

Rutgers University Law School
Center for Security, Race and Rights

**PRESUMPTIVELY ANTISEMITIC:
ISLAMOPHOBIC TROPES IN
THE PALESTINE-ISRAEL
DISCOURSE**

November 2023



EVERYWHERE
- Martin Luther
King JR

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EXECUTIVE SUMMARY

A bastion of free speech, individual liberty, and equality. This is the mantra our government repeats across the world and teaches nationwide in American schools. Rarely stated, however, are the varying limitations imposed on persons seeking to exercise such rights according to their identity. Protection of fundamental rights is at its zenith when exercised by white, Judeo-Christian communities, while exceptions are frequently invoked when racial or ethnic minorities exercise the same rights to challenge policies and laws harmful to their communities. Members of the majority engaged in dissent are treated as patriots with different political views. Minorities who dissent are treated as security and cultural threats deserving of social stigma at best or criminalization at worst.¹ This racialized double standard is most acute for Muslim or Arab Americans when they exercise their free speech rights to criticize the U.S. government's failure to hold Israel accountable for its systematic violations of Palestinians' human rights.

Often repeated statements in support of Israel across U.S. administrations stand as a reminder of Israel's central place in U.S. foreign policy. A most recent example occurred in Jerusalem on July 14, 2022 when President Joe Biden and Israeli Prime Minister Yair Lapid issued a joint statement declaring: "The United States and Israel reaffirm the unbreakable

bonds between our two countries and the enduring commitment of the United States to Israel's security. Our countries further reaffirm that the strategic U.S.-Israel partnership is based on a bedrock of shared values, shared interests, and true friendship."²

Among the countless analyses expounding on the strong bond between the U.S. and Israel in policy terms, few examine the relationship between Islamophobia and U.S. policy on Palestine-Israel.³ Specifically, when Muslims and Arabs in America defend the rights of Palestinians or criticize Israeli state policy, they are often baselessly presumed to be motivated by a hatred for Jews rather than support for human rights, freedom, and consistent enforcement of international law. The resulting harm occurs at the individual and systemic level. Systemically, informed and critical debate about U.S. foreign policy is hampered by censorship campaigns targeting college students, faculty, human rights organizations, journalists, and elected officials.⁴ Individually, Muslim and Arab Americans are defamed and effectively excluded from critical public debates pertaining to U.S. policies executed in their names and with their tax funds. Should Arabs and Muslims exercise their constitutional rights of free speech and assembly in defense of Palestinian human rights, they frequently become targets of aggressive intimidation,

1 Mahmoud Mamdani, *NEITHER SETTLER NOR NATIVE: THE MAKING AND UNMAKING OF PERMANENT MINORITIES* (2020).

2 Joseph R. Biden, Jr. & Yair Lapid, *The Jerusalem U.S.-Israel Strategic Partnership Joint Declaration*, THE WHITE HOUSE (July 14, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/07/14/the-jerusalem-u-s-israel-strategic-partnership-joint-declaration/>.

3 See JOHN J. MEARSHEIMER & STEPHEN M. WALT, *THE ISRAEL LOBBY AND U.S. FOREIGN POLICY*, FARRAR, STRAUSS, AND GIROUX (2008); WILLIAM B. QUANDT, *PEACE PROCESS: AMERICAN DIPLOMACY AND THE ARAB-ISRAELI CONFLICT SINCE 1967*, BROOKINGS INSTITUTION AND THE UNIVERSITY OF CALIFORNIA PRESS (2005); DANIEL C. KURTZER ET AL., *THE PEACE PUZZLE: AMERICA'S QUEST FOR ARAB-ISRAELI PEACE, 1989-2011*, CORNELL UNIVERSITY PRESS (2012); RASHID KHALIDI, *BROKERS OF DECEIT: HOW THE U.S. HAS UNDERMINED PEACE IN THE MIDDLE EAST*, BEACON PRESS (2013).

4 See, e.g., Sam Biddle, *Facebook Report Concludes Company Censorship Violated Palestinian Human Rights*, THE INTERCEPT (Sept. 21, 2022), <https://theintercept.com/2022/09/21/facebook-censorship-palestine-israel-algorithm/>; Dalia Hatuqa, *Twitter under fire for censoring Palestinian public figures*, AL JAZEERA (Feb. 28, 2023), <https://www.aljazeera.com/features/2023/2/28/twitter-under-fire-for-censuring-palestinian-public-figures>; Kari Paul, *Facebook under fire as human rights groups claim 'censorship' of pro-Palestine posts*, THE GUARDIAN (May 26, 2021), <https://www.theguardian.com/media/2021/may/26/pro-palestine-censorship-facebook-instagram>; Radhika Sainath, *The Anti-Palestinian Censorship Machine Runs on Racism*, JACOBIN (April 1, 2023), <https://jacobin.com/2023/04/palestinian-racism-discrimination-antisemitism-definition-ihra-bds>

harassment, and blacklisting campaigns⁵ in their workplaces, towns, and universities.⁶

This report examines how Islamophobia shapes American foreign policy in the three following ways: 1) restricting open debate about unconditional U.S. support for Israel notwithstanding documented and systematic violations of international law by the Israeli government,⁷ 2) perpetuating racist tropes that Muslims and Arabs innately hate Jews, and 3) discrediting the Palestinian people from realizing their full civil, political, national, and human rights. Such racialized foreign and domestic policy was brought into sharp relief in 2022, with the response in the United States and Europe to Russia's aggression against Ukraine. As Americans in and out of government united in supporting the political, civil, and national rights and defense of Ukraine and Ukrainians, the approach in Washington to similar Palestinian interests ranges, with a few exceptions, from qualified, muted neutrality to outright hostile opposition.⁸

Such double standards prompt multiple questions that reveal how race and racism infect foreign policy and the treatment of minority communities who espouse unpopular views or dissent from the political orthodoxy, including the defense of human rights for all. What role does Islamophobia play in the formation of policies that restrict Palestinians from the same right of self-determination that are celebrated for Ukrainians and Israelis? How does Islamophobia silence and punish Muslim and Arab Americans who defend Palestinians' rights in universities, the media, the public square, and online?

This report explores these questions by addressing three key components of Islamophobia and related (though not identical) anti-Palestinian racism. First, Islamophobia adversely shapes public discourse on Palestine in the United States, currently and predating the "War on Terror." Racist stereotypes of Muslims as savage are deployed to promote discriminatory policies against Palestinians. Second, an ecosystem of Zionist institutions and prominent individuals perpetuate Islamophobia to promote the policies and goals of Israel in its theft and occupation of Palestinian territory, decades of dispossession and marginalization of the Palestinian people, and denial of the rights of Palestinian refugees. Finally, Islamophobia is juxtaposed against antisemitism, portraying Muslims globally and domestically as agents of antisemitism; attempting to create a competition, or even a zero-sum scenario between Muslims and Jews—rather than allowing principled opposition to both antisemitism and Islamophobia to unite joint social justice struggles.

As a result, legitimate efforts to combat antisemitism are disingenuously co-opted to undermine Palestinian aspirations for self-determination and human rights, as well as to defame Muslim and Arab human rights defenders as inherently antisemitic. Palestinian aspirations are often portrayed by the media and Zionist organizations as a cover for a uniquely Arab and Muslim antisemitism. Related is the tendency to pathologize Palestinians and all aspects of their political, cultural and social lives. This both stigmatizes the very idea of civil, national, and human rights of Palestinians and attempts to censor Arab and Muslim Americans' political activism.

5 See e.g., Yonat Shimron, *ADL Chief's Attack on Left-Leaning Organizations Criticized as Dangerous*, RELIGION NEWS SERVICE (May 3, 2022), <https://religionnews.com/2022/05/03/adl-chiefs-attack-on-left-leaning-organizations-criticized-as-dangerous/>; Islamophobic Groups Attacking Humanitarian, *Peacebuilding Groups and Human Rights Defenders*, CHARITY & SECURITY NETWORK (Feb. 20, 2020), <https://charityandsecurity.org/issue-briefs/islamophobic-groups-attacking-humanitarian-peacebuilding-groups-and-human-rights-defenders/>; Gabi Kirk, *Countering Lawfare and Environmental Racism in Gaza and Palestine: The Case Study of the Jewish National Fund versus US Campaign for Palestinian Rights*, JADALIYYA (Apr. 22, 2020), <https://www.jadaliyya.com/Details/41000>

6 See *Palestine Legal Submits Report to UN on Canary Mission Discrimination*, PALESTINE LEGAL (March 30, 2021), <https://palestinelegal.org/news/2021/3/30/palestine-legal-submits-report-to-un-canary-mission-discrimination/>; Amelia Leaphart, *Social Media Censorship of Palestinians*, *Washington Report on Middle East Affairs*, AMERICAN EDUCATIONAL TRUST (July 10, 2022), <https://www.wrmea.org/north-america/social-media-censorship-of-palestinians.html>; Tamara Kharoub, *Systematic Digital Repression: Social Media Censoring of Palestinian Voices*, ARAB CENTER OF WASHINGTON D.C. (Jun 8, 2021), <https://arabcenterdc.org/resource/systematic-digital-repression-social-media-censoring-of-palestinian-voices/>; *The Targeting of Palestine Activism in the United States: Suppression of American Constitutional Rights*, ARAB CENTER OF WASHINGTON D.C. (May 26, 2022), <https://arabcenterdc.org/event/the-targeting-of-palestine-activism-in-the-united-states-suppression-of-american-constitutional-rights/>

7 See *Commission of Inquiry Finds That the Israeli Occupation Is Unlawful Under International Law*, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER (Oct. 20, 2022), <https://www.ohchr.org/en/press-releases/2022/10/commission-inquiry-finds-israeli-occupation-unlawful-under-international-law>; *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution*, HUMAN RIGHTS WATCH (April 27, 2021), <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>

8 Chris McGreal, *US Accused of Hypocrisy For Supporting Sanctions Against Russia But Not Israel*, THE GUARDIAN (March 7, 2022), <https://www.theguardian.com/world/2022/mar/07/us-sanctions-against-russia-but-not-israel>

Discrediting any criticism of Israeli state practices violating Palestinian human rights as antisemitism overlooks the growing number of Jews and Muslims working together to promote Palestinian rights.⁹ Concerns of American supporters of Israel, including Jewish Americans who have a deeply personal stake in the well-being of the Jewish people of Israel, and American supporters of Palestinians, who have an equally deep and personal stake in the well-being of the Palestinian people in Palestine, are not equally considered when crafting American policy in the region.¹⁰

Islamophobia, though far from being the sole reason for U.S. policy exceptionalizing Palestine, is a substantial factor. In turn, Muslims or Arabs (who are often mistaken as all Muslim) who criticize America's unconditional support for Israeli state practices, regardless of the human rights implications, are immediately ostracized as antisemitic. The consequent harm is twofold: Palestinians' lives and rights are discounted, and Muslim and Arab Americans are denied meaningful participation in public discourse on U.S. foreign policy and the ability to exercise their free speech rights.

⁹ See, for example, accounts of American Muslims for Palestine and Jewish Voice for Peace working together in Taher Herzallah, *In the US, We Need a Muslim-Jewish Alliance But One That Does Not Silence Discussions on Justice For Palestine*, AL JAZEERA ENGLISH (Jan. 23, 2017), <https://www.aljazeera.com/opinions/2017/1/23/in-the-us-we-need-a-muslim-jewish-alliance>. See also coalition work including the Muslim group Mpower Action Fund and the Jewish group IfNotNow, among others, at *Sign Now to Demand the Biden Administration Hold Israel's Apartheid Government Accountable*, ACTION NETWORK, <https://actionnetwork.org/forms/no-apartheid/?source=group-mpower-action-fund&referrer=group-mpower-action-fund>.

¹⁰ See Philip Weiss, *Jewish Calls for Divestment from Israel are Heralded by Media, Exposing Anti-Palestinian Bias*, MONDOWEISS (March 2, 2023), <https://mondoweiss.net/2023/03/jewish-calls-for-divestment-from-israel-are-heralded-by-media-exposing-anti-palestinian-bias/>; IMEU Policy Analysis #6: *Accountability for Russia, Impunity for Israel in US Policy*, IMEU (March 30, 2022), <https://imeu.org/article/imeu-policy-analysis-6-accountability-for-russia-impunity-for-israel-in-us>.

This report makes three recommendations for countering Islamophobia in public discourse and government policymaking, promoting principles of universal human rights that include Palestinians, and rejecting ethnocentric foreign policy that dehumanizes Palestinians.

1

U.S. foreign policy development and mainstream media must include the experiences and perspectives of Palestinian, Arab, and Muslim American communities. Policy formation on Palestine-Israel must be better informed by the lived experiences of the Palestinian people and perspectives of their supporters here in the United States. For over sixty years, Jewish Israelis' experiences have informed U.S. foreign policy to the exclusion of almost all other perspectives. Government officials and the media treat Israelis as human beings deserving of dignity, human rights, and self-determination.¹¹ In stark contrast, the U.S. government treats Palestinians as inferior and dangerous people who are undeserving of the same international rights accorded to Israelis. Even as Palestinians are routinely subject to disproportionate Israeli bloodshed, racism, and dispossession as a matter of course – and as Israeli government officials frequently subject Palestinians to degrading, dehumanizing rhetoric – the U.S. government often chooses to criticize both sides as equally culpable. Similarly, the American media fails to include the experiences of Palestinians living under a decades-long brutal occupation in Gaza and the West Bank. Muslim and Arab American communities must have the same access and input to policymaking and media coverage as Jewish and Christian supporters of Israel. Not only do Americans deserve to hear all perspectives in a complex foreign policy dispute, but the policies better serve the nation when they are not skewed in favor of one side.

2

Universities must preserve the academic freedom and free speech rights of students and faculty engaged on Palestinian human rights. Students and faculty face hostile academic environments when they host events, conduct research, publish articles, or engage in campus activism related to Palestine. They are harassed with specious complaints of antisemitism while simultaneously being subject to malicious blacklisting by an Islamophobic network of right-wing Zionist organizations.¹² Political and speech rights are hollow if not afforded to all people irrespective of religious or racial identity. Nor can students receive a high-quality education if they are not exposed to different perspectives. In no other place than a university should the fundamental rights to speech and intellectual inquiry be more closely guarded.

¹¹ See, e.g., Holy M. Jackson, *The New York Times Distorts the Palestinian Struggle: A Case Study of Anti-Palestinian Bias in American News Coverage of the First and Second Palestinian Intifadas*, MEDIA, WAR & CONFLICT (2023).

¹² For a broad overview of obstacles to pro-Palestine advocacy, including on campus, see *The Palestine Exception*, PALESTINE LEGAL (Sept. 2015), <https://palestinelegal.org/the-palestine-exception>; *2022 Year-in-Review: Bolder and More Resilient Palestine Advocacy Resists Growing Backlash*, PALESTINE LEGAL, <https://palestinelegal.org/2022-report> (last visited Jul. 10, 2023).

3

The United States government must hold Israel accountable for violating human rights. Ongoing violations of international law by Israel, such as settlement expansion and collective punishment of the Gaza population, continue unchecked because the United States consistently looks the other way.¹³ Neither domestic laws prohibiting foreign aid to human rights violators nor international humanitarian laws are enforced against Israel. These policies send a clear message to the world: Palestinians' lives and dignity do not matter, directly contradicting the U.S. government's stated commitment to international human rights for all.¹⁴ The predictable result is the deterioration of the United States' global standing, as other nations rightfully charge Washington with enforcing a double standard between Israel and Middle East governments.¹⁵

¹³ Kali Robinson, *What Is U.S. Policy on the Israeli-Palestinian Conflict?*, COUNCIL ON FOREIGN RELATIONS (July 20, 2020), <https://www.cfr.org/backgrounder/what-us-policy-israeli-palestinian-conflict#chapter-title-0-7>.

¹⁴ Human Rights Commitments and Pledges of the United States of America, U.S. MISSION GENEVA (Feb. 24, 2016), <https://geneva.usmission.gov/2016/02/24/human-rights-commitments-and-pledges-of-the-united-states-of-america/>; Statement from President Joe Biden on International Day Against Homophobia, Biphobia, and Transphobia, THE WHITE HOUSE (May 17, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/17/statement-from-president-joe-biden-on-international-day-against-homophobia-biphobia-and-transphobia/>.

¹⁵ Nicholas Kristof, *With Israel, It's Time to Start Discussing the Unmentionable*, N.Y. TIMES (July 22, 2023).

A Note on Terminology

Islamophobia, as the term is being used here, refers to what Professor Sahar Aziz calls “an exaggerated fear of, and hostility to Islam and Muslims by the state and the public as a result of imputed inferior biological and cultural traits based on religious identity that produce systemic bias, discrimination, and marginalization, and exclusion of Muslims from social, political, and civic life.”¹⁶

Although anti-Arab racism is separate from Islamophobia, the two forms of bias often overlap. A sizable minority of Arabs (including Palestinians) are not Muslim, but often experience Islamophobia because Americans incorrectly assume all Arabs are Muslim.¹⁷ The considerable overlap between these two prejudices in the West, and especially in the United States, should be noted while acknowledging the two are not identical.¹⁸ For the sake of brevity and clarity, this report uses Islamophobia broadly to describe both anti-Arab and anti-Palestinian racism.

¹⁶ SAHAR AZIZ, *THE RACIAL MUSLIM: WHEN RACISM QUASHES RELIGIOUS FREEDOM*, UNIVERSITY OF CALIFORNIA PRESS (2022), at 21.

¹⁷ Scholars estimate between three to fifteen percent of Arab populations are Christian, depending on the Middle Eastern country. Deanna Ferree Womack, *Christian Communities in the Contemporary Middle East: An Introduction*, 49 *EXCHANGE* 3-4, 189-213, (2020), https://brill.com/view/journals/exch/49/3-4/article-p189_1.xml?language=en.

¹⁸ Sahar F. Aziz, *Legally White, Socially Brown: Racialization of Muslim Americans*, Routledge Handbook on Islam and Race (ed. Zain Abdullah) (forthcoming 2023).



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INTRODUCTION

1 EQUATING CRITICISM OF
ISRAEL TO ANTISEMITISM

2 AMERICAN ISLAMOPHOBIA
IS BIPARTISAN

The first and only Palestinian-American woman in the U.S. Congress, Representative Rashida Tlaib, voiced her opposition to adding \$1 billion to the \$4 billion in foreign aid to Israel for the purpose of replenishing their Iron Dome anti-missile rockets. Three months prior in May of 2021, Israel had launched more than 1,500 of these rockets during its bombardment of Gaza.¹⁹ “I will not support an effort to enable war crimes and human rights abuses and violence. We cannot be talking only about Israelis’ need for safety at a time when Palestinians are living under a violent apartheid system and are dying from what Human Rights Watch has said are war crimes,” Tlaib said. “Israel is an apartheid regime — [these are] not my words, but the words of Human Rights Watch and the words of Israel’s own human rights organization B’Tselem,” she added. “I urge my colleagues to please stand with me in supporting human rights for all.”²⁰

Republican Representative Chuck Fleischmann immediately attacked Tlaib, accusing her of antisemitism and implying that she was a physical threat to Jews. “We heard right now from my colleague across the aisle, a shocking statement—she opposes this because they have a vocal minority in the majority party that is anti-Israel, that is anti-Semitic and as Americans, we can never stand for that.”²¹ Fleischmann also stated “we heard from [the Democrats’] radical left wing that does not support Israel, that does not support the Jewish people. It does not support their right, their inherent right to exist. Let us, as Americans, make our resolve now, today, and forever in our great Republic to protect the people of Israel.”²²

Fleischmann made it clear that Tlaib’s impassioned plea to recognize the oppression of her ancestral people, the Palestinians, was in his view a threat to Jewish Israeli citizens. The action of a Muslim speaking in defense of Palestinians was immediately, and without basis, interpreted as an attack on Jews from whom they needed the might of the United States to defend against. In claiming to protect Jews, Fleischmann invoked an Islamophobic trope: Muslims are inherently dangerous and innately antisemitic.²³

Democratic Representative Ted Deutch joined in the attack campaign by repeatedly accusing Tlaib of antisemitism. Deutch said, “Mr. Speaker, we can have an opportunity to debate lots of issues on the House floor, but to falsely characterize the State of Israel is consistent with those—let’s be clear—it is consistent with those who advocate for the dismantling of the one Jewish state in the world. When there is no place on the map for one Jewish state, that is anti-Semitism, and I reject that.”²⁴ This was not mere political disagreement and hyperbole. Deutch took the words of a member of his own party—words which were echoed by respected international and Israeli human rights groups in defense of the human rights of Palestinians—and disingenuously turned them into an attack on Jewish people everywhere.²⁵ Put simply, any criticism of the state of Israel is often regarded as an attack on world Jewry.

19 Patty-Jane Geller, *Congress Overdue to Help Fund Israel’s Iron Dome*, HERITAGE FOUND. (Feb. 17, 2022), <https://www.heritage.org/middle-east/commentary/congress-overdue-help-fund-israels-iron-dome>. The actual number of Iron Dome rockets launched by Israel is not publicly available. However, the number of rockets intercepted by Iron Dome, 1,477, has been announced, along with the fact that this represents approximately 90% of rockets fired from Gaza that did not malfunction or misfire.

20 Jacob Magid, *Rashida Tlaib Denounces Iron Dome funding Bill for ‘Apartheid’ Israel*, TIMES OF ISRAEL (Sept. 23, 2021), https://www.timesofisrael.com/liveblog_entry/rashida-tlaib-denounces-iron-dome-funding-bill-for-apartheid-israel/.

21 Andrew Stanton, *Rashida Tlaib Doubles Down on ‘Apartheid’ in Israel Remarks After Bipartisan Criticism*, NEWSWEEK (Sept. 25, 2021), <https://www.newsweek.com/rashida-tlaib-doubles-down-apartheid-israel-remarks-after-bipartisan-criticism-1632692>.

22 *The Iron Dome Supplemental – Members on the Record*, FOUND. FOR MIDDLE E.PEACE (Sept. 24, 2021), <https://fmep.org/resource/the-iron-dome-supplemental-members-on-the-record/>.

23 *See Factsheet: Common Anti-Muslim Tropes*, BRIDGE INITIATIVE (Dec. 4, 2018), <https://bridge.georgetown.edu/research/factsheet-common-anti-muslim-tropes-2/>.

24 Ted Deutch, *Iron Dome Supplemental Appropriations Act, 2022, Congressional Record Volume 167, Number 165*, GOVINFO (Sept. 23, 2021), <https://www.govinfo.gov/content/pkg/CREC-2021-09-23/html/CREC-2021-09-23-pt1-PgH5107-6.html>.

25 Reports from leading human rights groups that have concluded that Israel is an apartheid state include, HUMAN RIGHTS WATCH, *supra* note 7; Israel’s Apartheid Against the Palestinians: Cruel System of Domination and Crime Against Humanity, AMNESTY INTERNATIONAL (Feb. 2022), <https://www.amnestyusa.org/wp-content/uploads/2022/01/Full-Report.pdf>; *A Regime of Jewish Supremacy from the Jordan River to The Mediterranean Sea: This Is Apartheid*, B’TSELEM (Jan. 12, 2021), https://www.btselem.org/publications/fulltext/202101_this_is_apartheid. U.N. Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 concurred with the apartheid designation. *Israel’s occupation of Palestinian Territory is ‘apartheid’: UN rights expert*, U.N. (Mar. 25, 2022), <https://news.un.org/en/story/2022/03/1114702>. This is in addition to Palestinian groups such as al-Haq that have applied the apartheid designation to Israel. *See* Susan Power, *The Legal Architecture of Apartheid*, AL-HAQ (Apr. 12, 2022), <https://www.alhaq.org/advocacy/18181.html>.



EQUATING CRITICISM OF ISRAEL TO ANTISEMITISM

It is no coincidence that Deutch and Fleischmann attacked the sole Palestinian Democrat and one of only three Muslims in Congress. They deployed the Islamophobic trope of a uniquely Muslim antisemitism that plays into anti-Muslim tropes—every criticism of Israel is part of a conspiracy by Arabs and Muslims to physically annihilate Israel and its Jewish citizens. The effect of this trope is to silence any criticism of Israeli state practices and policies, regardless of how empirically supported or consistent with America’s professed commitment to universal human rights. Rashida Tlaib’s proclamations of her Palestinian identity also make her a frequent target of attacks.²⁶ In 2019, a Fox News host alleged she had a “ Hamas agenda,” intentionally referencing a group that would bring violent imagery to the minds of its audience.²⁷ A few months earlier in January 2019, Republican congresspersons centered their partisan strategy on allegations that the only (and first) two Muslim women U.S. Representatives, Rashida Tlaib and Ilhan Omar, were antisemitic on account of their support for Palestinian rights and criticism of Israeli practices.²⁸ This portrayal of Muslims as loyal to terrorists and presumptively antisemitic is a well-worn image that, as these examples demonstrate, inform public discourse and public policy.²⁹

Tellingly, racist tropes of dual loyalties are not attributed to Jewish members of Congress who proudly proclaim their allegiance to Israel or support Jewish human rights. To do so would rightly be antisemitic. Nor are Jewish congresspersons accused of Islamophobia if they criticize human rights abuses of Muslim-majority countries. The double standard imposed on Palestinians and Muslims in the U.S. devalues their lives and infringes on their free speech rights.

The Palestinian struggle for self-determination and human rights is depicted in the media and by American politicians as almost entirely violent; even though non-violent action has been far more prominent and consistent in their struggle.³⁰ Non-violent action, however, does not garner the same attention as violence.³¹ The overwhelming majority of the news coverage Americans see of the Palestinian struggle is of the most extreme groups, while most people within and outside of Palestine pursue nonviolent means in defense of the Palestinian right to self-determination.³² But even non-violent means of resistance, such as the Boycott, Divestment, and Sanctions movement, are discredited as antisemitic and illegitimate.³³ The desired result is the erasure of Palestinian experiences from public discourse on foreign policy that affects their lives, property, and rights.

Palestinians’ aspirations and pleas for redress of grievances are routinely portrayed as threatening, an extension of the sense that Muslims—which most, though far from all, Palestinians are—represent an inherent threat to Western societies in general and to Jews in particular.³⁴ This Islamophobic trope infects American politics across political parties.

26 Rozina Ali, *What Rashida Tlaib Represents*, N.Y. TIMES (March 3, 2022), <https://www.nytimes.com/2022/03/03/magazine/rashida-tlaib.html>.

27 Brendan Cole, *Fox News Host Compares Rashida Tlaib to Terrorist Organization: ‘She Has a Hamas Agenda,’* NEWSWEEK (July 30, 2019), <https://www.newsweek.com/rashida-tlaib-hegseth-fox-democrats-hamas-1451652>.

28 Mike DeBonis and Robert Costa, *McCarthy pressures Democrats to rebuke two Muslim lawmakers over alleged anti-Semitism*, Washington Post (Feb. 8, 2019), https://www.washingtonpost.com/powerpost/mccarthy-gop-challenge-house-democrats-to-denounce-alleged-anti-semitism/2019/02/08/aef28514-2bae-11e9-b2fc-721718903bfc_story.html

29 AZIZ, *supra* note 16.

30 See Nina Fischer, *Palestinian Non-Violent Resistance and the Apartheid Analogy*, 23 INTERVENTIONS: INT’L J. POST-COLONIAL STUD. 8, 1124 (2020), <https://www.tandfonline.com/doi/abs/10.1080/1369801X.2020.1816853>.

31 MARC LAMONT HILL & MITCHELL PLITNICK, *EXCEPT FOR PALESTINE: THE LIMITS OF PROGRESSIVE POLITICS*, NEW PRESS (2021), at 56-58.

32 *Id.*

33 David M. Halbfinger et al., *Is B.D.S. Anti-Semitic? A Closer Look at the Boycott Israel Campaign*, NY TIMES (July 27, 2019), <https://www.nytimes.com/2019/07/27/world/middleeast/bds-israel-boycott-antisemitic.html>.

34 In the West Bank and Gaza Strip, approximately 95-96% of Palestinians are Muslim, the remainder being mostly Christian. In Gaza, 98-99% of Palestinians are Muslim, the remainder Christian. In both areas there is less than 1% that are identified as “other” or “unspecified.” See *The World Fact Book – the Middle East*, CIA (Sept. 2022), <https://www.cia.gov/the-world-factbook/middle-east/>.

In East Jerusalem, as of 2020, the Palestinian population totaled some 353,800, of whom only 4% were Christian, the remaining 96% Muslim. See Omer Yaniv et al., *Jerusalem Facts and Trends 2022*, JERUSALEM INST. POL’Y RSCH, <https://jerusalemstitute.org.il/en/publications/jerusalem-facts-and-trends-2022/> (last visited July 10, 2023). Among Palestinian citizens of Israel, as of 2021, 82.9% are Muslim, 9.2% are Druze, and 7.9% are Christian. See Dr. Nasreen Haddad Haj-Yahya et al., *Statistical Report on Arab Society in Israel :2021*, ISRAEL DEMOCRACY GROUP, <https://en.idi.org.il/articles/38540>.

2

AMERICAN ISLAMOPHOBIA IS BIPARTISAN

Islamophobia is not a mere rhetorical device that holds an ephemeral and non-specific sway over U.S. policy. To the contrary, Islamophobia is a ubiquitous ingredient in U.S. policy wherever Muslims are involved. And it is bipartisan.³⁵

Tellingly, in President George W. Bush's address to the Israeli Knesset on May 15, 2008, marking the occasion of the 60th anniversary of Israel's independence, he defined a uniquely Muslim global enemy.

They reserve a special hatred for the most ardent defenders of liberty, including Americans and Israelis. And that is why the founding charter of Hamas calls for the 'elimination' of Israel. And that is why the followers of Hezbollah chant 'Death to Israel, Death to America!' That is why Osama bin Laden teaches that 'the killing of Jews and Americans is one of the biggest duties.' And that is why the President of Iran dreams of returning the Middle East to the Middle Ages and calls for Israel to be wiped off the map.³⁶

Bush's words echoed anti-Muslim tropes that reductively describe the world's second largest religion of 1.8 billion followers to the political agendas of Hamas, Hezbollah, and Al Qaeda.³⁷ Such specious reasoning is equivalent to recognizing the Ku Klux Klan, Proud Boys, and Oath Keepers as representative of white Christians and Western societies. Bush's lack of nuance was intended to boost support for U.S. (and Israeli) military actions that occupy, repress, and kill Muslims and Arabs especially when they resist occupation. Professor Akan Malici concisely summarized the problem. "Whatever effort President Bush had made initially to distinguish al-Qaeda from the religion of Islam, he also engaged in so much conflation that, in effect, the distinction was rendered futile. Inevitably, the American people's perception that al-Qaeda had many like-minded Muslim actors across the Muslim world was confirmed, as was their clash-of-civilization worldview."³⁸

Islamophobic foreign policy continued under Barack Obama. To be sure, Obama spoke of reaching out to the Muslim world and healing the breach that was widened by Bush's "Global War on Terror."³⁹ But other than Obama's efforts to engage with Iran through diplomacy rather than confrontation and his conciliatory rhetoric, his national security practices did not diverge significantly from Bush. Military actions in Iraq and Afghanistan continued and, at times, intensified. Drone attacks became a prominent American practice in the Middle East and Obama's administration was a key partner in launching and increasingly escalating the catastrophic Saudi-led war in Yemen.⁴⁰ Consistent portrayals of Muslims as terrorists in the media and political speeches prevented questions of the legality of these national security practices to be taken seriously.⁴¹

35 As an example of this ubiquity in just one year, see *2021 Islamophobia In Review: United States*, BRIDGE: A GEO. UNIV. INITIATIVE (Jan. 5, 2022), <https://bridge.georgetown.edu/research/2021-islamophobia-in-review-united-states/>.

36 George W. Bush, President Bush Addresses Members of the Knesset, THE WHITE HOUSE (May 15, 2008), <https://georgewbush-whitehouse.archives.gov/news/releases/2008/05/20080515-1.html>.

37 Mirna Alsharif, *9 tropes about Muslims that are a product of Islamophobia*, CNN.COM (Sept. 11, 2021), <https://edition.cnn.com/2021/09/11/us/islamophobic-tropes-muslims-in-america/index.html>

38 Akan Malici, *The Green Scare: Islamophobia, Foreign Policy, and the Making of American Identity*, YAQEEEN INST. ISLAMIC RSCH. (Oct. 30, 2020), <https://yaqeeninstitute.org/read/paper/the-green-scare-islamophobia-foreign-policy-and-the-making-of-american-identity>.

39 Barack Obama, *Remarks by the President at Cairo University*, THE WHITE HOUSE OFFICE OF THE SECRETARY (June 6, 2009), <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-Cairo-university-6-04-09>.

40 Micah Zenko, *Obama's War of Choice: Supporting the Saudi-led Air War in Yemen*, COUNCIL ON FOREIGN RELATIONS (Sept. 25, 2015), <https://www.cfr.org/blog/obamas-war-choice-supporting-saudi-led-air-war-yemen>.

41 Nazita Lajevardi, *The Media Matters: Muslim American Portrayals and the Effects on Mass Attitudes*, 83 J. POL. 3, 1060-1079 (2021).

The question of Palestine was no different. Under Obama, hopes for a diplomatic settlement between Israelis and Palestinians virtually disappeared as negotiations were largely abandoned. Yet American financial and military support for Israel reached new heights, notwithstanding that many of Israel's most ardent supporters saw Obama as anti-Israel. Accusations that Obama was a secret Muslim played into Israeli Prime Minister Benjamin Netanyahu's far-right, hawkish disregard for Palestinian life.⁴²

Notably, when Obama's Secretary of State John Kerry made a last-ditch effort to save the expiring peace process in 2014, he could not understand why the Palestinians would not consider recognizing Israel as a "Jewish state," an unprecedented demand. If granted, Israel would have pre-determined the final status issue of Palestinian refugees as well as given a stamp of approval to the marginalization of Palestinian citizens of Israel.⁴³ It would also amount to a Palestinian admission that their own dispossession by Israel's 1948 creation and 1967 expansion was justified. Even Kerry, who was often seen as unsympathetic to Israel's right-wing government, could not fathom a Palestinian rejection of this demand.

Donald Trump's Islamophobia—both in his rhetoric and attempt to ban citizens of several Muslim-majority countries from entering the United States—was especially noxious.⁴⁴ Whether it was tweeting a link to the Islamophobic Breitbart website⁴⁵ or bringing in well-known Islamophobes to serve in his administration, Trump intentionally stoked the flames of hatred toward Muslims.⁴⁶ Trump's normalization of Islamophobia in mainstream media and government further emboldened anti-Palestinian racism in U.S. foreign policy.

42 See B'TSELEM, *supra* note 25.

43 For a full explanation of the problematic nature of this demand, see HILL & PLITNICK, *supra* note 31 at Ch. 1: The Right to Exist.

44 82 C.F.R. 8977 (2017). Sahar F. Aziz, *A Muslim Registry: The Precursor to Internment?* 2018 B.Y.U. L. REV. 101 (2018).

45 Brian Klaas, *A Short History of President Trump's Anti-Muslim Bigotry*, WASH. POST (Mar. 15, 2019), <https://www.washingtonpost.com/opinions/2019/03/15/short-history-president-trumps-anti-muslim-bigotry/>.

46 See Faiza Patel, *The Islamophobic Administration*, BRENNAN CTR FOR JUST. (Apr. 19, 2017), <https://www.brennancenter.org/our-work/research-reports/islamophobic-administration>. See also reports of the persistent belief that President Barack Obama was hiding his true, Muslim faith, such as Adam Taylor, *The 'Obama Is a Muslim' Conspiracy Theory Is Still Reverberating in the Middle East*, WASH. POST (Jan. 21, 2016), <https://www.washingtonpost.com/news/worldviews/wp/2016/01/21/the-obama-is-a-muslim-conspiracy-theory-is-still-reverberating-in-the-middle-east/>; Patrick Torphy, *Why Do People Still Doubt President Obama's Faith and Birthplace?*, CHRISTIAN SCI. MONITOR (Sept. 15, 2015), <https://www.csmonitor.com/USA/Politics/2015/0915/Why-do-people-still-doubt-President-Obama-s-faith-and-birthplace>.

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PALESTINE POLICY EXCEPTION

1

ISLAM AS THE NEW
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NO ACCOUNTABILITY FOR
VIOLATING PALESTINIANS’
HUMAN RIGHTS

It is an inescapable reality that the United States' deep attachment to, and special relationship with, Israel is inseparable from its discriminatory policies toward Palestinians. This bias is often understood as a passionate attachment to Israel, whether that attachment is born of the idea of “shared values,” religious fervor, or geo-strategic thinking grounded in Orientalism.⁴⁷ Unconditional support for Israel, often characterized as an “unbreakable bond,”⁴⁸ depends on the idea of a Muslim Arab enemy that lies at the heart of broader U.S. Middle East policy. That is, the contrived threat of Jew-hating, savage Palestinians is a pillar of America's unconditional support of Israel, even when Israeli state practices violate international law. Anti-Palestinian bias in U.S. policymaking is not only attributable to a zero-sum equation with favoritism toward Israel but also arises out of anti-Muslim and anti-Arab racism.

The relationship between Islamophobia and Israelophilia further illuminates U.S. policy in the Middle East. This was on full display in April 2021 when U.S. Congresswoman Betty McCollum introduced a bill in the House of Representatives intending to ensure that U.S. military aid funds to Israel were not used for the military detention, interrogation, abuse, or ill treatment of children; the bill also prohibited the use of U.S. foreign aid to be spent on the seizure, appropriation, or destruction of property, forcible transfer of civilians, or unilateral annexation of Palestinian territory.⁴⁹ This proposed bill served the same policy objectives found in the Foreign Assistance Act, which prohibits U.S. funding to governments engaging in “gross violations of internationally recognized human rights.”⁵⁰

Yet McCollum's bill was not only controversial, but also faced overwhelming bipartisan criticism and opposition, causing it to die in committee.⁵¹ Supporters could only celebrate the small victory of having garnered 32 co-sponsors.⁵² Demonstrating the breadth of opposition to this seemingly benign bill, Democratic Representative Ted Deutch authored a letter rejecting application of U.S. law governing foreign assistance to Israel. His letter garnered over 300 signatures in the House.⁵³ Even though McCollum's bill simply sought to protect the human rights of the most vulnerable among the occupied Palestinian population, the House unequivocally exempted Israel from U.S. law. Most notably, McCollum was not subjected to the same accusations of antisemitism as her Muslim colleagues supporting the bill.

47 For shared values and religion as a basis for the U.S.-Israel relationship see David Tal, *The Sources of the American Support for Zionism*, <https://www.cambridge.org/core/books/making-of-an-alliance/sources-of-the-american-support-for-zionism/4B3B78C22E107E1C593E2EBA95ACF218> (excerpted from DAVID TAL, *THE MAKING OF AN ALLIANCE THE ORIGINS AND DEVELOPMENT OF THE US-ISRAEL RELATIONSHIP*, CAMBRIDGE UNIVERSITY PRESS (2022), at 7-25). For geo-strategy as a basis see Mitchell Plitnick & Chris Toensing, *'The Israel Lobby' in Perspective*, *Middle East Report no. 243*, MIDDLE EAST RESEARCH AND INFORMATION PROJECT (Summer 2007), <https://merip.org/2007/06/the-israel-lobby-in-perspective/>. For Orientalism in the U.S.-Israel relationship, see DOUGLAS LITTLE, *AMERICAN ORIENTALISM: THE UNITED STATES AND THE MIDDLE EAST SINCE 1945*, UNIVERSITY OF NORTH CAROLINA PRESS (2008) at 77-116.

48 Regardless of political realities, this powerful phrase is repeated often. See FedBeat, *A Historic Presidential Visit Reaffirms the Unbreakable US-Israel Bond*, JEWISH FED. OF N. AM. (July 18, 2022), <https://www.jewishfederations.org/fedworld/a-historic-presidential-visit-reaffirms-the-unbreakable-us-israel-bond-412418>; *Bush Asserts an 'Unbreakable' Bond Links US And Israel*, COLUMBUS DISPATCH (May 15, 2008), <https://www.dispatch.com/story/news/2008/05/15/bush-asserts-unbreakable-bond-links/24060541007/>; Raoul Woolliff & Eric Cortelessa, *US, Israel sign largest ever military aid deal, hail 'unbreakable bond'*, TIMES OF ISRAEL, (Sept. 14, 2016), <https://www.timesofisrael.com/us-israel-laud-ties-as-unprecedented-military-aid-deal-signed/>; Ken Bredemeier, *Obama, Netanyahu Say US-Israel Bond 'Unbreakable,'* VOICE OF AM. (Sept. 21, 2016), <https://www.voanews.com/a/obama-netanyahu-united-nations-middle-east/3519056.html>; and VIDEO, *Trump: 'Unbreakable Bond' with Israel*, VOICE OF AM. (Feb. 15, 2017), <https://www.voanews.com/a/trump-unbreakable-bond-with-israel/3725768.html>. See KHALED ELGINDY, *BLIND SPOT: AMERICA AND THE PALESTINIANS, FROM BALFOUR TO TRUMP*, BROOKINGS INST. PRESS (2019).

49 *Defending the Human Rights of Palestinian Children and Families Living Under Israeli Military Occupation Act*, H.R.2590, 117th Congress (2021).

50 The Leahy Law, 22 U.S.C. § 2304.

51 Nadine Naber, *Condemning Islamophobia While Supporting Israel is Hypocritical*, CHICAGO REPORTER (Feb. 2, 2022), <https://www.chicagoreporter.com/condemning-islamophobia-while-supporting-israel-is-hypocritical/>.

52 H.R.2590.

53 *McCaul, Deutch Lead Over 325 House Members in Support of Full Funding of Security Assistance to Israel Without Added Conditions*, HOUSE FOREIGN AFF. COMM. REPUBLICANS (April 22, 2021), <https://gop-foreignaffairs.house.gov/press-release/mccaual-deutch-lead-over-325-house-members-in-support-of-full-funding-of-security-assistance-to-israel-without-added-conditions/>.

1

ISLAM AS THE NEW GLOBAL THREAT

After the Cold war, the anti-Soviet rationale behind America's unconditional support of Israel no longer existed. Israeli journalist Nahum Barnea put it clearly when he remarked, "Even in the U.S. Congress some dare to say that Israel lost its former value as a major strategic asset [with the end of the Cold War]. To that the anti-Islamic campaign provides an answer... Israel will become the Western vanguard in the war against [the] Islamic enemy."⁵⁴ Ten years later in 2003, the late Palestinian-American scholar Naseer Aruri noted that the U.S. public "is told that Islamic activists and regimes in Iran, Iraq, the Sudan, Syria, as well as militias in Southern Lebanon and Gaza are part of a worldwide Islamic 'threat.'"⁵⁵

Aruri's observation of the political discourse in the United States reflected a widespread understanding among American policy makers that political Islam and Muslim countries represented the post-Cold War, anti-Western, and, more pointedly, anti-American bloc. The September 11, 2001, attacks fueled this perception, even though muslim majority countries condemned the terrorist acts.⁵⁶

Islamophobic reasoning was not confined to public perception. "Islamophobia becomes an ideological policy funnel through which international and domestic alliances and coalitions are formed whereby participants use Islam and Muslim subjectivities as the foil to array their varied political, economic and military interests," notes Dr. Hatem Bazian.⁵⁷ The most obvious influence of Islamophobia on U.S. policy, especially among conservatives, is the prominence of the false narrative of a "clash of civilizations" between the West and Islam as popularized by Samuel Huntington.⁵⁸ In U.S. policy toward Palestine, Islamophobia plays an outsized role. The conflict between Palestinians and Israelis is rooted in a settler-colonial project by Europeans and the concomitant resistance of the indigenous, but it is erroneously portrayed as a conflict between Judaism and Islam.⁵⁹ Distrust of Muslims and presumptions that they are antisemitic are integral to Americans' exceptional attitude toward Palestine.⁶⁰

In contrast to foreign policy toward U.S. allies Saudi Arabia, Egypt, or the United Arab Emirates (UAE), Israel is granted a heightened favorable status because it is portrayed as a model of democracy in an authoritarian region.⁶¹ Yet the very existence of Israel's occupation of the West Bank and the ongoing siege on the Gaza Strip are constant contradictions of this image of Israel as a democratic nation, and, paradoxically, the basis of the "special relationship" between the U.S. and Israel—one increasingly strained by the rise of right-wing Israeli nationalist parties committed to expelling Palestinians from the West

54 NASEER H. ARURI, *DISHONEST BROKER: THE U.S. ROLE IN ISRAEL AND PALESTINE*, SOUTH END PRESS, (2003), at xiv.

55 *Id.*

56 Even in places where animosity to the U.S. is high, like Iran and Gaza, there was strong condemnation for the attacks and empathy expressed for Americans. See *Islamic World Deplores US Losses*, BBC NEWS (Sept. 14, 2001), <http://news.bbc.co.uk/1/hi/world/americas/1544955.stm>.

57 Hatem Bazian, *Islamophobia and Structuring The Post-Cold War New World Order*, DAILY SABAH (Aug. 20, 2018), <https://www.dailysabah.com/columns/hatem-bazian/2018/08/20/islamophobia-and-structuring-the-post-cold-war-new-world-order>.

58 Merijn Oudenampsen, *How US Neocons Inspired the Netherlands' New Radical Right*, JACOBIN (Oct. 2020), <https://jacobin.com/2020/10/united-states-neoconservative-the-netherlands-new-radical-right>.

59 Notably, some of the most passionate Zionists and a sizable minority of Palestinians are Christian. See Steven Fink, *Fear Under Construction: Islamophobia Within American Christian Zionism*, 2 ISLAMOPHOBIA STUD. J. 1, 26 (Spring 2014), <https://www.scienceopen.com/hosted-document?doi=10.13169/islastudj.2.1.0026>. For Palestinian Christians see Amahl Bishara, *Covering the Christians of the Holy Land*, MIDDLE EAST REP., no. 267, (Summer 2013), <https://merip.org/2013/06/covering-the-christians-of-the-holy-land/>.

60 See LAMONT HILL & PLITNICK, *supra* note 31.

61 See U.S. criticisms of Saudi Arabia's and the UAE's in the State Department's annual human rights reports, most recently at Bureau of Democracy, Human Rights, and Labor, "2021 Country Reports on Human Rights Practices: Saudi Arabia," U.S. Department of State, <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/saudi-arabia/> and Bureau of Democracy, Human Rights, and Labor, "2021 Country Reports on Human Rights Practices: United Arab Emirates," U.S. Department of State, <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/united-arab-emirates/>

Bank.⁶² Negating a legitimate Palestinian connection and claim to the land in question, a sizable number of American politicians allege Palestinians (and their human rights supporters) are motivated not by a desire for self-determination but rather by hatred toward Jews.⁶³ Israel and Palestine, in this framework, become a zero-sum game. Every step toward Palestinian rights is understood as a loss or “concession” for Israel, and more specifically for world Jewry.

⁶² Isabel Debre and Sam McNeal, *West Bank Palestinian community faces removal as far-right Israel vows expansion*, PBS (Feb. 1, 2023), <https://www.pbs.org/newshour/world/west-bank-palestinian-community-faces-removal-as-far-right-israel-vows-expansion>; Patrick Kingsley, *Amid Spasm of Violence, Israel's Far-Right Government Raises Risk of Escalation*, N.Y. TIMES (Jan. 28, 2023), <https://www.nytimes.com/2023/01/28/world/middleeast/israelis-palestinians-west-bank.html>

⁶³ Karoun Demirjian, *House Votes Resoundingly to Back Israel, Rebuking Democratic Critics*, N.Y. TIMES (July 18, 2023), <https://www.nytimes.com/2023/07/18/us/politics/house-vote-israel-democrats-jayapal.html>. Peter Beinart, *It's Time to Name Anti-Palestinian Bigotry*, JEWISH CURRENTS, (July 16, 2021), <https://jewishcurrents.org/its-time-to-name-anti-palestinian-bigotry>; Ali Harb, *'Bullying' campaign after US graduate speech criticises Israel*, AL JAZEERA (May 31, 2023), <https://www.aljazeera.com/news/2023/5/31/bullying-campaign-after-us-graduate-speech-criticises-israel>

PROPPING UP A MISGUIDED “ZERO-SUM” APPROACH

For decades, the United States has facilitated the specious reasoning advanced by right-wing Zionists that the conflict between Palestinians and Israel is a zero-sum game.⁶⁴ This is not an inevitable outcome, however. Two national communities—Zionist Jews and Palestinian Arabs—feel a passionate attachment to the same, small piece of land. Granting Israeli claims over historical Palestine more weight allows one group, mostly European and American settler Israelis, to claim superior status – and, as a result, to denigrate, dispossess, and subjugate the indigenous Palestinians. The recognition of an Israeli claim to superiority is implicit in virtually all of U.S. policy toward Palestine.

As Palestinian-American scholar Noura Erakat observed, “Had Jews merely wanted to live in Palestine, this would not have been a problem. In fact, Jews, Muslims and Christians had coexisted for centuries throughout the Middle East. But Zionists sought sovereignty over a land where other people lived. Their ambitions required not only the dispossession and removal of Palestinians in 1948 but also their forced exile, juridical erasure, and denial that they ever existed.”⁶⁵

Israeli historian Benny Morris, justifying the expulsion of Palestinians in 1948, came to the same conclusion. “It is impossible to evade it. Without the uprooting of the Palestinians, a Jewish state would not have arisen here,” he told the Israeli daily Haaretz in 2004, with no regrets.⁶⁶ The issue is not whether Jews have a cultural, historical, and religious Jewish connection to the land in question, or whether it is called Israel or Palestine. Rather, it is a claim to an exclusive Jewish connection which marginalizes and creates a threat out of Palestinians whose ancestors have been on that land for generations.⁶⁷

Predictably, Israel’s othering of Palestinians has led to their demonization in U.S. media, exponentially magnified by conflict. As the Palestinian population under occupation grew, Israel and its supporters expressed fears of Palestinians outnumbering Jews in the total area of Israel, the West Bank, and the Gaza Strip. After 2010, a great deal of Israeli consternation focused on the so-called “demographic threat,” sometimes called the “demographic time bomb.”⁶⁸

Terminology here is telling. The birth of Palestinian babies is framed as a threat, even a violent one, to Israel’s existence. The frequency with which Israeli politicians and media use the phrase “demographic time bomb” demonstrates its influence on policy consideration.⁶⁹

64 See Saliba Sarsar, *Introduction*, 43 J. S. ASIAN & MIDDLE E. STUD. 3, 1-4. (2020).

65 Noura Erakat, *Palestinians Have No Choice but to Continue the Struggle*, WASH. POST (May 16, 2018), <https://www.washingtonpost.com/news/global-opinions/wp/2018/05/16/palestinians-have-no-choice-but-to-continue-the-struggle/>.

66 Ari Shavit, *Survival of the Fittest*, HAARETZ (Jan. 8, 2004), <https://www.haaretz.com/1.5262454>. Tom Segev, in his book, *ONE PALESTINE COMPLETE: JEWS AND ARABS UNDER THE BRITISH MANDATE*, METROPOLITAN BOOKS (2000), describes the early conditions between some Zionist immigrants and their Palestinian neighbors as a possible vision of coexistence. Conversely, Nur Masalha in his book, *EXPULSION OF THE PALESTINIANS: THE CONCEPT OF “TRANSFER” IN ZIONIST POLITICAL THOUGHT, 1882-1948*. INSTITUTE FOR PALESTINE STUDIES (1992), posits that Zionism would have necessitated the expulsion of the indigenous population in any case.

Rory McCarthy, *Olmert Gives Cautious Welcome to Arab Peace Plan*, GUARDIAN (March 30, 2007), <https://www.theguardian.com/world/2007/mar/30/israel2>.

67 Erakat, *supra* note 65.

68 See Ra’fat Aldajani & Drew Christiansen, *A Demographic Time Bomb in the Middle East*, NAT’L CATHOLIC REP. (Jan. 5, 2015), <https://www.ncronline.org/blogs/ncr-today/demographic-time-bomb-middle-east/>; Uri Sadot, *Israel’s ‘Demographic Time Bomb’ Is a Dud*, FOREIGN POL’Y (Dec. 18, 2013), <https://foreignpolicy.com/2013/12/18/israels-demographic-time-bomb-is-a-dud/>.

69 See John Spyer, *Israel’s Demographic Timebomb*, GUARDIAN (Jan. 13, 2004), <https://www.theguardian.com/world/2004/jan/14/comment>; Bennett Zimmerman & Michael Wise, *Defusing the Demographic Time Bomb*, JEWISH POL’Y CTR (2008), <https://www.jewishpolicycenter.org/2008/02/29/defusing-the-demographic-time-bomb/>; Evelyn Gordon, *The Real Demographic Threat*, COMMENTARY (April 19, 2010), <https://www.commentary.org/evelyn-gordon/the-real-demographic-threat/>; Gary Sussman, *The Challenge to the Two-State Solution*, MIDDLE E. REP. (2004), <https://merip.org/2004/06/the-challenge-to-the-two-state-solution/>.

Anti-Palestinian racism has also become so ingrained and commonplace in U.S. political discourse that it sometimes passes as common sense in typically liberal spaces. Putatively left-of-center Senator Elizabeth Warren once used an iteration of the “demographic time bomb” euphemism on the progressive, pro-Democratic Party podcast Pod Save America with little fanfare or attention.⁷⁰ During a discussion regarding the failure of the two-state solution, the Massachusetts politician said: “[T]he way I see what you’re talking about is we have pushed it this far under the Obama administration and now Trump has completely reversed it. I don’t therefore draw the conclusion that what happened under the Obama administration was never going to work, that you couldn’t keep pushing harder because over time realities are bearing down on Israel, demographic realities, births and deaths. What the region looks like.”⁷¹

Moreover, this distinctively anti-Palestinian framing of a “demographic time bomb” casts the very existence of Palestinians as a danger to Israel. The history of the land called Palestine and Israel encompasses millennia, encompassing a wide variety of cultures, faiths, tribes, and peoples. Jews have a significant place in that history, but far from an exclusive one.⁷²

This view of a superior Jewish claim and, by extension, superior Jewish rights in historic Palestine found its full expression in the “Nation State Law” adopted by Israel in 2018.⁷³ As a Basic Law, the Nation State Law has equal status to a constitutional rule. The law declares that only the Jewish people may exercise national rights in Israel and, crucially, that the state is obliged to support Jewish, and only Jewish, settlement throughout the “land of Israel,” including in the occupied West Bank.

The Nation State Law also demoted Arabic from an official state language to one with “special status,” notwithstanding that twenty-one percent of Israeli citizens are Palestinian.⁷⁴ In presenting the bill that would eventually become a Basic Law, Knesset Member Amir Ohana said, “It is the most important law in the history of the State of Israel, which says that everyone has human rights, but national rights in Israel belong only to the Jewish people. That is the founding principle on which the state was established.”⁷⁵

The Nation State Law was enshrined with no protest from the United States government, even though many American Jews—including groups that have never shown sympathy for the Palestinians—voiced their objections to it. The American Jewish Committee, for instance, said the bill, “...put at risk the commitment of Israel’s founders to build a country that is both Jewish and democratic.”⁷⁶ The Anti-Defamation League said that “...there are problematic elements that might lead some to question [Israel’s] commitment to pluralism.”⁷⁷ Nor did the U.S. government’s silence break when a more liberal administration under Joe Biden succeeded Donald Trump’s. Instead, the United States, as a matter of bipartisan policy, often repeats that it supports Israel as a “Jewish and democratic state.”⁷⁸ Never mind the fundamental contradiction between democracy and ethnonationalism in a country with a sizable non-Jewish minority, not to mention the occupation of five million stateless Palestinians.⁷⁹

70 Tommy Vietor, 91 Elizabeth Warren, 2020: Elizabeth Warren talks dogs and capitalism, Pod Save America (2019), <https://crooked.com/podcast/elizabeth-warren-talks-dogs-and-capitalism/>.

71 *Id.*

72 See Masalha, *supra* note 66.

73 *Basic Law: Israel – The Nation State of the Jewish People*, KNESSET (May 1, 2022), <https://main.knesset.gov.il/EN/activity/Documents/BasicLawsPDF/BasicLawNationState.pdf>.

74 *Id.* For analysis of the Nation-State Law in the context of human rights, see Hassan Jabareen & Suhad Bishara, *The Jewish Nation-State Law: Antecedents and Constitutional Implications*, INST. PALESTINE STUD., (Dec. 18, 2019), <https://www.palestine-studies.org/en/node/1650473>. See also Honaïda Ghanim, *Israel’s Nation-State Law: Hierarchized Citizenship and Jewish Supremacy*, CRITICAL TIMES: DUKE UNIV. PRESS (Dec. 1, 2021), <https://doi.org/10.1215/26410478-9355297>.

75 Lahav Harkov, *Gutted Jewish Nation-State Bill Heads to First Reading in Knesset*, JERUSALEM POST (March 14, 2018), <https://www.jpost.com/Israel-News/Politics-And-Diplomacy/Gutted-Jewish-nation-state-bill-heads-to-first-reading-in-Knesset-544957>.

76 *AJC Criticizes Knesset Adoption of Nation-State Bill*, AMERICAN JEWISH COMMITTEE (July 18, 2018), <https://www.ajc.org/news/ajc-criticizes-knesset-adoption-of-nation-state-bill>.

77 *ADL Statement on Knesset Passage of Nation-State Law*, ANTI-DEFAMATION LEAGUE (May 3, 2022), <https://www.adl.org/resources/press-release/adl-statement-knesset-passage-nation-state-law>.

78 Rebecca Shimoli Stoil, *Obama Promises Security for ‘Israel – a Jewish state’*, TIMES OF ISRAEL (Jan 29, 2014), <https://www.timesofisrael.com/obama-promises-security-for-israel-a-jewish-state/>

79 PETER BEINART, *THE CRISIS OF ZIONISM*, PICADOR (2012).

As Professor Shibley Telhami frames it, “States often define themselves in ethno-religious nationalist terms; as a Jewish state, Israel is not an exception in that way... Historically, the United States has backed non-democracies, even ruthless dictatorships, for reasons of expediency, and has accepted ethno-nationalist states in the context of conflict-resolution arrangements... But there is no case except Israel’s in which the United States specifically and actively advocates for a form of an ethno-nationalist state that discounts a large portion of its population and demands that others do the same.”⁸⁰ Telhami contends that this unique advocacy of Israel’s self-definition is “present across the American political spectrum” and has “emboldened Jewish supremacy in Israel.”⁸¹ The Nation State Law, by its own wording, further denigrates Palestinians living under Israeli military occupation as well as those who have residency or citizenship in Israel.⁸²

““ For decades, the United States has facilitated the specious reasoning advanced by right-wing Zionists that the conflict between Palestinians and Israel is a zero-sum game. This is not an inevitable outcome.””

⁸⁰ Shibley Telhami, *America Must Rethink Its Unique and Contradictory Advocacy of Israel’s Jewishness*, BROOKINGS (June 11, 2021), <https://www.brookings.edu/blog/order-from-chaos/2021/06/11/america-must-rethink-its-unique-and-contradictory-advocacy-of-israels-jewishness/>.

⁸¹ *Id.* For more analysis on the contradictions between Israeli law and claims that Israel is the only democracy in the Middle East, see MICHAEL BARNETT ET AL., *THE ONE STATE REALITY: WHAT IS PALESTINE/ISRAEL?*, CORNELL UNIV. PRESS (2023).

⁸² Hassan Jabareen & Suhad Bishara, *The Jewish Nation State Law*, 48 J. PALESTINE STUD. 2, 43-57 (Winter 2019).

3

NO ACCOUNTABILITY FOR VIOLATING PALESTINIANS' HUMAN RIGHTS

The exceptional treatment afforded Israel by the United States exists in symbiotic harmony with the concomitant exceptional discrimination against Palestinians. The Palestine exception pervades all aspects of U.S. foreign policy. For instance, to date, Israel has received a total of \$158 billion (current, or non-inflation-adjusted, dollars) in bilateral assistance and missile defense funding from the United States.⁸³ Since 2001, Israel has received more foreign military financing (FMF) from the United States than the rest of the world combined.⁸⁴ That aid is given almost entirely without end-use monitoring, a privilege no other country enjoys.⁸⁵ Under a ten-year memorandum of understanding (MOU) agreed to by Barack Obama in the waning days of his presidency, Israel will receive \$3.8 billion annually through 2028.⁸⁶ In stark contrast, U.S. aid to Palestinians is below \$500 million per year with numerous conditions.⁸⁷

Despite warnings by human rights advocates, the United States refuses to monitor the use of the weapons it sells to Israel—paid for by American taxpayers.⁸⁸ Nor does it ensure that the use of those weapons is consistent with United States or international law.⁸⁹ As a result, Israel violates Palestinian human rights with impunity.⁹⁰ While human rights violations are not uniquely experienced by Palestinians, the outright hostility to any debate on the matter is exceptional.⁹¹ Meanwhile, Arab countries receiving U.S. foreign aid are frequently, and rightly, subject to criticism by Congress for their human rights violations.⁹²

In 2020, for the first time in decades, the question of Israel's use of military aid was raised in the presidential campaign.⁹³ Several candidates, most notably Senator Bernie Sanders of Vermont, stated that aid to Israel should, like aid to all other countries, be conditioned on Israel's use of that aid in adherence to human rights laws.⁹⁴ This seemingly benign position invited an ambush of allegations that Sanders was a self-loathing

83 *U.S. Foreign Aid to Israel*, CONGRESSIONAL RESEARCH SERVICE, (Mar. 1, 2023) <https://sgp.fas.org/crs/mideast/RL33222.pdf>.

84 Since 2001, Israel accounts for 52% of U.S. foreign aid, Egypt is second at 24%, Jordan third at 6%. See Josh Ruebner et al., *Bringing Assistance to Israel in Line With Rights and U.S. Laws*, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE (May 12, 2021), <https://carnegieendowment.org/2021/05/12/bringing-assistance-to-israel-in-line-with-rights-and-u.s.-laws-pub-84503>. For FY 2020, Israel received \$3.3 billion in Foreign Military Financing, followed by Afghanistan at \$2.761 billion, and Egypt at \$1.3 billion. See Katharina Buchholz, *Where U.S. Military Aid Is Going*, STATISTA (Jan. 20, 2022), <https://www.statista.com/chart/26641/us-military-aid-obligations-by-country/>.

85 Ruebner et al., *supra* note 84.

86 *FACT SHEET: Memorandum of Understanding Reached With Israel*, OFFICE OF THE PRESS SECRETARY: THE WHITE HOUSE (Sept. 14, 2016), <https://obamawhitehouse.archives.gov/the-press-office/2016/09/14/fact-sheet-memorandum-understanding-reached-israel>.

87 *In Focus: The Palestinians: Overview, Aid, and U.S. Policy Issues*, CONGRESSIONAL RESEARCH SERVICE (May 24, 2023), <https://crsreports.congress.gov/product/pdf/IF/IF10644>; *Insight: U.S. Resumption of Foreign Aid to the Palestinians*, CONGRESSIONAL RESEARCH SERVICE (April 14, 2021), <https://crsreports.congress.gov/product/pdf/IN/IN11649>.

88 Ruebner et al., *supra* note 84.

89 Laws governing military aid include the Foreign Assistance Act of 1961, Pub. L. No. 116–6, (2019); Arms Export Control Act of 1976, Pub. L. No. 94–329 (90 Stat. 729), (1976).

90 Amnesty International has come to this conclusion regularly, including most recently in its report, *Israel and the Occupied Territories 2021*, AMNESTY INT'L (Mar. 29, 2022), <https://www.amnesty.org/en/location/middle-east-and-north-africa/israel-and-occupied-palestinian-territories/report-israel-and-occupied-palestinian-territories/>.

91 See Melissa Newcomb & Eliza Young, *Restoring U.S. Leadership in Human Rights*, NATIONAL BUREAU OF ASIAN RESEARCH (Feb. 20, 2021), <https://www.nbr.org/publication/restoring-u-s-leadership-in-human-rights/> (discussing the role Congress plays in monitoring human rights in general). Bills are proposed in Congress dealing with this question as well. See Saudi Arabia Accountability for Gross Violations of Human Rights Act, H.R.1464, 117th Congress (2021); "Office of Congressman Don Beyer, *Egypt Human Rights Caucus Co-Chairs' Statement On the Sentencing of Egyptian Human Rights Defenders*, (Dec. 21, 2021), (addressing Saudi human rights violations and this statement about human rights violations in Egypt) <https://beyer.house.gov/news/documentsingle.aspx?DocumentID=5412>.

92 Aid to Egypt has become particularly controversial because of its human rights record. See Edward Wong & Vivian Yee, *U.S. to Move Forward on Military Aid to Egypt Despite Lawmakers' Concerns*, NY TIMES (Sept. 14, 2022), <https://www.nytimes.com/2022/09/14/us/politics/egypt-military-aid-biden.html>. See also *Biden Decision to Grant Military Aid to Egypt a Betrayal of Human Rights Commitments*, PROJECT ON MIDDLE EAST DEMOCRACY, <https://pomed.org/biden-decision-to-grant-military-aid-to-egypt-a-betrayal-of-human-rights-commitments/> (last visited July 10, 2023).

93 See Tal Axelrod, *2020 Democrats Tackle US Aid to Israel*, THE HILL (Oct. 28, 2019), <https://thehill.com/homenews/campaign/467808-2020-dems-tackle-us-aid-to-israel/>; Ali Harb, *Conditioning US Aid to Israel? Here's What 2020 Democrats had to Say About It*, MIDDLE EAST EYE (Oct. 29, 2019), <https://www.middleeasteye.net/news/US-aid-to-Israel-2020-Democrats-J-Street-conference>; *Do You Think Israel Meets International Standards of Human Rights?*, NY TIMES (2019), <https://www.nytimes.com/interactive/2019/us/politics/israel-human-rights-democratic-candidates.html>.

94 See notes 43 and 77 for relevant laws.

Jew.⁹⁵ As Khaled Elgindy put it, “In practical terms, Israel’s exceptionalism extends to almost every aspect of the U.S.-Israel ‘special relationship’ — from its unmatched (and unconditional) \$3.8 billion military aid package to the unwavering commitments by both Democratic and Republican administrations to provide political and diplomatic cover to Israel in international forums. It has even entered the U.S. domestic sphere, most notably in the effort to quash BDS (the movement for boycott of, divestment from, and sanctions on Israel until it recognizes and engages full Palestinian rights) and other speech critical of Israel or Zionism.”⁹⁶

Legislation against BDS has been passed in 35 states as of April 2023 and considered by Congress, with no regard for free speech rights.⁹⁷ Most of the laws stop short of making boycotts against, or divestment from, Israel illegal. Instead, they are either declarative statements criticizing businesses that participate in BDS—intended to cause financial harm—or they bar the state from trading with such businesses.⁹⁸ The consequent stigma discourages many businesses and individuals from even speaking out against Israeli violations of Palestinian human rights.

The same state-by-state strategy was adopted by a network of Islamophobic organizations and legislators seeking to pass so-called Anti-Sharia bills.⁹⁹ The coordination between Islamophobic and anti-Palestinian Zionists illuminates the convergence of Islamophobia with the Palestine exception to free speech and human rights. In fact, some of the most fervent and prominent Zionist and pro-Israel organizations are steeped in Islamophobia.

Christians United for Israel is the largest pro-Israel organization in the U.S., with upwards of seven million members. CUFI was founded and is chaired by Rev. John C. Hagee, widely considered one of the leading purveyors of Islamophobia in the country.¹⁰⁰ Hagee has preached that the U.S. is “at war with radical Islam,” often uses the Islamophobic term “Islamofascist” and insists that Islam is “not peaceful.”¹⁰¹ In 2008, Hagee caused an uproar when he claimed the Holocaust and Hitler were part of God’s plan to create Israel by chasing Jews out of Europe and relocating them to historical Palestine—earning a rebuke from then-presidential candidate John McCain.¹⁰² The preacher’s antisemitism in that case was soon enough explained away as it was in service of Zionism.¹⁰³ In June 2018, Hagee was back in vogue and the good graces of the Republican Party—though arguably he never really left—he was one of two pastors invited to bless the opening of the U.S. embassy in Jerusalem.¹⁰⁴

95 Noah Berlatsky, *Is Bernie Sanders anti-Semitic? Why New Right-Wing Smears are the Real Anti-Semitism*, NBC NEWS (Dec. 17, 2019), <https://www.nbcnews.com/think/opinion/bernie-sanders-jewish-liberal-probably-anti-semitic-according-right-ncna1103036>; Kelsey Vlamis, *Alan Dershowitz: Called Bernie Sanders a ‘Self-Hating Jew’ Over His Stance on Israel-Palestine Violence*, BUSINESS INSIDER (May 15, 2021), <https://www.businessinsider.com/alan-dershowitz-bernie-sanders-a-self-hating-jew-israel-palestine-2021-5>.

96 Khaled Elgindy, *Challenging Israel’s Exceptionalism in American Politics*, RESPONSIBLE STATECRAFT (Mar. 22, 2021), <https://responsiblestatecraft.org/2021/03/22/book-review-challenging-israels-exceptionalism-in-american-politics/>.

97 *Legislation in US States Targeting Boycotts of Israel and/or Settlements 2014-Present*, FOUNDATION FOR MIDDLE EAST PEACE (May 6, 2022), <http://fmep.org/wp/wp-content/uploads/State-BDS-and-Settlement-legislation-table.pdf>; *Antisemitism: State Anti-BDS Legislation*, JEWISH VIRTUAL LIBRARY, <https://www.jewishvirtuallibrary.org/anti-bds-legislation> (last visited July 10, 2023). Marco Rubio introduced the Combating BDS Act of 2019, which was later reintroduced by Rubio and Senator Joe Manchin in 2021. The initial bill was attached to a broader bill for security assistance to Israel, Strengthening America’s Security in the Middle East Act of 2019, S.1, 116th Cong. (2019), and reintroduced: Combating BDS Act of 2021, S.2119, 117th Cong. (2021).

98 See, Chris McGreal, *ACLU Asks Supreme Court to Overturn Arkansas’ Anti-Boycott Law Against Israel*, GUARDIAN (Oct. 20, 2022), <https://www.theguardian.com/us-news/2022/oct/20/aclu-arkansas-anti-boycott-law-israel>.

99 See *Tracking Anti-Muslim Legislation Across The U.S.*, S.POVERTY L. CTR <https://www.splcenter.org/data-projects/tracking-anti-muslim-legislation-across-us> (tracking of the state-by-state efforts to pass anti-Sharia laws using this strategy at Tracking Anti-Muslim Legislation Across the U.S.).

100 Chrissy Stroop, *America’s Islamophobia Is Forged at the Pulpit*, FOREIGN POLICY, (March 26, 2019), <https://foreignpolicy.com/2019/03/26/americas-islamophobia-is-forged-in-the-pulpit/>.

101 See, e.g., John Hagee, *The Islamophobia Network*, <https://islamophobicnetwork.com/echo-chamber/john-hagee/> (last visited Aug. 24, 2023); John Hagee, *Sermon at Thomas Road Baptist Church (Spring 2007)* (available at <https://www.dailymotion.com/video/x6dkb41>) (last visited Aug. 24, 2023).

102 Michael Luo, *McCain Rejects Hagee Backing as Nazi Remarks Surface*, THE NEW YORK TIMES (May 22, 2008), <https://archive.nytimes.com/thecaucus.blogs.nytimes.com/2008/05/22/mccain-rejects-hagee-backing-as-nazi-remarks-surface/?hp>.

103 Daniel Benjamin, *Why John McCain Should Reject the Reverend John Hagee*, BROOKINGS (May 23, 2008), <https://www.brookings.edu/articles/why-john-mccain-should-reject-the-reverend-john-hagee/>.

104 Gus Bova, *Under Trump, Islamophobic Pastor John Hagee’s Star Rises Again*, TEXAS OBSERVER (Aug. 9, 2018), <https://www.texasobserver.org/trump-pastor-john-hagee-texas-jerusalem/>.

Democratic Majority for Israel is a pro-Israel advocacy organization founded in 2019—in direct response to polling showing Democrats and younger Americans drifting away from Israel.¹⁰⁵ It has quickly established itself as one of the leading voices of the Israel Lobby. The group’s founder, Mark Mellman, a prominent Democratic Party pollster, described the impetus behind DMFI in the following terms: “There are a few discordant voices, but we want to make sure that what’s a very small problem doesn’t metastasize into a bigger problem.”¹⁰⁶ DMFI’s foundational purpose thus evokes a metaphor that casts opposition to Zionism and Israeli apartheid — and support for Palestinian human rights — as a sort of cancer to be rooted out from within burgeoning segments of American life and the Democratic Party coalition.

In the 2020 and 2022 election cycles, DMFI, by way of its associated political action committee and super PAC, spent in excess of \$15 million supporting pro-Israel candidates.¹⁰⁷ The single-most prominent source of the group’s largesse¹⁰⁸ is Stacy Schusterman, the heir to the Samson Resources fortune and the founder, chair, and CEO of Samson Energy – one of the largest per-well emitters of greenhouse gas emissions in the world.¹⁰⁹ In the past two election cycles, Schusterman has contributed well over \$4 million to DMFI.¹¹⁰

Schusterman also sits on the AIPAC National Council and serves on the board of directors of the Charles and Lynn Schusterman Family Foundation, which according to the International Jewish Anti-Zionist network funds “a range of other Islamophobic organizations that contribute to a climate where Zionism, anti-Muslim and anti-Arab sentiment are seen as pervasive and acceptable.”¹¹¹ Her family’s namesake charitable organization has donated to the Middle East Media Research Institute (MEMRI), a neoconservative and Islamophobic press monitor which has frequently come under fire for selective, biased, incomplete, and inaccurate translations of media from the Arab and Muslim world.¹¹² The Schusterman Family Foundation has also donated significant amounts of money to the Central Fund of Israel,¹¹³ a group that channels funding to the illegal Israeli regime of settlements in the West Bank¹¹⁴ and which has donated to a prominent Israeli religious indoctrination school where a cleric infamously preached that it is acceptable to murder Palestinian babies.¹¹⁵ Additionally, the Central Fund has directed donations to a group that helped evict Palestinians from the Sheikh Jarrah neighborhood of East Jerusalem.¹¹⁶

105 Jonathan Martin, Prominent Democrats Form Pro-Israel Group to Counter Skepticism on the Left, *The New York Times* (Jan. 28, 2019) <https://www.nytimes.com/2019/01/28/us/politics/democrats-israel-palestine.html>.

106 *Id.*

107 See PAC Profile: Democratic Majority for Israel, Open Secrets (last visited Aug. 24, 2023), <https://www.opensecrets.org/political-action-committees-pacs/democratic-majority-for-israel/C00710848/summary/2024>; Bryant Harris, Meet the AIPAC leaders bankrolling the Bernie Sanders attack ads, *AI-Monitor* (Feb. 19, 2020), <https://www.ai-monitor.com/originals/2020/02/aipac-bankrolling-attack-ads-bernie-sanders-iowa-nevada.html>.

108 *Id.*

109 See Matthew Cunningham-Cook, Oil and Gas Heir Funding Super PAC Attacking Nina Turner, *The Intercept* (July 16, 2021), <https://theintercept.com/2021/07/16/nina-turner-shontel-brown-dmfi/>; Andrew Perez, Oil Mogul Bankrolls Attempt To Buy Democratic Primary, *The Lever* (April 16, 2022), <https://www.levernews.com/oil-mogul-bankrolls-attempt-to-buy-democratic-primary/>.

110 *Id.*

111 *The Business of Backlash: The Attack on the Palestinian Movement and Other Movements for Justice*, *The International Jewish Anti-Zionist Network* (March 2015), <http://www.ijan.org/resources/business-of-backlash>.

112 See Brian Whitaker, Selective Memri, *The Guardian* (Aug. 12, 2002), <https://www.theguardian.com/world/2002/aug/12/worlddispatch.brianwhitaker>; Middle East Media Research Institute (MEMRI) – Bias and Credibility, *Media Bias/Fact Check* (April 6, 2023), <https://mediabiasfactcheck.com/middle-east-media-research-institute-memri/>.

113 Stephanie Skora, Pride With Prejudice: Exposing A Wider Bridge’s Right-Wing Funding, *Stephanie Skora* (February 2019) <https://www.stephanieskora.com/reporting>.

114 Jim Rutenberg, et al., Tax-Exempt Funds Aid Settlements in West Bank, *The New York Times* (July 5, 2010), https://www.nytimes.com/2010/07/06/world/middleeast/06settle.html?_r=2&pagewanted=all.

115 Akiva Eldar, U.S. Tax Dollars Fund Rabbi Who Excused Killing Gentile Babies, *Haaretz* (Dec. 15, 2009), <https://www.haaretz.com/2009-12-15/ty-article/akiva-eldar-u-s-tax-dollars-fund-rabbi-who-excused-killing-gentile-babies/0000017f-db84-df62-a9ff-dfd72d010000>.

116 Alex Kane, Tax-exempt U.S. Nonprofits Fuel Israeli Settler Push To Evict Palestinians, *The Intercept* (May 14, 2021), <https://theintercept.com/2021/05/14/israel-settler-evictions-jerusalem-nonprofits/>.

The Schusterman money trough¹¹⁷ has also been used to fund the Foundation for the Defense of Democracies (FDD), a far-right, pro-militaristic think tank and Israel Lobby arm that has been described as the successor to the Project for a New American Century¹¹⁸ and whose CEO actively worked to undermine Barack Obama’s Iran nuclear deal.¹¹⁹ The FDD has been described by Duke University Professor Christopher A. Bail as an “anti-Muslim fringe organization” that takes great pains to cloak its fundamentally Islamophobic nature.¹²⁰ Another scholar, Dr. Sarah Marusek, a research associate at the University of Johannesburg, has identified the FDD as one of the 10 “key” U.S.-based organizations responsible for “promoting” and “peddling Islamophobia.”¹²¹


117 See Charles and Lynn Schusterman Family Foundation, 2019 IRS Form 990-PF, Return of Private Foundation, https://projects.propublica.org/nonprofits/display_990/731312965/02_2021_prefixes_68-74%2F731312965_201912_990PF_2021021317706329.

118 Jeffrey Blankfort, Takes on the World (Oct. 26, 2011), <http://www.radio4all.net/files/jblankfort@earthlink.net/1752-1-totw102611newsopinions.mp3>.

119 Gardiner Harris, He Was a Tireless Critic of the Iran Deal. Now He Insists He Wanted to Save It., *The New York Times* (May 13, 2018), <https://www.nytimes.com/2018/05/13/us/politics/mark-dubowitz-iran-deal.html>.

120 Christopher Bail, *Terrified: How Anti-Muslim Fringe Organizations Became Mainstream*, Princeton University Press (2015), at 70-71.

121 Focusing on funding sources from publicly-accessible tax filings, the author notes: “While there are many other groups in the US promoting Islamophobia, we focus primarily on these ten organisations as the most active and influential in the media and in policy debates.” Sarah Marusek, *The Transatlantic Network: Funding Islamophobia and Israeli Settlements*, in Massoumi, Narzanin; Mills, Tom; Miller David (eds.), *What is Islamophobia?*, Pluto Press (2017), at 189-206.



INJUSTICE
ANYWHERE
IS A THREAT
TO JUSTICE
EVERYWHERE

- Martin Luther
King JR





THE ISLAMOPHOBIA NETWORK

1

KEY INDIVIDUALS AND ORGANIZATIONS

2

THE ISLAMOPHOBIC NETWORK PROPAGATES ANTI-PALESTINIAN RACISM

3

THE ISLAMOPHOBIC ANTI-PALESTINIAN NETWORK IN THE MEDIA

4

ISLAMOPHOBIA'S INFLUENCE ON POLITICS

While the role of antisemitism in the discourse around Palestine and Israel is exploited by multiple parties, the influence of Islamophobia on that discourse is under-researched.¹²² Specifically, Islamophobia is weaponized to deny Palestinians recognition of their civil, human, and national rights while upholding the consistent partiality of U.S. policy in favor of Israel.

An Islamophobia network of organizations and demagogues, many of whom are also right-wing Zionists, propagate Islamophobic tropes that Muslims and Arabs are presumptively antisemitic, especially those who defend Palestinians' human rights.¹²³ This racist trope has become so pervasive that even some of Israel's more liberal supporters have publicly condemned it. For example, the pro-Israel, pro-peace process group J Street criticized the Islamophobic and staunchly pro-Israel Center for Security Policy (CSP), saying it was an "an organization that traffics in repulsive Islamophobia and has been designated as a hate group by the Southern Poverty Law Center."¹²⁴ Tellingly, CSP worked closely with Trump's top advisors to implement the Muslim Ban, among other racist policies.¹²⁵

Building on the ubiquitous anti-Muslim media coverage during the "Global War on Terror," a network of organizations maligned American Muslims as invaders conspiring to impose Islamic Law (Sharia) on all Americans. The solution, they argued, was to pass the American Public Policy Alliance's model legislation which it called "American Laws for American Courts (ALAC)." Consequently, the Society of Americans for National Existence (SANE) and the American Freedom Law Center began work in 2010 to use this model as proposed bills in state legislatures across the country. The lead drafter, David Yerushalmi, is described by the Southern Poverty Law Center as "a key figure in the U.S. anti-Muslim hate movement."¹²⁶ Yerushalmi admitted that the purpose of the bills "was heuristic — to get people asking this question, 'What is Shariah?'" and in turn to cast suspicion on Muslims' motivations for living in the U.S.¹²⁷

Yerushalmi and his organizations were one part of an "Islamophobia industry [that] shaped public policy and government action affecting Muslims in America and U.S. foreign policy in Muslim-majority countries."¹²⁸ Yerushalmi, through SANE, managed to introduce versions of his model legislation 216 times in at least 43 states.¹²⁹ Fourteen laws were enacted as of 2018,¹³⁰ but the 200 failed bills still accomplished their real purpose: instilling fear of Islam and Muslims in America. This was not the first, nor the only, attempt to politically marginalize Muslims.

122 A particularly illuminating debate on the use and abuse of antisemitism in Israel-Palestine discourse can be found in a recording of a debate between journalist Mehdi Hasan and historian Ilan Pappé, on one side and Melanie Phillips and Einat Wilf on the other. Intelligence Squared, *Debate: Anti-Zionism is Anti-Semitism*, YouTube (June 2019), https://www.youtube.com/watch?v=K1VTt_THL4A. The head of the Anti-Defamation League, Jonathan Greenblatt, makes the controversial case that all anti-Zionism is antisemitism: Isaac Chotiner, *Is Anti-Zionism Anti-Semitism?*, NEW YORKER (May 2022), <https://www.newyorker.com/news/q-and-a/is-anti-zionism-anti-semitism>. The contrary argument can be found at: Judith Butler, *No, It's Not Anti-Semitic*, 25 LONDON REVIEW OF BOOKS 16, 21 (August 2003), <https://www.lrb.co.uk/the-paper/v25/n16/judith-butler/no-it-s-not-anti-semitic>.

123 Hilary Aked, *The Undeniable Overlap: Right-Wing Zionism And Islamophobia*, OPEN DEMOCRACY (Sept. 29, 2015), <https://www.opendemocracy.net/en/undeniable-overlap-right-wing-zionism-and-islamophobia/> (listing the groups and foundations that funded both Islamophobic projects and Zionist projects during roughly the same period).

124 *J Street Calls on Israel's Ambassador Dermer to Decline Award from Islamophobic Hate Group, Condemn Group's Activities*, J STREET (Nov. 2, 2016), <https://jstreet.org/press-releases/j-street-calls-israels-ambassador-dermer-decline-award-islamophobic-hate-group-condemn-groups-activities/>.

125 Bridge Initiative Team, *FACTSHEET: CENTER FOR SECURITY POLICY*, BRIDGE: A GEORGETOWN UNIVERSITY INITIATIVE, (July 29, 2017), <https://bridge.georgetown.edu/research/factsheet-center-for-security-policy/>.

126 David Yerushalmi, *Extremist Files*, SOUTHERN POVERTY LAW CENTER, <https://www.splcenter.org/fighting-hate/extremist-files/individual/david-yerushalmi>.

127 Swathi Shanmugasundaram, *Hate Watch: Anti-Sharia Law Bills in the United States*, SOUTHERN POVERTY LAW CENTER, (Feb. 5, 2018), <https://www.splcenter.org/hate-watch/2018/02/05/anti-sharia-law-bills-united-states>.

128 Aziz, *supra* note 16 at 148-152.

129 *Id.* See also Carlo A. Pedrioli, *Constructing the Other: U.S. Muslims, Anti-Sharia Law, and the Constitutional Consequences of Volatile Intercultural Rhetoric*, 22 S. CAL. INTERDISCIPLINARY L. J. 65 (2012).

130 See Shanmugasundaram, *supra* note 127.



KEY INDIVIDUALS AND ORGANIZATIONS

The Islamophobia industry encompasses a variety of non-governmental organizations, think tanks, and lobbying groups.¹³¹ These include the David Horowitz Freedom Center, the Middle East Forum, Center for Security Policy, Counterterrorism and Security Education & Research Foundation, Investigative Project on Terrorism, Society of Americans for National Existence, Jihad Watch, American Congress for Truth, the American Islamic Forum for Democracy, and the Foundation for the Defense of Democracies. Some of these organizations are overtly Islamophobic while others are intentionally more subtle in casting suspicions on Muslims. Many of their leaders were highly influential within the Trump administration.

This Islamophobia network is well-funded and growing. In a 2011 report, the Center for American Progress listed the top eight charitable foundations that funded Islamophobic organizations and reported they had contributed \$42.6 million between 2001 and 2009.¹³² By 2021, the Council on American-Islamic Relations (CAIR) found that 26 Islamophobic organizations had received over \$105 million between 2017 and 2019.¹³³

Such massive amounts of money support a wide array of projects aimed at vilifying Muslims and politically penalizing advocacy for Palestinian human rights. Some of these groups work directly with the Israeli government or in the United States to vilify Palestinians.¹³⁴ One example is Jihad Watch, a project headed by Robert Spencer, a man who explicitly states his goal of fomenting hatred of Muslims. In his 2017 memoir, Spencer wrote, “There are, in short, very good reasons to be an Islamophobe, that is, to be concerned about Islam for the devastation that it brings into the lives of human beings both Muslim and non-Muslim.”¹³⁵ Jihad Watch has, in recent years, expanded from a blog to a wider-ranging, right-wing propaganda and news site. Spencer’s biography at Jihad Watch notes that, “Spencer has led seminars on Islam and jihad for the FBI, the United States Central Command, United States Army Command and General Staff College, the U.S. Army’s Asymmetric Warfare Group, the Joint Terrorism Task Force (JTTF), the Justice Department’s Anti-Terrorism Advisory Council and the U.S. intelligence community. He has discussed jihad, Islam, and terrorism at a workshop sponsored by the U.S. State Department and the German Foreign Ministry.”¹³⁶

The Southern Poverty Law Center describes Spencer as “one of the most prolific anti-Muslim figures in the United States... he insists, despite his lack of academic training in Islam, that the religion is inherently violent and that extremists who commit acts of terror are simply following its most authentic version.”¹³⁷ In 2017, Spencer wrote, “At some point, Western officials are going to have to face the contents of Islamic teaching and recognize that bringing large numbers of Muslims into the West is only going to increase the number of beheadings and exhortations to kill Jews, as both those things are taught in Islamic texts.”¹³⁸

131 For example, see, most prominently, Wajahat Ali et al., *Fear, Inc.*, CENTER FOR AMERICAN PROGRESS (Aug. 2011), <https://www.americanprogress.org/article/fear-inc/>; Matthew Duss, et al., *Fear, Inc. 2.0*, CENTER FOR AMERICAN PROGRESS (Feb. 11, 2015), <https://www.americanprogress.org/article/fear-inc-2-0/>.

132 The eight foundations are: Donors Capital Fund/Donors Trust; Scalfie Foundation; William Rosenwald Family Foundation/Middle Road Foundation/Abstraction Fund; Lynde and Harry Bradley Foundation; Russell Berrie Foundation; Newton D. and Rochelle F. Becker Foundation and Charitable Trust; Fairbrook Foundation; Alan and Hope Winters Family Foundation. See Ali, *supra* note 131.

133 The top six funders of the U.S. Islamophobia Network between 2017-2019 are: Christian Advocates Serving Evangelism Inc.; Fidelity Charitable Gift Fund; Schwab Charitable Fund; The Marcus Foundation; The Adelson Family Foundation; and The Jewish Communal Fund. See *Islamophobia In The Mainstream*, COUNCIL ON AMERICAN-ISLAMIC RELATIONS (Jan. 11, 2022), <https://www.cair.com/wp-content/uploads/2022/01/IslamophobiaintheMainstream.pdf>.

134 See Aiden Pink, Israel Approved Grant to Tennessee Anti-Muslim ‘Hate Group’, *FORWARD* (Aug. 31, 2020), <https://forward.com/israel/453335/israel-proclaiming-justice-nations-muslim-hate-south-africa/>; *Countering the Islamophobia Industry*, CARTER CENTER (May 2018), https://www.cartercenter.org/resources/pdfs/peace/conflict_resolution/countering-isis/cr-countering-the-islamophobia-industry.pdf; See also ELLY BULKIN & DONNA NEVEL, *ISLAMOPHOBIA & ISRAEL*, ROUTE BOOKS (2014) at 11-38.

135 *Extremist Files: Robert Spencer*, SOUTHERN POVERTY LAW CENTER, <https://www.splcenter.org/fighting-hate/extremist-files/individual/robert-spencer>.

136 *About Robert Spencer and Staff Writers*, JIHAD WATCH, <https://robertspencer.org/about-robert>.

137 S. POVERTY L. CTR., *supra* note 135.

138 Robert Spencer, *Oklahoma Beheading Trial: Is Obeying the Qur’an a Form of Mental Illness?* PJ MEDIA (Sept. 27, 2017), <https://pjmedia.com/homeland-security/robert-spencer/2017/09/27/oklahoma-beheading-trial-obeying-quran-form-mental-illness-n98195>.

In addition to conducting seminars for U.S. military and intelligence audiences, Spencer has written in a variety of news and media outlets, appeared on numerous television, radio, and internet programs, and spoken at dozens of universities. He also wrote an entire book demonizing the Palestinians, *The Palestinian Delusion*.¹³⁹ The book's promotional materials state that “The Palestinian Delusion is unique in situating the Israeli/Palestinian conflict within the context of the global jihad.” The intent to connect Islamophobic tropes of Muslims as terrorists with hatred for Palestinians could not be clearer. Spencer was a favorite “expert” of Donald Trump’s chief political strategist, Steve Bannon.¹⁴⁰ He has praised Spencer and called Jihad Watch a “go-to site.”¹⁴¹

Another recipient of substantial amounts of the Islamophobia network’s funding is Daniel Pipes, head of the Middle East Forum (MEF). As far back as 1990, Pipes wrote, “Western European societies are unprepared for the massive immigration of brown-skinned peoples cooking strange foods and maintaining different standards of hygiene.”¹⁴² Pipes has only deepened his xenophobic views in the intervening years. In 2017, Pipes proclaimed that Muslim refugees in Europe will bring about “The replacement of European civilization with Islamic civilization,” mirroring the “Great Replacement Theory” propagated by American white supremacist organizations.¹⁴³

The MEF, under Pipes’ direction, sponsors multiple projects and activities that smear and attack Muslims and Arabs who speak or write critically on Israeli state practices. These include, among others:

- **Campus Watch** which claims that it “reviews and critiques Middle East studies in North America, with an aim to improving them,”¹⁴⁴ but in practice excoriates scholars who do not hold to MEF’s views on the Middle East, which mostly center on unconditional support for Israel and a profound prejudice against Muslims.
- **Islamist Watch** claims it “combats nonviolent Islamism in the West on the premise that while violent jihad gets headlines, nonviolent jihad — in the media, courts, prisons, and ballot box — gets results.”
- **The Washington Project** “monitors and influences U.S. policy in the Middle East with a special interest in Iran and Israel.” It works to lobby the U.S. government to adopt policies such as redefining Palestinian refugees, and, in tandem with The Israel Victory Project to orient U.S. policy toward backing an Israel victory over the Palestinians rather than seek a compromise or diplomatic agreement.

Other organizations that propagate Islamophobia and anti-Palestinian racism include:

- **Investigative project on Terrorism**, led by Steven Emerson, claims to “provide briefings to U.S. government and law enforcement agencies, members of Congress and congressional committees, and print and electronic media on terrorist financing and operational networks of Al Qaeda, Hamas, Hezbollah, Islamic Jihad, and the rest of the worldwide Islamic militant spectrum.”¹⁴⁵

139 ROBERT SPENCER, *THE PALESTINIAN DELUSION: THE CATASTROPHIC HISTORY OF THE MIDDLE EAST PEACE PROCESS*, BOMBARDIER BOOKS (2019).

140 See *Factsheet: Robert Spencer*, BRIDGE: A GEORGETOWN UNIVERSITY INITIATIVE, <https://bridge.georgetown.edu/research/factsheet-robert-spencer-2/> (last visited July 10, 2023).

141 Jihad Watch Video, *Robert Spencer on Breitbart: The Complete Infidel’s Guide to Iran*, YOUTUBE (July 12, 2016), https://www.youtube.com/watch?v=J6H1adN4V_Y. For other quotes from Bannon about Spencer, see *Robert Spencer on National Security Experts Opposing Trump and More*, SIRIUSXM NEWS & ISSUES, <https://soundcloud.com/siriusxm-news-issues/robert-spencer-on-national-security-experts-opposing-trump-and-more>.

142 Daniel Pipes, *The Muslims are Coming! The Muslims are Coming! - Growth of Muslimphobia*, NAT’L R. (Nov. 19, 1990), <https://web.archive.org/web/20180418144037/http://www.danielpipes.org/rr/198.html>. (last retrieved Oct. 27, 2022).

143 Daniel Pipes, *Syria, Security, Migration, and Eurabia: An Interview*, MIDDLE E. F. (Dec. 7, 2017), <https://www.danielpipes.org/18088/syria-security-migration-and-eurabia>. For an explanation of the Great Replacement Theory, see Masood Farivar, *What is the Great Replacement Theory?*, VOICE OF AM. (May 18, 2022), <https://www.voanews.com/a/what-is-the-great-replacement-theory-6578349.html>. For descriptions of its spread in the United States, see Elie Rieve, *How White ‘Replacement Theory’ Evolved From Elderly Racists to Teens Online to the Alleged Inspiration For Another Racist Mass Homicide*, CNN (May 21, 2022), <https://www.cnn.com/2022/05/20/us/replacement-theory-white-supremacist-buffalo-shooter/index.html>. For its spread globally, see Daniel Byman, *The Global Roots of the Buffalo Shooting*, FOREIGN POL’Y (May 16, 2022), <https://foreignpolicy.com/2022/05/16/buffalo-mass-shooting-white-supremacist-terrorism-great-replacement-theory/>.

144 *About Campus Watch*, MIDDLE E. F., <https://www.meforum.org/campus-watch/about> (last visited July 10, 2023).

145 Steve Emerson, *Biography*, PUNDICITY, <https://www.steveemerson.com/about/>.

- **Center for Security Policy (CSP)**, led by Frank Gaffney, claims it works to “secure America’s founding principles and freedom through forthright national security analysis and policy solutions.”¹⁴⁶ CSP has been a central source for anti-Muslim conspiracy theories that Muslims are infiltrating the U.S. government and of “creeping sharia.” Gaffney is sufficiently noxious that the Conservative Political Action Conference (CPAC) banned him, although he maintains relationships with mainstream political allies, including lawmakers, according to the Southern Poverty Law Center.¹⁴⁷ Gaffney was also an advisor to the failed 2016 presidential campaign of Sen. Ted Cruz (R-TX). In 2017, Gaffney described Muslims as follows: “They essentially, like termites, hollow out the structure of the civil society and other institutions for the purpose of creating conditions under which the jihad will succeed.”¹⁴⁸
- **ACT for America**, led by Brigitte Gabriel, claims to “educate, engage, train, and mobilize citizens to ensure the safety and security of Americans against all threats foreign and domestic while preserving civil liberties guaranteed by the US Constitution.”¹⁴⁹ In a 2007 speech, Gabriel stated, “The difference, my friends, between Israel and the Arabic world is quite simply the difference between civilization and barbarism. It’s the difference between good and evil, and this is what we’re witnessing in the Arab and Islamic world. I am angry. They have no soul! They are dead set on killing and destruction.”¹⁵⁰ ACT for America played a central role in the controversy over the construction of a Mosque in downtown Manhattan, not far from where the World Trade Center stood. The organization used the media attention to launch their first anti-Muslim national conference in 2010.¹⁵¹ In her 2018 book, Gabriel writes, “Unless the West wakes up to the fact that their culture and way of life is eroding through immigration from the Islamic world, the values of the Islamic world will soon overtake us.”¹⁵² Her staunch support for Israel is also grounded in Islamophobic and anti-Palestinians tropes.¹⁵³
- **Zionist Organization of America (ZOA)**, led by Morton Klein, has supported white nationalist leader Steve Bannon and hosted him as featured speaker at their gala dinner in 2016.¹⁵⁴ The ZOA attacked Donald Trump’s national security adviser, H.R. McMaster, for removing advisors with Islamophobic biases from their positions in 2017.¹⁵⁵

These organizations, along with others, foment hatred of Muslims and Palestinians among policy makers and the American public.

146 *About Us*, CTR FOR SEC. POL’Y, <https://centerforsecuritypolicy.org/our-mission/> (last visited July 10, 2023).

147 *Extremist Files: Center for Security Policy*, S. POVERTY L. CTR., <https://www.splcenter.org/fighting-hate/extremist-files/group/center-security-policy> (last visited July 10, 2023).

148 Scott Shane et al., *Trump Pushes Dark View of Islam to Center of U.S. Policy-Making*, NY TIMES (Feb. 1, 2017), <https://www.nytimes.com/2017/02/01/us/politics/donald-trump-islam.html>.

149 *Our Mission*, ACT FOR AM., <https://www.actforamerica.org/our-mission>.

150 *Countering the Islamophobia Industry Toward More Effective Strategies*, CARTER CTR (May 2018), https://www.cartercenter.org/resources/pdfs/peace/conflict_resolution/countering-isis/cr-countering-the-islamophobia-industry.pdf.

151 See Abigail Hauslohner, *How A Series Of Fringe Anti-Muslim Conspiracy Theories Went Mainstream — Via Donald Trump*, WASH. POST (Nov. 5, 2016), https://www.washingtonpost.com/national/how-a-series-of-fringe-anti-muslim-conspiracy-theories-went-mainstream--via-donald-trump/2016/11/05/7c366af6-8bf0-11e6-bf8a-3d26847eed4_story.html. Southern Poverty Law Center, *Act for America*, <https://www.splcenter.org/fighting-hate/extremist-files/group/act-america>

152 Southern Poverty Law Center, *Act for America*, <https://www.splcenter.org/fighting-hate/extremist-files/group/act-america> (quoting *Rise: In Defense of Judeo-Christian Values and Freedom*).

153 Deena Yellin, *An Inside Ally*, THE JERUSALEM POST (June 25, 2009), <https://www.jpost.com/magazine/features/an-inside-ally>

154 David Neiwart, *Stephen Bannon’s Inclusion at ZOA Dinner Opens Rift Among American Jewish Groups*, S. POVERTY L. CTR.: HATEWATCH (Nov. 18, 2016), <https://www.splcenter.org/hatewatch/2016/11/18/stephen-bannons-inclusion-zoa-dinner-opens-rift-among-american-jewish-groups>.

155 *ZOA: NSC’s McMaster – Reassign Him to Area Not Dealing with Israel or Iran*, ZIONIST ORG. OF AM. (Aug. 9, 2017), <https://zoa.org/2017/08/10371905-zoa-nscs-mcmaster-reassign-him-to-area-not-dealing-with-israel-or-iran/>.

“ An Islamophobia network of organizations and demagogues seek to criminalize Islam by propagating Islamophobic tropes that Muslims are presumptively antisemitic, especially those who defend Palestinians’ human rights.”

THE ISLAMOPHOBIC NETWORK PROPAGATES ANTI-PALESTINIAN RACISM

Organizations that propagate anti-Muslim hate often seek to also spread anti-Palestinian prejudice. For example, in 2021 the Center for Security Policy published a series of articles calling for the continued withholding of aid for Palestinian refugees who depended on it.¹⁵⁶ CSP made unfounded allegations that “Palestinian gangs” were assaulting Jews in the United States along with other “violent, pro-Palestinian attacks;” and alleged, without evidence, that Students for Justice in Palestine was affiliated with Hamas.¹⁵⁷ These were only a few of CSP’s articles in 2021 intended to demonize Palestinians.

Likewise, Steven Emerson of the Investigative Project on Terrorism has frequently been accused of spreading Islamophobia, and in January 2022, evidence was made public of his working with Israel to spy on the Council on American-Islamic Relations (CAIR).¹⁵⁸ In 2010, he criticized President Barack Obama for displaying concern about Palestinians in Gaza, claiming the President had “joined the world Hamas lobby— Islamic and European countries—in piling on Israel for creating such a humanitarian mess in Gaza, which in reality does not exist.”¹⁵⁹

The Zionist Organization of America has repeatedly issued statements implying that support for Palestinian rights is antisemitic. On December 31, 2021, in the wake of Archbishop Desmond Tutu’s death, Morton Klein tweeted, “Desmond Tutu was a human rights advocate for all non-Jews. Toward Jews he was a hater and antisemitic bigot as well as a hater of the Jewish State of Israel. He repeatedly made ugly false allegations against Jews and the Jewish State. He even personally ‘forgave’ the Nazis.”¹⁶⁰ Klein also called for a Jewish woman to be stripped of her appointment as communications director for the comptroller of New York City because, in a prior position, she had vociferously advocated for Palestinian rights and was “a friend of Jewhater (sic) Linda Sarsour,” a Palestinian-American activist.¹⁶¹

The most prominent organization working to thwart the rights and freedoms of Palestinians is the American Israel Public Affairs Committee (AIPAC). Although not directly connected with the Islamophobia network, it is the most influential nongovernmental organization in the formation of U.S. policy toward Palestine and Israel.¹⁶² AIPAC has often claimed to support a two-state solution to end Israel’s occupation of the West Bank

156 See Frank Gaffney, Jr., *We Must Not Reward Palestinian Attacks on Israel*, CTR FOR SEC. POL’Y: SECURE FREEDOM MINUTE (June 2, 2021), <https://centerforsecuritypolicy.org/we-must-not-reward-palestinian-attacks-on-israel/>.

157 See Kyle Shideler, *The Palestinian Uprising on American Streets Is About More Than Social Media*, CTR FOR SEC. POL’Y (May 24, 2021), <https://centerforsecuritypolicy.org/the-palestinian-uprising-on-american-streets-is-about-more-than-social-media/>.

158 For Emerson’s history of Islamophobia, including against Palestinians, see *Steven Emerson*, MILITARIST MONITOR (Jan. 15, 2015), <https://militarist-monitor.org/profile/steven-emerson/>. For the specific accusations from CAIR in 2022, see Michelle Boorstein & Hannah Allam, *A Cryptic Email, Then a Confession: How a Muslim Group Uncovered Moles*, WASH. POST (Jan. 12, 2022), <https://www.washingtonpost.com/religion/2022/01/12/cair-islam-muslims-surveillance-ohio-romin-iqbal-dar-al-hijrah-tariq-nelson/>.

159 See Steven Emerson, *President Obama Rewards The Hamas Lobby*, FORBES (June 22, 2010), <https://www.forbes.com/2010/06/22/israel-hamas-obama-politics-opinions-contributors-steven-emerson.html?sh=7e08b73f5d74>.

160 See Morton Klein (@MortonAKlein7), TWITTER (Dec. 31, 2021), <https://twitter.com/MortonAKlein7/status/1476952596762009606>.

161 See *id.* at (Jan. 14, 2022), <https://twitter.com/MortonAKlein7/status/148202613468348425>.

162 Before the 2022 election cycle, AIPAC, as a tax-deductible, charitable organization organized under 501(c)3 tax regulations, was not permitted to engage in campaign financing, and did not do so. Its name gives a different impression, but the “PAC” in that name stands for “Public Affairs Committee,” rather than “political action committee,” which describes campaign financing PACs. When this changed in 2022, as described at Alexander Sammon, *AIPAC Has Taken Over the Democratic Primary Process*, AM. PROSPECT (July 14, 2022), <https://prospect.org/politics/aipac-has-taken-over-the-democratic-primary-process/>, its new SuperPACS, AIPAC PAC and “United Democracy Project” immediately became a major force in financing campaigns against candidates who had expressed concern about the United States’ policies toward Israel. See Julia Conley, *AIPAC Super PAC Funnels Millions in Dark Money to Attack Progressive Candidates in Democratic Races*, SALON (May 17, 2022), https://www.salon.com/2022/05/17/aipac-super-pac-funnels-millions-in-dark-money-to-progressive-candidates-in-democratic-races_partner/.

But AIPAC had, for decades, been recognized as a major force in lobbying for hawkish policies toward Israel, the Palestinians, and any other countries of concern to the Israeli government. This was carried out through public, pro-Israel campaigning; nationally organized lobbying efforts that included paid lobbyists as well as trained volunteers; and analyses of candidates’ or incumbents’ records on Israel, which directed political action committee funds toward AIPAC-approved candidates. For descriptions of these processes, see M.J. Rosenberg, *This Is How AIPAC Really Works*, NATION (Feb. 14, 2019), <https://www.thenation.com/article/archive/aipac-omar-israel-congress-anti-semitism/>; Ryan Grim, *Pro-Israel Lobby Caught On Tape Boasting That Its Money Influences Washington*, INTERCEPT (Feb. 11, 2019), <https://theintercept.com/2019/02/11/ilhan-omar-israel-lobby-documentary/>; Plitnick & Toensing, *supra* note 47 ; Mearsheimer & Walt, *supra* note 3; J. J. GOLDBERG, *JEWISH POWER: INSIDE THE AMERICAN JEWISH ESTABLISHMENT*, ADDISON-WESLEY (1996); EDWARD TIVNAN, *THE LOBBY: JEWISH POLITICAL POWER AND AMERICAN FOREIGN POLICY*, SIMON AND SCHUSTER (1987).

and its siege on the Gaza Strip even as it simultaneously supports repressive policies.¹⁶³ Specifically, AIPAC defends impunity for Israeli expansion of settlements, accepts settlements as part of Israel and therefore subject to all the same protections the United States offers Israel within its internationally recognized borders, and declares Jerusalem as the “eternal, undivided capital of Israel.”¹⁶⁴

Overlapping funders of AIPAC and the Islamophobia network demonstrate the increasing influence of Islamophobia in legitimizing the dehumanization of Palestinians. For example, prominent funders of AIPAC over the years have included Nina Rosenwald, who also founded the right-wing Gatestone Institute. NBC News has characterized Gatestone as an “anti-Muslim think tank.” It is widely recognized as a purveyor of Islamophobia.¹⁶⁵ Rosenwald, who once served as a Democratic Party delegate and activist, is a former AIPAC board member, and a former member of the board of Daniel Pipes’ Middle East Forum.

Adam Milstein, another major funder of AIPAC, was forced to withdraw from speaking at AIPAC’s 2019 conference after calling Representative Ilhan Omar “a terrorist”¹⁶⁶ and questioning the loyalty to the United States of Palestinian-American Representative Rashida Tlaib.¹⁶⁷ It was not the first time Milstein had indulged in Islamophobic rhetoric against prominent figures who are also people of color. He previously “scoffed at President Barack Obama’s declaration that Islam is a ‘religion of peace,’ accused Obama of ‘cuddling up to Islam,’ and said the President wanted to destroy America.”¹⁶⁸ AIPAC also listed Daniel Pipes as an “adjunct scholar” and consulted with Frank Gaffney as a “military expert.”¹⁶⁹

News broadcaster and author Mehdi Hassan has described AIPAC as being “obsessed” with Rep. Omar.¹⁷⁰ During AIPAC’s 2019 policy conference in Washington, D.C., numerous speakers criticized Omar’s criticism of the Israel Lobby and Senator Chuck Schumer went so far as to equate Omar’s criticism of AIPAC with Donald Trump praising neo-Nazis in Charlottesville.¹⁷¹

AIPAC’s more explicit turn towards Islamophobia in recent years has come as pro-Palestinian voices have become more prominent generally, and, particularly, as the Democratic Party’s base has become more and more sympathetic to the plight of the Palestinians. Various polls, from various polling organizations, since 2021 have successively and increasingly shown this shift in allegiances.¹⁷² As Democrats and young Americans have moved away from Israel, Zionist advocacy has grown increasingly desperate, ugly, and more outwardly racist and Islamophobic.

163 See Jewish Telegraphic Agency, *AIPAC Underscores Commitment to Two-State Solution*, TIMES OF ISRAEL (Oct. 19, 2018), <https://www.timesofisrael.com/aipac-underscores-commitment-to-two-state-solution/>.

164 See AIPAC, TWITTER (Nov. 18, 2019), https://twitter.com/AIPAC/status/1196523841607983104?ref_src=twsrc%5Etfw (discussion of stance on Jerusalem), AIPAC, TWITTER (Nov. 18, 2019), <https://twitter.com/AIPAC/status/1196523841607983104> ([asserting](#) AIPAC takes no position on West Bank Israeli settlements). AIPAC, TWITTER (Nov. 12, 2019), <https://twitter.com/aipac/status/1194268452531441665> (demanding that Israeli settlements be treated as part of Israel).

165 Heidi Przybyla, *John Bolton Presided Over Anti-Muslim Think Tank*, NBC NEWS (Apr. 23, 2018), <https://www.nbcnews.com/politics/white-house/john-bolton-chaired-anti-muslim-think-tank-n868171>.

166 Josh Nathan-Kazis, *Megadonor Who Withdrew From AIPAC Conference Has History Of Controversial Tweets*, FORWARD (Mar. 19, 2019), <https://forward.com/fast-forward/421149/adam-milstein-aipac-twitter-omar-tlaib-muslim/>.

167 *Id.*

168 Alex Kane, *Right-Wing Donor Adam Milstein has Spent Millions of Dollars to Stifle the BDS Movement and Attack Critics of Israeli Policy*, THE INTERCEPT (Mar. 25, 2019), <https://theintercept.com/2019/03/25/adam-milstein-israel-bds/>.

169 See Ali Gharib, *How AIPAC Mainstreams Anti-Muslim Hate*, NATION (Mar. 8, 2016), <https://www.thenation.com/article/archive/emerson-aipac-islamophobia/>.

170 Mehdi Hassan, *The Case Against AIPAC*, THE INTERCEPT (March 28, 2019), <https://theintercept.com/2019/03/28/the-case-against-aipac/>.

171 *Id.*

172 See, e.g. Shibley Telhami, *Most Americans, including half of young Democrats, disapprove of Biden’s handling of recent Gaza crisis*, BROOKINGS, (July 29, 2021), <https://www.brookings.edu/articles/most-americans-including-half-of-young-democrats-disapprove-of-bidens-handling-of-recent-gaza-crisis/>; Becka A. Alper, *Modest Warming in U.S. Views on Israel and Palestinians*, PEW RESEARCH CENTER (May 26, 2022), <https://www.pewresearch.org/religion/2022/05/26/modest-warming-in-u-s-views-on-israel-and-palestinians/>; Zoha Qamar, *More Democrats Than Ever Support The Palestinian Cause, And That’s Dividing The Party*, FIVETHIRTYEIGHT (Sep. 22, 2022) <https://fivethirtyeight.com/features/democrats-israeli-palestinian-conflict-divide/>; Lydia Saad, *Democrats’ Sympathies in Middle East Shift to Palestinians*, GALLUP (March 16, 2023) <https://news.gallup.com/poll/472070/democrats-sympathies-middle-east-shift-palestinians.aspx>.

Thus, it is hardly surprising that in 2021 AIPAC published a political ad defaming Rep. Omar as a “terrorist” for asking Secretary of State Antony Blinken whether international law protecting civilians should apply to all governments and armed groups equally, including the United States and Israel.¹⁷³ When a broad spectrum of Jewish groups published an open letter calling on AIPAC to retract its statements, which generated renewed death threats against the congresswoman, who is a Somali refugee and the only Muslim in Congress to wear a hijab, AIPAC doubled down.¹⁷⁴ Even staunch congressional allies of AIPAC such as House Majority Leader Steny Hoyer and Speaker Nancy Pelosi criticized the lobbying group for its incendiary rhetoric.¹⁷⁵ Hoyer stated “I disagree with the statements made by the members, but attacking them in ads does not advance the goal of increasing support for Israel,” while Pelosi said, “I don’t agree with Congresswoman Omar’s comments, but it’s very disappointing to see deeply cynical and inflammatory ads twisting her words.”¹⁷⁶



Figure 1 Twitter ad by AIPAC. Reprinted from Council on American-Islamic Relations, May 18, 2021, https://www.cair.com/press_releases/cair-calls-on-congressional-leaders-to-condemn-aipac-marjorie-taylor-greene-for-islamophobic-attacks-and-incitement-against-rep-ilhan-omar

To be sure, not all pro-Israel voices in Washington are motivated by Islamophobia. Prominent pro-Israel groups like J Street, Americans for Peace Now, Ameinu, and Partners for a Progressive Israel work tirelessly for what they see as Israel’s interests, which include, in their view, an equitable end to Israeli occupation and dispossession of Palestinians.¹⁷⁷

173 AIPAC accused of Islamophobia After Attacks on Ilhan Omar, AL JAZEERA (Aug. 12, 2021), <https://www.aljazeera.com/news/2021/8/12/aipac-accused-of-islamophobia-after-attacks-on-ilhan-omar>.

174 Dozens of Jewish-American Leaders Condemn AIPAC Ads targeting Ilhan Omar, MIDDLE EAST EYE (Aug. 13, 2021), <https://www.middleeasteye.net/news/us-dozens-jewish-american-leaders-condemn-aipac-ads-targeting-ilhan-omar>.

175 John Haltiwanger, Nancy Pelosi Calls Out AIPAC Over ‘Deeply Cynical’ and ‘Inflammatory’ Ad Attacking Ilhan Omar, BUSINESS INSIDER (May 21, 2021), <https://www.businessinsider.in/politics/world/news/nancy-pelosi-calls-out-aipac-over-deeply-cynical-and-inflammatory-ad-attacking-ilhan-omar/articleshow/82811459.cms>.

176 *Id.*

177 See About US, J STREET, <https://jstreet.org/about-us/>; About Us: Mission Statement, AMERICANS FOR PEACE NOW, <https://peacenow.org/page.php?id=679>; About Ameinu, AMEINU, <https://ameinu.net/about-ameinu/>; Mission Statement, PARTNERS FOR PROGRESSIVE ISRAEL, <https://www.progressiveisrael.org/about-us/mission/> (describing these groups’ visions and stances).

J Street directly called out the Center for Security Policy (CSP) for being Islamophobic, demanding that then-Israeli Ambassador to the United States Ron Dermer reject an award he was given by CSP.¹⁷⁸ Similarly, Americans for Peace Now campaigned in support of the Combating Islamophobia Act in 2021.¹⁷⁹ Other liberal, pro-Israel organizations have also included Islamophobia as a form of bigotry that they oppose and must be combated.¹⁸⁰ Although fighting Islamophobia is not their top priority, these groups acknowledge its pervasive presence. However, liberal Zionist organizations are not the loudest voices on Capitol Hill, and their funding and influence is not remotely comparable to the voices that are part of, or connected to, the Islamophobia Network.¹⁸¹

Another effective strategy for distorting the lens through which policymakers interpret Israeli and Palestinians' actions is dominating media coverage to exclude Palestinian voices.

“ A 2019 study of over 100,000 headlines in major U.S. newspapers found over four times more Israeli centric headlines than Palestinian ones and that coverage around the issue spikes during periods of escalated violence. ”

178 J STREET, *supra* note 124 .

179 See *Urge your Senators to Stand Up to Islamophobia*, AM. FOR PEACE NOW (Dec. 15, 2021), <https://peacenow.org/entry.php?id=39047>.

180 See *Open Letter to President-elect Donald J. Trump from Jewish American Organizations*, AMEINU (Nov. 18, 2016), <https://ameinu.net/news-and-opinion/letters-from-leadership/open-letter-to-president-elect-donald-j-trump-from-jewish-american-organizations/>.

181 For a comprehensive examination of the outsized influence of pro-Israeli lobbying groups on Capitol Hill, see Mearsheimer & Walt, *supra* note 3.

3

THE ISLAMOPHOBIC ANTI-PALESTINIAN NETWORK IN THE MEDIA

Stereotypes of Muslims, and especially Palestinians, as inherently violent and presumptively antisemitic are augmented by Islamophobic punditry and editorial framing in mainstream media. For example, on September 24, 2021, the Minneapolis Star-Tribune reprinted a column by Bret Stephens, the conservative opinion writer for the New York Times. Stephens' piece was sharply critical of several members of the House of Representatives for voting against additional funding for Israel to replenish the anti-missile rockets it used in its siege on Gaza in May.¹⁸²

The Minneapolis Star-Tribune changed the Times' headline. The original, "A Foul Play by Progressives Over Israel's Iron Dome," summed up Stephens' argument. But the Star-Tribune changed it to the more controversial headline, "Omar, 'squad,' launch another anti-Israel strike."¹⁸³ While it is reasonable to argue that the Minneapolis headline singled out Rep. Omar because she represents a local district, the violent language associated with one of two Muslims involved in the controversy was widely seen as demonizing Muslims.

A group of Minnesota citizens wrote a letter rebuking the Star-Tribune. They stated, "We do not feel it is necessary to explain why this represents a clear example of deeply seated racism and Islamophobia among the decision-makers at the paper. We do feel it is necessary to make clear that headlines like this increase threats of violence to Rep. Omar, her Muslim colleagues in Congress, and to the other women of color in elected office who are so often the targets of far-right racism, hatred, and violence."¹⁸⁴

The editorial board of the Minneapolis Star-Tribune was not accused of any connection to anti-Muslim organizations. Yet, Rep. Omar noted that the paper "regularly uses Islamophobic and racist language in their coverage of communities of color."¹⁸⁵ Such irresponsible journalism has put Muslims at risk of harassment, intimidation, and death threats.¹⁸⁶

In some cases, the media explicitly parrots Islamophobic messages. The late Pat Robertson, whose extant Christian Broadcasting Network "is a powerful amplifier of anti-Muslim views to Christian audiences,"¹⁸⁷ claimed that Islam is "not a religion," but "a violent political system bent on the overthrow of the governments of the world and world domination."¹⁸⁸ Robertson, who ran for the Republican presidential nomination in 1988, has long been an influence in mainstream, conservative, political circles with significant influence in evangelical Christian communities. His staunch support for Israel earned him a Lifetime Achievement Award for Support of Israel in 2008 by the Israel Allies Foundation.¹⁸⁹

182 Bret Stephens, *Omar, 'squad,' launch another anti-Israel strike*, NY TIMES (Sept. 24, 2021), <https://www.startribune.com/omar-squad-launch-another-anti-israel-strike/600100549/>.

183 Fatmeh Khaled, *Ilhan Omar Slams Newspaper's Op-Ed Board for Racist Language in Covering Communities of Color*, NEWSWEEK (Oct. 16, 2021), <https://www.newsweek.com/ilhan-omar-slams-newspapers-op-ed-board-racist-language-covering-communities-color-1639609>.

184 *An Open Letter to The Minneapolis Star Tribune*, <https://docs.google.com/forms/d/1S2Jj25DayyVtPTtG07FmEloZ7P5PD3Qe4l6R2WLD01U/> (last visited July 10, 2023).

185 Ilhan Omar (@IlhanMN), TWITTER (Oct. 15, 2021), https://twitter.com/IlhanMN/status/1449110474793103367?ref_src=twsrc^tfw.

186 Associated Press, *Ilhan Omar Airs Death Threat and Presses Republicans on 'Anti-Muslim Hatred'*, GUARDIAN (Dec. 1, 2021), <https://www.theguardian.com/us-news/2021/dec/01/ilhan-omar-air-death-threat-and-presses-republicans-on-anti-muslim-hatred>; Amanda Terkel, *Muslim Candidates Feel The Effect of Trump Attacks on Ilhan Omar*, HUFFINGTON POST (May 26, 2019), https://www.huffpost.com/entry/muslim-candidates-islamophobia-virginia_n_5ce2bda5e4b09e057808d0c5; Melissa Nanne Burke, *Tlaib chokes up as she reads death threat*, DETROIT NEWS (June 5, 2019), <https://www.detroitnews.com/story/news/local/michigan/2019/06/05/tlaib-chokes-up-she-reads-death-threat/3539223002/>; Answer Hassan, *Hayward City Council Member Aisha Wahab Becomes 1st Muslim, Afghan American Elected to CA Senate*, ABC7NEWS (Nov. 1, 2022), <https://abc7news.com/aisha-wahab-hayward-california-state-senate-ca/12479214/>.

187 *Christian Broadcasting Network*, ISLAMOPHOBIA NETWORK, <https://islamophobicnetwork.com/echo-chamber/christian-broadcasting-network/> (last visited July 10, 2023).

188 Kyle Mantila, *Robertson: Muslims Should Be Treated Like 'Some Fascist Group'*, PEOPLE FOR THE AMERICAN WAY: RIGHT WING WATCH (Nov. 10, 2009), <https://www.rightwingwatch.org/post/robertson-muslims-should-be-treated-like-some-fascist-group/>.

189 Pat Robertson, ISRAEL ALLIES FOUNDATION, <https://israelallies.org/pat-robertson> (last visited July 10, 2023).

Other well-known conservative pundits such as Sean Hannity, Glenn Beck, Alex Jones, and the late Rush Limbaugh merge their Islamophobic propaganda with anti-Palestinian racism. For example, in 2011, Limbaugh expressly stated, regarding the Palestinian right of return, “The complicating factor is there really no such thing as Palestine. It’s been created for the sake of this argument or this dispute, and there never were Palestinians. But there are now, of course, for the sake of prolonging, servicing, and animating this dispute.”¹⁹⁰ Such erasure of Palestinian identity is a common right-wing Zionist talking point.¹⁹¹

Likewise, Hannity, commenting on Israel’s 2021 bombing campaign in Gaza, showed complete disregard for innocent Palestinian life, saying, “But Hamas, they fire the missiles from, oh, schools and hospitals. And if anyone dies, innocent people, collateral damages as we say, that would be on them.”¹⁹² In a video presentation, Beck argued that the sole motivation for Palestinian nationalism, and for the support Palestinians get from progressives, is hatred of Jews.¹⁹³

Even purportedly leftist pundits such as Bill Maher, who reaches an average 800,000 viewers in his HBO show *Real Time with Bill Maher*, justify their support for Israel based on Islamophobic tropes.¹⁹⁴ Maher often repeats the false, right-wing, and racist “clash of civilizations” tropes that frame Islam as a violent, dangerous religion spread by the sword and paint Muslims in the West as a threat to national security.¹⁹⁵ Nearly as often repeated is Maher’s association of Hamas (a spinoff of the Palestinian branch of the Muslim Brotherhood) with all Palestinians in his defense of Israel’s violence against Palestinians.¹⁹⁶ Maher merges his Islamophobic views and unconditional support for Israel to discredit Muslim representatives like Ilhan Omar and Rashida Tlaib when they dare to offer a defense of Palestinian human rights.¹⁹⁷

Such overt media bias extends to politics. Indeed, if they are not already biased in favor of Israel, relentless, one-sided anti-Palestinian media coverage influences American politicians.

¹⁹⁰ See Rush Limbaugh, *There’s No Such Thing as Palestine*, THE RUSH LIMBAUGH SHOW (May 20, 2011), https://www.rushlimbaugh.com/daily/2011/05/20/there_s_no_such_thing_as_palestine/.

¹⁹¹ See e.g., Dafna Yee, *What Is “Palestinian Land” and Who Are the “Palestinians”?*, DANIEL PIPES MIDDLE EAST FORUM (Dec. 16, 2011), <https://www.danielpipes.org/comments/191737>; Robert Spencer, *Israeli Finance Minister Says ‘There Is No Such Thing As A Palestinian People,’ US Says ‘We Utterly Object’*, JIHADWATCH (Mar. 22, 2023), <https://www.jihadwatch.org/2023/03/israeli-finance-minister-says-there-is-no-such-thing-as-a-palestinian-people-us-says-we-utterly-object>; Daniel Pipes, *Newt Gingrich and the “Invented” Palestinian People*, (December 10, 2011, updated April 2, 2023), DANIEL PIPES MIDDLE EAST FORUM, <https://www.danielpipes.org/blog/2011/12/newt-gingrich-and-the-invented-palestinian-people>.

¹⁹² *Sean Hannity and Lindsey Graham Agree Israel Should Keep Bombing Gaza (Video)*, WRAP (May 18, 2021), <https://www.thewrap.com/sean-hannity-and-lindsey-graham-agree-israel-should-keep-bombing-gaza-video/>.

¹⁹³ BLAZE TV, *The Real Story Behind Israel and the Palestinians | Glenn Beck Program*, YOUTUBE (Sep. 19, 2014) <https://www.youtube.com/watch?v=yZdvXNQ50M>.

¹⁹⁴ USTVDB, *Real Time with Bill Maher*, <https://ustvdb.com/networks/hbo/shows/real-time-bill-maher/>. Douglas Pucci, *‘Real Time With Bill Maher’ Starts 20th Season With Similar Ratings Performance* (Jan. 31, 2022), <https://barrettnewsmedia.com/2022/01/31/real-time-with-bill-maher-starts-20th-season-with-similar-ratings-performance/>

¹⁹⁵ The Bridge Initiative, *Factsheet: Bill Maher* (Dec. 8, 2017), <https://bridge.georgetown.edu/research/factsheet-bill-maher/>

¹⁹⁶ Danielle Berin, *Bill Maher on Israel, uncut and uncensored*, JEWISH JOURNAL (Nov. 29, 2012), <https://jewishjournal.com/culture/arts/hollywood/110764/bill-maher-on-israel-uncut-and-uncensored/>; Alan Macleod, *The Phony Liberalism of Bill Maher*, FAIR (Oct. 2, 2019), <https://fair.org/home/the-phony-liberalism-of-bill-maher/comment-page-3/>;

JTA, *Bill Maher defends Israel’s Gaza operation on his HBO show*, THE TIMES OF ISRAEL (May 31, 2021), <https://www.timesofisrael.com/bill-maher-defends-israels-gaza-operation-on-his-hbo-show/>; Zachary Laub and Kali Robinson, *What is Hamas*, COUNCIL ON FOREIGN RELATIONS (Aug. 8, 2023), <https://www.cfr.org/background/what-hamas>

¹⁹⁷ Jesse Byrnes, *The Hill* (Aug. 17, 2019), *Maher rails against anti-Israel boycott movement: ‘A bulls — purity test’ for Democrats*, <https://thehill.com/homenews/media/457800-maher-rails-against-anti-israel-boycott-movement-a-bulls-purity-test-for/>.

4

ISLAMOPHOBIA'S INFLUENCE ON POLITICS

Republican presidential candidate John McCain was holding a town hall meeting in 2008 where an audience member said she did not trust Democratic candidate Barack Obama because “he’s an Arab.” McCain responded, “No, ma’am. He’s a decent family man [and] citizen that I just happen to have disagreements with on fundamental issues and that’s what this campaign’s all about. He’s not [an Arab].” The media response was to praise McCain for “defending Obama.”¹⁹⁸ An opinion piece in the Chicago Tribune stated, “McCain wasn’t merely a politician, but a true patriot.”¹⁹⁹ Voices criticizing McCain for the clear implication that “an Arab” is not decent, not a “family man,” were muted and marginalized. To this day, McCain’s response is held up as a model of fair play in elections, with the clear anti-Arab racism largely ignored.²⁰⁰

McCain’s implicit denigration of “Arabs” as indecent was also reflected in a speech he gave a few months earlier, in June 2008. Speaking to the AIPAC policy conference, McCain said, “We must also ensure that Israel’s people can live in safety until there is a Palestinian leadership willing and able to deliver peace.”²⁰¹ Such victim blaming discourse displays a troubling indifference to the lack of freedom and basic rights afforded to Palestinians under Israeli occupation in the West Bank and the siege of the Gaza Strip.²⁰²

Studies have documented a sharp, though not always consistent, anti-Palestinian bias at the New York Times, despite the frequent accusations against the paper of record by supporters of Israel that it is biased in favor of Palestinians.²⁰³ According to Nadim Nashif, executive director of 7amleh, a Palestinian digital rights non-profit, “There is no equal coverage and a blatant dismissal of the pain, damages, oppression and in many ways dehumanization that Palestinians are experiencing on top of the inequalities of daily life here.” Likewise, a 2019 study of over 100,000 headlines in major U.S. newspapers found over four times more Israeli-centric headlines than Palestinian ones and that coverage around the issue spikes during periods of escalated violence.²⁰⁴ Minimal, if any, media attention is given to the day-to-day violence that Palestinians experience under Israel’s military occupation of the West Bank and East Jerusalem, and its siege of the Gaza Strip.²⁰⁵ In such a political and media atmosphere, anti-Palestinian bias, not facts, shape the views of most U.S. leaders, especially those who are not specialists in Palestine and Israel.

198 See Emily Stewart, *Watch John McCain Defend Barack Obama Against a Racist Voter in 2008*, VOX, (Sept. 1, 2018), <https://www.vox.com/policy-and-politics/2018/8/25/17782572/john-mccain-barack-obama-statement-2008-video> (describing both the original incident and the media response to it).

199 Jerry Davich, ‘No, Ma’am’: McCain Wasn’t Merely a Politician, But a True Patriot, CHICAGO TRIBUNE (Aug. 30, 2018), <https://www.chicagotribune.com/suburbs/post-tribune/opinion/ct-ptb-davich-john-mccain-no-maam-moment-st-0831-story.html>.

200 Stewart, *supra* note 198.

201 Howard LaFranchi, *Obama and McCain Diverge on Israeli-Palestinian Conflict*, CHRISTIAN SCI. MONITOR (July 22, 2008), <https://www.csmonitor.com/USA/Politics/2008/0722/p01s01-uspo.html>

202 Diana Buttu, *Blaming the Victim*, 44, J. PALESTINE STUD. 1, 91-96 (Autumn 2014). See also EDWARD SAID ET AL., *BLAMING THE VICTIMS: SPURIOUS SCHOLARSHIP AND THE PALESTINIAN QUESTION*, VERSO (2001).

203 Holly M. Jackson, *The New York Times Distorts the Palestinian Struggle: A Case Study of Anti-Palestinian Bias in American News Coverage of the First and Second Palestinian Intifadas*, MIT (May 19, 2021), http://web.mit.edu/hjackson/www/The_NYT_Distorts_the_Palestinian_Struggle.pdf.

204 Usaid Siddiqui & Owais A. Zaheer, *50 Years of Occupation, a Sentiment & N-Gram Analysis of U.S. Mainstream Media Coverage of the Israeli Occupation of Palestine*, 416 LABS (Dec. 18, 2019), [http://www.dci.plo.ps/en/article/11434/416-LABS-50-years-of-occupation,-a-sentiment-&-N-Gram-analysis-of-US-mainstream-media-coverage-of-the-Israeli-occupation-of-Palestine-\(December-18,-2019\)](http://www.dci.plo.ps/en/article/11434/416-LABS-50-years-of-occupation,-a-sentiment-&-N-Gram-analysis-of-US-mainstream-media-coverage-of-the-Israeli-occupation-of-Palestine-(December-18,-2019)).

205 *Id.*

The inherent suspicion of Muslims is nothing new, but it has certainly intensified since the September 11 attacks. According to a study released in November 2015 by 416Labs, the New York Times portrayed Islam and Muslims more negatively than alcohol, cancer, and cocaine, among other benchmarked words.²⁰⁶ One particularly pernicious Islamophobic trope has alarmingly gained traction in American society: Muslims are presumptively antisemitic. This negative stereotype adversely impacts the livelihoods, individual rights, and dignity of Muslims across the United States.

206 Dorgham Abusalim, *Study: 'NYT' Portrays Islam More Negatively than Alcohol, Cancer, and Cocaine*, MONDOWEISS (March 5, 2016), <https://mondoweiss.net/2016/03/study-nyt-portrays-islam-more-negatively-than-alcohol-cancer-and-cocaine/>.



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ANNEXATION

THE ISLAMOPHOBIC TROPE OF A UNIQUELY MUSLIM ANTISEMITISM

1

DEFENDING PALESTINIAN
HUMAN RIGHTS IS DISCREDITED
AS ANTISEMITIC

2

DIVERTING THE FIGHT AGAINST
REAL ANTISEMITISM

3

WEAPONIZING ISLAMOPHOBIC
TROPES AGAINST MUSLIM
POLITICIANS

4

DUAL HARM TO JEWS AND
MUSLIMS

The fallacy that all Muslims are presumptively antisemitic is increasingly deployed by Zionist groups to eliminate critical debate inclusive of Palestinian experiences. Muslims or Arabs criticizing Israel's state practices are presumed to be motivated by antisemitism, not a commitment to universal human rights or social justice principles. The consequence is twofold: the marginalization of Muslim and Arab voices from public discourse on U.S. foreign policy affecting Palestine and Israel and undermining solidarity efforts between Jewish and Muslim communities.²⁰⁷

““ The presumption that Muslims are antisemitic until individually proven otherwise is a component of the so-called ‘New Antisemitism,’ which is strategically conflated with anti-Zionism.””

²⁰⁷ For a review of the impact of Islamophobia on policy and, specifically in dividing Jewish and Muslim communities, see Hatem Bazian, *Islamophobia, “Clash of Civilizations,” and Forging a Post-Cold War Order*, 9 RELIGIONS, 9, 282 (2018), <https://doi.org/10.3390/re19090282>.



DEFENDING PALESTINIAN HUMAN RIGHTS IS DISCREDITED AS ANTISEMITIC

Israel's killing of Palestinian American journalist Shireen Abu Akleh is illustrative of how Islamophobia devalues Palestinian life.²⁰⁸ On May 11, 2022, Abu Akleh (who is Christian) was shot and killed in Jenin, in the West Bank, while reporting. Several eyewitness reports, all consistent with each other, indicated there was no exchange of fire at that time between the Israeli security forces on the scene and any Palestinian militants, who, as it was later established, were out of range of Abu Akleh. Notwithstanding that the witnesses' accounts are supported by investigations by the New York Times,²⁰⁹ Washington Post,²¹⁰ CNN,²¹¹ the Associated Press,²¹² Bellingcat,²¹³ and the United Nations Office of the High Commissioner for Human Rights,²¹⁴ the U.S. State Department limited its investigation to an inconclusive examination of the bullet that killed Abu Akleh and a review of the Israeli and Palestinian investigations.

The finding failed to satisfy Abu Akleh's Senate representatives, Robert Menendez (D-NJ) and Cory Booker (D-NJ), who co-authored a letter expressing their dissatisfaction and demanding a more thorough and transparent investigation.²¹⁵ When asked about this evidence, Secretary of State Antony Blinken responded, "I'm sorry, with respect, [the facts] have not yet been established... We are looking for an independent, credible investigation. When that investigation happens, we will follow the facts, wherever they lead. It's as straightforward as that."²¹⁶ Blinken's assertion that facts had not been established is stunning, especially because Israeli officials stated they would not conduct a criminal investigation of the incident.²¹⁷

Why was credible and substantiated eyewitness testimony not recognized as valid evidence by the Secretary of State, when no other testimony or evidence contradicted it? The only evident reason was that the witnesses and victim were Palestinian, and the U.S. government determined that Palestinian testimony was not trustworthy, that a Palestinian life was not worth the hassle. This stereotype goes beyond simply favoring a U.S. ally. It speaks to an Islamophobic belief that Muslim and Arab lives do not matter. Nor can they be trusted as witnesses to, or victims of, wrongdoing by Israelis. Only after significant advocacy by human rights organizations did the U.S. Department of Justice finally decide to open an investigation into the killing of Abu Akleh.²¹⁸

208 For investigations concluding that Israeli forces killed Abu Akleh, see, Raja Abdulrahim, et al., *The Killing of Shireen Abu Akleh: Tracing a Bullet to an Israeli Convoy*, NY TIMES (June 20, 2022), <https://www.nytimes.com/2022/06/20/world/middleeast/palestinian-journalist-killing-shireen.html>; Sarah Cahlan et al., *How Shireen Abu Akleh Was Killed*, WASH. POST (June 12, 2022), <https://www.washingtonpost.com/investigations/interactive/2022/shireen-abu-akleh-death/>; Zeena Saifi et al., *'They Were Shooting Directly at the Journalists': New Evidence Suggests Shireen Abu Akleh was Killed in Targeted Attack by Israeli Forces*, CNN (May 26, 2022), <https://www.cnn.com/2022/05/24/middleeast/shireen-abu-akleh-jenin-killing-investigation-cmd-intl/index.html>.

209 Abdulrahim et al., *supra* note 208.

210 Cahlan, et al., *supra* note 208.

211 Saifi, et al., *supra* note 208.

212 Joseph Krauss, *Review Suggests Israeli Fire Killed Reporter, No Final Word*, ASSOC. PRESS (May 24, 2022), <https://apnews.com/article/politics-west-bank-middle-east-israel-8df6c999627efcef2fe0ca2b401e7a2c>.

213 Bellingcat Investigative Team, *Unravelling the Killing of Shireen Abu Akleh*, BELLINGCAT (May 14, 2022), <https://www.bellingcat.com/news/mena/2022/05/14/unravelling-the-killing-of-shireen-abu-akleh/>.

214 *Abu Akleh Shooting: Fatal Shot Came from Israeli Forces, Says OHCHR*, U.N. NEWS (June 24, 2022), <https://news.un.org/en/story/2022/06/1121252>.

215 *Senators Menendez, Booker Pen Letter to POTUS on Investigations into Death of NJ Resident, Palestinian-American Journalist Shireen Abu Akleh*, U.S. SENATE FOREIGN RELATIONS COMM. (July 12, 2022), <https://www.foreign.senate.gov/press/chair/release/senators-menendez-booker-pen-letter-to-potus-on-investigations-into-death-of-nj-resident-palestinian-american-journalist-shireen-abu-akleh>.

216 Agence France-Presse, *Blinken Says US Will 'Follow Facts' on Abu Akleh Killing*, AL-MONITOR (June 8, 2022), <https://www.al-monitor.com/originals/2022/06/blinken-says-us-will-follow-facts-abu-akleh-killing>.

217 *See Israel Will Not Investigate Shireen Abu Akleh's Killing*, AL JAZEERA (May 19, 2022), <https://www.aljazeera.com/news/2022/5/19/israel-will-not-investigate-killing-of-shireen-abu-akleh-report>.

218 Patrick Kingsley, *U.S. Investigating Killing of Al Jazeera Journalist in West Bank, Israel Says*, NY TIMES (Nov. 12, 2022), <https://www.nytimes.com/2022/11/14/world/middleeast/shireen-abu-akleh-justice-department.html>.

As one pro-Israel activist put it, it is antisemitic to “...blame Israel for all their problems, view the Jewish state as an illegitimate colonial presence on their land, believe that violence against Israelis is justified and even laudable, believe that Jews are bloodthirsty and dishonest, and are predisposed to take at face value even the most absurd accusations against these uniquely evil enemies.”²¹⁹ According to this reasoning, it is the Islamophobic belief that Palestinians (who are presumed to all be Muslims) are motivated not by their own interests in freedom and dignity but by a hatred for Jews that renders them inherently untrustworthy. Perversely, antisemitic stereotypes are deployed to propagate Islamophobic and anti-Palestinian stereotypes.

The presumption that Muslims are antisemitic until individually proven otherwise is a component of the so-called “New Antisemitism,” which is strategically conflated with anti-Zionism. Although this tactic targets a wide range of supporters of Palestinian rights, not only Muslims, for the purpose of chilling their free speech activities, the label “antisemitic” goes unchallenged when leveled at Muslims.²²⁰ Professor Amy Kaplan’s research finds that, “[n]ew accusations of new anti-Semitism started targeting human rights groups in the 1990s... Since 2001, the new anti-Semites have taken the stereotypical form of ‘Islamofascists,’ who purportedly fuse anti-Semitism with anti-Americanism. In this decade, the ADL and other organizations have launched campaigns to criminalize the Boycott, Divestment and Sanctions (BDS) movement as the newest of the new forms of ‘anti-Semitism.’”²²¹ Kaplan’s point demonstrates the blanket use of spurious accusations of antisemitism to stifle criticism of Israeli policies toward the Palestinians. Equally problematic is how unfounded allegations of antisemitism divert attention away from antisemitic attacks against Jews in the United States.

219 Jonathan Greenberg, *Let’s Stop Pretending Palestinians Want Peace*, OBSERVER (Nov. 9, 2015), <https://observer.com/2015/11/lets-stop-pretending-palestinians-want-peace/>.

220 See *The Palestine Exception to Free Speech: A Movement Under Attack in the US*, CENTER FOR CONSTITUTIONAL RIGHTS (Sept. 2015), <https://ccrjustice.org/sites/default/files/attach/2015/09/Palestine%20Exception%20Report%20Final.pdf>.

221 Amy Kaplan, *The Old ‘New Anti-Semitism’ and Resurgent White Supremacy*, 283 MIDDLE E. REP. (Summer 2017), <https://merip.org/2018/02/the-old-new-anti-semitism-and-resurgent-white-supremacy/>.

2

DIVERTING THE FIGHT AGAINST REAL ANTISEMITISM

Mislabeling criticism of Israel's state practices as antisemitic blunts efforts against real antisemitism. A white paper produced by the Nexus Project defines antisemitism as “consist[ing] of anti-Jewish beliefs, attitudes, actions or systemic conditions. It includes negative beliefs and feelings about Jews, hostile behavior directed against Jews (because they are Jews), and conditions that discriminate against Jews and significantly impede their ability to participate as equals in political, religious, cultural, economic, or social life.”²²² The Nexus Project notes that “criticism of Zionism and Israel, opposition to Israel's policies, or nonviolent political action directed at the State of Israel and/or its policies should not, as such, be deemed antisemitic” and “opposition to Zionism and/or Israel does not necessarily reflect specific anti-Jewish animus nor purposefully lead to antisemitic behaviors and conditions.”²²³

However, the ADL includes criticism of Israel or Zionism in its definition of antisemitism. For example, the ADL stated that “[i]n 2021, 345 antisemitic incidents involved references to Israel or Zionism, compared to 178 in 2020. Of 2021's 345 anti-Zionist/anti-Israel-related incidents, 68 took the form of propaganda efforts by white supremacist groups to foment anti-Israel and antisemitic beliefs. Most of the remaining incidents were expressions of anti-Israel animus that incorporated antisemitic imagery or harassment and demonization of Jews for their connection – real or assumed – to Israel.”²²⁴

Although the ADL concluded “antisemitic incidents reached an all-time high in the United States in 2021, with a total of 2,717 incidents of assault, harassment and vandalism reported...” these numbers are inflated if they include criticism of Israeli state practices and policies.²²⁵

The ADL's conflation of criticism of a nation's practices and a political ideology with antisemitism diverts attention away from genuine violations of Jews' civil rights; in addition to chilling free speech.²²⁶ If similar reasoning applied to Iran, a self-avowed Islamic nation, then people that criticize Iran's state practices are presumptively Islamophobic—an absurd claim on its face.

Yet, labeling criticism of Israel as antisemitism is advanced by the International Holocaust Remembrance Alliance (IHRA). The definition, drafted for use as a data gathering tool, was amended with several examples that covered legitimate criticisms of Israel.²²⁷ The man who led the drafting of the IHRA definition, Kenneth Stern, argued that trying to use the definition as a guideline for regulations around hate speech and discrimination was inappropriate.²²⁸ Stern has expressed concern that the inappropriate use of the definition that he led in drafting could constitute a serious threat to free speech. “I am a Zionist, and anti-Zionism can be painful to hear. But on campus, students and faculty have a right to express these ideas and to expect those who object to push back. Asking the university to adopt a definition that says anti-

222 *The Nexus Document: Understanding Antisemitism at Its Nexus With Israel and Zionism*, ISRAEL & ANTISEMITISM (2021) <https://israelandantisemitism.com/the-nexus-document/> (last accessed July 10, 2023).

223 *Id.*

224 *Id.*

225 See *ADL Audit Finds Antisemitic Incidents in United States Reached All-Time High in 2021*, ADL (Apr. 25, 2022), <https://www.adl.org/news/press-releases/adl-audit-finds-antisemitic-incidents-in-united-states-reached-all-time-high-in>.

226 For the definition that is being widely, but controversially, adopted see *What Is Antisemitism? Non-Legally Binding Working Definition of Antisemitism*, INT'L HOLOCAUST REMEMBRANCE ALL., <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism> (last accessed July 10, 2023). For a compendium of critiques of this definition, see Lara Friedman, *Challenging the IHRA Definition of Antisemitism – Expert Views & Resources*, F. FOR MIDDLE E. PEACE (Apr. 24, 2023), <https://fmep.org/wp/wp-content/uploads/Challenging-the-IHRA-Definition-of-Antisemitism.pdf>. It is noteworthy that the lead writer of the IHRA definition has publicly criticized its use as a legal or regulatory framework. See Kenneth Stern, *I Drafted the Definition of Antisemitism. Rightwing Jews are Weaponizing it*, GUARDIAN (Dec. 13, 2019), [https://www.theguardian.com/commentisfree/2019/dec/13/antisemitism-executive-order-trump-chilling-effect;Remarks by Jonathan Greenblatt to the ADL Virtual National Leadership Summit](https://www.theguardian.com/commentisfree/2019/dec/13/antisemitism-executive-order-trump-chilling-effect;Remarks%20by%20Jonathan%20Greenblatt%20to%20the%20ADL%20Virtual%20National%20Leadership%20Summit), ADL, (May 3, 2022), <https://www.adl.org/news/remarks-by-jonathan-greenblatt-to-the-adl-virtual-national-leadership-summit>.

227 Michael Young, *Weaponizing the Antisemitism Accusation*, CARNEGIE MIDDLE EAST CENTER (June 6, 2023), <https://carnegie-mec.org/diwan/89880>

228 Stern, *supra* note 226

Zionism is in effect antisemitism is pernicious.”²²⁹

Israel is a country, like any other. Its policies are subject to criticism and condemnation, like any other country. Some criticisms are misplaced, exaggerated, mistaken, or in fact rooted in antisemitism.²³⁰ But most criticisms lodged by supporters of Palestinian human rights and adherents of international law are well-documented and established over many years. Human rights groups, including Amnesty International, Human Rights Watch, and Israel’s own leading human rights group B’Tselem, have concluded that Israel is an apartheid regime.²³¹ The strong international reputation of these groups and the considerable evidence they and Palestinian civil society groups have amassed cause allegations of antisemitism to fall flat. One need not agree with the conclusion that Israel is an apartheid state to recognize that the conclusion is based on substantial, publicly available evidence, not irrational racism.

229 Kenneth Stern, *We Need Better Ways to Speak to Each Other About Campus Antisemitism and Israel*, JEWTHINK (Jan. 4, 2021), <https://www.jewthink.org/2021/01/04/we-need-better-ways-to-speak-to-each-other-about-campus-antisemitism-and-israel/>.

230 David Duke, *Anti-Defamation League*, <https://www.adl.org/sites/default/files/David-Duke.pdf>.

231 HUMAN RIGHTS WATCH, *supra* note 7; AMNESTY INT’L, *supra* note 25.; B’TSELEM *supra* note 25.

3

WEAPONIZING ISLAMOPHOBIC TROPES AGAINST MUSLIM POLITICIANS

The Islamophobic trope that Muslims and Arabs are inherently antisemitic implies that they cannot be trusted as elected officials and policymakers.²³² In the report, #Islamophobia Stoking Fear and Prejudice in the 2018 Midterms,²³³ scholars cite numerous displays of Islamophobia directed at Muslim public figures that center around baseless accusations of antisemitism. For example, during Israel’s 2012 assault on the Gaza Strip, Ilhan Omar tweeted in protest of the war and challenged Israeli arguments and propaganda defending the assault. In 2018, as Omar was running for Congress, the tweet resurfaced. The report notes many of the responses, even angry ones, were purely political. But many others veered sharply into Islamophobia. One highlighted tweet reads, “@IlhanMN you would be goebbels employee of the month if this was June of 1938. kudos for that. you are a pristine specimen of the aggressor’s agenda advocates. down with the palestinian lie. am yisrael chai. settlers came back to stay. have a good day, rektfem. kisses.”²³⁴

In October 2019, after the white nationalist attack on the Tree of Life synagogue in Pittsburgh, Representative Omar was blamed. One tweet reads “@IlhanMN The blood is on your hands in Pittsburgh,” and “Minnesota synagogues will need armed guards if this Democrat is voted in.”²³⁵ Much of the Islamophobia dealt with the conflation of antisemitism with criticism of Israel.²³⁶ Representative Omar’s advocacy for Palestinian human rights and other progressive public policy issues has made her a frequent target of death threats.²³⁷

Similarly, Palestinian-American Representative Rashida Tlaib has been the target of vicious Islamophobic attacks and threats. “Of the 12,492 tweets (around the time of the 2018 primaries) tagging Rashida Tlaib, 29% contained Islamophobic/xenophobic language and another 22% attacked her outspoken sympathy for the Palestinian cause, often with Islamophobic and/or hate-filled language.”²³⁸ The following tweet, which references the Pittsburgh synagogue massacre, was retweeted 1,294 times:

If you are horrified that a Nazi killed 11 Jews yesterday, then you should be equally horrified at the fact Jihadi candidates who have the same hate for Jewish people are running for Congress in America. Meet @RashidaTlaib. A Palestinian who attacks Jews.²³⁹

Conflating white nationalists’ antisemitism with Muslim and Palestinian Americans speaking out for Palestinian human rights demonstrates the ease with which this Islamophobic trope is exploited to censor criticism of a state’s practices and policies.

In discussing the study of over 113,000 tweets, Professor Sahar Aziz highlights, “Notably, the trope of the Muslim as an anti-Semite was most frequently invoked. Xenophobic demands for Tlaib and Omar to go back to their countries came in a close second. Some tweets, as well as Republican politicians, went as far as accusing Ilhan Omar of inspiring the shooter of the massacre at the Tree of Life Synagogue in Pittsburgh that killed 11 and wounded seven Jewish worshippers.”²⁴⁰ Aziz further notes the irony of spurious,

²³² For a review of the impact of Islamophobia on policy and, specifically in dividing Jewish and Muslim communities, see Bazian, *supra* note 207.

²³³ Lawrence Pintaket et al., #Islamophobia: Stoking Fear and Prejudice in the 2018 Midterms, SOCIAL SCI. RSH COUNCIL (Nov. 5, 2019), <https://www.ssrc.org/publications/islamophobia-stoking-fear-and-prejudice-in-the-2018-midterms/>.

²³⁴ *Id.* at 22.

²³⁵ *Id.* at 23.

²³⁶ *Id.*

²³⁷ Associated Press, *Ilhan Omar airs death threat and presses Republicans on ‘anti-Muslim hatred’*, THE GUARDIAN (Dec. 1, 2021), <https://www.theguardian.com/us-news/2021/dec/01/ilhan-omar-airs-death-threat-and-presses-republicans-on-anti-muslim-hatred>

²³⁸ Pintaket, *supra* note 233 at 18.

²³⁹ *Id.*

²⁴⁰ Sahar F. Aziz, *Accusing Bernie Sanders of Anti-Semitism Is Nothing but Thinly Veiled Islamophobia*, NEW ARAB (Dec. 23, 2019), <https://english.alaraby.co.uk/opinion/accusing-sanders-anti-semitism-amounts-thinly-veiled-islamophobia>.

Islamophobic accusations of antisemitism against presidential candidate Bernie Sanders (who is Jewish) because he was endorsed by Representatives Rashida Tlaib and Ilhan Omar as well as Palestinian-American activist Linda Sarsour.²⁴¹

In accusing Tlaib and Omar of antisemitism, one writer in *Commentary* magazine wrote, “The two congresswomen have regularly claimed that Israel’s character as a Jewish state is incompatible with representative democratic governance, likened Israel to Nazi Germany [no evidence is offered by the writer for this accusation] and compared the Hamas-linked BDS movement to the Boston Tea Party.”²⁴² The idea that an ethno-national identity makes democracy impossible or that a non-violent resistance movement to gain rights for the indigenous people who have been denied them for decades (and is not, in fact, linked to Hamas) is hardly antisemitic. Hurling the epithet of “antisemitism” in such a way is intended to stifle rational debate about U.S. foreign policy and international human rights, while doing a disservice to earnest efforts to combat genuine antisemitism.²⁴³

241 Josefín Dolstein, *How Bernie Sanders Became a Favorite Among Muslim Americans*, JEWISH TELEGRAPHIC AGENCY (Oct. 23, 2019), <https://www.jta.org/2019/10/23/politics/how-bernie-sanders-became-a-favorite-among-muslim-americans>.

242 Noah Rothman, *The Case Against Ilhan Omar and Rashida Tlaib*, COMMENTARY (Aug. 20, 2019), <https://www.commentary.org/noah-rothman/the-case-against-ilhan-omar-and-rashida-tlaib/>.

243 For an explanation of the harm caused by false accusations of antisemitism, see Mairav Zonszein, *False Charges of Antisemitism are the Vanguard Of Cancel Culture*, +972 MAGAZINE (July 28, 2020), <https://www.972mag.com/weaponization-antisemitism-cancel-culture/>; Written Testimony of Kenneth Stern, U.S. House of Representatives, Comm. Judiciary (Nov. 7, 2017), <http://docs.house.gov/meetings/JU/JU00/20171107/106610/HHRG-115-JU00-Wstate-SternK-20171107.pdf>. Stern is credited with writing a widely accepted definition of antisemitism but has become critical of the way it has been used.

4

DUAL HARM TO JEWS AND MUSLIMS

The misuse of the label of antisemitism coupled with normalized Islamophobia in American society has made college campuses across the United States sites of censorship when it comes to Palestinian human rights and U.S. policy on Palestine-Israel.²⁴⁴ Students and faculty that host panels, conferences, or teach-ins find themselves targets of frivolous administrative complaints by those who disagree with the organizers’ or speakers’ viewpoints.²⁴⁵ The ADL and other Zionist organizations often intervene to collapse the crucial distinction between anti-Zionism and antisemitism, demanding that universities cancel events, punish students, and censure professors.²⁴⁶

On November 16, 2021, Palestine Legal and co-counsel Benjamin Douglas filed a civil rights complaint against George Washington University (GWU) with the District of Columbia’s Office for Human Rights alleging GWU violated the District of Columbia Human Rights Act (“DCHRA”), which prohibits discrimination on the basis of national origin and ethnicity at educational institutions.²⁴⁷ On June 2, 2021, the Office of Advocacy and Support (OAS) posted on social media that it would hold a virtual processing space for “the GW community members in the Palestinian diaspora who needed healing.” The post also stated that OAS was “proud to join others in the higher education community who have vocalized their support for Palestinian human rights and liberation”²⁴⁸ GWU students, many of whom had family and friends in Palestine, had witnessed Palestinians forced from their homes in the Sheikh Jarrah neighborhood in Jerusalem²⁴⁹ and killed in Gaza by the Israeli military in May 2021.²⁵⁰ Thus, OAS was extending trauma counseling and support “services to Palestinians and show support for Palestinian rights as it had for other groups,” including Asian, Black, and Jewish students.²⁵¹

In response to the GWU Hillel chapter’s executive director and numerous calls to then-GWU President Thomas LeBlanc complaining “about OAS’s virtual processing circle for Palestinian students and those impacted by anti-Palestinian violence as well as the post supporting Palestinian human rights,”²⁵² OAS was instructed to cancel the event and remove the social media posts. Adding insult to an already traumatized Palestinian American community, the GWU administration ordered the OAS to issue “an apology for

244 See David Greenberg, *The Campus War Over Israel*, DEMOCRACY: A JOURNAL OF IDEAS (Summer 2015), <https://democracyjournal.org/magazine/37/the-campus-war-over-israel/>; Ed Pilkington, *US Campuses Become a Growing Front in Israeli-Palestinian Conflict*, GUARDIAN (May 21, 2021), <https://www.theguardian.com/us-news/2021/may/21/us-campuses-sraeli-palestinian-conflict-universities>; *Campus Wars (Podcast)*, JEWISH CURRENTS (May 5, 2022), <https://jewishcurrents.org/campus-wars>; Elissa Salmay, *Clashing Opinions On College Campuses Over Israeli-Palestinian Conflict*, ABC NEWS4 (May 25, 2021), <https://abcnews4.com/news/nation-world/clashing-opinions-on-college-campuses-over-israel-palestine-conflict>.

245 Pilkington, *supra* note 244

246 See *Antisemitism and the Radical Anti-Israel Movement on U.S. Campuses, 2019*, ANTI-DEFAMATION LEAGUE (May 20, 2020), <https://www.adl.org/resources/report/antisemitism-and-radical-anti-israel-movement-us-campuses-2019>; *The Anti-Israel Movement on U.S. Campuses, 2020-2021*, ANTI-DEFAMATION LEAGUE (Dec. 7, 2021), <https://www.adl.org/resources/report/anti-israel-movement-us-campuses-2020-2021>; *Confronting Antisemitism on Campus*, HILLEL, <https://www.hillel.org/confronting-antisemitism/> (last visited July 10, 2023); *Incidents*, AMCHA INITIATIVE, <https://amchainitiative.org/search-by-incident/> (last visited July 10, 2023); Natasha Roth-Rowland, *Is the ‘Antisemitism Crisis’ on US College Campuses Real?*, 972MAGAZINE (June 28, 2023), <https://www.972mag.com/antisemitism-us-college-campuses/>; Alex Kane, *Right-Wing Donor Adam Milstein Has Spent Millions of Dollars to Stifle the BDS Movement and Attack Critics of Israeli Policy*, THE INTERCEPT (March 25, 2019), <https://theintercept.com/2019/03/25/adam-milstein-israel-bds/>.

247 *Palestine Legal Civil Rights Complaint Against George Washington University*, PALESTINE LEGAL (Nov. 8, 2021), <https://palestinelegal.org/case-studies/2022/1/28/anti-palestinian-discrimination-retaliation-at-george-washington-university>.

248 *Id.*

249 See the first-hand report, Mohammed El-Kurd, *Here in Jerusalem, We Palestinians are Still Fighting for Our Homes*, GUARDIAN (July 28, 2021), <https://www.theguardian.com/commentisfree/2021/jul/28/jerusalem-palestinians-homes>.

250 See the United Nations report on Israel’s actions in Gaza and the West Bank during the period of confrontation May 10-21, *Protection of Civilians Report I 24-31 May 2021*, U.N. OFFICE FOR THE COORDINATION OF HUMANITARIAN AFF. (June 4, 2021), <https://www.ochaopt.org/poc/24-31-may-2021>.

251 *Id.*

252 Palestine Legal, *Anti-Palestinian Discrimination & Retaliation at GW University*, January 28, 2022, <https://palestinelegal.org/case-studies/2022/1/28/anti-palestinian-discrimination-retaliation-at-george-washington-university>

offering a virtual processing circle and supporting Palestinian rights.”²⁵³ On June 3, 2021, OAS stated that the previous post “did not create a safe space for all members of our community,”²⁵⁴ clearly parroting the talking points of pro-Israel, anti-Palestinian Zionists. The reality that Palestinians are not even permitted to receive the same trauma services available to other communities (including Jewish communities) for grief caused by Israeli violence illustrates the extent of their dehumanization.

Two years prior, in February 2020, Case Western University canceled a workshop to be presented by the local chapter of Jewish Voice for Peace entitled “Anti-Semitism, Human Rights and the Struggle for Justice in Palestine,” which aimed to address how false accusations of antisemitism are weaponized by Zionist groups to stifle criticism of Israel.²⁵⁵ The workshop was replaced by a program on antisemitism by the Anti-Defamation League, a staunchly pro-Israel organization that labels criticism of Zionism as antisemitism.²⁵⁶ Palestine Legal highlighted that Case Western’s “efforts to circumscribe advocacy for Palestinian rights in the name of providing ‘balance’ violated its own free speech policies guaranteeing the right to hold and express opinions free from university interference.”²⁵⁷ But the university did not change its position.

A simultaneous result of framing criticism of Israeli policies and practices as antisemitic is the strains on growing relationships between Jewish and Muslim communities in the United States. That solidarity was on full display when Palestinian-American activist Linda Sarsour and her organization, MPower Change, teamed up with another Muslim group, Celebrate Mercy, to raise over \$100,000 in less than 24 hours to repair a Jewish cemetery in St. Louis that had been vandalized in an antisemitic attack. According to a spokesperson, about two-thirds of those donating appear to be Muslim, while the remainder are Jewish.²⁵⁸

As former Congressman Keith Ellison and Carin Mrotz of Jewish Community Action wrote, “Years ago, when Yom Kippur and Ramadan overlapped on the calendar, Jewish and Muslim congregations broke fast together. We shared our respective stories. We listened to each other. Through coming together then and at other times, we forged alliances that have allowed us to work side by side on housing, immigration, healthcare, and human rights. And we have stood by each other’s side at times of grief like this one. Radical solidarity fundamentally undermines anti-Semitism and Islamophobia, and we believe it is more urgent now than ever.”²⁵⁹

Jews and Muslims working together in support of Palestinian human rights and in opposition to both Islamophobia and antisemitism is an increasingly familiar sight.²⁶⁰ The attempt to paint Muslims as presumptively antisemitic, however, undermines this growing solidarity, especially among college students and young professionals.

253 *Id.*

254 *Id.*

255 Palestine Legal, *Case Western Replaced JVP Workshop with Anti-Palestinian ADL Program*, Dec. 17, 2020, <https://palestinelegal.org/news/2020/12/17/case-western-replaced-jvp-workshop-with-anti-palestinian-adl-program>

256 For an exploration of ADL’s dual nature and the conundrums it can create, see Shira Hanau, *Can ADL Be a Moral Voice For Millennials?*, JEWISH TELEGRAPHIC AGENCY (Nov. 28, 2018), <https://www.jta.org/2018/11/28/ny/can-adl-be-a-moral-voice-for-millennials>; JTA, *ADL: Anti-Zionism Runs Same Risk of Attacks as Antisemitism*, S. FLORIDA SUN SENTINEL (May 5, 2022), <https://www.sun-sentinel.com/2022/05/05/adl-anti-zionism-runs-same-risk-of-attacks-as-antisemitism/>.

257 See *Case Western Replaced JVP Workshop with Anti-Palestinian ADL Program*, PALESTINE LEGAL (Dec. 17, 2020), <https://palestinelegal.org/news/2020/12/17/case-western-replaced-jvp-workshop-with-anti-palestinian-adl-program>.

258 Mary Emily O’Hara, *Muslim Fundraiser to Repair Jewish Cemetery Raises \$100k*, NBC NEWS (Feb. 22, 2017), <https://www.nbcnews.com/news/us-news/muslim-fundraiser-repair-jewish-cemetery-raises-100k-n724221>.

259 Keith Ellison & Caroline Mrotz, *Only One Thing Can Stop White Supremacy: Solidarity Between Muslims and Jews*, FORWARD (Apr. 29, 2019), <https://forward.com/opinion/423412/only-one-thing-can-stop-white-supremacy-solidarity-between-muslims-and/>.

260 See *US, UK Jewish groups express solidarity with Palestinians following Israeli attacks in Jerusalem*, NEW ARAB (May 11, 2021), <https://english.alaraby.co.uk/news/jewish-groups-express-solidarity-palestinians-following-israeli-attacks>; Matt Katz, *We’re Witnessing an Extraordinary Moment of Muslim-Jewish Solidarity*, WNYC (Mar. 6, 2017), <https://www.wnyc.org/story/were-witnessing-extraordinary-moment-muslim-jewish-solidarity/>;.; Taher Herzallah & Ben Lorber, *In the US, we need a Muslim-Jewish alliance ...*, AL JAZEERA (Jan. 23, 2017), <https://www.aljazeera.com/opinions/2017/1/23/in-the-us-we-need-a-muslim-jewish-alliance>.

“Conflating white nationalists’ antisemitism with Muslim and Palestinian Americans speaking out for Palestinian human rights demonstrates the ease with which this Islamophobic trope is exploited to censor criticism of a state’s practices and policies.”



RECOMMENDATIONS AND CONCLUSION

Israel is described as “the little country that is the most easterly outpost of Western civilization” by the Orientalist scholar Niall Ferguson.²⁶¹ What does the outpost guard against if not a presumably barbarous threat to “Western civilization,” which stands in contrast to the lesser, or certainly more threatening, groups to its east? The negative characterization of Arabs is juxtaposed by Ferguson against the civility of Israel, a European (although Jews of European descent are a minority in Israel)²⁶² outpost.

The violence of Muslims and Arabs is stereotypically characterized by terrorism, and no people has suffered more from that insidious stereotype than Palestinians. As Professor Sahar Aziz describes it, “The Palestinian terrorist trope informed domestic racial projects that involved the surveillance, special registration, and prosecution of Arab American individuals and organizations opposed to U.S. Middle East policy. Political cartoons, eerily similar to those that demonized Jews and Mormons in the early twentieth century, portrayed Arabs as aggressive, scheming, and beastlike.”²⁶³ Such dehumanization is both systemic and intentionally fomented.

The United States plays a pivotal role in supporting the brutal Israeli occupation of the West Bank and siege of Gaza that international human rights organizations condemn as apartheid.²⁶⁴ Islamophobia in American politics explains, in part, unconditional U.S. support for Israeli practices that deny Palestinians the civil, national, and human rights that most Americans take for granted.²⁶⁵ Politicians, non-governmental actors, and social forces converge to normalize a culture of Islamophobia that in turn shapes the formation of foreign policy. If the American government’s repeated statements that resolving the Israel-Palestine conflict is a vital American interest are to be taken seriously, then purging domestic and international Islamophobia from U.S. foreign policy-making is a prerequisite²⁶⁶

Three recommendations will intend to counter Islamophobia, apply universal human rights to Palestinians, and ensure informed, robust debate about U.S. foreign policy on Palestine and Israel.

1. Congress and the President must include the experiences and perspectives of Palestinian, Arab, and Muslim American communities in foreign policy development.

U.S. foreign policy on Palestine and Israel currently excludes the lived experiences, analysis, and perspectives of Arabs (especially Palestinians) and Muslims. This impedes America’s ability to craft effective policy.²⁶⁷ One sided, biased input by pro-Israeli nonprofit organizations, elected officials, and analysts predictably dehumanizes Palestinians and exempts Israel from human rights norms. For example, pro-Israel think tanks such as the Washington Institute for Near East Policy (whose ranks include former

261 Niall Ferguson, *Israel and Iran on the Eve of Destruction in a New Six-Day War*, NEWSWEEK (Feb. 6, 2012), <https://www.newsweek.com/israel-and-iran-eve-destruction-new-six-day-war-65819>. Among many examples, see Paul B. Sturtevant, *Shame on you, Niall Ferguson*, PUBLIC MEDIEVALIST (Dec. 2, 2015), <https://www.publicmedievalist.com/shame-on-niall-ferguson/>; *Historian Runs Into Ridicule For His Vision of an Islamic Europe; Eurabia Colonisation Dismissed as Alarmist*, HERALD (April 12, 2004), <https://www.heraldsotland.com/news/12512569.historian-runs-into-ridicule-for-his-vision-of-an-islamic-europe-eurabia-colonisation-dismissed-as-alarmist/>; Roger McGinty, *Niall Ferguson and ‘the Islamic world.’* (Sep. 28, 2015), <https://rogermacginty.com/2015/09/28/niall-ferguson-and-the-islamic-world/>.

262 Approximately 31.8% of Israeli Jews are of European descent, see Noah Lewin-Epstein & Yinon Cohen, *Ethnic Origin and Identity in the Jewish Population of Israel*, J. ETHNIC & MIGRATION STUD. (June 27, 2018), <https://people.socsci.tau.ac.il/mu/noah/files/2018/07/Ethnic-origin-and-identity-in-Israel-JEMS-2018.pdf>.

263 AZIZ, *supra* note 16 at 121. For more depth on imagery and portrayals of Arabs in American culture, see JEFFREY THOMAS, *SCAPEGOATING ISLAM: INTOLERANCE, SECURITY, AND THE AMERICAN MUSLIM*, PRAEGER (2015).

264 Reports from leading human rights groups that have concluded that Israel is an apartheid state and document severe human rights abuses include: HUMAN RIGHTS WATCH, *supra* note 7; AMNESTY INT’L, *supra* note 25; B’TSELEM, *supra* note 25.

265 Extensive literature exists describing the prominent role the United States has played in Israel-Palestine. A small sample include: Hill & Plitnick, *Except for Palestine*; Aruri, *Dishonest Broker*; Khaled Elgindy, *Blind Spot: America and the Palestinians: From Balfour to Trump*, Brookings, 2019; Aaron David Miller, *The Much Too Promised Land: America’s Elusive Search for Arab-Israeli Peace*, Bantam, 2008; William Quandt, *Peace Process: American Diplomacy and the Arab-Israeli Conflict since 1967*, Brookings and UC Press, 2001; and others.

266 Rep. Andy Levin, *Levin, Colleagues, Supporting Organizations Unveil Two-State Solution Act*, (Sept. 23, 2021), <https://andylevin.house.gov/media/press-releases/levin-colleagues-supporting-organizations-unveil-two-state-solution-act>; John Kerry, *On Israel-Palestine Two-State Solution*, AM. RHETORIC: ONLINE SPEECH BANK (Dec. 28, 2016), <https://www.americanrhetoric.com/speeches/johnkerrytwostatesolution.htm>; Elizabeth Warren, *Senators Introduce Resolution Supporting Two-State Solution in Middle East*, (June 7, 2019), <https://www.warren.senate.gov/newsroom/press-releases/bipartisan-resolution-to-honor-the-nations-first-responders-unanimously-passes-us-senate>; Matt Spetalnick & Jeffrey Heller, *Obama Presses Two-State Solution In U.S.-Israel Talks*, REUTERS (May 18, 2009), <https://www.reuters.com/article/us-israel-usa/obama-presses-two-state-solution-in-u-s-israel-talks-idUSTR54H0P520090518>; *Statements from U.S. Government Officials Concerning Israeli Settlements*, CHURCHES FOR MIDDLE E. PEACE (April 2017), <https://cmep.org/wp-content/uploads/2017/04/SettlementStatements.pdf>; *Bilateral Relations Fact Sheet*, BUREAU OF NEAR E. AFF., U.S. DEP’T OF STATE (June 11, 2021), <https://www.state.gov/u-s-relations-with-palestinian-territories/>.

267 See Khalil Marrar, *Arab and Muslim Americans: Public Opinion, Foreign Policy Advocacy, and the Palestinian State (2011)*, APSA, <https://srn.com/abstract=1901716>.

Ambassador Dennis Ross)²⁶⁸ and the Foundation for the Defense of Democracies (whose board of advisers includes former National Security Adviser H.R. McMaster, former Secretary of Defense Leon Panetta, and former CIA Director Michael Hayden)²⁶⁹ regularly participate in policy formation. Meanwhile, representatives of the Palestinian perspective are absent from policy discussions, as well as mainstream media coverage of Israel and Palestine. The consequent groupthink not only creates a blind spot in foreign policymaking but devalues Palestinians' lives as presumptive threats to peace. That is, Palestinian freedom is perversely juxtaposed as antithetical to Israeli security.

To be informed citizens governed by sound policy, the American public has the right to hear the experiences of Palestinians living under a decades-long brutal occupation in Gaza and the West Bank. Muslim and Arab American communities with familial connections to, or expertise on, Palestine, therefore, must have the same access and input to policymaking and media coverage currently possessed by Jewish and Christian supporters of Israel. Anything less betrays American principles of equality, inclusion, and rights for all; and impedes crafting effective public policy that comports with our international legal obligations and fundamental values.

2. Universities must preserve the academic freedom and free speech rights of students and faculty engaged on Palestine.

The single factor that causes scholars and students from across the world to flock to American universities is the academic freedom to engage in intellectual and scientific inquiry. Yet, when it comes to the topic of Palestine, students and faculty face overt hostility when they host events, conduct research, publish articles, or engage in campus activism. University administrators enable, or directly participate in, harassment of faculty and students. Specious administrative complaints of antisemitism coupled with malicious blacklisting by a nationwide Islamophobic network are intended to quash criticism of Israel.²⁷⁰ When the targets are Muslim and Arab students, these campaigns rely on the acceptability of false stereotypes that Muslims and Arabs are presumptively antisemitic.

University campuses have become focal points of controversy over discussions about Israel and Palestine. Professors are charged with bias for presenting material deemed critical of Israel or bringing forth the perspectives of Palestinians living under a brutal occupation or as refugees. Among the most notable attacks against Arab professors occurred in 2003 and 2004, when Columbia Professors Joseph Massad, George Saliba, and Hamid Dabashi, who all worked at Columbia University's Middle East and Asian Languages and Cultures department, were accused of antisemitism for criticizing Israel. A group called The David Project created and widely distributed a film that demanded the university fire the three professors of Middle Eastern origin.²⁷¹ Since then, tens of Arab and Muslim professors have been targeted by self-declared pro-Israeli groups seeking to silence, punish, or fire them.²⁷²

Students are also targeted for harassment and discrimination for their community activism on Palestinian rights. A watchdog group dubbed "Canary Mission"²⁷³ maintains an online blacklist of activists, professors, and students who support Palestinian rights in any way, leading to harassment, intimidation, and even threats.²⁷⁴ Other anti-Palestinian groups assist students in filing civil rights complaints alleging that events hosted on campus are antisemitic because the speakers criticize Israeli policies and practices.²⁷⁵

268 See *Experts*, WASH. INST. FOR NEAR E. POL'Y, <https://www.washingtoninstitute.org/experts> (last visited July 10, 2023).

269 See *Advisors*, FOUND. FOR THE DEF. OF DEMOCRACIES, <https://www.fdd.org/team/advisors/> (last visited July 10, 2023).

270 For a broad overview of obstacles to pro-Palestine advocacy, including on campus, see PALESTINE LEGAL, *supra* note 12.

271 See e.g., *Columbia Unbecoming*, YOUTUBE (July 19, 2020), <https://www.youtube.com/watch?v=KLzfgav40U>. For coverage of the episode, see Scott Sherman, *The Mideast Comes to Columbia*, NATION (Mar. 16, 2005), <https://www.thenation.com/article/archive/mideast-comes-columbia/>.

272 2022 Year-in-Review: *Bolder and More Resilient Palestine Advocacy Resists Growing Backlash*, PALESTINE LEGAL <https://palestinelegal.org/2022-report>.

273 See *About Us*, CANARY MISSION, <https://canarymission.org/about> (last visited July 10, 2023).

274 For extensive reporting on the results of Canary Mission's activities, see Alex Kane, *It's Killing the Student Movement: Canary Mission's Blacklist of Pro-Palestinian Activists is Taking a Toll*, INTERCEPT (Nov. 22, 2018), <https://theintercept.com/2018/11/22/israel-boycott-canary-mission-blacklist/>.

275 PALESTINE LEGAL, *supra* note 12.

In some cases, universities unilaterally take action to deny students the right to create student groups advocating for Palestinian rights. In 2017, Fordham University vetoed the student government's decision to recognize the Students for Justice (SJP) as a student group. University officials claimed that SJP's criticism of Israel and support for the Boycott, Divestment and Sanctions movement would create "polarization" on campus and "run contrary to the mission and values" embraced at Fordham.²⁷⁶ Although the student leaders (some of whom are Palestinian-American) successfully obtained a district court decision ordering Fordham University to recognize SJP as a student group, the decision was reversed on appeal. The appellate court blithely disregarded the lower court's reasoning that "consideration of whether a group's message may be polarizing is contrary to the notion that universities should be centers of discussion of contested issues."²⁷⁷ Indeed, the U.S. Supreme Court has long recognized that classrooms and universities are "peculiarly the marketplace of ideas. The Nation's future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth out of a multitude of tongues, [rather] than through any kind of authoritative selection."²⁷⁸

Political and speech rights are hollow if not afforded to all people irrespective of religious or racial identity. More than any other institution, a university should closely guard such fundamental rights. A university showing hostility to legitimate student activism deters political engagement and quashes free intellectual inquiry. And when such anti-intellectual efforts target Palestinians, Arabs, or Muslims, it is flagrantly Islamophobic and racist.²⁷⁹

3. The United States Government must hold Israel accountable for violations of Palestinians' human rights

American foreign policy treats Palestinian lives as dispensable. This reality is facilitated by the systematic exclusion of Palestinian perspectives, often articulated by Muslims and Arabs, in U.S. policy formation that in turn produced a decades-long exemption of Israel from human rights laws and norms—at the expense of Palestinians everywhere. Ongoing violations of international law by Israel such as settlement expansion, indefinite detention, extrajudicial killings, house demolitions, and collective punishment of the population of Gaza occur unchecked because the United States consistently looks the other way.²⁸⁰ Israel's actions have become so oppressive that some of its strongest American supporters have concluded that the two-state solution is no longer a viable option.²⁸¹ And whatever consequent suffering Palestinians experience is of no import to the U.S. government.

Even domestic laws are flouted to allow Israel's oppression of Palestinians. The Foreign Assistance Act prohibits U.S. funding to governments engaging in "gross violations of internationally recognized human rights."²⁸² Yet, Israel violates Palestinians' human rights on a daily basis while receiving over three billion dollars of U.S. foreign aid per year.²⁸³ Neither domestic laws prohibiting foreign aid to human rights

276 Fordham Bans Students for Justice in Palestine, PALESTINE LEGAL, (June 10, 2021), <https://palestinelegal.org/case-studies/2017/3/9/fordham-bans-students-for-justice-in-palestine>.

277 Awad et. al v. Fordham University, NYSCEF No. 153826/17, Decision, Order & Judgment, (Supreme Court of N.Y. Aug. 6, 2019), https://static1.squarespace.com/static/548748b1e4b083fc03ebf70e/t/5d49ae4f893bf1000171c55b/1565109944644/Fordham_Ruling_August_2019.pdf; Awad et al. v. Fordham University, Case Number Case No. 2020-00843, (N.Y. App. Div. Dec. 22, 2020), https://ccrjustice.org/sites/default/files/attach/2020/12/27_12-22-20_Order-reversing-on-appeal_w.pdf

278 Keyishian v. Board of Regents, 385 U.S. 589, 603 (1987).

279 For details of the Fordham case, see *Fordham University Students Win Landmark Fight to Establish Palestine Club*, CTR FOR CONST. RIGHTS (Aug. 6, 2019), <https://ccrjustice.org/home/press-center/press-releases/fordham-university-students-win-landmark-fight-establish-palestine>.

280 *U.S. Foreign Aid to Israel*, CONG. RSCH SERV. (Feb.18, 2022), <https://sgp.fas.org/crs/mideast/RL33222.pdf>; *The Occupied Territories and International Law*, B'TSELEM, https://www.btselem.org/topic/international_law (last visited July 10, 2023).

281 Daniel Kurtzer, *America Can't Save the Two-state Solution*, HAARETZ (Jan. 7, 2018), <https://www.haaretz.com/opinion/2018-01-07/ty-article/premium/america-cant-save-the-two-state-solution/0000017f-e5c0-df5f-a17f-ffde4a6a0000>. MICHAEL BARNETT ET AL., *THE ONE STATE REALITY: WHAT IS PALESTINE/ISRAEL?*, CORNELL UNIV. PRESS (2023).

282 Human Rights and Security Assistance, 22 U.S.C § 2304 See also *Convention (IV) relative to the Protection of Civilian Persons in Time of War Geneva, 12 August 1949, Treaties, States Parties and Commentaries*, INT'L COMM. OF THE RED CROSS, <https://ihl-databases.icrc.org/ihl/INTRO/380>.

283 Special Rapporteur on the situation of human rights in the Occupied Palestinian Territories, *Israel Has Imposed Upon Palestine an Apartheid Reality in a Post-Apartheid World*, U.N. (Mar. 25, 2022).

violators nor international humanitarian laws are enforced against Israel.²⁸⁴ The U.S. government's message is clear: Palestinian lives do not matter. Worse yet, Muslims and Arabs advocating to change this reality are defamed as antisemites and censored. The exemption of an entire group of people from human rights law runs counter to the fundamental principle of universality in protecting human life.

284 Israeli annexation of Parts of the Palestinian West Bank Would Break International Law – *UN Experts Call On The International Community to Ensure Accountability*, U.N. (June 16, 2020), <https://www.ohchr.org/en/news/2020/06/israeli-annexation-parts-palestinian-west-bank-would-break-international-law-un>. Jennifer O'Mahony & Josef Federman, *Barcelona Mayor Brands Israel Apartheid State, Cuts Ties*, ASSOC. PRESS (Feb. 9, 2023); Thabi Myeni, *South Africa Calls for Israel to be Declared an 'Apartheid State.'* AL JAZEERA (July 26, 2022).

CONCLUSION

In a democratic society where citizens are taught to value human life, dignity and equality, the best antidote to state repression is civic and political engagement. Yet, Muslim and Arab Americans who engage in speech and advocacy that brings forth the experiences and perspectives of Palestinians find themselves defamed, harassed, and censored. Rather than recognized as human rights defenders, they are falsely accused of antisemitism.

The harms caused by such bad faith, scorched earth-tactics by Zionist groups and individuals extends to the Jewish community. When political speech and advocacy in defense of Palestinian human rights is mistaken for hatred of Jews, real antisemitism is obscured.²⁸⁵ Resources are diverted from protecting Jewish Americans from harassment, violence, or discrimination on account of their Jewish identity to silencing and harassing Arabs and Muslim students, faculty, and analysts for their defense of human rights.

To end Islamophobic discourse and anti-Palestinian policies, it is long overdue for American universities, media, and the U.S. government to be more inclusive of the diverse experiences of Palestinians. Scholars, journalists, and analysts whose work provides those perspectives should be treated the same as those who provide the diverse experiences of Jews and Christians supportive of Israel. No country should be immune from criticism of its practices and policies—whether Israel or other American allies. And no group of people in the United States—including Muslims and Arabs—should be vilified for exercising their fundamental rights.

²⁸⁵ For an examination of how this trend obscures real antisemitism, see the analysis of a 2023 Anti-Defamation League report: Mari Cohen, *The ADL's Antisemitism Findings, Explained*, JEWISH CURRENTS (Apr. 4, 2023), <https://jewishcurrents.org/the-adls-antisemitism-findings-explained>.

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The Center for Security, Race and Rights (CSRR) at Rutgers University Law School engages in research, education, and advocacy on law and policy that adversely impact the civil and human rights of America's diverse Muslim, Arab, and South Asian communities. CSRR's work is organized around three themes: 1) the contemporary and historical intersection of race and religion in the United States; 2) the criminalization of Muslim and Arab identity through United States and global national security laws and policies; and 3) transnational rights and security arising from relations between the United States and Muslim majority countries.





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