ISLAMOPHOBIA: TOWARD A LEGAL DEFINITION AND FRAMEWORK

Khaled A. Beydoun*

Islamophobia is escalating at a frightening clip in the United States. Scrutiny of this bigotry, presently understood as "fear and suspicion of Muslims," is rising at an alarming rate. Its rapid rise is reflected in the legal literature, encompassing scholarship analyzing the emerging national security strategies of the state to the civil liberties infractions and threats they pose to Muslim subjects. In short time, Islamophobia has become a subject of considerable scrutiny and interest.

Despite this rising scholarly interest, there is no singular, cogent, or consensus definition of Islamophobia—and more specifically, there is no legal definition that adeptly characterizes the state and private animus directed at Muslim subjects.

This Piece seeks to fill that void. It is the first to provide a precise definition of Islamophobia to serve and carry forward the proliferating body of legal scholarship addressing the state, private, and converging targeting of Muslim subjects in the United States. It also aims to facilitate advocacy countering Islamophobia. During an impasse when suspicion of Muslim subjects is swelling, fear of homegrown "radicalization" rising, and curtailment of Muslim American civil liberties deepening, a legal definition and framework for understanding Islamophobia is vital.

INTRODUCTION

What does Islamophobia actually mean?[1]

In recent years, Islamophobia has emerged as a term of common popular and political parlance. It saturates media headlines and news-

1. Tanya Basu, What Does 'Islamophobia' Actually Mean? A Brief History of a Provocative Word, Atlantic (Oct. 15, 2014), http://www.theatlantic.com/international/archive/2014/10/is-islamophobia-real-maher-harris-aslan/381411/ [http://perma.cc/3UK2-V7U6].

print,[2] is pervasive on the pages of scholarship, is frequently uttered from the mouths of politicians and pundits,[3] and is an emerging focus of legal conferences and symposia.[4] The mainstreaming of the term "Islamophobia" is a result of the rising fear and suspicion of Muslim Americans—the crux of the term's common understanding today.

Attempts to coin and define the term "Islamophobia" are largely driven by expediency and the practical and analytical benefits associated with packaging a complex phenomenon into an operable term. Despite critiques of the term from both scholars and advocates,[5] the term "Islamophobia" has proven to be both resonant and resilient.[6] It is deployed more than any other term to explain the rising animus and bigotry targeting Muslim Americans.[7] As of June 2016, Islamophobia was

2. For an example of the term appearing in flagship newspapers, see Arun Kundnani, Opinion, The West's Islamophobia Is Only Helping the Islamic State, Wash. Post (Mar. 23, 2016), http://www.washingtonpost.com/posteverything/wp/2016/03/23/the-wests-islamophobia-is-only-helping-the-islamic-state/ [http://perma.cc/C8E7-T2N5].

3. Senator Bernie Sanders, in response to Donald Trump's Islamophobic rhetoric and policy proposals, vowed to "end Islamophobia." See Press Release, Council of Am. Islamic Relations, CAIR Welcomes Bernie Sanders's Pledge to End Islamophobia and Racism (Oct. 29, 2015), http://www.cair.com/press-center/press-release/13212-cair-welcomes-bernie-sanders-s-pledge-to-end-islamophobia-and-racism.html/ [http://perma.cc/2S6G-XNAE].

4. For example, the University of California, Berkeley's Center for Race and Gender has held seven global conferences on Islamophobia, with the most recent meeting held in April 2016. See Media & Events, Univ. of Cal., Berkeley Ctr. for Race & Gender, http://crg.berkeley.edu/content/islamophobia/media [http://perma.cc/WQ2S-SHBM] (last visited Aug. 9, 2016).

5. Spirited debates between scholars and activists center on the connotation of the term, its efficacy, and whether alternatives such as "anti-Muslim bigotry," "anti-Muslim racism," or "Islamo-racism" are more precise, practical, and effective tools for characterizing fear, suspicion, and violence toward Muslim subjects. See generally Jaideep Singh, The Death of Islamophobia: The Rise of Islamo-Racism, Race Files (Feb. 23, 2016, 1:26 PM), http://www.racefiles.com/2016/02/23/the-death-of-islamophobia-the-rise-of-islamo-racism/ [http://perma.cc/M7GA-DW4W] [hereinafter Singh, The Death of Islamophobia] (providing an analysis of why "Islamo-racism" is a more effective descriptor of anti-Muslim bias and bigotry than "Islamophobia").

6. "While other terms or phrases have been used to describe this prejudice and discrimination—'anti-Muslim hate' and 'anti-Muslim bias,' among others—'Islamophobia' is the most widely recognized and employed." Bridge Initiative Team, Islamophobia: The Right Word for a Real Problem, Bridge Initiative (Apr. 26, 2015, 5:56 PM), http://bridge.georgetown.edu/islamophobia-the-right-word-for-a-real-problem/ [http://perma.cc/Z5G5-K4TZ] [hereinafter Bridge Initiative, The Right Word]. The Bridge Initiative is a research project, housed at Georgetown University, established to monitor, research, and analyze Islamophobia in the United States. See About, Bridge Initiative, http://bridge.georgetown.edu/about/ [http://perma.cc/F3C7-RHHY] (last visited Sept. 27, 2016).

7. Bridge Initiative, The Right Word, supra note 6 ("'Islamophobia' has already gained wide traction in public discourse, and is the most concise and recognizable term currently used to describe prejudice and discrimination.").

mentioned in 293 law review articles, the vast majority of which were published during or after 2011.[8]

This interest continues today, particularly amid the expansion of antiterror policing and the enhanced commitment to counter radicalization following terror attacks committed by Muslim subjects in Europe and the United States.[9] Underscored in the existing scholarship on Islamophobia is the grand question of whether Muslims could be integrated into American society.[10]

As Islamophobia continues to escalate, due to the expansion of government surveillance[11] and the brazen political rhetoric that mars the 2016 presidential campaign,[12] it will certainly continue to evolve as a subject of great interest and scrutiny within legal scholarship. With each passing day, the urgency of combating a proliferating and menacing form of bigotry targeting Muslim Americans, and those perceived to be Muslim Americans, grows. This creates a need for both a precise legal definition of Islamophobia and a comprehensive framework that encompasses the fear and suspicion emanating from both public and private spheres. This Piece is the first to provide a comprehensive definition and framework of Islamophobia within the legal literature, filling the void at a point in time in which scholarly interest is rapidly expanding.

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8. From 2010 to 2012, the term "Islamophobia" was featured in the title of 225 scholarly articles, with the word appearing 6,240 times anywhere within the articles. This includes scholarly works in all academic disciplines. Id.

9. The mass shooting at the Pulse nightclub in Orlando, Florida, on June 12, 2016, which involved a Muslim American shooter of Afghan descent (Omar Mateen) who executed forty-nine people and wounded fifty-three, is considered the "deadliest [terror] attack" since 9/11. See Ana Swanson, The Orlando Attack Could Transform the Picture of Post-9/11 Terrorism in America, Wash. Post: Wonkblog (June 12, 2016), http://www.washingtonpost.com/news/wonk/wp/2016/06/12/the-orlando-attack-could-transform-the-picture-of-post-911-terrorism-in-america/ [http://perma.cc/KY6Q-AGNG].

10. "[T]he vision of Muslims as part of America" is a dominant theme in academic literatures, reflecting the prevailing popular and political discourse around the assimilability of Muslims into the body politic. Edward E. Curtis IV, The Study of American Muslims: A History, in The Cambridge Companion to American Islam 15, 26 (Juliane Hammer & Omid Safi eds., 2013) (emphasis omitted).

11. The White House, under President Barack Obama, has led the expansion of policing focused on countering violent extremism ("CVE policing"). See generally Fact Sheet: The White House Summit on Countering Violent Extremism, White House (Feb. 18, 2015), http://www.whitehouse.gov/the-press-office/2015/02/18/fact-sheet-white-house-summit-countering-violent-extremism [http://perma.cc/9ZTM-CKCT]. Recent terror attacks committed by Muslim culprits, most notably the Orlando attack, which President Obama called "homegrown extremism," will likely expedite that expansion. See Kevin Liptak, Obama Cites 'Homegrown Extremism,' Escalates Call for Gun Control, CNN (June 13, 2016), http://www.cnn.com/2016/06/13/politics/obama-orlando-gun-control-homegrown-extremism/ [http://perma.cc/5FH9-ZZAP].

12. Islamophobia in the 2016 Elections, Bridge Initiative (Apr. 25, 2015, 3:08 PM), http://bridge.georgetown.edu/islamophobia-and-the-2016-elections/# [http://perma.cc/VV97-V8PQ] [hereinafter Bridge Initiative, Islamophobia in the 2016 Elections].

This Piece defines Islamophobia as the presumption that Islam is inherently violent, alien, and inassimilable. Combined with this is the belief that expressions of Muslim identity are correlative with a propensity for terrorism. It argues that Islamophobia is rooted in understandings of Islam as civilization's antithesis and perpetuated by government structures and private citizens. Finally, this Piece asserts that Islamophobia is also a process—namely, the dialectic by which state policies targeting Muslims endorse prevailing stereotypes and, in turn, embolden private animus toward Muslim subjects.

Islamophobia therefore has three dimensions: structural policy, private animus, and the dialectical process by which the former legitimizes and mobilizes the latent and patent bigotry of individuals and private actors. The result is far more expansive and complex than mere "fear and dislike" of Islam and Muslims.[13]

Part I investigates private Islamophobia, or the fear, suspicion, and violent targeting of Muslims (and perceived Muslims) by individuals and private actors. Part II examines structural Islamophobia and the lesser examined process by which state actors perpetuate fear and suspicion of Muslims through enactment and expansion of formal surveillance, profiling, and immigration policy. Part III reveals the dialectic process by which state policy shapes and endorses popular stereotypes of Islam and Muslim subjects and, during sociopolitical moments such as the protracted "War on Terror," emboldens private violence toward bona fide and perceived Muslim subjects. Part IV centers on the strategic benefits legal scholars and advocates can attain by deploying this Piece's definition.

I. PRIVATE ISLAMOPHOBIA

A.   *Definition*

This Piece defines private Islamophobia as the fear, suspicion, and violent targeting of Muslims by individuals or private actors. This animus is generally carried forward by nonstate actors' use of religious or racial slurs, mass protests or rallies, or violence against Muslim subjects.

While informed by government policy and programming, private Islamophobia centers on the anti-Muslim activities and behavior carried out by entities not affiliated with the state.

B.   *Analysis*

On November 13, 2015, "[t]hree teams of Islamic State attackers acting in unison carried out the terrorist assault in Paris," killing 129 people and injuring 352 others.[14] Roughly three weeks later, two (nom-

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13. Bridge Initiative, The Right Word, supra note 6.

14. Adam Nossiter, Aurelien Breeden & Katrin Bennhold, Three Teams of Coordinated Attackers Carried Out Assault on Paris, Officials Say; Hollande Blames ISIS,

inally) Muslim culprits shot and killed fourteen innocent people at the Inland Regional Center in San Bernardino, California, which President Barack Obama declared an act of terrorism.[15] These two attacks pronounced an already hostile climate toward Muslims in the United States, stoked by hatemongers and fueled by politicians scapegoating Muslims.

A marked rise in religiously and racially motivated hate crimes against Muslims followed these attacks.[16] "Hate crimes against Muslim Americans and mosques across the United States have tripled in the wake of the terrorist attacks in Paris and San Bernardino, Calif., with dozens occurring within just a month."[17] Combined with political rhetoric, representations of Muslims and Islam on mainstream and social media also fuel popular stereotypes of the faith and its followers and, after crisis, embolden the private animus and violence unleashed by private actors. The attack on a gay club in Orlando on June 12, 2016, again sparked fear of escalating hate crimes against Muslim Americans, which in years past has resulted in the fatal killing of perceived Muslims and bona fide Muslims. Recent examples include the shooting of three Muslim American college students in Chapel Hill, North Carolina, in February 2015;[18] the arson, vandalism, and destruction of seventy-eight mosques in 2015;[19] the wave of anti-Muslim protests that swept through the nation;[20] the rise in private Islamophobic slurs and language made even more mainstream by

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N.Y. Times (Nov. 14, 2015), http://www.nytimes.com/2015/11/15/world/europe/paris-terrorist-attacks.html (on file with the *Columbia Law Review*).

15. Paloma Esquivel, Joseph Tanfani, Louis Sahagun & Sarah Parvini, Obama: "This Was an Act of Terrorism Designed to Kill Innocent People," L.A. Times (Dec. 6, 2015), http://www.latimes.com/local/lanow/la-me-ln-san-bernardino-terror-probe-widens-as-obama-set-to-speak-20151206-story.html [http://perma.cc/6863-87E6].

16. Muslim identity is commonly viewed in ethno-racial identity terms by private actors, aligning with the narrowing caricaturing of Muslims as immigrant, alien, and Arab. See Khaled A. Beydoun, Antebellum Islam, 58 Howard L.J. 141, 163–70 (2014).

17. Eric Lichtblau, Crimes Against Muslim Americans and Mosques Rise Sharply, N.Y. Times (Dec. 17, 2015), http://www.nytimes.com/2015/12/18/us/politics/crimes-against-muslim-americans-and-mosques-rise-sharply.html (on file with the *Columbia Law Review*).

18. Three Muslim Students Killed at North Carolina Campus, Al Jazeera (Feb. 11, 2015), http://www.aljazeera.com/news/2015/02/students-murdered-university-north-carolina-campus-150211093231033.html [http://perma.cc/XSV2-KJ5Q] [hereinafter Three Muslim Students].

19. "There were 78 instances where mosques were targeted—counting vandalism, arson, and other destruction—in 2015, according to the report compiled by the Council on American-Islamic Relations. Thirty-four of the incidents from 2015 came in November and December. There were 20 total in 2014, the group counted." Talal Ansari, There Was a Huge Increase in Attacks on Mosques Last Year, Buzzfeed News (June 20, 2016), http://www.buzzfeed.com/talalansari/there-was-a-huge-increase-in-attacks-on-mosques-last-year [http://perma.cc/8EF6-ACC6].

20. Niraj Warikoo, Anti-Muslim Rallies Across USA Making Muslims Wary, USA Today (Oct. 10, 2015), http://www.usatoday.com/story/news/nation-now/2015/10/09/anti-islam-rallies-across-usa-making-muslims-wary/73672674/ [http://perma.cc/6TL9-5B5M].

the Trump campaign;[21] and most recently, the targeted killing of a prominent Muslim imam[22] and his assistant in Queens, New York.[23]

While increasingly condemned by mainstream media and repudiated by (some) politicians,[24] popular bigotry toward Muslims emanates from tropes deeply embedded within state institutions[25] and aligns with contemporary policing and profiling measures such as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (PATRIOT Act), countering violent extremism (CVE) policing, and proposed state policies such as Republican presidential nominee Donald Trump's "Muslim ban."[26] However, in line with the examples of private Islamophobia cited above,

21. "But Trump has perfected it. For his campaign, Islamophobia is political craft—every soundbite carefully assembled and strategically disseminated—designed to inspire the brazen hate spewed by his supporters, and embolden the racist hate unfolding at his pep rallies." Khaled A. Beydoun, Donald Trump and Electing Islamophobia, Al Jazeera (Mar. 13, 2016), http://www.aljazeera.com/indepth/opinion/2016/03/donald-trump-electing-islamophobia-160313104258994.html [http://perma.cc/EQ2V-RSCT].

22. Imam is an Arabic word for a worship leader at a mosque, who because of that position, often occupies the role of community leader.

23. Imam Maulama Akonjee, 55, and his assistant, Thara Uddin, 64, were shot and killed on August 14, 2016, while walking out of their Ozone Park, Queens, mosque. Pilar Melendez & Ray Sanchez, New York Imam, His Assistant Killed Near Mosque, CNN (Aug. 14, 2016), http://www.cnn.com/2016/08/13/us/new-york-imam-shooting/ [http://perma.cc/P75R-65MH]. Akonjee led the mosque, located in a burgeoning Bangladeshi enclave of the New York borough. Id.

24. See, e.g., Nihad Awad, Opinion, Obama Condemned Islamophobia in America. It's Time Republicans Did Too, Guardian (Dec. 7, 2015), http://www.theguardian.com/commentisfree/2015/dec/07/obama-condemned-islamophobia-republicans-should [http://perma.cc/G9DF-SZ96].

25. For a comprehensive review of the Orientalist and negative stereotypes of Islam and Muslims that drove court decisions, see Marie A. Failinger, Islam in the Mind of American Courts: 1800 to 1960, 32 B.C. J.L. & Soc. Just. 1 (2012). For a historical perspective, see Khaled A. Beydoun, Between Muslim and White: The Legal Construction of Arab American Identity, 69 N.Y.U. Ann. Surv. Am. L. 29, 37 (2014) [hereinafter Beydoun, Between Muslim and White] (contending that the conflation of Arab and Muslim identity rendered the view that Muslims were inassimilable with American values and prevailing conceptions of citizenship, which from 1790 to 1952, mandated that an immigrant be deemed white by a civil court in order to become naturalized).

26. This author has reflected on Trump's proposal before:

> Donald Trump's calls for a ban on Muslims entering the United States and, more recently, for "extreme vetting" of anyone seeking to immigrate to the United States have been condemned as breaks from the nation's traditions of religious tolerance and welcoming immigrants. Actually, Trump's proposals reflect a long-standing, if ugly, strain of U.S. immigration policy, one that restricted the entry of Arab and South Asian Muslim immigrants and barred them from becoming citizens until the middle of the 20th century.

Khaled A. Beydoun, Opinion, America Banned Muslims Long Before Donald Trump, Wash. Post (Aug. 18, 2016), http://www.washingtonpost.com/opinions/trumps-anti-muslim-stance-echoes-a-us-law-from-the-1700s/2016/08/18/6da7b486-6585-11e6-8b27-bb8ba39497a2_story.html [http://perma.cc/VC9J-4SZD].

prevailing definitions of the term Islamophobia continue to frame the phenomenon in predominantly private terms.

Perhaps the most widely cited definition of Islamophobia, provided in a prominent study by the Center for American Progress, manifests the overt emphasis on private Islamophobia. The *Fear, Inc.* study defines Islamophobia as, "[e]xaggerated fear, hatred, and hostility toward Islam and Muslims . . . perpetuated by negative stereotypes resulting in bias, discrimination, and the marginalization and exclusion of Muslims from America's social, political, and civil life."[27]

The definition effectively notes the relationship between existing stereotypes and the animus it informs and facilitates. However, its broad articulation does not explicate the role of law, policy, and government actors in enabling "bias, discrimination . . . marginalization and exclusion."[28] Moreover, the description of Islamophobia as "exaggerated fear" illustrates the focus on private Islamophobia, delineating it as deviant or aberrant activity, instead of rational or strategic behavior advancing state interests.[29]

However, private Islamophobia does not exclusively consist of aberrational perspectives or deviant behavior. Islamophobia also encompasses ideas and activity consistent with the anti-Muslim messaging emanating from state policy—and most luridly and loudly today—the state's national security policing arms.

II. Structural Islamophobia

A. *Definition*

This Piece defines structural Islamophobia as the fear and suspicion of Muslims on the part of institutions—most notably, government agencies—that is manifested through the enactment and advancement of policies. These policies are built upon the presumption that Muslim identity is associated with a national security threat, and while they are usually framed in a facially neutral fashion, such policies disproportionately target Muslim subjects and disparately jeopardize, chill, and curtail their civil liberties.[30]

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27. An influential study published by the Center for American Progress in 2011 mainstreamed the term in media, scholarly, and political circles. Wajahat Ali et al., Ctr. for Am. Progress, Fear, Inc.: The Roots of the Islamophobia Network in America 9 (Aug. 26, 2011), http://cdn.americanprogress.org/wp-content/uploads/issues/2011/08/pdf/islamophobia.pdf [http://perma.cc/C6KX-LQCJ].

28. Id.

29. Id.

30. For instance, the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) and the PATRIOT Act, which disproportionately targeted Muslim communities, are examples of structural Islamophobia. See infra section II.B (analyzing such policies from a structural perspective).

While framed as a novel form of bigotry, the concept of structural Islamophobia highlights that Islamophobia is a modern extension of "Orientalism,"[31] a master discourse that positions Islam—a faith, people, and imagined geographic sphere—as the civilizational foil of the West. Connecting Islamophobia to Orientalism, the precedent epistemology from which modern representations and misrepresentations of Muslims derive, is a vital first step to understanding structural Islamophobia. In other words, understanding the foundation and trajectory of (modern) Islamophobia cannot be had without an analysis and understanding of Orientalism.

B. *Analysis*

Following the 9/11 terror attacks, Professor Leti Volpp observed how terror attacks involving a Muslim culprit spur immediate "redeployment of Orientalist tropes."[32] These tropes are embedded within popular culture, but more saliently, they are embedded within the institutional memory of government agencies, including the judiciary[33] and, today, the Department of Homeland Security (DHS) and antiterror law enforcement.[34] Characterizing Islam and Muslim identity as inassimilable, subversive, violent, and harboring an inherent propensity for terrorism,[35] these tropes move state agencies to enact policies—like those developed during the current protracted "War on Terror"—that seek to monitor, prosecute, and deny the entry of Muslim subjects. Such policies assign the presumption of guilt onto Muslims at large and diminish Muslims' civil liberties.

While a number of modern government policies fit within the structural Islamophobia classification, the PATRIOT Act (and accompanying immigration legislation) and emergent counter-radicalization (or CVE) policing are the two most salient examples. In the aftermath of 9/11, the Bush Administration established DHS around the principal

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31. See generally Edward Said, Orientalism (1979) (coining and framing the theory of Orientalism, which positions the West, or "Occident," as the superior counterpoint and antithesis of the inferior Middle East, or "Orient").

32. Leti Volpp, The Citizen and the Terrorist, 49 UCLA L. Rev. 1575, 1586 (2002).

33. See Failinger, supra note 25, at 13–28 (analyzing judicial decisions involving Islam or Muslims, which illustrate the pervasiveness of a common set of negative tropes). See generally Beydoun, Between Muslim and White, supra note 25, at 37 (discussing ten naturalization cases involving immigrant petitioners from Muslim-majority regions and arguing that Muslim identity—or suspected Muslim identity—conflicted with prevailing constructions of whiteness).

34. While the courts were the primary state enforcement mechanisms of Orientalism (and anti-Muslim animus) during the Naturalization Era (1790–1952), the contemporary moment witnesses the policing apparatuses of the state, especially DHS, and local law enforcement departments as the primary enforcers.

35. See Khaled A. Beydoun, Islamophobia Has a Long History in the United States, BBC Mag. (Sept. 29, 2015) [hereinafter Beydoun, Islamophobia] http://www.bbc.com/news/magazine-34385051 [http://perma.cc/4ZBV-WZTU].

mission of expanding its antiterror program, focusing specifically on "Islamic extremism" and culminating in the enactment of the PATRIOT Act two months after the 9/11 attacks.[36] The PATRIOT Act legally enabled an unprecedented degree of government encroachment "on Americans' civil rights by . . . expanding the electronic surveillance powers of government,"[37] which disproportionately targeted Muslim subjects.[38]

    1. *9/11 and the Expansion of Structural Islamophobia.* — State suspicion and systematic surveillance of Muslim Americans commenced well before 9/11.[39] However, because the terrorists were Muslims, the state centered its expanded counterterror programming in the direction of Muslim foreign nationals and citizens. With the creation of DHS on November 25, 2002,[40] electronic surveillance became the strategic cornerstone of the domestic counterterror program following the deadliest terror attack in U.S. history.[41] The PATRIOT Act enabled close monitoring of noncitizens and citizens suspected of terrorism or of having links to transnational entities classified as terrorist organizations, which severely chilled the religious and political activity of Arab and Muslim Americans; these demographics routinely are linked to national security threats. "Perhaps the most damaging effect the [PATRIOT] Act has on civil liberties, particularly for Arab and Muslim Americans, is the reduction in the standard that law enforcement must meet to in order to survey, search and seize persons and their property."[42] After 9/11, the established nexus

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    36. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (codified in scattered titles of the U.S.C. (2012)); see also USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177, 120 Stat. 192 (2006) (codified in scattered titles of the U.S.C.).

    37. Kevin R. Johnson & Bernard Trujillo, Immigration Reform, National Security After September 11, and the Future of North American Integration, 91 Minn. L. Rev. 1369, 1369 (2007).

    38. See generally Susan M. Akram & Kevin R. Johnson, Race, Civil Rights and Immigration Law After September 11, 2001: The Targeting of Arabs and Muslims, 58 N.Y.U. Ann. Surv. Am. L. 295, 327–45 (2002) (discussing the impact of the PATRIOT Act on the civil rights of Muslims in America).

    39. AEDPA is often credited with beginning this time of heightened surveillance.

>   The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA)
>   was the beginning of policing of Muslim subjects and communities. One
>   part of this legislation led to the disparate investigation of Muslim
>   American political and social activity, while another led to the deportation
>   of Muslims with links—real or fictitious—to terrorist activity.

Beydoun, Islamophobia, supra note 35.

    40. Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (codified in scattered sections of 5, 6, 18, 44, and 49 U.S.C.).

    41. For a summary of the 9/11 Attacks, see September 11th Fast Facts, CNN (Sept. 7, 2015), http://www.cnn.com/2013/07/27/us/september-11-anniversary-fast-facts/ [http://perma.cc/4F6F-KMST].

    42. Heena Musabji & Christina Abraham, The Threat to Civil Liberties and Its Effect on Muslims in America, 1 DePaul J. for Soc. Just. 83, 99 (2007).

between Muslim identity and terrorism was tightened, enabling the state to bypass constitutional safeguards when the subject was Muslim.

In addition to expanded surveillance capacities, the Bush Administration structurally overhauled the state's immigration and national security functions around the heightened fear of Muslim threat. The newly minted DHS swallowed up previously standalone immigration, customs, and emergency-management functions of the state.[43]

In addition to two wars fought abroad,[44] and broadly expanded domestic surveillance and policing at home, the post-9/11 moment witnessed the enactment of a second policy that bore many parallels to the Muslim ban put in place during the Naturalization Era. In June 2002, Attorney General John Ashcroft instituted the National Security Entry Exit Registration System (NSEERS), a sweeping immigration tracking program that almost exclusively targeted Muslim immigrants, nonimmigrants, and permanent residents. The "Special Registration" provision of NSEERS

> required all male teen and adult nationals of 25 different countries to allow themselves to be fingerprinted and registered by the federal government or be subject to immediate deportation to their home countries. With the sole exception of North Korea, every single one of the other 25 countries on the Special Registration bulletin was either a Muslim or Arab nation.[45]

While dissolved in 2011, NSEERS explicitly reintegrated the Orientalist baseline that Muslims were presumptive national security threats. Geographic origins, in addition to race and religion, signaled likelihood of a national security threat. Indeed, the legislation functioned as somewhat of a "Muslim ban" before Trump infamously proposed to prevent all Muslims from entering the United States on December 7, 2015.[46] The

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43. Khaled A. Beydoun, Between Indigence, Islamophobia and Erasure: Poor and Muslim in "War on Terror" America, 104 Calif. L. Rev. (forthcoming 2016) [hereinafter Beydoun, Between Indigence] (manuscript at 23) (on file with the *Columbia Law Review*) ("DHS consolidated the state's immigration and emigration regimes, and functioned as the institutional fulcrum for the sweeping federal and local anti-terror surveillance and policing sanctioned by the USA PATRIOT Act." (citing USA PATRIOT Act, Pub. L. No. 107-56, 115 Stat. 272 (codified in scattered titles of the U.S.C.)); see also USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177, 120 Stat. 192 (codified in scattered titles of the U.S.C.).

44. Yaser Ali, Shariah and Citizenship—How Islamophobia Is Creating a Second-Class Citizenry in America, 100 Calif. L. Rev. 1027, 1042–43 (2012) (describing the government's reliance on "the nation's fear of another attack toward Muslims—and those who had physical 'Muslim' characteristics" to support its case for "two costly wars in Afghanistan and Iraq").

45. Arsalan Iftikhar, Arab Americans, *in* 1 Anti-Immigration in the United States: A Historical Encyclopedia 40, 43 (Kathleen R. Arnold ed., 2011).

46. Jenna Johnson, Trump Calls for "Total and Complete Shutdown of Muslims Entering the United States," Wash. Post (Dec. 7, 2015), http://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/ [http://perma.cc/R4W7-PTAL].

"Special Registration" provision of NSEERS, like its more studied and scrutinized piece of post-9/11 legislation, the PATRIOT Act, is a key example of structural Islamophobia.

    2. *Structural Islamophobia and Counter-Radicalization.* — Today, rising fear of Muslim "radicalization" drives the current expansion of counter-radicalization, or CVE policing.[47] CVE policing is "the emergent model of anti-terrorism and national-security policing sweeping through American cities, and most notably, communities with concentrated Muslim American populations."[48] CVE policing disparately focuses on Muslims, extending the surveillance arm of the state into the communities in which Muslims are concentrated and the spaces where Muslims congregate (most notably, mosques).[49] Again, this government practice is built upon the foundational trope that conflates Muslim identity with the antithesis of civilization and thus treats Muslim identity as a presumptive national security threat.[50]

    CVE policing is "cloaked in expertise about the process by which Muslims become terrorists."[51] Like the PATRIOT Act, and preceding legislation and policy,[52] CVE theory focuses exclusively on Muslim subjects and geographies as presumptive sources of terrorism. Carried forward through collaboration between DHS, local law enforcement departments, and community informants,[53] CVE policing stands as the newest and perhaps most nefarious form of structural Islamophobia—redeploying the embedded tropes that Islam is inherently extreme and those who observe it, and do so conspicuously, are to be closely

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    47. Radicalization theory "suggests that the path from Muslim to terrorist is a predictable one," and thus, radicalization can be prevented through monitoring and arrest of a (Muslim) subject believed to be en route toward adopting an extremist ideology. Amna A. Akbar, Policing "Radicalization," 3 U.C. Irvine L. Rev. 809, 811 (2013).

    48. Beydoun, Between Indigence, supra note 43 (manuscript at 24–25).

    49. Id. (manuscript at 27–30).

    50. The New York Police Department (NYPD), views Muslim identity—particularly male, Muslim identity—as a signal of radicalization. According to the NYPD, Muslims who live in Muslim enclaves are in the first of four radicalization stages:

>   That entire class of individuals is already in the funnel and thus a potential "threat." Cashed out in operational terms, the NYPD's analysis means that almost the whole young, male Muslim population of urban areas in the United States constitutes a threat because they all are in the "pre-radicalization" stage.

Aziz Z. Huq, Modeling Terrorist Radicalization, 2 Duke F. for L. & Soc. Change 39, 46 (2010).

    51. Akbar, supra note 47, at 817.

    52. Such policies include the enforcement of the Naturalization Act of 1790 to circumvent the naturalization of Muslim immigrants. See generally Beydoun, Between Muslim and White, supra note 25. Another is the passage of AEDPA, Pub. L. No. 104-132, 110 Stat. 1214 (codified in scattered sections of 8, 18, 22, 28, and 42 U.S.C. (2012)), which was passed five years before the enactment of the PATRIOT Act.

    53. Samuel J. Rascoff, Establishing Official Islam? The Law and Strategy of Counter Radicalization, 64 Stan. L. Rev. 125, 153–55 (2012).

monitored as presumptive radicals.[54] Consequently, CVE policing chills the ability of Muslim Americans to freely exercise their faith and severely diminishes their free exercise of religion, speech, and privacy rights.

Formal CVE policing programs were piloted in Boston, Los Angeles, and Minneapolis in 2014.[55] However, the New York Police Department began using CVE policing tactics as early as 2002, spying on and seeding informants in Muslim communities, most notably mosques and community centers, in the tri-state area.[56] Like AEDPA, the PATRIOT Act, and NSEERS, formalized CVE policing is built upon the very notion that Muslim identity, and the expression of it, is a marker of radicalization or prospective radicalization. The state's pursuit of radicals and its elusive goal of identifying Muslims at risk of radicalization is expanding, particularly after the recent attacks in Belgium, Paris, and Orlando. Illustrating this phenomenon, the structural presumption that Muslim identity is closely tied to terrorism is also expanding.

III. ISLAMOPHOBIA AS A DIALECTIC BETWEEN STATE AND SOCIETY

Radicalization discourse feeds into preexisting Islamophobia in the United States, lending legitimacy to anti-Muslim sentiment.[57]

A. *Dialectical Islamophobia*

Islamophobia is also a systemic, fluid, and deeply politicized dialectic between the state and its polity: a dialectic whereby the former shapes, reshapes, and confirms popular views or attitudes about Islam and Muslim subjects inside and outside of America's borders. Therefore, the third dimension of Islamophobia focuses on "dialectical Islamophobia," which is the process by which state policies legitimize prevailing misconceptions, misrepresentations, and tropes widely held by private citizens.

Again, Islamophobia is the presumption of guilt assigned onto Muslims by state and private actors. But it must also be understood as a process—namely, the process by which state policies such as the PATRIOT Act and CVE policing both endorse ingrained and popular

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54. "Community policing in counterterrorism as currently envisioned betrays its rhetoric of empowerment and mutual trust, and serves as another weapon in the federal government's toolkit that perpetuates the 'Terrorist Other' stereotype." Sahar F. Aziz, Policing Terrorists in the Community, 5 Harv. Nat'l Security J. 147, 149 (2014).

55. Akbar, supra note 47, at 845–68 (examining the new radicalization policing tactics used by federal and local law enforcement). Counterradicalization parlance and policing are almost exclusively focused on Muslim communities, which sometimes overlap and are frequently conflated with Arab American communities. Id. at 811.

56. "Since at least 2002, . . . [it] has engaged in the religious profiling and suspicionless surveillance of Muslims in New York City and beyond." Factsheet: The NYPD Muslim Surveillance Program, Am. Civil Liberties Union, http://www.aclu.org/factsheet-nypd-muslim-surveillance-program [http://perma.cc/J22D-37EZ] (last visited Aug. 9, 2016).

57. Akbar, supra note 47, at 876.

tropes of Muslims as alien, inassimilable, and prone to extremism[58] and embolden the private animus and violent targeting of Muslim subjects. This process occurs most intensely during the aftermath of terror attacks, such as the 9/11 terror attacks or the April 2013 "Boston Bombings"[59]— points in time when structural Islamophobic policies were typically enacted, advanced, or broadened.[60]

The state's rubber-stamping of widely held stereotypes of Islam and Muslims in society, through passage of surveillance programming, religious and racial profiling procedures, and tightened immigration policies, is the cornerstone of dialectical Islamophobia. This exchange— by which the broader polity absorbs the presumptive suspicion the state assigns to Muslims by way of (structural Islamophobic) policies such as the PATRIOT Act and CVE policing and subsequently shapes its view of Muslim subjects in line with these policies' underlying characterization— is an ongoing dialectic that links state policy to hate and violence unleashed by the polity.

B.   *State Endorsement and Emboldening Private Islamophobia*

The overwhelming attention on Islamophobia has gravitated toward sensational stories or instances of private Islamophobia. For example, stories about "intensifying calls for the exclusion of Syrian refugees and the isolation of American Muslims,"[61] anti-Muslim rallies spearheaded by fringe militants,[62] mosque arsons,[63] and the January 2015 murders of three Muslim American college students[64] dominate newsprint and scholarship. This fixation on sensational stories of private Islamophobia not

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58. The law can also serve "at times [as] an expression of popular will," executing the punitive measures an enraged populace calls for during times of crisis. Muneer I. Ahmad, A Rage Shared by Law: Post–September 11 Racial Violence as Crimes of Passion, 92 Calif. L. Rev. 1259, 1318 (2004).

59. John Eligon & Michael Cooper, Blasts at Boston Marathon Kill 3, Injure 100, N.Y. Times (Apr. 15, 2013), http://www.nytimes.com/2013/04/16/us/explosions-reported-at-site-of-boston-marathon.html (on file with the *Columbia Law Review*).

60. In 2014, hardline CVE policing programs were piloted in Boston in the wake of the Boston Bombings, as well as in Los Angeles and Minneapolis. See Shelley Murphy, Boston to Host Anti-Extremist Pilot Program, Bos. Globe (Sept. 24, 2014), http://www.bostonglobe.com/metro/2014/09/23/boston-site-program-prevent-residents-from-joining-extremist-groups/YpEpq2cYvITZ6u8AFkbarL/story.html [http://perma.cc/4DCS-BCSS].

61. Shirin Sinnar, Opinion, Preparing American Muslim Daughters for What Awaits, Mercury News (Nov. 25, 2015), http://www.mercurynews.com/opinion/ci_29156471/shirin-sinnar-preparing-american-muslim-daughters-what-awaits [http://perma.cc/SQ54-MC5S].

62. Justin Wm. Moyer, Armed Anti-Muslim Protestors Stage "Strange" Protest Outside Mosque in Clock Kid's Hometown, Wash. Post (Nov. 23, 2015), http://www.washingtonpost.com/news/morning-mix/wp/2015/11/23/armed-anti-muslim-protesters-stage-strange-protest-outside-mosque-in-clock-kids-hometown/ [http://perma.cc/N8XL-FRW5].

63. Sarah Parvini, Man Sentenced to 6 Years in Prison for Coachella Valley Mosque Arson, L.A. Times (Mar. 1, 2016), http://www.latimes.com/local/lanow/la-me-ln-coachella-mosque-fire-sentencing-20160301-story.html [http://perma.cc/9RXX-Q8B7].

64. Three Muslim Students, supra note 18.

only glosses over the programmatic fear and suspicion of Muslims administered by government structures but, just as critically, the process by which structural Islamophobia mobilizes private animus.

Prevailing definitions of Islamophobia overlook this interplay between state policy and discursive views of Muslims (and Islam). Like other forms of bigotry, the shape of Islamophobia is contingent upon mass-media representations,[65] political rhetoric and messaging,[66] and most crucially, government programming and policy. The fluid expansion of structural Islamophobia programming, which is reaching a second apex fifteen years after 9/11 with CVE policing, communicates to the broader polity that Islam is to be viewed with suspicion. It marks Muslims and Muslim Americans as, at best, possible threats, and at worst, terrorists in our midst.

In *A Rage Shared by Law*, written in the wake of the 9/11 terror attacks, Professor Muneer Ahmad observes:

> Like the post-September 11 perpetrators, the state claims an intimate relationship with the nation . . . . Moreover, the state has purported to act in the names of the victims of the terrorist attacks, invoking their memory as justification for a broad range of anti-terrorist policies . . . . [T]hrough its policies of racial profiling and racially targeted immigration enforcement, the state has . . . adjudged all "Muslim-looking" people to be terrorists, and carried out acts of retribution against them.[67]

This very dialectic continues following the Paris, San Bernardino, Belgium,[68] and Orlando attacks, wherein the nation's intensifying private Islamophobia drives the CVE policing programs expanded by the state.

The laws passed after 9/11, followed by the policing and profiling measures that have been carefully protracted through today, speak volumes to the American polity. They redeploy deeply ingrained Orientalist stereotypes that mark Islam as a civilizational antithesis and Muslims as inherently violent and unassimilable.[69] Instead of challenging these stereotypes, racial and religious surveillance programs affirm and endorse them, communicating to private Islamophobes that their fear, suspicion, and anger is warranted. During moments when structural Islamophobia

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65. See generally Jack G. Shaheen, Reel Bad Arabs: How Hollywood Vilifies a People (2001) (providing a comprehensive history of cinematic and television misrepresentations of Arab, Middle East and North African, and Muslim identity); Jack G. Shaheen, The TV Arab (1984) (providing a foundational account of television misrepresentations of Arab and Muslim Americans through the early 1980s).

66. For a comprehensive review and analysis of Islamophobia rhetoric and strategy saturating the 2016 presidential race, see Bridge Initiative, Islamophobia in the 2016 Elections, supra note 12, at 2.

67. Ahmad, supra note 58, at 1319.

68. Victims of the Brussels Attack, BBC News (Apr. 15, 2016), http://www.bbc.com/news/world-europe-35880119 [http://perma.cc/SET5-VVN8].

69. See Volpp, supra note 32, at 1586 (arguing that these stereotypes define other civilizations as "primitive, barbaric, and despotic").

is broadened to address perceived Islamic extremism, such as the threat of the Islamic State (ISIS) and homegrown radicalization, structural Islamophobic policies embolden the private passions of Islamophobes to undertake violence against Muslim subjects, or institutions, in the name of revenge, citizenship, and patriotism.[70]

Indeed, structural Islamophobic programs and policies could also be viewed as (latent) calls to action, alerting private citizens to be on guard for ripe and unripe Muslim radicals and pushing them to take action. Accordingly, dialectical Islamophobia is a third illustration of how Islamophobia permeates our polity. It shows how state policies interact with private animus—rooted in centuries-old tropes and reified by the "War on Terror"—to foment antipathy toward and violence against Muslims.

IV. DEPLOYING THE DEFINITION

The present marks the greatest degree of discord with regard to state and popular understandings of Muslim American identity. Discursively, Islam is overwhelmingly imagined along Orientalist lines and viewed in racial terms as frequently as it is religious terms. However, the state's understanding of Islam (and Muslims) has developed in recent years, partially as a consequence of national security policies aimed at preventing radicalization.[71] While popular and structural perceptions of Muslims are still founded upon kindred tropes (violent and warmongering,[72] foreign, unruly, and members of an "enemy race"[73]), this

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70. See Ahmad, supra note 58, at 1323–24 (arguing that "the exercise of state power" after 9/11 gave legitimacy to individual acts of violence carried out against Arabs, Muslims, and South Asians).

71. The development of the state's understanding of Islam, and Muslims, is in large part a consequence of advancing state interests—namely, pushing forward counter-radicalization programming. More specifically, the state's understanding of sectarian division within Islam has evolved, evidenced by its linking "radicalization" to Salafi Islamic traditions and strategic coalition building with Muslims who reject this tradition. Radicalization is understood by state actors as a "Sunni phenomenon." However, this narrow development of Islam has not disrupted the core stereotypes of Islam and Muslims that drive state policy but is again spurred more by state interests. See generally Mitchell D. Silber & Arvin Bhatt, NYPD Intelligence Div., Radicalization in the West: The Homegrown Threat (2007), http://eurabia.parlamentnilisty.cz/UserFiles/document/NYPD.pdf [http://perma.cc/9SV4-4PJN] (setting forth the radicalization theory framework adopted by DHS, which drives the execution of counter-radicalization law enforcement strategy in the United States).

72. Beydoun, Between Muslim and White, supra note 25, at 47–48.

73. John Tehranian, White Washed: America's Invisible Middle Eastern Minority 68–72 (2009); see also John Tehranian, Performing Whiteness: Naturalization Litigation and the Construction of Racial Identity in America, 109 Yale L.J. 817 (2000). This was the first law review article exclusively focused on the pleas of immigrants from the Arab world and Middle East asserting that they fit within the statutory definition of whiteness, which was a prerequisite for naturalization from 1790 through 1952. These pleas in the naturalization

gradually widening disjuncture in perception demands a definition of Islamophobia that enables understanding and, subsequently, vigilance against its multiple forms.

Since private Islamophobes generally imagine Muslims in overly inclusive racial or civilizational terms, strategies to combat this brand of animus should target communities that include not only Muslims but groups commonly mistaken to be Muslims. For instance, Sikh American men are typically perceived to be Muslims by private Islamophobes and, consequently, are among the most vulnerable and targeted victims of private Islamophobia.[74] Indeed, the Sikh turban itself has become a primary target of Islamophobes, who "mistakenly assume[] their turbans suggested strong Islamic faith."[75] Turbaned, bearded, and brown-skinned, Sikh men fit the stereotypical caricature of the "Muslim terrorist" more closely than the majority of Muslim men, which has led to profiling, hate crimes, and targeted killings of this group.[76]

In addition, the phenotypic appearances of non-Muslim South Asian, Latinx, Black,[77] and biracial men and women are often conflated with Muslim identity. As a result, private Islamophobia threatens non-Muslims in addition to practicing Muslims, mandating a definition and framework that enables protection, advocacy, and coalition building across religious lines.

On the other hand, emergent structural Islamophobic programs are centrally committed to policing Muslims along religious lines. As examined in Part II, CVE policing frames radicalization in largely religious or political terms. Conservative or extremist religious views, attendant crit-

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process also highlight the embedded religious and cultural tropes these immigrants faced in civil proceedings.

74. "In particular, Sikh Americans have been the victim of discrimination and hate crimes after being mistaken for Arab or Muslim. This occurs not only because of their turbans, but also because of their long beards, both of which are Sikh religious symbols." Vinay Harpalani, DesiCrit: Theorizing the Racial Ambiguity of South Asian Americans, 69 N.Y.U. Ann. Surv. Am. L. 77, 162 (2015).

75. Amardeep Singh, The New Wave of Islamophobia: Being Sikh or Muslim in the Age of Donald Trump, Salon (Jan. 3, 2016), http://www.salon.com/2016/01/03/the_new_wave_of_islamophobia_being_sikh_or_muslim_in_the_age_of_donald_trump/ [http://perma.cc/NV43-DK7C].

76. The murder of Balbir Singh Sodi, a gas station owner in Arizona, days after the 9/11 terror attacks illustrates the stereotypical conflation of Sikh men with Muslim terrorists, followed by their victimization after crisis. Tamar Lewin, Sikh Owner of Gas Station Is Fatally Shot in Rampage, N.Y. Times (Sept. 17, 2001), http://www.nytimes.com/2001/09/17/us/sikh-owner-of-gas-station-is-fatally-shot-in-rampage.html (on file with the *Columbia Law Review*); see also Tiffani B. Figueroa, "All Muslims Are like That": How Islamophobia Is Diminishing Americans' Right to Receive Information, 41 Hofstra L. Rev. 467, 483 (2007).

77. "When my sons and I travel abroad, we are often mistaken for Arabs or Muslims." Adrien Katherine Wing, Civil Rights in the Post-9/11 World: Critical Race Praxis, Coalition Building, and the War on Terrorism, 63 La. L. Rev. 717, 722 (2003). Professor Adrien Wing is a Black law professor with five Black sons. Id. at 720.

ical politics, sectarian affiliation, and conspicuous expression of faith, among other factors,[78] inform the state's view of who or what constitutes a threat. Because of this focus on religious practices, the pool of potential targets of structural Islamophobia is likely to be far smaller than that of private Islamophobia. Moreover, as the state entrenches and expands its commitment to CVE policing, structural Islamophobia is likely to be further narrowed to specific Muslim American groups and geographies that are perceived to be more associated with radicalization.

Consequently, scholarly and practical interventions concerned with structural Islamophobia should hone in on the religious and political contours by which the state perceives Muslim terrorists and radical threats.[79] Deploying the structural definition of Islamophobia, outlined in Part I, not only distinguishes state from private actors in their perception and policing of Muslim subjects but also enables disciplined and more precise analysis of this type of Islamophobia.

Finally, my definition seeks to collapse an analytical wall between private and structural Islamophobia that perpetuates the latter as a legitimate form of Islamophobia. The popular discourse and political moment has cemented a broad understanding of Islamophobia as exclusively deviant and aberrant private violence. As a result, state policy and policing that target Muslims are viewed as separate and distinct from the hatemongering sweeping through the United States. This limited framing diminishes the efficacy of grassroots, political, and legal challenges to Islamophobia, which must contemplate the state's manifold roles in advancing Islamophobic policies and emboldening private violence.

A complex and multidimensional form of bigotry requires an equally complex and multidimensional conceptualization, which is what this Piece has sought to provide. A definition that encompasses the private infliction of Islamophobia, the state's role, and the fluid dialectic between the two, offers advocates and scholars a framework by which to better understand the various dimensions of Islamophobia and subsequently, tailor interventions against it.

CONCLUSION

This Piece seeks to equip legal scholars with a precise and comprehensive definition of Islamophobia to carry forward legal research centering on this rising form of animus. In addition, by highlighting how the three dimensions of Islamophobia function independently and jointly,

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78. See Akbar, supra note 47, at 833–35 (describing a prominent NYPD report that identifies various factors thought to be associated with radicalization, including "'pilgrimage to Mecca,' '[g]rowing a beard,' and 'pa[ying] off the mortgage on [one's] house because Islam forbids paying interest on loans'" (alterations in original) (quoting Silber & Bhatt, supra note 71, at 59)).

79. See id. at 833–44 (seeking to "engage with the limitations" of the NYPD radicalization report).

this Piece aspires to facilitate practical interventions against state policies that infringe on the civil liberties of Muslims, as well as hate crimes and private violence inflicted on Muslims and "Muslim-looking" subjects.

While debates questioning the efficacy of Islamophobia and its associated definitions persist, "'Islamophobia' has already gained wide traction in public discourse, and is the most concise and recognizable term currently used to describe prejudice and discrimination" toward Muslims.[80] Indeed, increasing use of the term within popular and scholarly spaces illustrates a resonance that supersedes alleged or debated limitations—most prominently the framing of anti-Muslim animus as a "phobia," which may lead to viewing this animus as irrational and aberrant, instead of structural and strategic.[81] However, such criticisms are hardly distinct to Islamophobia. They were once attributed to "anti-Semitism," "homophobia," and other "widely accepted descriptors" that seek to strategically encapsulate complex, fluid, and multidimensional systems of bigotry.[82]

The search for a perfect term must be replaced by a quest to tailor a more potent tool—specifically, a precise and comprehensive definition of Islamophobia that reveals its structural dimensions, examines how it is carried out by private actors, and analyzes the dynamic interplay between institutions and individuals. The need for this tool is more urgent than ever at a time when Islamophobia and its many menacing tentacles dominate our discourse—at a time when presidential candidates peddle Muslim bans and Muslim neighborhood police forces,[83] hate crimes are on the rise, and counter-radicalization surveillance in Muslim American communities continues to expand. Islamophobia may be an imperfect term, but it continues to show itself as a potent instrument to broaden understanding, advocacy, and intellectual interventions that combat the state and societal animus targeting Muslims and perceived Muslims.

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80. Bridge Initiative, The Right Word, supra note 6.

81. Singh, The Death of Islamophobia, supra note 5.

82. Id.; see Bridge Initiative, The Right Word, supra note 6 ("[W]ords like 'anti-Semitism,' 'racism,' and 'homophobia'—all of which have linguistic or conceptual problems—are widely accepted descriptors . . . prejudice . . . . Both academics and the general public have left behind qualms about these terms' linguistic shortcomings, and use them freely to identify prejudice and discrimination against these groups.").

83. Khaled A. Beydoun, Ted Cruz Has Already Won: His Absurd Plan to Police Muslims Is Already Happening, Salon (Mar. 26, 2016), http://www.salon.com/2016/03/26/ted_cruz_has_already_won_his_absurd_plan_to_police_muslims_is_already_happening/ [http://perma.cc/NEN6-9JJT].