethought the nature of the relationship with Saudi Arabia.

Moving forward, we have to realize and affectively do an accounting of what is the economic net gain justifying the political loss accrued by having this relationship with Saudi Arabia. If this

government is truly genuine about its global War on Terror and retrenching it, then the most immediate solution is to rethink the relationship with countries like Saudi Arabia. However, that's why I think that there is no genuine interest on the part of brass within the State Department or the executive to retrench the War on Terror. I think that there are rational benefits that are gained through perpetuating this global idea that Muslims are menacing and willing to destroy the United States, even though statistics don't prove that. If you look at ISIS for instance, ninety-nine percent of ISIS victims are Muslims.<sup>34</sup> ISIS has not posed itself to be a real threat to the United States.

I wrote a series of articles on counter radicalization policing, this programming that is established in places like Minneapolis, Los Angeles, Boston, but also informally in places like Detroit.<sup>35</sup> The cases where they've identified homegrown radicals have either been fabricated or trumped up, embellished investigations.

I'm not sure if [the administration is] being genuine, but I guess and think that they're not. Foreign policy is deeply connected with the way we go about steering our domestic anti-terror program.

**Student Question:** Do you find that there is a unique American strand of Islamophobia? Or because of the internet and social media, has Islamophobia been exported globally?

**K. Beydoun:** There definitely is a uniquely American strand that is distinct from the way Islamophobia is unfolding in places like France, China, and India, because of the way we think about who Muslims are.

If you go to France, for instance, I would venture to say that Islamophobia is comparatively more intense than it is in the United States because of the geographic proximity of Muslim majority countries but also the recent colonial history that France has in places like Algeria, Francophone sub-Saharan Africa, and so on and so forth. But in France, the caricaturing of Muslim identity is broader in nature. There isn't this idea that Muslims are only Arabs or Middle Easterners. Black Muslims who come from countries like Chad and Cameroon also pose the same kind of Islamophobia threat in a country like France that an Algerian or a Moroccan Muslim might in that country. It's framed more along religious terms, where in the United States it's a bit more racialized.

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34. Anthony Cordesman, *Islam and the Patterns in Terrorism and Violent Extremism*, CTR. FOR STRATEGIC & INT'L (Oct. 17, 2017), <https://www.csis.org/analysis/islam-and-patterns-terrorism-and-violent-extremism> ("Almost all of the human impact of extremist attacks is Muslims killing or injuring fellow Muslims.")

35. See, e.g., Khaled Beydoun, *Lone Wolf Terrorism: Types, Stripes, and Double Standards*, 112 NW. U. L. REV. 117 (2018); Khaled Beydoun *Between Indigence, Islamophobia, and Erasure: Poor and Muslim in "War on Terror" America*, 104 CAL. L. REV. 1463 (2016).

American Islamophobia is driven more by racial identity. We can see that through the victimization of Sikh men. It's oftentimes Sikh men, because of their religious presentation, that are the primary victims of private Islamophobic violence. That was true after 9/11. We had a string of attacks against Sikh men and the broader community because it's driven in the United States by more of a racial imagining of who Muslims are.<sup>36</sup>

In places like France, more religious, India, very religious, so it's Hindus who look exactly like Indian Muslims might look and driven again by religion.

In places like China, it's more complex. You might have heard of what's happening in China with the internment of the Uighur Muslims;<sup>37</sup> it's driven by religion. That's a country where atheism is enshrined. But also it's political in the sense that Uighur Muslims want their own nation state and the status capitalizing on, ironically enough, the adoption of American War on Terror terminology to cast Uighur Muslims as presumptive terrorists to religiously persecute them but also deflate the possibility of them having their own nation state.

Islamophobia looks differently and unfolds differently in line with the characteristics of its host state. Which is why I wrote a book on *American Islamophobia*, because it would sound really disjointed if it was Islamophobia more broadly.

**Student Question:** What are some of the difficulties with discrimination against Islam, given that Islam is not only an identity that people carry, but also something you believe in and carries a set of beliefs as well. And the rhetoric bounces around from statements that are clearly facially racist to some that address belief and practice. This takes us from discussing xenophobia to ideology, a debate about racism to a debate about what my group believes versus what your group believes.

Can you talk about that dynamic and what makes Islamophobia unique in that sense?

**K. Beydoun:** Islamophobia is unique in the sense that it does blur the lines between race and religion.

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36. *Fact Sheet on Post-9/11 Discrimination and Violence against Sikh Americans*, SIKH COALITION, <https://www.sikhcoalition.org/images/documents/fact%20sheet%20on%20hate%20against%20sikhs%20in%20america%20post%209-11%201.pdf> (last visited May 10, 2019).

37. Chris Buckley & Amy Qin, *Muslim Detention Camps Are Like 'Boarding Schools,' Chinese Official Says*, N.Y. TIMES (MAR. 12, 2019), <https://www.nytimes.com/2019/03/12/world/asia/china-xinjiang.html>.



I just wrote this article, *Faith in Whiteness*, which challenges the idea that race and religion are distinct ideas or distinct identities.<sup>38</sup> In this country's history religion has always been racialized, whether it be Islam, Catholicism, Judaism, and so on and so forth. And we see how that blurring of race and religion takes place within the broader popular discourse.

You're right, I think that this is a conversation that's happening specifically within the Muslim American community, so I don't want to let our bad laundry out. But I will say that there is this tension between this emergence of assuming a political Muslim identity as a consequence of 9/11 and the rise of Trump, with Islam being framed specifically as a belief system. However, that internal conversation, if you map it with what's happening more broadly speaking, can be messy and the Fox News host you mentioned doesn't necessarily see a distinction because her understanding and framing of Islam is not necessarily as a religion, not necessarily as a race, but as a rival civilization. The Right views Islam often-times not as a bona fide religion but as a political ideology, a political movement, and a rival civilization.

So when you listen to Fox News—younger folks, if you listen to Ben Shapiro on the right or you listen to Bill Maher on the left—they seldom talk about Islam as being a bona fide religion that is worthy of free exercise protection. They view it as a political menace that doesn't deserve free exercise protection because by way of manifesting itself—whether it be through the hijab, Muslims collectively congregating on days like today to go pray, Muslims running for office like Abdul El-Syed—their objective is to promote *Sharia* law and to erode and undermine the democratic values and virtues of this country.

The blurring of race and religion that takes place within the popular space is, whether consciously or subconsciously, driven by the idea that most critics don't view Islam as a bona fide religion or religion worth protecting because it's so tightly tied to the specter of imminent violence and threat. Again, this is a rhetoric not only coming from the right. It's coming from elements on the left as well.

**N. Mozeihem:** I remember watching Bill Maher saying that Islamophobia is not a thing, that it doesn't exist.<sup>39</sup>

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38. Khaled Beydoun, *Faith in Whiteness: Free Exercise of Religion as Radical Expression*, 105 IOWA L. REV. (forthcoming 2020).

39. Raya Jalabi, *A History of the Bill Maher's 'Not Bigoted' Remarks on Islam*, GUARDIAN (Oct. 7, 2014), <https://www.theguardian.com/tv-and-radio/tvandradioblog/2014/oct/06/bill-maher-islam-ben-affleck> (reviewing Bill Maher's history of anti-Muslim comments).

**K. Beydoun:** His bookers of the show wanted to invite me a couple of years back, and I struggled with whether to do it or not. I was a big fan of Bill Maher, and I agree with ninety percent of what he says. But it's only when he talks about Muslims and Islam that I feel I'm not sure I can watch the show anymore.

**Student Question:** Since the Supreme Court's decision last summer,<sup>40</sup> a lot of the discussion about the Muslim Ban has slowed to a trickle. Is there any hope of changing that other than getting a new president?

**K. Beydoun:** It has to be a new president because it's an executive order. But the reality is that the composition of the Supreme Court might not change significantly, unless something dramatic happens and a Democratic president takes over.

The majority decision that Justice Roberts wrote was driven by a textualist reading of the third version of the order.<sup>41</sup> It denied the importance of Trump's rhetoric and also denied the language of the first and second versions of the Muslim Ban. In my opinion, the first version was facially discriminatory. By naming seven Muslim majority countries and creating exceptions for religious minorities, you can do the math then understand that it was specifically talking about Muslims.

That's why I was a strong advocate of Professor Bagenstos's campaign. If in the imminent future we have Republicans dominating the executive and Supreme Court, then our only hope comes within the state courts. So hopefully Trump is defeated by Sanders—sorry, if there are supporters of other candidates in the room. There are many Democrats running for office now, and Beto just announced!<sup>42</sup> But if Trump continues on with a second term, then things look bleak.

**S. Bagenstos:** Let me just say one thing about that and slightly hijack the point a little bit –

**K. Beydoun:** No pun intended.

[Laughter]

**S. Bagenstos:** I was worried about that. Fair enough.

For an audience of law students, it's important, and it's such a great point the last question raised. There was all this activism and energy around the Muslim ban, and then it all got channeled into a legal rhetoric in a legal strategy.

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40. Trump v. Hawaii, 138 S.Ct. 2392 (2018).

41. Proclamation No. 9645, 82 Fed. Reg. 45, 161 (Sept. 27, 2017).

42. ROLLING STONE STAFF, *The RS Politics of 2020 Democratic Primary Leaderboard*, ROLLINGSTONE (May 8, 2019), <https://www.rollingstone.com/politics/politics-features/2020-democrat-candidates-771735/>; POLITICO Staff, *Do you know the 2020 Democratic presidential candidates?*, POLITICO, <https://www.politico.com/interactives/2019/2020-democratic-presidential-candidates-list/> (last updated Apr. 22, 2019).

We all started just listening to the folks who said, “this is unconstitutional, and the courts are going to say so.” “John Roberts really wants to say that *Korematsu* was wrong and so does Anthony Kennedy.” And it turns out that they were able to sign an opinion that said *Korematsu* is wrong, while upholding our modern-day *Korematsu*. Honestly, Justice Black who wrote *Korematsu* could have said exactly the same thing [as the Roberts opinion] in the *Korematsu* opinion.

Once everything got channeled into the courts and got channeled into a legal strategy, much of the political energy around it dissipated. I think that’s a problem, and something as future lawyers who care about issues of social justice, you want to think about: How do you use your legal skills and talents and the monopoly you have on going into court, which can be very useful, as a way of assisting a social justice movement without dissipating a social justice movement, without taking away the energy of the movement?

It’s a great question precisely because the Muslim ban gives you a great example of legalization ending up kind of suppressing the movement.

**Student Question:** Given their failure to consider the history of the ban itself or Trump’s own rhetoric and the Court putting on blinders to the context, do you think there is still any use in legal remedies against this structural bias? Or at this point are we only really looking at solutions in the electorate?

**K. Beydoun:** I think now what’s going to happen in the interim is we are seeing a revitalization of anti-*Sharia* bans that are taking place and being peddled by politicians who are very much inspired by a clash of civilizations worldview and definitely emboldened by the moment.

Because we’re dealing with a majority conservative Supreme Court, these laws have to be explicitly discriminatory on their face in order for a legal remedy by the court to be exacted against this legislation. Legislators oftentimes are smart, oftentimes are not, but on the second go around, they went about crafting the legislation in facially neutral terms which makes it very conducive for majority conservative courts, whether it be circuit courts or the Supreme Court, to go about upholding these laws.

I want to be optimistic. But I also want to not lie to you. Unless something dramatic happens on the national level, we’re going to see an entrenchment of what took place with the *Trump v. Hawaii* case on the federal level.

**Student Question:** Movements against Islamophobia and Anti-Semitism have a lot of the same qualities, but they are also in tension with one another—especially where missteps and words can

undermine cooperation. On an organizational level, how can groups like the Anti-Defamation League and Council on American-Islamic Relations harness political energy and address these issues together at a time when it is very important to do so?

**K. Beydoun:** Anti-Semitism and Islamophobia are deeply connected. They are forms of animus that have long entrenched histories in this country. There is strategic importance for Jewish leadership and Muslim leadership to fight against these forms of animus.

What happened in New Zealand today looks just like what happened in Pittsburgh a couple of months back.<sup>43</sup> It was carried out by the same kind of element.

The reality is one where there is a dividing point that is a foreign policy issue, which is the state of Israel and how to go about framing and resolving that issue. That is the primary stumbling block that is stifling, if not entirely undermining, these communities from working with one another.

I'm not a foreign policy guy, but I'm going to try to step out of my lane for a bit and give you an answer on that issue. To me, the Israeli-Palestinian conflict is not a religious issue. Its framing as a religious issue by Jews and Muslims alike does a disservice to bringing about a resolution. It is akin to what took place in South Africa, it is akin to what takes place in countries where there is a cognizable persecuted and subordinated people.

For Palestine, religion is used as a vehicle. It's used as an instrument by both sides to promote their own interests, whether it be Muslim countries using the Palestinian issue to mobilize their own following and interest in that country, or Israeli and Zionist elements domestically. To frame it as a religious issue, because the objective is political and it is the real objective, is not resolving that issue. We can see that issue bleeding into how Jewish American and Muslim American leadership interact, or don't interact, around matters on which they have to build coalitions. Again, anti-Semitism and Islamophobia, if not closely and intimately tied, are one in the same.

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43. Campbell Robertson, et al., *11 Killed in Synagogue Massacre; Suspect Charged With 29 Counts*, N.Y. TIMES (Oct. 27, 2018), <https://www.nytimes.com/2018/10/27/us/active-shooter-pittsburgh-synagogue-shooting.html>.

