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Who is the Subject of Civil Rights?
Racialization, Police Power, and the Islamic Tradition

By

Mohamad Marwan Jarada

A dissertation in partial satisfaction of the
requirements for the degree of
Doctor of Philosophy
in
Anthropology
in the
Graduate Division
of the
University of California, Berkeley

Committee in charge:
Professor Stefania Pandolfo, Co-Chair
Professor Charles Hirschkind, Co-Chair
Professor William F. Hanks
Professor Pheng Cheah

Spring 2022

"Who is the Subject of Civil Rights?
Racialization, Police Power, and the Islamic Tradition"
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Abstract

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By

Mohamad Marwan Jarada

Doctor of Philosophy in Anthropology

University of California, Berkeley

Professor Stefania Pandolfo and Professor Charles Hirschkind, Co-Chairs

This dissertation rethinks the contours of American liberalism through a historical ethnography that illustrates the imbricated relationship between security, racialization, police power, and civil rights. It sidesteps the question of citizenship and national belonging in order to think about the deeper historical, political, and social groundwork that compels demands for civil rights and security in racialized Muslim American communities. As such, the dissertation does not examine the ways in which racialized or marginalized communities are incorporated within the contours of American liberalism. Rather, it traces the production of racial subjectivity in tandem with the early sedimentation of civil rights as a technology wielded against and born out of racial violence and white terror. How does civil rights, as a technology produced out of liberalism and structured by police power, become a tool for racialized Muslim American communities who seek to remedy and secure their corporeal and spiritual livelihoods in the face of racism and encroaching governmental surveillance?

The dissertation answers this question in two parts that historically span the post-Civil War era (circa 1865) up to the present of counterterrorism programs. In the first part, I outline "A Genealogy of Civil Rights" and demonstrate how such rights entangle with the force of police power. Across three different chapters, I reconstruct the incipience of civil rights through a reading of court briefs, legal documents, and political speeches and debates. I first show how civil rights acquired significance for racialized communities through their differentiation from political and social rights. Then, in the next two chapters, I illustrate how the differentiation between civil, political, and social rights solidified the authority of police power in matters concerning racial violence, political and social conflict, and the protection of racialized communities.

By illustrating the conditions of civil rights through my conceptual labor in part one, I set the framework for my ethnographic engagements that I depict in part two. In "Securing Islam," I follow the life of security and rights in racialized Muslim American communities in North Carolina. In this part, I am not exclusively concerned with Muslim Americans' demands for civil rights or their transactions with police power. Instead, this part demonstrates how police power, civil rights, and securitization fundamentally transform the practice of the Islamic tradition in a site of racial violence. While I am influenced by recent studies on and critiques of state action, rights discourses, and the legal recognition of racial

and religious minorities, I extend these debates by looking at how the vitality of the Islamic tradition in the US is, in fact, reinforced by the technologies of liberalism that paradoxically seek to repress it — technologies that include surveillance, security, and rights. Rather than examining the horizons of assimilation and integration that rights discourses bespeak, I illustrate an unexamined genealogy of civil rights that is oriented toward a horizon of security and preservation of ethical, theological, and corporeal life.

عَنْ أَبِي هُرَيْرَةَ قَالَ جَاءَ رَجُلٌ إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ مَنْ أَحَقُّ النَّاسِ بِحُسْنِ صَحَابَتِي قَالَ أُمُّكَ قَالَ ثُمَّ مَنْ قَالَ ثُمَّ أُمُّكَ قَالَ ثُمَّ مَنْ قَالَ ثُمَّ أُمُّكَ قَالَ ثُمَّ مَنْ قَالَ ثُمَّ أَبُوكَ

A man asked the Messenger of Allah, peace and blessings be upon him, "Who is most deserving of my good company?" The Prophet said, "Your mother." The man asked, "Then who?" The Prophet said "Your mother." The man asked again, "Then who?" The Prophet said, "Your mother." The man asked again, "Then who?" The Prophet said, "Your father."

To Mama, for teaching me how to be in the world
and
To Baba, for teaching me how to think in the world

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First and foremost, this dissertation is dedicated to my parents, Jehad and Marwan. Both my parents took on the trials and struggles of migrating and seeking asylum from the Gaza Strip, Palestine to San Francisco, California. Forced out of their home, my parents incurred the pain of traveling to a place that was not always kind to them, a place that was not always intelligible to them, and yet they found it within themselves to endure. My mother is a child of dispossession. Her family was dispossessed of their land and livelihood in Jenin after the violent and tragic events of 1948. My father is a child of war. My father was born in 1948 in Gaza, before the Israeli occupation. Throughout his life, he witnessed the events that continue to inflict pain on the people of Palestine. Through all their difficulties, my parents pushed me to be a better ethical being, thinker, and servant of God. My parents have given me many gifts and I am grateful for all of them. But most of all, they have given me the eternal gift — indeed, the divine gift — of being their child. My dissertation is the fruit of their love, care, and labor.

I was fortunate enough to have the kindest interlocutors. I am eternally indebted to the Islamic communities of North Carolina. They not only offered me the space and time to ask difficult questions and engage them over a long span of time, they also supported me and showed enthusiasm for my project in ways that enriched my writing and thinking. Specifically, Muslim Women For and their founders — Lela, Eiman, and Doha — welcomed me in their spaces and offered me their kindness and friendship. I am grateful for all they gave me. Farris Barakat and The Light House Project was a source of joy and community. I am grateful to the Islamic spaces and communal leaders who offered me access to their spaces: the Islamic Association of Raleigh, Apex Mosque, Jammat Ibad Ar-Rahman, Ar-Razzaq Islamic Center, and As Salaam Islamic Center. Waleed Jarrad was key to my life in North Carolina. I appreciate everything he has given me.

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Chapter I

Introduction

Who is the Subject of Civil Rights? examines the relationship between racialization, civil rights, and police power in the United States. As I will show, this relationship unfolds in an encounter between racialized communities and policing; an encounter that defines the terms of 'danger', 'threat', 'criminal', 'terrorist', and 'risk'. At the heart of this relationship is the contestation of and desire for security, which undergirds processes of racialization at the nexus of civil rights and police power. Broadly speaking, I situate my concepts of racialization, civil rights, and police power within a logic of liberalism that sutures these terms together in the United States: beginning during antebellum America and up to the present of counterterrorism and the racialization of Muslim Americans. The logic of liberalism that I conceptualize does not focus on legal norms such as equality, citizenship, and freedom, but rather focuses on the practices, sensibilities, and concepts that cohere around security and securitization.

Today, the relationship between racialization, civil rights, and police power is magnified in racialized Muslim American communities in North Carolina. Within their political, social, and spiritual lives, Muslim Americans in North Carolina experience the dangers of racialization, seek the protections of civil rights and securitization, and contest the consequences of counterterrorism surveillance in their communities. By examining the logic of liberalism and its development before and after the American Civil War (circa 1865), I show how security sediments the civil, political, and social life of racialized communities, including, but not limited to, Muslim Americans. More profoundly, I also show how the logic of liberalism—and the way it entangles racialization, civil rights, and police power—transforms the spiritual life of Muslim Americans as they inhabit the perspective and perception of "the subject of civil rights."

I examine the logic of liberalism genealogically, conceptually, and ethnographically. Genealogically and conceptually, I outline how civil rights were co-constituted with a notion of security in the United States, one that instituted and reinforced the role of police power and law enforcement agencies for and against racialized communities. Police power, however, is irreducible to its institutional forms, including law enforcement. Fundamentally, it signifies the formation of historical, political, and social sensibilities emerging from the desire for safety and security—a desire that gives impetus to white terror, law enforcement, and, as I will argue, racialized communities who demand and implement securitization. As such, I do not take civil rights to be a defined set of legal entitlements guaranteed to citizens (and non-citizens).[1] Irreducible to its legalism, I attend to the formation of the subject of civil rights. The subject of civil rights, I argue, is not defined by citizenship or legal recognition.[2] The subject of civil

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[1] According to the Fourteenth Amendment, citizens and non-citizens alike (including "illegal aliens," documented immigrants, and others) are granted the right to due process, a constitutional and civil right.

[2] This may seem counterintuitive given that civil rights signify the ascendancy to citizenship and the freedom of the enslaved and racialized communities. It is my goal in this dissertation to show why civil rights is not a marker of freedom and protection, instead the incipience of civil rights is a paradigmatic shift in American liberalism that continues to invoke intractable questions regarding enslavement, security and insecurity, surveillance, police power, and racialization.

rights emerges from the conditions of racial violence and insecurity established by police power, surveillance programs, and social and political aggressions against their wellbeing. As such, the racial claim to rights does not point to positive or negative *protections*, as legal euphemism indicates, rather the racial claim to civil rights is a window into the generative tension between the breakdown and re-form of security, protection, and rights of racial life in the United States.

Ethnographically, I attend to the continuation of these historical matters in the present condition of Muslim Americans and their reckoning with American police power. In the past three decades, the formation of counterterrorism protocols has disrupted the practices that constitute Muslim American communities in North Carolina. With racism and surveillance looming today, these encounters have sparked important conversations about the role that law enforcement, civil rights, and security play in preserving or, conversely, unsettling racialized Islamic life. As such, the dissertation is not about the origins of civil rights in the United States per se (Murphy 1979). Instead, the dissertation draws the boundaries around an enduring discourse about civil rights, what I call a "space of contestation," through which problems pertinent to American liberalism are interrogated: security, law enforcement, police, racialization, and, today, the Islamic tradition.

Furthermore, my historical and ethnographic research, which I extensively outline later in the introduction, stems from the year and a half of fieldwork I conducted in North Carolina. There, I engaged with the large constituent of Black Muslims who have pioneered the Islamic community in North Carolina in significant ways. Today, Muslim American communities have a significant presence in municipalities such as Raleigh, Morrisville, Durham, Charlotte, and Chapel Hill. Built from the struggles of Black Muslims, and other Black communities, the Muslim American community in North Carolina has a large constituency of South Asian, Arab, White, and African Muslims who take part in the contestations regarding security, police surveillance, and counterterrorism protocols that both protect and upset their communal life. In these municipalities across North Carolina, Muslim American communities are organized not only by mosque administration or Islamic spiritual leaders, but by local activists, young professionals, and security personnel. Though they attend to other aspects of Islamic life and spirituality, they could be characterized as actors who are primarily interested in enabling, demanding, and managing the spirituality of the Islamic community through securitization and the protection of their civil rights.

As I stated earlier, the dissertation is concerned with the encounter between racialization and policing. I chart how this encounter takes shape in persons (e.g. Black and Muslim Americans) and machines (security and surveillance technologies)[3] exhibited in the current

[3] I use the term technology with its expansive conceptual field in mind. When I speak of 'technology' or 'technologies' I refer to the set of tools that includes rights, surveillance mechanisms, and securitization strategies that support the lives of Muslim Americans in North Carolina. "[T]he essence of technology," Heidegger reminds us, "is by no means anything technological" (1977: 4). Like Heidegger, Bruno Latour and Couze Venn (2002), Gilbert Simondon (2016), and others reconsider the philosophical and conceptual use of technology beyond an understanding that limits it to a logic of prothesis, something artificially added to the natural body. Security technologies, in this vein, would account not only for digital or analogic machines, which are relevant for my purpose, but also equipment such as rights, voting, intercommunal dialogue, and other political and social techniques. In this way, technology includes machines used for surveillance as much as it

condition of Muslim Americans. Thus, while my historical and conceptual labor demonstrates the imbrication between civil rights and police power, my ethnographic work affirms this relation and attends to its consequences in the spiritual life of Muslim Americans. Taken together, the confluence between civil rights, police power, securitization, and Islamic life provides a rich site to think about the logic of security in American liberalism, the racialization of the Islamic tradition, and how it is practiced in this *space of contestation*.

While this is not unique to the American South, exploring Islamic communities in the American South and how they engage with the genealogy and legacy of civil rights provides a new set of concerns that are hitherto unaddressed. In order to explore these complexities behind the practice of Islam in North Carolina, I conceptualize the conditions of "formal insecurity" built out of the legal, political, and social context of the American South. Starting before the Civil War and reanimated in the present, I think about how the subjects of civil rights not only provoke intractable questions regarding law enforcement, police power, security, and liberalism, but fundamentally change our understanding of these terms and the institutions they inhabit. Beginning in the mid-19th century—as the "slave question" gained traction for American politics—and continuing to the present, I show how civil rights raised pressing questions about securitization, public safety, and police power.[4]

Pertaining to the subjects of civil rights, Muslim Americans learn how to navigate and confront the legal, political, and social violence they experience in ways that inflect their Islamic practices, life, and community. Questions regarding the injury of persons and the practice of "religion"[5] often take center stage in civil rights debates concerning the protection of Muslim Americans' private interest and liberties (or what is called in public policy, 'private protections'). In recent years, counterterrorism programs and the constitutionally provisioned surveillance of Muslim American communities have led legal scholars, litigators, and civil rights advocates to question the protocols of federal and state government (Akbar 2013). Central to these challenges is whether or not the civil rights of Muslims in the United States are respected in light of counterterror security programs that legally sanction the intrusion of Islamic life: in their mosques, homes, and workplaces. Legal advocacy organizations such as

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includes the ethical, legal, political, and social practices and sensibilities that Muslim Americans deploy in order to secure their bodies and souls from racial violence.

[4] To be clear, this is not to say that racialized communities, or, in particular, Muslim Americans today, are *excluded* from enjoying the benefits of citizenship or national belonging. The imagined community construed out of citizenship and national belonging ought not to be equated with security, safety, and protection. For this reason, this dissertation is not a story about "the sociohistorical logic of exclusion" that Denise Ferreira da Silva (2007) derides. As da Silva shows, the logic of exclusion upheld by the "sociology of race relations" ignores the productive forces that maintain the position of racial subjects as the constitutive others of the US (da Silva 2007: xxiv). But being a constitutive other does not analytically lead to questions of who is inside and outside, included and excluded. The question that I pursue in this dissertation— "who is the subject of civil rights?"— does not lead me to locate a particular community or person that encapsulates this subjectivity, living on the margins. Asking this question, I hope, will point to the historical and anthropological conditions on which politics, sociality, and legality in the United States are produced and contested.

[5] Religion is a precarious term whose history includes the formation and contestation of secularization and what it means to be a religious organization in the United States. See Leigh Eric Schmidt's *The Church of Saint Thomas Paine: A Religious History of American Secularism* (Princeton University Press, 2021). While it is a term that is used by some documents, interlocutors, and other resources I use in this dissertation, I have opted out to instead describe Islam as a discursive tradition. I elucidate this below in a different section of my introduction.

the Council on American-Islamic Relations (CAIR) and American Civil Liberties Union (ACLU) have been inundated with reports and questions from Muslim Americans in the past two decades regarding the security of their civil rights. Across the United States, these organizations often hold "Know Your Rights" and other forums within and outside of mosques to prepare Muslims for encounters with federal agents, local police officers, and Transportation Security Administration (TSA) agents. My focus on civil rights does not focus on the content of these workshops (i.e. what rights do Muslims have), the information these legal organizations offer, or even if these "rights" could fully protect the interests of Muslim communities in the United States. Instead, my concern is with how Muslim Americans imbue their need for security against racial violence and police surveillance with the language of rights. Together, security, violence, and civil rights highlight the underlying processes and terms of contestation through which Muslim Americans are, on the one hand, racialized and criminalized, and, on the other, protected and secured in their corporeal and spiritual lives.

Advocacy groups that support this education are an important tool for Muslim Americans to learn about their civil rights. However, they also enlist civil rights in ways that cannot be accommodated by such organizations. In fact, many of my interlocutors who fought local battles against police, surveillance, and racial violence often deemed national organizations like the ACLU and CAIR (and even national Islamic organizations, like the Islamic Society of North America [ISNA]) as ineffective with regard to the immediate protection of their communities. The requisite bureaucratic regimens that one must undergo in order to receive assistance from national legal advocacy groups has deterred Muslim Americans in North Carolina from taking recourse to such organizations. My argument and the story I tell about rights, security, and the law sidesteps the formation and contemporary importance of these non-profit organizations.[6] Instead, I focus on the elective affinity between race, civil rights, and the formation of security, as a governmental and non-governmental practice imposed on, implemented in, and demanded by racialized communities.

Sidestepping these organizations that often emphasize the importance of federal courts in political, legal, and social change also means sidestepping the *redressive* function of civil rights for their use as a *proactive*, *preventive*, and *preemptive* technology. Civil Rights as a preventive measure takes shape in what is historically called the "right to security." Emerging from President Harry Truman's 1946 Committee on Civil Rights, the right to security transforms civil rights from a set of legal entitlements into a set of security technologies. Taking the right to security seriously entails abandoning the argument that rights are championed or recognized only through the law and its institutions. My understanding of civil rights stems from a complex genealogy, which begins with the transformation of the formerly enslaved into political and legal subjects after the Civil War; the differentiation between civil, political, and social rights; the emergence and expansion of "police power" beginning in the late 19th century, and then in the mid-20th century; the consolidation of law enforcement agencies, local and national; and the subtle shifts in civil rights discourses in the American South and across the United States that I ethnographically track.

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[6] See Judy Kutulas' *The American Civil Liberties Union and the Making of Modern Liberalism, 1930-1960* (University of North Carolina Press, 2006).

Nevertheless, the conferral of civil rights to racialized and marginalized communities remains an outstanding historical event. Not because civil rights bestowed freedom and emancipation to those who were previously non-human, but because it continues to agitate and unsettle the foundations of American liberalism: including its republican rights, the relationship between federalism and state action, and the welfare, safety, and security of the general community (Cacho 2018; Harris 2005). As I show in Chapter II, "The Subject of Civil Rights," the problem of conferring upon the formerly enslaved civil, political, and social freedoms was immediately tethered to anxieties surrounding the safety and security of society. This is why I expand the discourse on civil rights to consider how it defines the *boundaries* and technologies of policing, security, and protection.

Reducing claims to civil rights to identity, equality, or legal reform, as Sora Han argues, also "diverts" the history of civil rights away from its founding problem: reckoning with the history of enslavement (Han 2015: 29-30). Instead of casting rights under the shadow of equality, I follow Patricia J. Williams' provocation to think about the desire for civil rights as *boundaries*. She explains at length:

> It is true that the constitutional foreground of rights was shaped by whites, parceled out to blacks in pieces, ordained from on high in small favors, random insulting gratuities. Perhaps the predominance of that imbalance obscures the fact that the recursive insistence of those rights is also defined by black desire for them—desire fueled not by the sop of minor enforcement of major statutory schemes like the Civil Rights Act, but by knowledge of, and generations of existing in, a world without any meaningful boundaries—and 'without boundary' for blacks has meant not untrammeled vistas of possibility but the crushing weight of total—bodily and spiritual—*intrusion*…The concept of rights, both positive and negative, is the marker of our citizenship, our relation to others (Williams 1991: 164; original emphasis).[7]

I want to reconsider how racialized communities establish secure boundaries from bodily and *spiritual* intrusion and violence through their claim to rights. Boundaries, construed as such, are not spaces of individuation (i.e. spaces of identity), but spaces of relation: neighbors, intruders, police, and racists. As I will show in the second half of this dissertation — "Securing Islam" — boundaries (which take shape in security technologies) may enable a new relation to one's social and political world. My dissertation is guided by this, to think about rights as secure boundaries—both literally and metaphorically — for the corporeal and spiritual life of racialized Muslim Americans.

To arrive at Williams' reevaluation of rights, I emphasize the conditions that continue to give civil rights their urgency and importance. Or, as Williams refers to it, I focus on the "recursive insistence" of rights and their encounter with police power. The recursive insistence of rights is indeed about the boundaries needed against bodily and spiritual intrusion. But the

[7] Credit goes to Sora Han's *Letters of the Law* (2015) for directing me to this felicitous rendition of rights in Williams' book.

recursive insistence of rights also points to the recursive context in which rights are demanded, which culminated in the American Civil War (1861-1865).

It is difficult to ignore the American Civil War and how it haunts the problems, questions, and concepts that I analyze in my genealogy and ethnography. The paradigmatic shift that the Civil War initiated, and its lasting hold on the present, resulted from the problem of conferring upon "inferior races," as Stephan Douglas explained in 1858 (Davis and Wilson 2014), their civil rights, freedom, and protection. At its kernel, the Civil War was fought to establish a new foundation for law, politics, and sociality. It was fundamentally "a redefinition of the United States, rooted somehow in the destruction of slavery and the reborn, ill-defined principle of human equality" (Blight 2013: 2). Yet, that new foundation in which "inferior races" are provided a semblance of human equality remains uncertain in light of the ongoing struggles for the protection of racialized communities. The American Civil War points to a historical event, as does the Emancipation Proclamation that resulted from it, about the contestation of who should be secure, with freedom and with rights. But what if that contestation has yet to cease? What if the question persists today: who should be secure, with their freedom and with their rights? Here, as I will show elsewhere, the motivations of the Civil War are not merely specters in our political, legal, and social theater that brings together racialization, rights, and security. The Civil War continues by other means, which are not starkly discernible. As David Theo Goldberg poignantly identifies:

> Civil wars are not foremost about resorting to arms, even as they may quickly gear up to blows…The commitments animating civil war today accordingly are forced appeals to contrasting sets of commitments. These competing conceptions are conflicts in the making, largely between commitments to closed and open worlds, to homogeneous and heterogeneous social ecologies, to purity and mestizaje; to spiraling inequalities or regulated fairness; to securitizing and convivial states…The insistence, in short, is on a securitizing state over a relatively caretaking one, on the slow violence of barely perceptible conflicts. Civil wars are social saturations, warring without war, conflictual engagements without full realization (Goldberg 2020).

The American Civil War did establish a new foundation. However, it was not founded on the "ill-defined principle of human equality," but on a practice of civil war based on the "slow violence of *barely perceptible* conflicts" (Ibid, emphasis added). The imperceptibility of conflicts opens up a field of inquiry regarding the nature of civil war and the continued importance of the subject of civil rights, who senses these imperceptible battles that constitute their way of being.

The persistence of civil war provides the conceptual undergirding to think about civil rights and the recursive appeal to civil rights to remedy legal, political, and social problems. Because civil war primarily concerns securitization, as Goldberg notes, the need to wage war against the imminent threat of violence is foregrounded both for police power and for racialized communities. As Muslim Americans in North Carolina take on the language of civil rights, they also cultivate the sensibilities to perceive and use securitization against the imperceptible threats of civil war, waged by the recursive insistence of police surveillance and racial violence.

Before elucidating my conceptual framework, which includes civil war, it is important to describe the historical and ethnographic conditions on which my project relies.

Genealogical and Ethnographic Conditions

Contemporary responses to racial violence and police power by Muslim Americans communities in North Carolina will be the site in which I raise my aforementioned concerns. There is no place that civil rights affect as intimately as the American South. As the conglomerate of former confederate states and as a historical, legal, and economic geopolity (Genovese 1965), the American South has significantly defined what civil rights are: their challenges, aims, and structures. I situate my analysis in this historical landscape of the American South, how the development of civil rights effects North Carolina more specifically, and the kinds of responses to violence and injury that civil rights beckon. While violence and racial injury are certainly not unique to Muslim Americans or the American South, the history I attend to focuses primarily on the question of civil rights and civil liberties that have accrued a historical significance that I amplify. As I will show in Chapter II, the context of the American South and the formation of state neglect remains urgently pertinent. Today, in North Carolina, Muslim American communities situate their concerns within this history, one that accounts for the violence of racism and the need for security.

One of the aims of my dissertation is to examine how the complex conditions of the American South contributes to the that Muslim American communities employ and the problems they confront. During an 18-month period, I worked with Muslim American communities in the urban centers known as "The Triangle" — formed by Durham, Chapel Hill, and Raleigh — and across smaller municipalities in Durham County, Wake County, and Orange County. There, I learned from Muslim American community leaders and organizers, mosque attendees, law enforcement agents, and security professionals who support the reorientation of mosques, communal spaces, and sensibilities toward securitization.

One of the primary communities I worked with was located in Raleigh and spanned surrounding areas. The Raleigh community possesses one of the largest mosques in the Southeast region with over 10,000 congregants, four imams, and a systematized mosque board that is responsible for distributing and properly using a multimillion-dollar annual budget. The Islamic Association of Raleigh (henceforth, IAR) was an important window into the dynamics of the Muslim American community in Raleigh not only because it encompassed its diversity, but because it was the main advocate for safety against surveillance programs and racism. IAR helps distribute private security to other mosques; brings together local Islamic organizations, political activists, and law enforcement agents for monthly meetings; and raises funds for security initiatives. My project also took me across the state in order to consider the historical, social, and political minutiae that contributed to the Islamic community in North Carolina. This was essential to understanding different, both unified and divided, Muslim voices that demanded and called for security. These differences display the productive tensions that security and civil rights generate for Islamic communities in the US today. Such tensions often lead to reconsidering aspects of Islamic life and the interpretation of the Islamic tradition including its texts and sciences (e.g. *Qu'ran*, *hadith*, and *fiqh*). How to think, practice, and interpret the Islamic tradition within a space of racial violence pushed the Islamic community

in North Carolina to reconsider how their political and social lives would enable or disable a relationship to God and the Prophet Muhammad.

My long-term engagement with these communities in North Carolina provided me the undocumented aspects of Muslim life in the United States, and especially with regard to racial injury and violence. Provided that the majority of injurious acts against Muslim Americans throughout the country are left unrecorded by police or civil rights organizations, my interlocutors offered me accounts about the substance and narrative of their injury. Furthermore, they also emphasized the resources and technologies they sought during the immediate aftermath of racial injury and violence. Oftentimes, these interlocutors were concerned about the nature of their civil rights, questioning how they were to secure, have, and use their rights without the painstaking process of legal procedures.[8] In these narratives of pain, injury, and violence, my interlocutors often reflected about what it means to ask for civil rights in a context like the American South where the vestiges of racial violence thrived through their bodies, souls, and communities. I stress the concern for security in a context that is haunted and constituted by the persistent violence of racism. This concern, I argue, underlies how Muslim Americans' use of security and their questions regarding civil rights can be situated within a larger historical landscape that considers the interrelationship between civil rights, security, and violence in the United States.

In the first part of my dissertation, "A Genealogy of Civil Rights," I focus on post-Civil War formations of the civil, political, and social. How these three categories were construed in relation to the struggle for freedom and rights provides the framework to think about how security became essential to racialized communities and the way police power became the vanguard of civil rights. Perhaps the most important expression of police power, law enforcement is tasked with public welfare, safety, and security. As protection and security become a priority for racialized Muslim Americans, concerns about law enforcement arise and become foreground in their communities. Concerns include: how to reorient the practices of law enforcement to secure civil rights? How to fund security? Or, how will they portray security to the Islamic community, the general public, and the Muslim youth?[9] Provided that counterterrorism thrives on the surveillance of Muslim American communities, the incarceration of its congregants, and the coeval growth of anti-Islamic racism in the United States, these communities have had to engage a history of racial violence and civil rights and ask pressing questions about their interactions with and protection through law enforcement agencies.

Today, the genealogy of civil rights—and the mode of *civil war* that I speak of—is continued in the name of fighting radicalization, domestic terrorism, and violent extremism. Together, radicalization, domestic terrorism, and violent extremism are the names of ambiguous enemies that consequentially lead to the racialization, criminalization, and incarceration of Muslims in the United States. By 2011, the FBI hired over 15,000 informants for the domestic War on

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[8] Such questions did not get into the detail of particular constitutional provisions or amendments, although Muslim Americans often emphasized their right to freely exercise the Islamic tradition. But this claim to the First Amendment came with the observation that in order for such a right to materialize they need technologies and tools that will ensure its flourishing and security.

[9] An important part of the genealogy I write in Chapter III and IV examines how local law enforcement became a significant tool both for the War on Terror and Muslim American security projects.

Terror, many of whom were Muslim Americans themselves (NPR 2011; Aaronson 2013). The imperceptibility of conflict is most intense in this situation, where Islamic communities are subordinated to intracommunal speculative warfare, raising suspicions inside mosques about how to discern between who is a Muslim and who is an informant. As the FBI continues to surveil mosques, hookah bars, cafes, grocery stores, and other spaces, the civil war on terror has forced Muslim American communities to ask questions about how the Islamic tradition is construed and obfuscated by counterterrorism protocols. As this war continues, Muslim Americans in North Carolina seek to transform the conditions under which their lives have been scrutinized by law enforcement, and their bodies and souls threatened by the force of racism in the American South.

Civil rights, security, and racism has come to bear on Muslim Americans in North Carolina due to recent critical events. In some ways, North Carolina has become central to discussion around racial violence against Muslim Americans since 2015 when Razan Abu-Salha, Yusor Abu-Salha, and Deah Barakat were murdered by their white neighbor, Craig Hicks. The families, who have been central to my research, responded to this pivotal event by asking the federal and state government to recognize this event as a "hate crime," a crime committed on the basis of race and religion. While it was not recognized as such, the discourse around the event brought attention to the violence of racism and surveillance, and the need to protect the civil rights of Muslim American communities. In the many discussions I had with individuals in these communities, they constantly addressed the murder of Razan, Yusor, and Deah and how their civic, social, and political work is constantly inspired by their legacy. Such work is motivated by the desire to obstruct the recurrence of racial violence resulting in the murder of a community member. As one close friend of Deah told me, "even though we know it might happen again, the community has become more cohesive after the murder so that we make sure it won't happen again."

Furthermore, North Carolina is an important historical site to explore the question of civil rights, security, and Islam given its large constituency of Black Muslim Americans who built the Islamic community since the late 1950s. The founder of this community, Imam Kenneth Muhammad (pictured below), was a cleric in the Nation of Islam and was asked by Malcolm X himself to travel to North Carolina to spread the message of Islam.



Figure 1.1 Malcolm X (left corner) and Imam Kenneth Muhammad (right, wearing black)

There, he founded the first mosque located in Durham, first known as Muhammad Mosque No. 34 and now Ar-Razzq Islamic Center. At the cusp of the Civil Rights Movement, Imam Kenneth and his community, many of whom are my primary interlocutors, called for economic, political, and physical security, which continues to guide the community and its struggles against racism and anti-Islamic sentiment in the American South. Many of my important interlocutors were Black Muslim men and women who joined Imam Kenneth as members of the Nation of Islam, and later, after W.D. Muhammad's leadership, identifying with the Sunni tradition. As Muslim Americans who were born and raised in North Carolina, they experienced the legal, political, and social upheavals emerging from Jim Crow, segregation and desegregation, and the Civil Rights Movement. Reckoning with this history and its violence has been central to the way the Muslim community in North Carolina understands the Islamic tradition, motivating their desires for civil rights and security.

On Genealogy

Attending to a genealogy of civil rights, racial violence, and police power allows me to situate the claims made by Muslim Americans today within a larger problem-space. A "problem-space" is a historically and conceptually construed space of contestation on which a "horizon of identifiable stakes…hangs" (Scott 2004: 4). As David Scott explains, a problem-space does not only pose problems (for example, the problem of civil rights), "but the particular questions that seem worth asking and the kind of answers that seem worth having" (Ibid). I want to supplement Scott's understanding of historicity and its related problem-spaces with a more fundamental understanding of genealogy and the problems it attempts to *determine*. In Scott's rendition of it, a problem-space is reduced to a question and answer paradigm that takes for granted the determination of the problems themselves. Thus, the work of a genealogy is to determine these problems and the grounds on which they arise. Michel Foucault makes note of this in a 1978 interview, stating that he is concerned "with determining problems, unleashing them, revealing them within the framework of such complexity." It is precisely in determining problems that "the complexity of the problem will be able to appear in its connection with people's lives; and consequently, the legitimacy of a common enterprise will be able to appear through concrete questions, difficult cases, revolutionary movements, reflections, and evidence" (Foucault and Trombadori 1991: 159). Thus, the determination of problems is the ground on which we can understand questions and their intelligible answers within a given historical context.

I also want to make note of the temporality that Scott presupposes in his rendition of a problem-space, one in which the past and the future is conceptually limited to a historical present. As such, it does not account for the future unknown that questions, answers, and, more generally, language cannot anticipate. While Muslim Americans make demands within this enduring problem-space, they also place their desires outside of it. On the one hand, Muslim Americans today address their concerns about surveillance, police, and security by contesting their civil rights — that is, by becoming legible and intelligible to the histories that have determined their current circumstances of racist violence, pervasive surveillance, state neglect, and the need to be secure. On the other hand, civil rights and their problem-space

point to a lack, an absence of security that brings forth questions regarding the existence of racial subjectivity and its proximity to death, both of which require an analysis unbeholden to a question-and-answer paradigm.

Therefore, I refer to my historical explorations as a genealogy for particular reasons. While genealogy does account for historical events and problem-spaces, its aim is different, and this discrepancy is worth parsing. Genealogy, as Friedrich Nietzsche explains with regards to his "genealogy of morals," is about the "*critique* of moral values" (Nietzsche 2006: 7). A genealogy of morals, like my genealogy of civil rights, attends to the "vast, distant, and hidden land of morality" that "has to be journeyed through with quite new questions and as it were with new eyes" (8). A genealogy, then, does more than circumscribe a space of question and answer. It attempts to challenge the givenness of moral values itself in order to get to the "conditions and circumstances" that created and developed such values (7). Nietzsche expounds:

> [W]e need a *critique* of moral values, *the value of these values should itself*, *for once*, *be examined*—and so we need to know about the conditions and circumstances under which the values grew up, developed and changed (morality as result, as symptom, as mask, as sickness, as misunderstanding; but also morality as cause, remedy, stimulant, inhibition, poison), since we have neither had this knowledge up till now nor even desired it (Ibid; original emphasis).

While I am not interested in moral values, I am interested in the modes of inquiry put forth by Nietzsche. Like his critique, I want to understand the conditions under which civil rights "grew up, developed, and changed"; and, similarly, to understand civil rights as symptom, mask, remedy, and inhibition. My genealogy of civil rights does this through the bodies and spirits that are at stake in demands for security and encounters with police power. Not only this, the work of genealogy, as Foucault noted, is to determine the emergence of problems themselves and their "connection with people's lives." Thus, when I speak of the subject of civil rights I seek to determine the problem that rears the concept of and desire for civil rights.

To do this, my genealogy of civil rights examines three conceptual nodes that I outline in the following sections and that will show up in different parts of the dissertation. These conceptual nodes are *police power*, *civil war*, and *spiritual security*. I outline the conceptual repertoire I deploy in order to frame the contemporary *problems* that my Muslim American interlocutors confront and contest.

Police Power

In the 1896 *Plessy v. Ferguson* decision, the US Supreme Court upheld the authority of municipal legislation to separate public accommodations on the account that states, as opposed to the federal government, have the power to decide how civil rights are distributed to its residents. This power over civil rights is known as *police power*. While civil rights struggles continue to be an important topic of historical and sociological investigation (Masur 2021), the interrelationship between police power and the civil rights of racialized communities requires further historical and conceptual interrogation.

Although the term was cited in the *Plessy* case, it was in *Lochner v. New York* (1905) that the US Supreme Court provided a clear definition of police power. As stated in the majority opinion, police power entails the supervision over freedom and property such that they align with security and safety of the general welfare of society. In the *Lochner* case, the Supreme Court recognized that police powers were "vaguely" construed and that an "exact description and limitation" of these powers "[had] not been attempted by the courts" (*Lochner v. New York*: 53). *Lochner*, then, was the first attempt to define these powers given to state authority and under which civil rights are regulated and conferred. As stated in the court brief, police power "relate[s] to the safety, health, morals, and general welfare of the public." The Supreme Court continues, "[b]oth property and liberty are held on such reasonable conditions as may be imposed by the governing power of the State in the exercise of those powers, and with such conditions the Fourteenth Amendment was not designed to interfere" (Ibid). Thus, police power is not merely limited to law enforcement agencies that take shape in municipal or state police departments. Police power goes beyond the boundaries of law enforcement per se and concerns the health, security, and general welfare of the public community; and it is upon this stipulating condition that freedom and property stand.

The definition of police power, as I will demonstrate in Chapter III and IV, fundamentally transformed civil rights and tethered them to the supervision and surveillance practiced by public institutions: police, public health (see the *Slaughter-House Cases* [1873]), and social services. Because police power is irreducible to "policing," as Mark Neocleous notes (2000), its power was established to conserve public order and the public good. Prior to its establishment in the United States, police power emerged from the formation of European nationhood, which sought to regulate the unregulated: food consumption, gambling, vagrancy, and religious matter included. Police power, at its early phases in the 16th century, was transformed "from being an improvised set of legislative and administrative emergency responses to a more active and conscious interventionist form of social regulation" (Neocleous 2000: 5). This was not only a shift in legal powers, it was a shift in the social and political end of police power itself: from "emergency responses" to "social regulation grounded on the principle of good order" (Ibid).[10]

If civil rights, as the Supreme Court adjudicated, is an operation of police power, then this operation is also subordinated to the principle of the common welfare of society. Later, in Chapters III and IV, I will demonstrate how the relationship between civil rights and police power entailed the formation of securitization measures in order to manage relations between law enforcement and racialized communities. In *Lochner*, as in other cases during and after the Reconstruction, police power limited federal intervention and expanded state action. The limitation on federal intervention was long, but only temporary. Over the 20th century and into the present day, police power transformed the relationship between federalism and state action and has accrued a new significance through the War on Drugs, Crime, and Terror. In this dissertation, I chart the life of police power and outline its conceptual undergirding that brings together law enforcement, civil rights, and the security desired by local and racialized communities.

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[10] The terms of 'good order' first emerged in German with terms such as "*gemeine Nutz* (general welfare) or *gemeine Beste* (common good)" (Neocleous 2000: 5-6).

Beyond its legal utilization in federal courts, police power primarily denotes a capacity to detect illicit behavior that could disrupt the coherency of the general welfare of social and political communities. As capacities, detection and discernment invite public officials to *sense* and identify crimes and criminals, which are not always well-defined. At the heart of it, then, police power is not only a legal tool to assess how rights should be enforced, it also brings about a new sensibility both for law enforcement agencies and racialized communities.

On the one hand, law enforcement agencies are required to detect criminal behavior under the surface of things, encouraging a logic of suspicion that criminalizes the life of racialized communities. On the other hand, police power is not a capacity limited to law enforcement, it is for the "general welfare of the public." This invites subjects of municipal communities to cultivate this sensibility, also detecting suspicious behavior that could be relayed to police and other political officials.[11] In the 1970s, the Law Enforcement Assistance Administration (LEAA) calls this "natural surveillance." As the enforcer of civil rights, police power is both a condition for securitization and a condition for the surveillance of racialized communities. The circumstances of Muslim Americans today point to the isomorphic relations that police power corrals into its scope and field. Within the broad grasp of counterterrorism, police power is central to the concerns and disputes occurring in Muslim American communities, especially those in North Carolina. Thus, when it is claimed that Muslim Americans' civil rights are not protected in light of encroaching surveillance programs, such claims contest the *boundaries* of police power and their relationship to civil rights. But if police power is the vanguard of civil rights, especially in the case of Muslim Americans, can it be the case that they infringe upon them?

The need for and recent practice of embracing police power in Muslim American communities revolves around this crucial question. For Muslim Americans in North Carolina, police power is a mechanism and capacity that they endeavor to *enjoy*, both in sensibility and in their desire to remediate relations with local and federal law enforcement agencies. In my history of civil rights, I illustrate the enduring importance that police power acquires in light of questions regarding the civil rights, protection, and security of racialized Muslim American communities. The kind of security desired in such communities, I wager, is not merely aligned with police power, but it converges with police power's logic, enabling a new relationship to the Islamic tradition as an object of securitization.

In her recent article on the topic of police power, Banu Bargu attempts to weld together a theory of police and policing that is attentive to both its repressive power as a means for social control and its ability to regulate and reproduce social and racial distinctions. In "Police Power: The Biopolitical State Apparatus and Differential Interpellations" (2019), Bargu demonstrates the mutual limitations between Louis Althusser's and Michel Foucault's conceptualizations of police and policing. As she shows, Althusser offers a conception of policing as an "inner cop," an absent police officer that is instituted within the rituals, practices, and conduct of an individual subject. Such an inner voice is present when the police are not, installing an "internalized form of repression" in the subject, making them into a prosthetic of police power

[11] See the Posse Comitatus Act of 1878, which limited the use of military intervention in domestic conflicts. The act also entails the use of civilians when necessary, as opposed to military action, to support local police powers against criminal activity.

(Bargu 2019: 298). For Bargu, Foucault conversely offers an account of policing by demonstrating how the panopticon not only forms individual subjects, but is a general social condition. In other words, Foucault's panopticism accounts for "a social relation of domination" in which police power is "disseminated within the social body imparting a dynamic quality to the socialization of policing, independent of existing institutions" (311-312).

There is a point of contention that I want to raise in my reading of Bargu's conception of police power that is pertinent for the Supreme Court's rendition of it in 1896, and later in 1905. For her, both Althusser and Foucault neglect the differentiation (or "differential interpellations") of subjects, between the "good" and the "bad." In her attempt to bring their theories to bear on contemporary American powers of differentiation, Bargu shows how both Althusser and Foucault do not account for the racialization of subjects who are prone to being suspect. On the one hand, Althusser "omits a crucial moment: policing works by identifying who is more suspect than others by imputing guilt, by separating the 'good' from the 'bad sort', and by subjecting them to differential treatment" (302). Foucault, on the other hand, "neglects the criteria around nodal differentials (such as race and ethnicity)" (312). My worry concerns Bargu's attempt to superimpose the problematic of race onto the analytics of Althusser and Foucault. Situating differential nodes or the differentiation of interpellation, of which race is one of many, transforms the question of how racial subjects are generated to one that inherently regards their "treatment" as *equal* or unequal, good or bad before the law and its police apparatus. "[N]odal differentials" are taken for granted and presupposed without the concern for their genesis and perpetuation in social and political life. When it comes to police power, race cannot be understood as one differential node among many others. Race and racialization, I argue, are at the foundation of police power, especially as they relate to the rights of racialized communities and their demands for security. Instead of superimposing the question of race on Foucault and other thinkers, I want to reflect how Foucault helps think about the conditions under which race and racial subjects are produced. How can we think about racialization through Foucault's writings?

Civil War

As I stated earlier, despite its significance in debates surrounding civil rights, I do not want to take the "ill-defined principle of human equality" (Blight 2013) as the condition for the genesis of the subject of civil rights. Its genesis, rather, emerges from a confluence of historical, social, legal, and political processes, which include police power and civil war. Following Bargu, I want to think with Althusser's conception of the inner cop, the inner voice that directs a subject's conduct alongside Foucault's history and conceptualization of policing and security. Jettisoning Althusser's distinctions between violence (in the Repressive State Apparatus) and ideology (in the Ideological State Apparatus), on which his analysis of police power relies, while keeping his understanding of the inner voice of the police, helps get to what Foucault called a *dispositif*.[12] A dispositif, not an apparatus, concerns itself with disposing subjects, the

[12] I will only use the term *dispositif* or a dispositive to refer to Foucault's central concept of security, rather than the often-mistranslated "apparatus." This is important for linguistic and conceptual reasons given that French "apparatus" [*appareil*] was a conceptual term used by Louis Althusser to describe his interpellative model of

natural environment, and institutions toward a horizon of security, of which the police are only one instrument. Foucault's conceptualization of dispositif begins with his writings and lectures during the 1970s, including *The Punitive Society* (1972-1973), *"Society Must Be Defended"* (1975-1976), *Security, Territory, and Population* (1977-1978), and *The Birth of Biopolitics* (1978-1979). While Foucault construes his concept of dispositif separately from his understanding of civil war, when brought together they shed light on the formation of police power and its relationship to "barely perceptible conflict" in American liberalism (Goldberg 2020).

In his lectures, Foucault traces the history of criminalization, policing, and security in a unique manner, one that takes account of the proliferating force of civil war in a "space of security" (Foucault 2007: 11). Fundamentally, a dispositif—as opposed to other modes of power such as sovereign and disciplinary—is arranged around the *aleatory*.[13] The aleatory is a condition of contingency and chance that forces political and social entities to prepare, prevent, and preempt against the future unknown. Such a logic takes shape in what Donald Rumsfeld called the "unknown unknown" in the aftermath of September 11th.[14] Foucault relates security to the aleatory by demonstrating how they operate in a series of probabilities that the practices of government seek to manage and foresee, a government of "the event" (30). As opposed to other modalities of power, security is both a condition and provides the appropriate set of technologies that engage the aleatory, attempting to foresee and sense that which is not immediately present (Hamilton 2013). As a condition, security provides psychic and spiritual relief where a subject experiences a sense of indifference toward the world (Gros 2019). As technological equipment, securitization provides the tools to bring about that condition, an indifference towards the world. Explaining how towns and cities were formed, Foucault expounds on the orientation of the future found in the relationship between security and the aleatory:

> Finally, the fourth important point, is that one works on the future, that is to say, the town will not be conceived or planned according to a static perception that would ensure the perfection of the function there and then, but will open onto a future that is not exactly controllable, not precisely measured or measurable, and a good town plan takes into account precisely what might happen. In short, I think we can speak here of a technique that is basically organized by reference to the problem of security… (20).

The will to securitize—to be prepared for "what might happen"—undergirds the project of liberalism and is calibrated into its juridical, political, and social mechanisms. Although race and racialization are not conceptual markers for Foucault, his conception of security and its relation to surveillance and *civil war* provide a set of terms around which racialization could be construed.

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ideology. In his essay "On the Political Ontology of the *Dispositif*" (2019) Davide Panagia refines Foucault's "complex" model of a dispositive that is conceptually distinct from the "reflex" model of interpellation.

[13] Thank you to Nima Bassiri for pointing this out to me.

[14] Cited from Joseph Masco's *Theater of Operations* (2014). See Masco's stellar analysis of Rumsfeld's "unknown unknown," p. 16-17.

How does the problematic of security relate to the persistence of civil war? In his lectures *The Punitive Society* (1973-1974) and *"Society Must Be Defended"* (1975-1976) Foucault draws out the relationship between the figure of the criminal as a "social enemy," the formation of surveillance, and the concept of civil war. Foucault begins his rethinking of power in relation to war with a provocative question, one that defines my understanding of racialization as the fundamental grounding for thinking civil war—namely, racialized populations who are deemed enemies and dangers to society. He asks: "If we look beneath peace, order, wealth, and authority, beneath the calm order of subordinations, beneath the State and State apparatuses, beneath the laws, and so on, will we hear and discover a sort of primitive and permanent war" (Foucault 2003: 47)?

Reading early penal law theorists, Foucault locates a relationship between what he calls "social war" and the principle of "constant superintendence [surveillance]" (Foucault 2013: 22). This dynamic, between social war and surveillance, initiates "the formation and growth of the State as the instance of superintendence, which makes it possible to control, observe, and intervene in the details of the relations of social life" (23). Within the liberal tradition—including Hobbes and Rousseau—war in general (and specifically social war as civil war) stands for the outer limit of politics, where power dissolves with no sovereign authority in place. For Hobbes, as Foucault shows, war ceases "when the sovereign is effectively constituted by [the] transfer of power. If, conversely, the power slackens or breaks up, then one gradually returns to the state of war" (27). The sovereign, in other words, is an authority that sutures peace and civility at the precipice of combat.

Foucault reads the logic of liberalism—that is, criminalization, police power, and war—counterintuitively. Contrary to the reading that excludes war from the function of political, social, and civil power in liberalism, "civil war, rather, is what haunts power" (31). Civil war, taken as such, is thus the constitutor of power inside liberalism through which the logic of right, criminalization (penality), and police power operate:

> Civil war is, indeed, what threatens power from the outside. In fact, we could show that civil war is, rather what haunts power, not in the sense of a fear, but inasmuch as civil war occupies, traverses, animates, and invests power through and through. We have the signs of this war precisely in the form of that surveillance, of that threat, of that possession of armed force, in short in the form of all the instruments of coercion that actually established power acquires in order to wage it. One should be able to study the daily exercise of power as civil war: to exercise power is to conduct civil war in a certain way, and it ought to be possible to analyze all these instruments, tactics, and alliances that we can identify in terms of civil war. For an analysis of penality it is important to see that power is not what suppresses civil war, but what conducts and continues it. And, if it is true that external war is the continuation of politics, we must say, reciprocally, that politics is the continuation of civil war" (31-32).

It is precisely the "daily exercise of power as civil war" that I seek to locate in the history of civil rights, its entanglement with police power, and the implementation of surveillance and security technologies in Muslim American communities in North Carolina. But what civil war

is being waged and against whom? As civil war haunts state power, the logics of criminalization crystallize in order to defeat the criminal, and those prone to crime, as a measure of securitization. The criminal, or in my case Muslim Americans who are prone to terrorism, is the social enemy against whom society must be defended. Consequently, "punishment must be neither reparation for the harm done to the other, nor punishment of the offense, but a measure of protection, of counter-war that society takes against the criminal" (33).

This thoroughgoing civil war that institutes the state and establishes surveillance as a mode of control, also burgeons the mechanisms of security that take civil war to its summit. Security as the modality of power that operates on the aleatory, the unknown, brings civil war to bear on the future possibility of crime. In this manner, the War on Crime, Drugs, and Terror, as I will show, stems from the logic of liberalism that seeks to prevent crime before its occurrence—what the Law Enforcement Assistance Administration (LEAA) called "precrime." As such, Foucault's rendition of civil war, security, and surveillance comes to bear on the question of counterterrorism, police power, and the logics of racialization underlying them. The logic of racialization, I wager, is not merely symptomatic of counterterrorism or police power, it in fact constitutes their practices and agendas. While Bargu critiqued Foucault for neglecting the "nodal differentials" that constitute police power, taking account of his conception of civil war and the formation of a general social enemy brings such differential nodes to the fore. In civil war, the terms of civil, political, and social power are undergirded by the constitution of differential nodes, what Foucault calls "collective elements." There is no "civil war that is not a confrontation with collective elements: kinship, clienteles, religions, ethnic groups, linguistic communities, classes and so on" (28). It is through these differential nodes, "through collective and plural elements that civil war is at once born, unfolds, and is carried on…civil war not only stages collective elements, *it forms them*" (Ibid; emphasis added). This logic of racialization inherent to civil war, where collectives are differentiated and their encounters staged, is made possible by the need to securitize in the face of imminent threats that take shape in crime or terrorism.

I think Foucault's intervention provides a new way to think about the question of civil rights and its relationship to Muslim Americans. My concern with civil war is not only to illustrate how Muslim Americans have become social enemies of state power through counterterrorism. On the contrary, my concern regards the terms of debate, contestation, and remediation taken on the part of my Muslim American interlocutors. In other words, their recourse in security and surveillance protocols, the formation of intercommunal alliances, or their remediated relations with law enforcement agencies is a kind of civil war. Their demand for rights and the need to combat racism and state surveillance is situated within these terms. Civil war, then, takes place on this "stage of power," where Muslim Americans seek to "confiscate and transform" it for their own ends: for the security of their civil rights and the securitization of the Islamic tradition.

There is another aspect worth parsing out in relation to Foucault's conception of civil war and security. If the space of security operates at the level of the unknown, then it seeks to apprehend unknown and unseen threats before their occurrence. As Louise Amoore makes clear in her work, contemporary regimes of security work to "calculate the incalculable" (Amoore 2014: 436). This calculation takes shape in computational logics that seek to penetrate the unknown with the precision of number. But it relies heavily on speculation, on

the speculative function of the imagination by "routinizing, even bureaucratizing, the exercise of the imagination" (9/11 Commission 2004: 354). The work of the imagination, or calculating the incalculable, is a part of what I refer to as the spiritual, the domain of the unknown that both Muslim Americans and counterterrorism seek to apprehend both for support and security.

The spiritual and the speculative are a site of civil war, a contestation of power, and an object of securitization. As a site of civil war, the spiritual takes place in mosques, in Muslim-run cafes, communal centers, and Muslim homes that become a site for interrogation, investigation, and scrutiny. In this space of violation and scrutiny, speculative warfare between Muslims and law enforcement agencies thrives. Here, the difference between informants, "terrorists," and practicing Muslims can become indiscernible. The spiritual is not only a domain in which Muslims practice their tradition and relate to God and the Prophet Muhammad. More fundamentally, the spiritual as a site of civil war brings together the logic of counterterrorism with the desire for Muslim Americans to practice and secure their tradition from unwanted racial violence and governmental scrutiny. In this space, Muslim Americans in North Carolina attune their sensibilities to discerning disguised informants, potential threats of racism, and the imminent possibility of death. As it crystallizes today, the arrangement that brings together the Islamic tradition, police power, and civil rights attunes security to the contestation of the spiritual, which unfolds and converges with, to refer to Foucault's words, *the daily exercise of power as civil war*.

Spiritual Security

At the heart of my concern with security is how it can become the "enabling condition" (Hartman 1997: 56) that provides Muslim Americans with the technologies and mechanisms to securely practice Islam. Or, as Saidiya Hartman poignantly asks, "how does one represent the various modes of practice without reducing them to conditions of domination or romanticizing them as pure forces of resistance" (55)?[15] The concept of spiritual security answers this question by relying on a conception of the Islamic tradition and its relationship to liberalism. Given the importance and elusiveness of these terms, I would like to elucidate my use of them in order to arrive at my understanding of spiritual security.

Questions regarding Muslims and the Islamic tradition in liberalism remain a lively subject of conversation. By focusing on the relationship between Islam, liberalism, and security, I invoke a set of problems that are identified in recent literature on religious and racial minorities (Fernando 2014; Mahmood 2015; Tambar 2014). The idea of liberalism as a political doctrine that can ensure religious freedom, equality before the law, and unencumbered liberty

[15] I think this an enduring question in anthropological inquiry. See João Biehl and Ramah McKay's (2012) essay "Ethnography as Political Critique" or the fantastic work of Audra Simpson (2014) who use the political work of their interlocutors as a kind of action that limits and refuses the force of dominant structures of settler colonialism, psychiatric regimes, and sovereignty. I think the impetus to understand moribund forms of life or communities who have been harmed by political forms like liberalism is an essential feature of anthropological inquiry. See for example the early work of Pierre Clastres (1989) and the work of James C. Scott (2009), who understand their respective interlocutors as incommensurable and resistant to state-formed logics of government and bureaucracy. While this work is indeed important, I try to attend to a different kind of political action germane to my Muslim American interlocutors in North Carolina.

has become the object of critique in light of the security state's encroachment on religious affairs purportedly protected by the separation of public administration and private religious orientations. As such, liberalism, and by extension secularism, cannot uphold the guarantee of equality, the equability of ethnic and religious difference before the law, and the separation of private and public life due to its tactics that persistently intervene in and define what the 'religious' is and how religions ought to be practiced (Agrama 2012). For my purposes, it is important to identify how this literature adheres to a critique of state action and the means by which state authorities regulate and disable the cultivation of virtues endemic to religious tradition, including, but not limited to, Islam, Eastern Christian traditions (Lukasik 2016), and Judaism. Instead of adhering to an account of liberalism and its principles that weakens or disables religious traditions, my analysis reconceptualizes American liberalism so as to attend to the ways that Muslim Americans practice and transmit the Islamic tradition in the face of surveillance and racial violence. In order to do this, security is centered in my concept of liberalism.

My concept of liberalism takes seriously Judith Shklar's maxim regarding liberalism's only "overriding aim": "to *secure* the *political conditions* that are necessary for personal freedom" (Shklar 1998: 3; emphasis added). While I am less concerned with the question of "personal freedom,"[16] Shklar asks us to think about how political conditions for freedom and other entitlements and rights are not merely conferred or bestowed by a state apparatus, but *secured*. Security and liberalism work in tandem, co-constituting one another in such a way that could guarantee the rights promised to the subjects of liberalism, as well as maintaining the need for security due to the imminence of danger. While, on the one hand, liberalism guarantees the conditions for the practice of freedom, security, its instruments, and agendas, on the other, liberalism troubles the guarantee of these rights and freedoms by casting them as potential threats. Securing something, such as a tradition, does not mean guaranteeing it; rather, 'securing' indicates that it is susceptible to forfeiture or destruction. The fact that a tradition could be forfeited or destroyed signifies precisely that it can be secured but not guaranteed.

Following my reading of Foucault, security in liberalism takes on the task of anticipating the unseen dangers, risks, and threats that may cause forfeiture or destruction. As such, the anticipation of these unseen dangers makes liberalism malleable to traditions that operate under unseen beings, including God, spirits, and angels. Because I want to attend to security in liberalism and how it is implemented in Muslim American communities, I want to go beyond the materiality of security technologies that seek to bolster physical or existential security in order to focus on *spiritual security* rendered in the shape of the securitization of the Islamic tradition: including its spaces (e.g. mosques), texts, ethics, and practices. Spiritual security expands the concept of security and its protocols and situates the use of weapons, CCTV cameras, or the use of armed guards within an Islamic lexicon. As such, I consider security and the protocols implemented by Muslim Americans in North Carolina as *fundamentally Islamic practices* that are motivated as much by political and social anxieties spurred by racial violence and surveillance, as they are motivated by a Muslim's relationship to the Divine and the Prophet Muhammad.

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[16] Alasdair MacIntyre's critique of emotivism in *After Virtue* (2007) applies to but is not exhaustive of the way liberalism conceives of personal interest.

My suggestion to position the Islamic implementation of security protocols within a logic of liberalism provokes important questions about the practice of the Islamic tradition in the United States. When I use the term Islam or Islamic tradition, I am particularly referring to Talal Asad's broad definition outlined in his 1986 essay, "The Idea of an Anthropology of Islam." In that essay, Asad disposes of the normative-essentialist and textual models that skew an understanding of Islam as either purely nominal (i.e. Islam is what Muslims say and do) or purely scriptural. A discursive tradition, as opposed to religion as a cultural system (Geertz 1973), both adheres to foundational texts (i.e. *Qur'an* and *hadith*, as well as hermeneutical texts in the genres such as *fiqh*, *tafsīr*, and *sīra*) and the interpretive, practical, and affective equipment that inflect these texts.

Significant for my purposes in Asad's 1986 intervention is his understanding of time and temporality within a discursive tradition.[17] For him, a discursive tradition regards "the correct form of a given practice that, precisely because it is established, has a history" (Asad 2009 [1986]: 20). This "correct form" is not an abstract system that can never be fulfilled by its practitioners. Instead, Asad's understanding of correctness (and orthodoxy as it is defined in terms of the "correct process of teaching" [21]) regards the ways in which practitioners are situated within a history of debates regarding how Islam should be practiced within a given context. The "pedagogical" foreground in Asad's picture of Islam is crucial, given the requisite transmissions that make possible the endurance of a discursive tradition (see Mahmood 2004: 115).[18] It is here that Asad expounds on the endurance of a tradition through time:

> The discourses relate conceptually to a *past* (when the practice was instituted, and from which the knowledge of its point and proper performance has been transmitted) and a *future* (how the point of that practice can best be *secured* in the short or long term, or why it should be modified or abandoned), through a *present* (how it is linked to other practices, institutions, and social conditions)…it will be the practitioners' conception of what is *apt performance*, and how the past is related to present practices, that will be crucial for tradition, not the apparent repetition of an old form (Asad 2009 [1986]: 20-21; emphasis added).

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[17] I think Asad's understanding of the logic of tradition provides an important intervention to some of the sociological debates about risk and the logic of tradition. Ulrich Beck argues that the logic of risk undoes the logic of tradition such that risk, which tends to future dangers, shatters the coherence of the past, present, and future, on which tradition relies. If we emphasize the purchase that the future has for a discursive tradition, then the question of risk or danger is not alien to the logic of tradition and its coherent temporality, but always already accounted for as well as the possible ways to protect oneself, a community, and a tradition from them. See Ulrich Beck, *Risk Society* (1992) or a redacted form in "Politics of Risk Society" (1998) in *The Politics of Risk Society*, ed. Jane Franklin.

[18] Saba Mahmood (2004) offers an indispensable intervention within debates on the Islamic tradition and the pedagogical modalities it takes in different contexts. In particular, Mahmood emphasizes the way the present and future are in a constitutive relationship with the past. That is, the past is the "constitutive condition for the understanding and reformulation of the present and the future" (115). I want to shift this constitutive relationship with the past to the future in a way that I think Asad's discursive tradition accounts for in relationship to my understanding of liberalism and political action.

As a discursive tradition, Islam is figured within this complexity of time, that makes the past present, and where the future comes to bear on concerns of the present life of its practitioners. My concept of Islam supplements Asad's reflections about the necessary variables, deliberations, and negotiations Muslims consider in order to *secure* the tradition and its practitioners with the future in mind and spirit. Centering the future means taking the Islamic tradition as a "ongoing project of cultivating a living entity" (Alatas 2021: 12). As a living entity, it "seeks to cultivate particular characters and traits in living individuals that are deemed to be beneficial for their flourishing and strengthen their resistance to things that stunt their development" (Ibid). In the context of Muslim Americans who desire to secure their tradition against racial violence or state surveillance, their practices and visions of an Islamic future in the United States often converge with the logic of security upheld by law enforcement agendas and their desire to prevent future events of terrorism. My goal is not to demonstrate how this is a significant part of Islamic life in the United States. It is my goal, rather, to demonstrate how securitization, police power, and civil rights become a part of Islamic life, "a living entity."

There is also a past worth attending to as well, especially with regard to the development and transmission of Islam in the United States. This past includes the problems that Islam encountered when it took shape in the Nation of Islam, as well as other early formations of Islam in the US. Securing the Islamic tradition as a spiritual tradition was at the heart of what Garrett Felber calls the "dialectics of discipline" through which Black Muslims negotiated the boundaries of state securitization, incarceration, and surveillance through the very same technologies deployed against Black Muslims (Felber 2020). This history plays a significant role in North Carolina today, recalling the roots of the Islamic community in North Carolina (especially urban centers such as Charlotte and Durham) that were established by Imam Kenneth Muhammad, emissary of the Nation of Islam. I draw on this history to open up questions regarding what Su'ad Abdul Khabeer calls "Black Islam," without, however, relying on the problem of "systemic inequality" (Abdul Khabeer 2016: 36). Taken together, my understanding of a discursive tradition incorporates this history of Islam, and particularly Black Islam, in the United States. Bringing this conception to the fore demonstrates how civil rights is an enduring problematic for racialized Muslim American communities, past, present, and future.

The purchase of this conceptual move draws the history of enslavement, police power, and civil rights closer to its contemporary instantiation in counterterrorism protocols, new forms of anti-Islamic racism, and the desire for securitization in Muslim American communities. By attending to a historical and political landscape that has made racial violence possible, Muslim Americans in North Carolina are not concerned with the monotonous ritualization that perpetuates "old" forms of Islamic life in the face of moribundity. Although Islam is situated within a set of practices and an adherence to theological (*aqidah*) and jurisprudential (*sharia'*) principles, when I speak of the "Islamic tradition" and "Muslim Americans" I am concerned with the conditions—political, social, and legal— of a shared discourse about the practice of Islam in the United States. I am not concerned with Islam or Muslim Americans as a "lived religion" or an identifier, respectively. In other words, what animates my understanding of Islam and Muslim Americans are the conditions that enable practices to be exercised and contested, theology and jurisprudence to be debated and shared (among Muslims and non-Muslims), and the general flourishing of an Islamic community. The

question, then, is not only how does the Islamic tradition securely flourish in a context of racial violence? It is also about how racial violence and security activate the Islamic tradition in North Carolina; and, furthermore, how the concern of racial violence and security urge Muslim Americans to reread, reinterpret, and rethink significant aspects of Islamic life.

In the following I outline the historical, conceptual, and ethnographic emergence of the subject of civil rights and the conditions on which this was made possible. I divide this endeavor in two parts, the first of which is "A Genealogy of Civil Rights." In Chapter II, "The Subject of Civil Rights," I examine a set of legal cases, political debates, and historiographies of the 19th century regarding the formation of civil rights and its relationship to the security and safety of society. Central to this chapter is the distinction between civil, social, and political rights (and concurrently, the differentiation between racial and political violence), mobilized by politicians and crystallized in the judicial settlement of the American Reconstruction. The fundamental aim of this chapter is twofold. First, I demonstrate how the process of transforming enslaved subjects into legally, politically, and socially legible subjects provoked questions regarding security. Second, I draw out the conditions of "formal insecurity" and state neglect, which formed the legal, political, and social context of the American South. In Chapter III, "Police Power I: The Right to Security" I return to my analysis of *Plessy v. Ferguson* (1896) and *Lochner v. New York* (1905) in order to demonstrate the historical and conceptual development of police power and its entanglement with civil rights. Beyond its institutional shapes, I chart how police power established a pervasive sensibility to detect criminal activity and thus made security a part of the soul (psyche), not simply outside of it. As security becomes a part of the self, it takes shape in the development of police power, leading what the Law Enforcement Assistance Administration called "natural surveillance." This chapter centers my conceptualization of police power beginning in the late 19th century and ending with the 20th century War on Crime. Chapter IV, "Police Power II: Counterterrorism, Liberalism, and Islam," continues the concerns raised in Chapter II and traces the development of police power up to the present, as it lethally takes shape in counterterrorism. In this chapter, I outline the stakes at hand for reconsidering the relationship between Islam and liberalism and how counterterrorism reanimates questions about the relation between civil rights and police power.

In the second section, "Securing Islam," I take the historical and conceptual backdrop that I delineate in Chapters II, III, and IV in order to situate the desire for securitization of Muslim Americans in North Carolina. In Chapter V, "The Spirit of Security," I examine how Muslim Americans become subjects of civil rights through their growing concern surrounding security, safety, and protection. I ethnographically show how their implementation of security technologies inside mosques and their remediated relationships with law enforcement agencies inflect their relationship to the mosque and to the spirit of the Islamic tradition. Moreover, in this chapter, I also expand the conceptual field of securitization to include practices of political, civic, and social participation—practices that are a part of the practice of civil war. I also expand the field of securitization in order to show how the unseen, invisible, and the spiritual are at its foundation. I incorporate practices such as running for political office, voting, and intercommunal conversations in order to shift the horizons of these practices from one

oriented toward equality and diversity to a horizon that is generated by the possibility of being secure. By contesting the boundaries of police power and demanding the protection of their civil rights, I illustrate the manner in which the Islamic tradition—its virtues, practices, and theology—becomes an object of securitization.

In Chapter VI, the final chapter, "The Knowledge of Death," I revisit the tragic murder of Razan Abu-Salha, Yusor Abu-Salha, and Deah Barakat by their white neighbor, Craig Hicks. While their murder is the most significant instance of death for Muslim Americans, I elucidate the ways in which the knowledge of death is related to a knowledge of formal insecurity and state neglect. Such a knowledge organizes the way Muslim Americans conduct themselves—civically, political, socially, and spiritually—and orients them toward the inevitable and unrepresentable horizon of death. Death, in this context, is not regarded as a "social death" (Patterson 1993), but a death of the body and the death of the Islamic spirit. In this chapter, I also attend to related concepts regarding neighborliness, the social, and sociogeny and how they become a part of the Islamic lexicon of security.

To recall the original impetus of my dissertation, the historical, conceptual, and ethnographic work in the following chapters seeks to reconsider the grounding of American legality, politicality, and sociality. *Who is the Subject of Civil Rights?* brings together a diverse set of materials in order to reconsider this grounding and by doing so it demonstrates how the guiding question of my work—who, in fact, is the subject of civil rights? — makes demands on the past, present, and future of American empire. The weight of civil rights and its relationship to police power, as I stated earlier, requires not only clarification, but interrogation, critique, and elaboration. In the following chapters I trace the formation of the subject of civil rights, the development of police power, and the conditions of Islamic life under the duress of racial violence and formal insecurity.

Part I:
A Genealogy of Civil Rights



Cover of "Le Petit Journal", 7 October, 1906. Depicting the race riots in Atlanta, Georgia. "The Lynchings in the United States: The Massacre of Negroes in Atlanta." (Niday Picture Library)

Chapter II

The Subject of Civil Rights

> *Thus universality can conceivably exceed its stipulated and constitutive constraints to the degree that these claims can be taken up and articulated by those subjects not traditionally entitled to the privileges of disembodied and unencumbered universality (Hartman 1997: 122).*
>
> *The difficulty has been to compel a recognition of the legal right of the black race to take the rank of citizens, and to secure the enjoyment of privileges belonging, under the law, to them as a component part of the people for whose welfare and happiness government is ordained – 1883 Civil Rights Cases (61).*

As mentioned in the introduction, my dissertation centers the complex formation of civil rights, their relationship to questions of security and safety, and how the circumstances of Muslim American life today can be situated in what I call "the subject of civil rights." With the increased exposure to counterterror surveillance and racial violence in the American South, Muslim Americans have imbued their need for security with the legal language of civil rights protection. While organizations like the ACLU and CAIR overemphasize the importance of legal reform through federal courts, most Muslim Americans have adopted a different understanding of what civil rights entail, how they ought to be protected, and what they do for Muslim communities in the United States. Their understanding and desire to confront racial violence and state surveillance through civil rights does not take legal and bureaucratic regimens as the primary means for their protection. Instead, civil rights for Muslim Americans involve a different set of political, spiritual, and social technologies that attend to their desire for security.

In order to arrive at the substance of these technologies, this chapter maps how civil rights were delimited for racialized communities in the United States against the juridical backdrop that differentiates between civil, political, and social rights. My purpose is to demonstrate how civil rights, and their relationship to their political and social counterparts, did not sufficiently protect against racial violence and police power in the contexts I study.[19] Rather, following Sora Han's reading, civil rights do not signify entitlements or protections as much as they signify "decompositional rights" (Han 2015). Decompositional rights are irreducible to "a desire for legal recognition or the statement of injury" (51), nor do they point to the invention of "new rights" for formerly enslaved[20] and racialized communities (52). They reference a context of the breakdown of rights and citizenship under the nation and its legal technologies.

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[19] See Pamela Branwein's chapter "The Emergence of the Concept of State Neglect, 1867-1873" in her book *Rethinking the Judicial Settlement of Reconstruction* (2011)

[20] Throughout this chapter I reference the relationship of servitude, prevalent in American chattel slavery, in terms of "master" and "enslaved." While there are other terms I can use, my decision to use these terms is to highlight the relation of domination that undergirded this dynamic.

Han modifies the rights of the formerly enslaved with their decomposition in an "ensemblic form of the claim that sweeps across and reconfigures any taxonomic reasoning for the distributions or withholdings" (Ibid). As such, these rights are not protective measures, but an insistence that what is guaranteed by rights cannot account for the security of the racialized, especially the "black claim" on them.

The protection of civil rights by police power emerged side-by-side with the unprotected rights of the social and the political. While civil rights sought to guarantee citizenship and participation in national belonging, it is important to understand how the subject of civil rights' "form of right" is "undeterminable by citizenship" (Ibid). Civil rights are merely "negative protections" that seek to correct racial violence through legal redress. The historical emergence of such rights points to the breakdown of security that the subjects of civil rights seek to suture through other means; or, in my case, the technological implementation of security and surveillance technologies that respond to the violence of formal insecurity. In this context, "state neglect" — a legal concept that describes the refusal of state action in matters regarding racial subjugation — plays a critical role in establishing formal insecurity through racial violence. As Han describes it, state neglect is "an unauthoritative authorization of racial terror and dishonoring that takes place on a jurisdictional line between federal constitutional civil rights and state criminal law" (45). In the following analysis, my account of civil rights takes Han's conceptualization and develops it to take account of the decomposition of security through the consolidation of state authority in matters regarding civil rights. While civil rights do offer us a window into questions of citizenship and national belonging, this chapter moves away from this inquiry in order to understand the substance and telos of civil, political, and social rights — and, furthermore, what was lacking in the bestowal of civil rights due to the loss of political and social securities. As Representative James Wilson — the floor manager for the Civil Rights Bill of 1866 in Congress — noted, civil rights stand for the "absolute rights of individuals," which center "the right of personal security" (Brandwein 2011: 36).

I shift my inquiry through my reading of the *1883 Civil Rights Cases*, decided by the US Supreme Court. While I attend to the context in which the Court offered its decision, I primarily focus on the Supreme Court brief that outlines the legal reasoning behind the majority decision and the rebuttal of Justice Marshall Harlan, the sole dissenter among the nine Justices. In doing so, this chapter attends to three different aspects of the Supreme Court case that will help conceptualize how the subject of civil rights emerged in light of state neglect and formal insecurity.[21]

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[21] As scholars have demonstrated, legal transformations of the late 19th and mid-20th centuries that formed the foundation of Jim Crow legislation were merely a transmutation of the old political and legal order that relied on slave labor and its institutions (Alexander 2010; Muhammad 2010). Most infamously, the ratification of the 13th and 14th amendments was aimed at destroying the structures built around chattel slavery, but only enhanced the political subjugation of Black communities through Jim Crow legislation. The historical and legal accounts drawn out by Michelle Alexander (2010), Elizabeth Hinton (2013), and Khalil Gibran Muhammad (2010) are perhaps the strongest accounts that demonstrate the coeval development between civil rights discourses regarding racialized communities and police power in the United States during the post-Reconstruction era up to the significant present of mass incarceration. While Alexander calls attention to continuity between Jim Crow and mass incarceration, I agree with Hinton when she asks us to historically differentiate periods of racial subjugation (Hinton 2013: 25-6). My goal, however, is not to make an argument about the shifting periods of racial subjugation, but specifically to address how civil rights emerged as a viable source of recourse for

First, I draw on how the Court articulated the boundaries of civil rights by offering an account of social and political rights in relation to "local jurisprudence" (*1883 Civil Rights Cases*). Second, I examine how the language of security and protection used to describe civil rights prescribed a path forward for formerly enslaved people, as well as those of other "inferior races" (Davis and Wilson 2014). I take seriously the use of 'security' and 'protection' beyond court and legal vernacular in order to think through what is entailed when the telos of civil rights is to protect and secure from racial harm (Kaczorowski 1995).[22] I ask the following question: How did civil rights and equality provoke debates not only about citizenship and the legal matriculation of "inferior races" into national belonging, but also about protection for and against them?[23] Lastly, the chapter outlines the complexities between federal government and state sovereignty in the United States, legally known as state action doctrine. The impetus to confer civil rights to formerly enslaved populations in the 19th and 20th century was met with rebuttals that were based on the intersection between federalism and state legislation. Given the force of these rebuttals based on the relationship between federal and state government, the protection of civil rights in matters of racial violence was immediately shadowed by the fact that social and political rights remained impervious to governmental intervention. More profoundly, the emergence of the subject of civil rights provoked debates about the humanity of the enslaved and whether or not the boundaries of the US Constitution can account for racialized subjects — their protection, security, and freedom.[24] As I will show,

racialized communities and how civil rights continue, albeit in different ways, to become entangled with questions of security.

[22] Justice Harlan's dissent is important in this regard given his concern that the artificial distinction between civil, social, and political rights would lead to a condition in which freedom is merely formal or incomplete, and where the government could not guarantee social and political securities.

[23] A minor digression is in order before I proceed to my interpretation of these documents in the present and future chapters. These documents will often speak of citizens and citizenry as the subjects and collective that are to be addressed and conferred the right to security. While this is the ostensible language of the documents I reference, my purpose is to magnify a line from which the citizen can be differentiated from the subject of civil rights. It is precisely because the subject of civil rights is conceived as not yet achieving the full entitlements of citizenship that it is important to differentiate the two political subjectivities. As such, I contend that the subject of civil rights is irreducible to the contractual relationship of the citizen-subject, who is often taken for granted as right-bearing and protected as such.

[24] In writing this history of civil rights, I am attentive to the ways in which these rights are placed within a "history of contestation" (Beaumont 2014) and civic upheaval, where the essential facets of American political life are put into question. While some have pointed to different moments in this history of contestation as more pertinent than others (Kutulas 2006; Rana 2015), I suggest that there are continuities and discontinuities in the way civil rights were conceptualized in the 19th century and later, in post-war 20th century America, that remain germane to the way Muslim Americans have come to think about security and educate themselves about their status as subjects of civil rights. Central to the historiographic literature on American civil rights is a question about where concerns for civil rights began and what struggles can be classified as struggles for civil rights. Thus, I follow historian Christopher Schmidt in attending to these continuities and discontinuities that form the "*constrained tradition* of civil rights" (Schmidt 2016: 1083; original emphasis). However, Schmidt's idea of a constrained tradition amplifies the discontinuities and seems to neglect the ways in which civil rights were circumscribed during the late 19th and early 20th century in light of important legal and political events. My goal in this chapter is to highlight a moment in which civil rights was conceptualized in the US Supreme Court in such a way as to provoke future questions — including inside courts, political coalitions and movements, and other sites — about civil rights, through which the constrained tradition is produced.

the conferral of "universal freedom" was indeed a significant event, yet it was "consolidated by mechanisms of racial subjection that it formally abjured" and which played out in the political and social lives of racialized subjects (Hartman 1997: 118). This was the "moral anomaly" (Karzorowski 2004) that the US Supreme Court confronted in relation to the sovereignty of the general government (federalism) with the authority of state action. Such an authority, which is historically decisive in matters of civil rights and racial security, was later called police power and will be the focus of Chapter III and Chapter IV.

The *1883 Civil Rights Cases* are a key site from which to interrogate questions regarding the artifice of rights that emerged in the aftermath of the civil war and American Reconstruction. My argument does not rely on the authority of judicial review and the legal outcome of these cases per se, but on the concerns provoked by civil rights and its subjects, as well as how these rights and subjects were crystallized within and outside of the US Supreme Court. The court cases provide an important a window into these questions, providing answers about the boundaries of civil, political, and social rights for the formerly enslaved, which I argue is foundational to thinking about civil rights in relation to Muslim Americans today.

Equality and the Safety of Society

While this chapter centers the *1883 Civil Rights Cases* in order to understand how the subject of civil rights emerged, I want to address the tripartite distinction — civil, political, and social — and foreground how it leads my dissertation to questions about law enforcement, police power, security and safety. While I expand upon these topics in Chapter III, I want to begin by providing the foundational framework on which my analysis of the 1883 Supreme Court decision relies. Instead of attending to the legal norms that often define how we understand civil rights — such as the principle of equality or the free exercise clause — my objective is to demonstrate the conditions of possibility for civil rights and their attendant conceptualization of security. As historian William J. Novak argues, 19th century debates surrounding rights and entitlements were founded on debates on police powers, which encompass the authority to enforce the law in the service of the "people's welfare," public safety, and the public good. "Police power," Novak describes, "was the ability of a state or locality to enact and enforce public laws regulating or even destroying private right, interest, liberty, or property for the common good (i.e., for public safety, comfort, welfare, morals, or health)" (Novak 1996: 13). The vast scope of police power brings to the fore the complex ways through which federal and state authorities addressed the rights of the people, especially when the scope of 'the people' was contested before, during, and after Reconstruction. While Novak does not attend

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The constrained tradition of civil rights, I argue, has to be understood in a privative sense. That is, in order to understand the full complexity of civil rights as a legal category and a source of recourse for racialized communities, it requires an understanding of what it is not — namely, social and political rights. Social rights are typically deduced as the private rights of every citizen to marry, live, and flourish in the way they wish to; and political rights are the entitlements given to citizens to practice their right to vote, run for political office, and participate in civic duties. The constrained tradition of civil rights, as my argument suggests, is defined by the boundaries of what a social or political right is and their relationship to liberalism as an art of government. Between this chapter and the next, I attempt to disaggregate and rethink the historical events that made civil rights a constrained tradition used to address existential insecurities, redress racial injury, and remediate and reform law enforcement and security agencies in the United States.

to the "slave question" per se, he shows how the construal of the "people's welfare" in the 19th century bespeaks anxieties about security in light of concerns about how to secure the public good while protecting the boundaries of private right. In other words, these concerns apply not only to the tightrope between public safety and private right or, likewise, regulation and freedom, but also *who* should be given public safety and how to protect private right from those deemed racially inferior.

Novak offers us the historical, political, and social debates and conditions that were coeval with the formation of the subject of civil rights and the attendant processes of racialization. As I pointed out in the introduction, a fundamental claim of this dissertation is that the process of racialization — and not the category of race construed as a legal, social, or political identity — emerges from two mutually inclusive debates. The first, as I will show in this chapter, arises from the following questions: Who should be given *secured* rights? What is the substance of those rights (civil, political, or social), and how should they be distributed? The second question emerges from the enduring force of civil war. The force of civil war takes form in the considerations about public safety and welfare and targeting of persons not only as criminal, but as social enemy. The elaboration of these two intertwined questions and their relationship is what I refer to as *racialization*. As such, racialization begins when a circumscribed community is targeted as a threat to the welfare and security of the public, and consequently, subjected to the lack of legal protections and the infringement on rights.[25] While the relationship between rights and security is historically contingent, their elaboration is worth attending to, especially due to the fact that it motivates the emergence of the subject of civil rights and leads to the racialization of Muslim Americans today.[26]

An early elaboration of the relationship between rights and security emerged during the antebellum era, when important challenges surfaced about slavery and its institutions. These concerns for public welfare show up in numerous venues and discourses in the 19th century. They relate to the freedom of the enslaved and the determination of who can and cannot be a protected political, social, and legal subject. The concern for civil rights, and in effect the concern for security, emerges when enslaved persons raise important legal, political, and social questions that demand answers from judges, politicians, and public figures and groups. Prior to the legal upheavals that occurred after the American Civil War, issues regarding security — in particular, the security of property — were central to upholding the status of slaveholders

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[25] While this emerges from Reconstruction-era legal battles, it crystalizes in later periods in American history. Take, for example, World War II and the internment and racialization of Japanese Americans. The US Supreme Court case *Korematsu v. US* depicts the simultaneous racialization of Japanese Americans who were, as a result, deprived of civil rights due to matters of national security, in Justice Hugo Black's words. Justice Black's reasoning about the articulation of civil rights in the 1942 case is indicative of how racialization transforms subjects into dangers to society and threats to its security, which in turn raises the question about what rights such subjects have recourse to: "To cast this case into outlines of racial prejudice, without reference to the real military dangers which were presented, merely confuses the issue…[Korematsu] was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures…" (*Korematsu v U.S.*: 223).

[26] See in particular the work of Mary Liu (2005), who brings these questions to the fore in the context of anti-Chinese exclusion and racism during the early parts of the 20th century.

in relation to their enslaved "property."[27] Such issues were raised in North Carolina's Supreme Court, when the case *State v. Mann* was brought to Judge Ruffin in 1829. *State v. Mann* is a case about Lydia, an enslaved person who was shot by her temporary master, John Mann.[28] The case became notorious because it underlines the subordination of the enslaved in relation to their masters not only in labor-power, but in will and very existence. As such, the case asks important questions about whether or not enslaved people could be injured; whether they have rights and recourse in the courts; and whether they pose a threat and danger to society. In his decision to overturn a lower court's decision to indict John Mann for injuring Lydia, Judge Ruffin made a defense for the persecuted. He wrote:

> With slavery it is far otherwise. The end is the profit of the master, his *security and the public safety*; the subject, one doomed in his own person, and his posterity, to live without knowledge, and without the capacity to make anything his own, and to toil that another may reap the fruits. What moral considerations shall be addressed to such a being, to convince him what, it is impossible but that the most stupid must feel and know can never be true—that he is thus to labor upon a principle of natural duty, or for the sake of his own personal happiness, such services can only be expected from one who has no will of his own; who surrenders his will in implicit obedience to that of another (*State v. Mann*: 266; emphasis added).

Ruffin's infamous opinion reverberated across the South with great force, determining the enslaved as will-less and the ends of enslavement as the *security* and *public safety* of the slaveholding class.[29] What I want to underscore in my reading of Ruffin's opinion is the way security and safety became the ground for the exoneration of John Mann, who is, in this case, the representative master. The logic of security thus relegates the protection of the enslaved against violence to "the public tranquility," on which the master's domination relies. Without being explicitly defined, security and safety are deployed with intelligibility and understanding

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[27] See Sean Wilentz, *No Man in Property: Slavery and Anti-Slavery at the Nation's Founding* (2018). Wilentz mainly focuses on the legal and political debates surrounding the institution of slavery and the risks of treating and defining the enslaved as property. In the process, he also cites numerous ancillary documents that express fears about emancipation and the dangers that the formerly enslaved would pose for the economy, society, and law. This is especially the case in his last chapter, "Antislavery, the Constitution, and the Coming of Civil War."

[28] John Mann was only Lydia's temporary master at the time of the shooting, having leased her from her enslaver Elizabeth Jones.

[29] See Eugene Genovese's *Roll, Jordan, Roll: The World the Slaves Made* (1972) counterpoint to the well-known and exhausted topic of Justice Ruffin's decision. Genovese analyzes *State v. Negro Will* (1934), a case that took place almost five years after Judge Ruffin's opinion was given, and in the very same court, the North Carolina Supreme Court. There, Judge Green made the case for a slave, Will, to kill his master on the grounds of self-defense and the protection of his self-preservation. While Genovese offers this counter-case to argue that paternalism was inherent in the southern system of slavery, his counterargument only substantiates my claims regarding safety and security. The case of Will, an enslaved person who murdered his master and pleaded not guilty on the grounds of self-defense, and Judge Green's adjudication, only affirm my point: namely, that questions regarding the rights that ought to be conferred to racialized communities come to bear on concerns about security and safety.

such that they condone racial violence and injury and supplant the protection of the enslaved in legal, political, and social matters. Justice Ruffin ends his opinion by affirming securitization in order to uphold the dominion of masters over the enslaved:

> …it will be the imperative duty of the Judges to recognize the full dominion of the owner over the slave, except where the exercise of it is forbidden by statute. And this we do upon the ground, that this dominion is essential to the value of slaves as property, to the security of the master, and the public tranquility, greatly dependent upon their subordination; and in fine, as most effectually securing the general protection and comfort of the slaves themselves (268).

Security was central not only to asserting the master's "uncontrolled authority of [the enslaved] body," but also in order to perpetuate the racial subordination of the enslaved, who are at once without will and a threat to society.

This topic was discussed at length in the 1858 Illinois senate debates between Abraham Lincoln, the Republican Party candidate, and, his opponent, Stephen Douglas, the Democratic Party candidate. The debates were an important historical forum in which Lincoln and Douglas articulated significant disagreements about the rights and freedoms of Black and other "inferior races" prior to the American Civil War (1861-1865). In this forum, both Lincoln and Douglas wield the distinction between civil, political, and social rights in their arguments regarding the freedom of the enslaved and their entitlement (or lack thereof) to civil equality before the law.[30]

Among other issues, the Lincoln-Douglas debates focused on the question of "negro equality" or the "slave question," which was provoked by Douglas in the first debate. In more than one way, Douglas forced Lincoln and the Republican Party into defending and recapitulating their position on the equality of Black non-citizens and the enslaved. In his opening speech during the fourth debate in Charleston, Lincoln commences with a rebuttal to Douglas' challenge, decisively positioning himself against "a perfect equality between the negroes and white people" (Davis and Wilson 2014: 131). For both candidates, "perfect equality" between the white race and other inferior races entailed the conferral and guarantee of political and social rights that enable free Black citizens to intermarry, occupy the same public spaces as white people, and vote, among other entitlements. The fear surrounding "perfect equality," exhibited by Douglas and affirmed by Lincoln, was that perfect equality would encroach on the essential political and social rights of white citizens who would supposedly be forced to "intermarry" and participate in other forms of social intercourse incongruent with the *safety* of the white race. Lincoln concurred with this anxiety and fear, arguing that the fundamental physical and intellectual difference between "white and black races…will forever forbid the two races living together on terms of social and political equality" (Ibid). In spite of the fundamental inequality between white citizens and "negroes,"

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[30] See Eric Foner's eighth chapter in *Free Soil, Free Labor, Free Man: The Ideology of the Republican Party before the Civil War*, titled "The Republicans and Race." There, Foner offers a more expansive history of the civil, political, and social distinction and how it motivated the Republican Party's arguments and claims for abolition and emancipation.

Lincoln asserts that neither enslavement nor marriage could be the only institutions that would mediate race relations between white and Black people. While Lincoln argues that the institution of marriage between a white person and a person of an "inferior race" would not be permitted in post-enslavement America, this does not mean that the Black race ought to be enslaved or that the institution of slavery should endure.

Douglas found resonance in Lincoln's argument and intuited it in his first opening speech. The opening debate in Ottawa, Illinois on August 21, 1858 showcased the significance of the "slave question" (13). Douglas robustly contested the abolitionist claim for the equality of enslaved people and the concomitant desire of the Republican Party to confer protection and rights in order to unshackle them from the binds of enslavement. As it would later be defended by the majority decision in the 1883 cases, Douglas centered his concerns about the freedom of slaves around state action doctrine, which upholds the authority of states to decide how to distribute and protect rights. "One of the reserved rights of the states," Douglas claims, "was the right to regulate the relations between master and servant on the slavery question" (Ibid). The desire to abolish slavery's institutions, then, would usurp the authority of the state, its "local laws and institutions," in favor of "negro citizenship and negro equality everywhere" (Ibid). For Douglas, equality for enslaved people, which would effectively undermine state action, would consequentially lead to the political and social infiltration of Black citizens in every aspect of white life. He questions this at length:

> I ask you, are you in favor of conferring upon the negro the rights and privileges of citizenship? [*Cries of "no"*] Do you desire to strike out of our state's constitution that clause which keeps slaves and free negros out of the state, and allow the free negroes to flow in, and cover your prairies with black settlements? Do you desire to turn this beautiful state into a free negro colony [*Cries of "no"*], in order that when Missouri abolishes, she can send one hundred thousand emancipated slaves into Illinois to become citizens and voters on an equality with yourselves? [*Cries of "never," "no"*] If you desire negro citizenship, if you desire to allow them to come into the state and settle with the white man, if you desire them to vote on an equality with yourselves, and to make them eligible to office, to serve on juries, and to judge your rights, then support Mr. Lincoln and the Black Republican party, who are in favor of the citizenship of the negro. [*Cries of "never"*] For one, I am opposed to negro citizenship in any and every form. [*Cheers*] I believe this government was made on the white basis. I believe it was made by white men, for the benefit of white men and their posterity forever, and I am in favor of confining citizenship to white men, men of European birth and descent, instead of conferring it upon negroes, Indians, and other inferior races (14).

Such entitlements and privileges, if given to Black citizens or "other inferior races," was argued to inevitably lead to their admission into national belonging and their "settlements" in states like Illinois, annulling the status of unencumbered white security. With the infamous *Dred Scott* decision (1858) in the background, Douglas did more than merely equate citizenship with whiteness. He also exhibited a pervasive anxiety about emancipating the enslaved who, if given

the freedoms of citizenship, would overrun the form of life and security enjoyed by the white race.

As the Democratic candidate continued his argument against the citizenship of Black and "other inferior races," he shifted his rhetoric from a question about rights, citizenship, and privileges to one about immunity and safety. Although, as he argues, "humanity" requires that "the negro shall have and enjoy every right," the bestowal of these rights ought to be consistent with "the safety of the society in which [those of the inferior races] lives" (15). Thus, the basis on which rights are given to "inferior races" shifts from one founded on equality (perfect or otherwise) to one about safety, security, and the "public good." The decomposition of rights and racial security begins with the impossibility of "perfect equality" (131) and continues with the security and safety of the public good. If such is the case, what kind of rights are afforded for races that are considered inferior, and therefore ineligible for citizenship? Or, as Douglas puts it, "what rights and privileges are consistent with the public good" (15)? He answers:

> This is a question which each state and each territory must decide for itself. Illinois has decided for herself. We have provided that the negro shall not be a slave, and we have also provided that he shall not be a citizen, *but protect him in his civil rights*, in his life, his person, and his property, only depriving him of all political rights whatsoever, and refusing him to put him on an equality with the white man (Ibid; emphasis added).

While the political rights of "inferior races" — that is, the right to vote, the right to participate on a jury, or the right to run for political office — cannot be furnished, their civil rights would nevertheless be protected. The formalization and protection of the right to life, liberty, and the pursuit of happiness paradoxically leads to the decomposition of protection of political and social life. The coherency of civil rights crumbles in the face of formalizing insecurity in the political and social life of "inferior races," where formal insecurity offers such races no recourse in matters that affect their everyday lives. While Lincoln asserted "that the negro is as much entitled to [civil rights] as the white man" (20), he simultaneously defended the formalized insecurity of what he considered "inferior races." That is, he held that the enslaved can be subjects of civil rights, but cannot be protected, secured, or supported in their social and political activities.

Lincoln's rebuttal provides important claims for the abolition of slavery, but my focus here is to draw on the conceptual undergirding of the debate that gives purchase to Douglas' and Lincoln's claims. As Douglas persistently noted in the debates held in Ottawa, Galesburg, and other locales, at stake is not merely who should and should not be a citizen-subject, but also who can be privy to social and political rights that fall outside the specific sphere of civil rights. Douglas' claims about the immunity and safety of society exemplifies the desire for and anxiety about securing white life. This anxiety is deeply enmeshed with the need to politically and socially subjugate "inferior races." The subject of civil rights crystallizes in the formalized conferral of civil equality — specifically regarding life, liberty, and the pursuit of happiness — but nevertheless coincides with the conferral of formalized insecurity in political and social life. As a whole, the distinction between the civil, political, and social binds the protection of

rights within a logic of security. Such logic coincides with racial violence, and even perhaps condones racial violence.

The ability to differentiate between different kinds of rights can also be extended to different kinds of violence. Thus, while racial violence was condemned in federal courts, political violence — "that is, violence motivated by the politics/political beliefs of the victim" (Brandwein 2011: 30) — was resistant to governmental protection.[31] Although the institutions and practices of enslavement would inevitably be demolished seven years after the Lincoln-Douglas debates, the hope in democratic reconstruction was soon met with the refusal of white anxiety, taking center-stage in the United State Supreme Court. The following section traces this development.

On the "Deprivation of any Rights Secured"

In the late 19th century, after the American Civil War, the federal government instituted the amendments necessary to abolish slavery and ensure the *civil* rights of formerly enslaved people. However, the secure distribution of civil rights of racialized people provoked many judicial questions about the difference and meaning of civil, social, and political rights, and the authority of states to distribute these different kinds of rights. With the formal abolition of slavery and the conferral of "universal freedom" (*1883 Civil Rights Cases*: 4) to all political subjects irrespective of their race, the Thirteenth and Fourteenth Amendments were short-lived legislative accomplishments that solidified the subjects of civil rights. By the early 1880s, the 1875 Civil Rights Act was cast under suspicion as to whether or not the federal government overstepped its authority and jurisdiction. Upon judicial review, the force of the 1875 act, which criminalized racial discrimination inside public and private spaces, was reversed in support of the construction of purportedly equal but separate public standards which states would be instructed to follow.

The *1883 Civil Rights Cases* were composed of five different cases, all of which addressed racial discrimination. The Supreme Court deemed these cases similar enough to adjudicate together. The five cases were *United States v. Stanley*, *United States v. Ryan*, *United States v. Nichols*, *United States v. Singleton*, and *Robinson v. Memphis & Charleston Railroad*. Each case dealt with a private party's concern for the accommodations required for formerly enslaved persons inside a private company or property. Because the 1875 Civil Rights Act was written by the federal legislature — Congress — lawyers and political constituents questioned whether the federal government could impose an understanding of equality onto states whose social and political structures were not amenable to the incorporation of the formerly enslaved and other "inferior races." With growing pressures from white Americans and politicians across the country, the Supreme Court case would exhibit the anxieties that were brewing regarding the subjects of civil rights across the United States.

Under Justice Morrison Waite, the Court resulted in an 8-1 decision, with John Harlan being the lone voice against the reversal of the 1875 act. According to the Waite court, the

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[31] Pamela Brandwein (2011) demonstrates how federal courts articulated the difference between civil, political, and social rights in line with the differentiation between racial and political violence. "Congressmen identified both racial and political violence as part of the practice/problem of state neglect, but courts filtered out political violence, that is, violence motivated by the political/political beliefs of the victim" (30). See Pamela Branwein's *Rethinking the Judicial Settlement of Reconstruction* (Cambridge University Press, 2011).

Thirteenth and Fourteenth Amendments promised civil and legal rights that should have been distributed and authorized by state and municipal governments. The majority opinion upheld and emphasized the importance of limiting the federal government's intervention in state affairs, differentiating between municipal legal action (i.e. state action) and actions of redress (i.e. corrective action offered by the federal government). Relying on these two kinds of legal action, the court challenged the constitutionality of the 1875 Civil Rights Act in relation to the *1883 Civil Rights Cases*.

As outlined in the brief, the first section of the 1875 act determines that "all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns" (*1883 Civil Rights Cases 1883*: 9). This section of the act was intended to abolish all forms of enslavement (including "badges of slavery") and offer "universal freedom" to those who were in a "previous condition of servitude" (Ibid). Here, what is emphasized by the Court is the question of what composes a public and the relevance of servitude to social (i.e. private) and political rights.[32] The second section of 1875 act was challenged on the grounds that it was federally ratified and authored by Congress and not municipal governance. The court challenged the extent to which states are required to abide by and enforce this act, which criminalizes discriminatory behavior performed by private citizens with a fine "not less than five hundred, nor more than one thousand dollars" (Ibid).

Much of the reasoning behind the majority decision rested on the constitutionality of sections I and II of the 1875 Civil Rights Act, especially in relationship to the governing of public and civil life by federal government as opposed to the rightful states whose jurisdiction was transgressed by Congress. As a legislative body, Congress holds the power to write and ratify laws, but it does not provide "Congress with power to legislate upon subjects which are within the domain of State legislation" (11).[33] If it is the case that Congress cannot legislatively intervene in the law-making actions of states, then the federal government can only offer "*modes of relief* against State legislation, or State action" to the subjects of civil rights (Ibid; emphasis added). By exacerbating the separation between federal and state government, state action became responsible for the equal and safe conferral of civil rights in accordance with municipal laws and social contexts.

Thus, as the court explains, while civil rights could be protected by the legislative powers of Congress, this power cannot extend to private (i.e. social) and political rights:

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[32] The analytical distinctions made by the Court — between the concepts of the public and private, and between the civil, political, and social — became contestable in order to reconsider how civil rights ought to be conferred on those who were right-less; and, furthermore, such distinctions would have long-term effects that would inevitably banish the subjects of civil rights from political and social life in their respective locales. This was especially the case for the political participation of formerly enslaved people who took it upon themselves to create democratically-elected local polities in numerous parts of the American South, as well as other parts of the United States, and were eventually massacred, excluded, or imprisoned by raging hate violence during the reconstruction period. In North Carolina, the infamous 1898 Wilmington insurrection exemplifies some of the non-legal mechanisms (i.e. hate violence perpetrated by white supremacists) that guaranteed the legal outcomes of the *1883 Civil Rights Cases*, and later in *Plessy* and *Lochner*. These outcomes included the exclusion of Black and other racially marginalized communities from voting, running for political office, and taking on other prominent political roles.

[33] The principle of this statement would be the foundation of Jim Crow legislation in the American South.

> To enforce what? To enforce the prohibition. To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts, and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it…It does not authorize Congress to create a code of municipal law for the regulation of private rights, but to provide modes of redress against the operation of State laws and the action of State officers executive or judicial when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the Fourteenth Amendment, but they are secured by way of prohibition against State laws and State proceedings affecting those rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect, and such legislation must necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect (11-12).

I want to emphasize how the majority opinion of the 1883 cases defines the role of federal government and its relationship to legislative practices at the state level. This not only challenged the encroaching sovereignty of federalism, but also conferred right-giving powers to local forms of politics and sociality, which are now responsible for providing the conditions in which civil, political, and social rights are to be equally awarded to racialized communities. Emphasizing the interpretation that state and municipal governing bodies ought to be guarantors of civil rights — or, in the court's vernacular, securing civil rights — while remaining disinterested in political and social rights, illuminates how law enforcement, especially local police departments, came into being and took the forefront of civil rights discourses, as I will show in the next chapter. At its incipient phase, the prominence of police power and law enforcement emerged at a time when non-state actors, like white supremacy groups, garnered political and social power.

As Sally Hadden (2001) demonstrates in *Slave Patrols*, the purpose and aims of law enforcement were challenged by the ongoing violence that was perpetrated by the first generation of the Ku Klux Klan, who were rarely, if at all, indicted or investigated by the local police forces in the American South. As the KKK consolidated their political vision against formerly enslaved people, law enforcement refused to acknowledge lynching, arson, and massacre as criminal or violent, and withdrew from enforcing security against racial violence. This was also a response to the default nullification of the Fugitive Slave Law of 1850, which empowered all white citizens and incorporated them within police power by giving them the ability to arrest and detain fugitive slaves. North Carolina's police force, as Hadden shows, was especially resistant to accommodating formerly enslaved people as freedmen (Hadden 2001: 216-218). In a similar vein to Hadden, Robert Kaczorowski also portrays the "defiant behavior" of individuals, which dictated the social and political contours of black life in the American South:

> Local officials in the South sanctioned and legitimized the defiant behavior of individuals and the racial and political customs of communities dominated by whites. In their constitutions and laws, Southern states refused to recognize that blacks were citizens possessing the natural rights of free people. State officers commonly failed or refused to protect the personal safety and property of blacks. They similarly refused to extend this protection to whites who were political allies or federal agents of blacks. When Southern blacks and politically unpopular whites were the victims of crimes, they could not get sheriffs to arrest, courts to try, or juries to convict the perpetrators. When charged with crimes or sued in the civil courts, blacks seldom received impartial justice (Kaczorowski 1987: 51).

Such were the conditions that authorized and institutionalized police power, under which the social and political domains were formed. By means of the authorization and institutionalization of police power, the banishment of the subjects of civil rights was accomplished. The failure of state protection that Black subjects experienced during and after Reconstruction did not arise from previously delimited notions of the political and the social in the United States. On the contrary, the social and the political arose precisely *through* the problem of conferring rights and creating the subjects of civil rights out of formerly enslaved people.[34]

By removing federal government from the sphere of private, public, and municipal legislation, the 1883 court reduced the role of federal legislation to a *redressive* function that could only intervene when "the Constitution [has] been violated by the action of the State legislature" (*1883 Civil Rights Cases*: 13).[35] The redressive function of federal legislation, then, puts state governing bodies in the position of securing the rights "appertaining to life, liberty, and property," and thus exposing the subjects of civil rights to enduring political and social municipalities that uphold the denigration of their lives and deny their civic participation.[36] As such, the political structures of the Confederacy that existed prior to the 1883 cases were

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[34] This reading of the formation of the social and the political is heavily indebted to Saidiya Hartman's reading of the social in her final chapter in *Scenes of Subjection* (1997), "Instinct and Injury: Bodily Integrity, Natural Affinities, and the Constitution of Equality."

[35] As my analysis demonstrates, this historical moment allowed the federal government to rearrange the federal-state relationship in order to build its own armaments for civil rights in the form of federal law enforcement. In the process, the aims of local law enforcement were reoriented.

[36] The 1883 cases circumscribed the social and political realms in an attempt to make them discontinuous with the legal and formal stature achieved by the subjects of civil rights, whose recognition did not sufficiently protect from violent exposure to law enforcement and other dangers. Here, Hannah Arendt's celebration of the American Revolution and its ability to produce so-called "spaces of freedom" by virtue of its neglect of the social question comes to bear on the subjects of civil rights. Given the republicanism that Arendt read into the American Revolution, her concept of the political (most clearly outlined in *The Human Condition* [2013; originally published in 1958]), came at the expense of the subjects of civil rights, who remained enslaved for the purpose of securing Southern society. See, "The Pursuit of Happiness" in *On Revolution* (2006). What she does not account for, however, is the way spaces of freedom were shadowed by debates regarding the freedom and manumission of the enslaved. Arendt's admiration, then, for American freedom and its republicanism occludes that republicanism also relies on the labor of the enslaved, separating the political sphere from its social counterpart: the domain of the domestic and biological reproduction.

transformed into a robust legal arrangement, which upheld the political aspiration to subordinate inferior races.

The Court regarded this kind of juridical capacity limited to municipal law as "local jurisprudence," which focuses on the intersubjective conduct that builds politics and "society" (14). According to the court, the Fourteenth Amendment overstepped into "the domain of local jurisprudence" where it attempted to lay "down rules for the conduct of individuals in society towards each other, and imposes sanctions for the enforcement of those rules" (Ibid). Thus, by enforcing blanket mandates on the social life of private citizens, the Fourteenth Amendment effectively nullifies the law-making power of the state and disregards the Tenth Amendment, which declares that all powers neither delegated by the Constitution nor prohibited to State sovereignties are reserved for municipal legislation, local political officials, and their white constituents. The civil rights promised by the federal government,[37] then, were enshrouded in political and social insecurities neglected by federal and state government.

While white anxieties regarding social intercourse were legitimated by the law, the civil, political and social security of racialized communities were put into question. Even though enslavement as an institution was legally abolished, its social and political structures endured, where racial divides took precedent. In effect, local jurisprudence, and its corresponding enforcement, would do more to guarantee the social divisiveness between races, rather than attempt to remediate fractured, violent, and denigrative social relations that endured in the postbellum period.[38]

The affirmation of state sovereignty in relationship to its federal counterpart transformed the political and legal recourse of formerly enslaved people from a positive construal of rights to one that inevitably relies on redress in order to assuage the blow of racism and Jim Crow. The Court's construal of rights is, by default, one that depends on the necessity of redress, which was described by the Court as "modes of relief" (11). This is precisely because civil rights — conferred by federal law and guaranteed by state legislation — were to be adjudicated within local jurisdictions that were inimical to appropriately securing the social and political freedoms of formerly enslaved people. It is important to note the temporality of redress and its relationship to racial violence. Primarily, redress seeks to remedy past events deemed illicit with the force of legitimate legal violence. If the Court insists that redress will be an essential tool to cure racial harms that have yet to occur, the Court also tacitly acknowledges that those racial harms will indeed occur. Thus, although modes of redress could provide relief in the face of racial violence and discrimination, *redress* and *corrective* action does not *prevent* racial

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[37] I here reference Risa Goluboff's *The Lost Promise of Civil Rights* (2007), which mourns the civic participation of labor unions built from contract labor between formerly enslaved people and plantation owners. The lost promise of civil rights contained in labor unions were inevitably forgotten after the *Brown v. Board of Education* (1964) decision. The case shifted the focus, once again, to formal freedoms as opposed to the material conditions that labor underlies. While histories such as Goluboff's importantly depict an expansive image of the Civil Rights Movement, it is also important to attend to the political conditions that civil rights offered to their subjects and the kinds of ancillary tools and technologies used to address and redress the material conditions under which domination was possible.

[38] See Eugene Genovese's *Roll Jordan, Roll* (1972) where he draws out how racial divides after the Civil War were founded upon the relations between yeomen, working-class whites, and enslaved persons.

violence. Rather, redress assumes the existence of this violence and offers bureaucratic regimens to potentially find resolution *after* the event of legal injury, not political or social ones.

However, redress would not recognize the violence of private parties, only the violence committed by state officials. Legally, civil rights could not be transgressed by the "wrongful acts of individuals, unsupported by state authority in the shape of laws, customs, or judicial or executive proceedings" (17). It is as important to note how the Supreme Court argued that civil rights could not be transgressed by interpersonal violence as it is to attend to how violence is articulated in and subsumed under judicial interpretation. As a juridical category, violence and protection against violence does not require the attention of state officials, despite the desire to raise the subject of civil rights into the position of a citizen-subject. As such, ordinary and spectacular instances of violence visited upon the racially subjugated were willfully neglected. Rather than proactively preventing acts of racial violence and their recurrence through federal intervention,[39] the Supreme Court rendered the subject of civil rights susceptible to potentially fatal interpersonal, social, and political intrusions. Provided that private ownership and entitlements were not afforded to formerly enslaved persons and political participation was almost immediately foreclosed as a result of fear and violence,[40] social and political rights were not themselves viable sources through which these subjects could seek recourse.[41] The full force of social rights, to which only white citizens were entitled, were protected irrespective of the violence — physical, spiritual, and otherwise — incurred by the subjects of civil rights.[42]

Following the logic behind the Court's decision, a "wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual" and therefore cannot be assessed under or impinge upon civil rights (Ibid). Unless the act is "sanctioned in some way by the State" or "done under State authority," a personal act by a private individual "cannot deprive a man of his right to vote, to hold property, to buy and sell, to sue in the Courts, or to be a witness or a juror" (Ibid). The Court explained this principle in the following terms:

> [An individual] may, by force or fraud, interfere with the enjoyment of the right in a particular case; he may commit an assault against the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a fellow citizen; but unless protected in these wrongful acts by some shield of State law or State authority, he cannot destroy or injure the right; he will only render

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[39] I am not suggesting that federal intervention was the solution to the problem, but I do believe federal enforcement agencies acknowledged the economic, political, and social insecurities that racialized communities faced in the United States, especially in the South. Nevertheless, they did not seek to address remedies for such insecurities, arguing that they fall outside the jurisdiction of civil rights.

[40] Here, I reference the massacres against governments who were locally and democratically elected by Black Americans after the Civil War. This includes the Colfax massacre (see *US v Cruikshank* [1876]) and the Wilmington massacre (1898).

[41] See Amy Dru Stanley's *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (1998).

[42] Thus, when hate crime becomes a legal category that attends to these injuries later in the 20th century, it becomes questionable whether or not the state could accommodate individualistic acts that seep into everyday life.

> himself amendable to satisfaction or punishment, and amenable therefore to the laws of the State where the wrongful acts are committed. Hence, in all those cases where the Constitution seeks to protect the rights of the citizen against discriminative and unjust laws of the State by prohibiting such laws, it is not individual offences, but abrogation and denial of rights, which it denounces and for which it clothes the Congress with power to provide remedy. This abrogation and denial of rights for which the States alone were or could be responsible was the great seminal and fundamental wrong which was intended to be remedied. And the remedy to be provided must necessarily be predicated upon that wrong. It must assume that, in the cases provided for, the evil or wrong actually committed rests upon some State law or State authority for its excuse and perpetration (17-18).

By nullifying the effects of individual acts, the Court avowed that social and political interactions cannot harm or inhibit the civil rights of Black persons. In many ways, this formulation of social and private rights that are unprotected by legislation and are practiced at the discretion of private individuals is a perversion of the imperatives that liberalism seems to impose on the Court — namely, the regulation of public safety and the protection of private right. On the one hand, the court acknowledged how social and political rights are conferred to all right-bearing subjects, although such rights should not be regulated by authorized federal officials. On the other hand, and in slight contradiction, the court also acknowledged that civil rights are protected by the Constitution and federal legislation, and cannot be nullified by a private person or party. The transgression enacted by a private party is merely criminal or a private wrong dealt with by state regulations, and which were historically condoned by state neglect. The contradictions of liberalism that operated in judicial review effectively nullified the role of federal government in matters related to civil, political, or social rights.

Toward the end of the majority opinion, the Court further extended its "principles of interpretation," which culminated in the distinction between civil, political, and social freedoms. The legal test for these principles in relationship to the Thirteenth and Fourteenth Amendments, and the Civil Rights Acts based on them, was whether or not a racial injury would consequentially lead to the material condition of servitude or enslavement. If it is the case that a formerly enslaved person who is now entitled to civil rights is denied entry into a public or private inn or space, this denial "has nothing to do with slavery or involuntary servitude," and furthermore, "if it is violative of any right of the party, his redress is to be sought under the laws of the State" (24).

For the Court, it was essential to emphasize the distinction between the Thirteenth and Fourteenth Amendments and their consequences for municipal law. While the Thirteenth Amendment abolished slavery, the Fourteenth Amendment offered particular freedoms to all races and classes, the responsibility for which was to be given to state legislation. The problem at hand is not the content of freedoms, but that Congress limited the law-making powers of the state by forcing them to account for civil rights and, simultaneously, for the grievances of white citizens regarding the uneasy presence of "inferior races" in their public spaces.

Concluding the majority decision, the Court reflected on the subject of civil rights and the necessary progression of raising such a subject into a citizen:

> When a man has emerged from slavery, and, by the aid of beneficent legislation, has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen and ceases to be the special favorite of the laws, and when his rights as a citizen or a man are to be protected in the ordinary modes by which other men's rights are protected (25).

The assumption that the subject of civil rights, with the support of "beneficent legislation," is to ascend to a level of citizenship by virtue of ordinary modes of protection, exhibits the assumption made by the Supreme Court that such subjects have social and political resources at their disposal. The inability for juridical reason to recognize the social and political dangers experienced by the new bearers of civil rights perpetuated the very forms of political and social subjugation that Reconstruction-era America unsuccessfully sought to eradicate.

On the Soul of the Law

As the lone dissenter, Justice Harlan began his lengthy rejoinder to the Court's decision with a quotation that reflects on the nature of the law: "It is not the words of the law, but the internal sense of it that makes the law; the letter of the law is the body; the sense and reason of the law is the soul" (26). It is the soul of the law that Justice Harlan appeals to and on which his dissent is based. In the majority decision, according to Harlan, the soul of the law was neglected for the "narrow and artificial" construal of civil, political, and social rights and the grave reversal of the Fourteenth Amendment. Harlan feared that the consequences of this decision would be grave enough to uphold a state of servitude for those whose rights are not secured. Although Harlan was the lone voice, his rejoinder offers an important perspective that demonstrates how the *1883 Civil Rights Cases* solidified the place of the subject of civil rights.

His dissent is crucial for many reasons, one of which is the acknowledgement of political and social insecurity that the Court's majority decision authorized. According to Harlan's logic, the extensive protections offered by the Fourteenth Amendment were less a transgression of State legislative boundaries, but rather a recourse to the internal sense of the law. The soul of law-making, according to Harlan, is to provide well-being, securities, and protection to those souls that live in precarious conditions. In order to demonstrate this, Harlan provides a more expansive understanding of the relationship between federal legislation, state sovereignty, and the distribution of rights, civil and otherwise. His rereading and survey of relevant legal cases unveils a future anxiety regarding the immunity of civil rights, according to the Waite court, from social and political wrongs. It also addresses what this means not only for the formerly enslaved, but also for future subjects of civil rights who will experience similar kinds of racial subjugation. At its foundation, Harlan dissent exemplifies the "moral anomaly" (Kaczorowski 2004) behind successful federal legislation for slave masters in the antebellum period and the unsuccessful federal legislation, during Reconstruction, to protect Black life. How can federal legislation apply to the security and property of slave masters irrespective of state law, but not

to the political and social condition of the subjects of civil rights, who, by 1883, were subjected to the whim of private citizens in state sovereignties?

Before proceeding to his survey, Justice Harlan provides a rebuttal to the majority decision of the Court. This decision presented the problem, as I demonstrated above, in a twofold manner. First, the civil rights situation is construed as a conflict between Congress' law-making capacities and its potential to set limitations on state legislation that would contradict the Tenth Amendment. Second, it was construed as overstepping the social and political rights of private citizens, whose social intercourse cannot be intervened on by federal legislation. Justice Harlan begins his rebuttal by reflecting on the enduring relationship between "national [federal] government and the institution of slavery" (28). Within the history of federal legislation, there are important occasions when the federal government enabled and conferred rights to white citizens and slaveholders in order to pursue the arrest and policing of fugitive slaves. Thus, the Fugitive Slave Law of 1793 was written and authorized by Congress and prescribed "a penalty against any person who should knowingly and willingly obstruct or hinder the master, his agent, or attorney in seizing, arresting, and recovering the fugitive" (Ibid). This law extended unprecedented powers of detainment not only to slaveowners, but also to whosoever they hired as private agents and lawyers.

The 1793 law was established on a reading of section II of article IV (of the First Amendment) in the Constitution, which guarantees that

> No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due (First Amendment: Section II, Article IV).

The clause was nullified by default through the power of the Thirteenth Amendment, given that this section of article IV specifically applied to the institution of enslavement and the labor it exploited. According to Justice Harlan, this was not a breach of Congress' powers, but within its juridical capacities to ensure the protection of rights and to provide supplemental means towards this end. That is, as a federal legislative body, Congress created laws and condoned supplemental action in order to protect the constitutionally provisioned institution of enslavement. Effectively, the law afforded slaveholders the power of detainment irrespective of any state legislative or territorial regulation, which was upheld by the same municipal laws that protected the social rights of white citizens in the 1883 cases.

The Fugitive Slave Law was challenged nearly fifty years after its federal ratification in 1793. As Justice Harlan notes, *Prigg v. Commonwealth of Pennsylvania* (1842) was brought to the Supreme Court when hired slavecatcher Edward Prigg was indicted over his illegal (according to Pennsylvania law) capture of Margaret Morgan, who was enslaved by John Ashmore. In defense of state legislation, the attorney general of Pennsylvania argued that it was the responsibility of state lawmakers to establish restrictions or the lack thereof on the surrender and capture of fugitive slaves, except that they would not "pass laws or establish regulations liberating such fugitives" (*1883 Civil Rights Cases*: 30). Because the Constitution did not usurp a state's "right to determine the status of all persons within their respective jurisdiction," it

was argued that it was for the states to judge the status of an alleged slave (Ibid). Premised on the notion that "general government" is to "restrain and correct, not to forbid and prevent in the absence of hostile State action," Pennsylvania law has the enforcement capacities to protect or, at the very least, to assess the status of a fugitive as long as the state does not provide conditions for their liberation. The Supreme Court sided with the private ownership of enslaved people and disregarded the argument for state sovereignty and its right to assess a fugitive's status.

The challenge presented by the Commonwealth of Pennsylvania only led to a more expansive set of powers offered to enslavers by the federal government. The federally ratified Fugitive Slave Act of 1850 was, once again, based on the "implied power of Congress to enforce the master's right" (Ibid). While in the 1793 act the power to detain was limited to slaveowners and their agents or attorneys, the 1850 act expanded the power to detain and capture to the entire nation and citizenry. In addition to making police power over enslaved persons a part of being a citizen, the federal government also made a *posse comitatus* (i.e. a group of citizens invested with the power to enforce and execute the law in times of lawlessness) available to private slaveowners so that they would be able to enforce federal provisions and guarantee the return of fugitive slaves.

As Justice Harlan demonstrated, the power to detain was effectively denied to any enslaved person given their "African descent," which nullified their ability to be a part of the national community. By default, as it was decided in the Supreme Court case *Dred Scott v. Sanford* (1857), a person who was enslaved through the middle passage could not enjoy freedom at the level of citizenship or be considered a part of the national community. Justice Harlan provided numerous examples of federal legislation that had detrimental effects on the formerly enslaved. In referencing these examples, he aimed to provide the impetus for additional, federally sanctioned resources and laws that would support the transition from enslavement to citizenship. Harlan's dissent was not only attentive to the conditions under which civil rights, not political or social ones, were conferred upon the formerly enslaved. His dissent also relied upon the acknowledgment that slavery and bondage remain consequential for Black life, even with the protection of civil rights. As such, the conferral of rights should acknowledge the immense toils that subjugated persons endured in order to attain a right-bearing status after years of racial subjugation. The attention paid to the condition of subjugation provided sufficient reason to end the institution of slavery and stretch the bounds of civil rights to include the formerly enslaved. Thus, Harlan argued, Congress should legislate generally for all states in order to institute regulations that would secure the rights of racialized life.

The dissenting Justice questioned, however, whether the eradication of the institution of slavery would be adequate "to *secure* the enjoyment of such civil rights as were fundamental in freedom" (*1883 Civil Rights Cases*: 35; emphasis added). Harlan cast doubt on the other Justices in the Waite court who admitted that their decision supports the decree of "universal civil freedom throughout the United States," inquiring: "Did the freedom thus established involve nothing more than exemption from actual slavery?" (34). Harlan continues: "Was it the purpose of the nation simply to destroy the institution, and then remit the race, theretofore held in bondage, to the several States for such protection, in their civil rights, necessarily growing out of freedom, as those States, in their discretion, might choose to provide?" (Ibid). Here, in drawing out Harlan's dissent, I underscore the nuance in his questions, rather than

depicting him as a protagonist in the volatile debate about the subjects of civil rights. His questions have purchase on the constant appeal to secure civil rights for the racially subjugated, appeals which are unsubstantiated by the conditions that perpetuate their subjugation and therefore hinder the necessary transformations for the actualization of those rights. The eradication of the institution of slavery would not sufficiently end the enduring "burdens and disabilities" that the subjects of civil rights would continue to experience within this new political structure proposed by the Waite court (35). Security and protection are not consequences of rights, but are instead the very condition on which the formerly enslaved could participate not only in national community, but also in the legal, social, and political intercourse that white citizens thrive on:

> …[Congress] undertook to remove certain burdens and disabilities, the necessary incidents of slavery, and to secure to all citizens of every race and color, and without regard to previous servitude, those fundamental rights which are the essence of civil freedom, namely, the same right to make and enforce contracts, to sue, be parties, give evidence, and to inherit, purchase, lease, sell, and convey property as is enjoyed by white citizens; that, under the Thirteenth Amendment, Congress has to do with slavery and its incidents, and that legislation, so far as necessary or proper to eradicate all forms and incidents of slavery and involuntary servitude, may be direct and primary, operating upon the acts of individuals, whether sanctioned by State legislation or not (35-36).

Thus, in the case of public inns and railroads that are commissioned by states and controlled and owned by private corporations, they are nevertheless subordinate to public regulations and use, sanctioned by constitutional rights. In cases when a public standard is not observed, Harlan notes that Congress is required to enforce the civil freedoms of a particular discriminated race in order to ensure the erasure of servitude irrespective of state jurisdiction.

His dissent cemented the idea that the Court's decision does more to serve the institution of slavery and its persistence in the present, than it does to support the civil rights of those racially subjugated. In his explanation, Harlan submits a different concept of rights that is not concerned with their formal and universal quality conferred merely by legal principle or court decision. The role of federal government ought to be to guarantee and protect the subjects of civil rights not by simply conferring such rights, but by creating and consolidating the conditions that secure the *existence* of the subject of civil rights. If it is the case that "exemption from discrimination" is a new constitutional right, then federal government should be permitted to "guard, protect, and enforce" such a right (50). He wrote:

> But of what value is this right of locomotion if it may be clogged by such burdens as Congress intended by the act of 1875 to remove? They are burdens which lay at the very foundation of the institution of slavery as it once existed. They are not to be sustained except upon the assumption that there is, in this land of universal liberty, a class which may still be discriminated against, even in respect of rights of a character so necessary and supreme that, deprived of their enjoyment in common with others, a freeman is not only branded as one

> inferior and infected, but, in the competitions of life, *is robbed of some of the most essential means of existence*, and all this solely because they belong to a particular race which the nation has liberated (40; emphasis added).

The subject of civil rights is not merely racialized, inferior, and violated, but is dispossessed of tools that protect and secure their form of life. For Harlan, the majority decision does not attend to the fundamental questions posed by the 1875 Civil Rights Act. It instead ignores the insecure conditions on which civil rights are granted and which perpetuate the conditions of involuntary servitude. In the judiciary's ignorance, not only is the fate of the subject of civil rights sealed by the majority decision to side with private and state interests, but they are also "robbed of some of the most essential means of existence" (Ibid).

What are the "essential means of existence" that the subject of civil rights does not have at hand? This question is not explicitly answered by Justice Harlan, but the force and logic of his argument can be extended to answer this question. Fundamentally, the subject of civil rights is robbed of their ability to exist and make claims about the structure of their world, about the public that they are beholden to. They are instead made to bifurcate their civil rights from their persistently violated political and social rights. While the Supreme Court promised corrective legislation and modes of redress for racialized subjects, it did so in light of the assumption that the subjects of civil rights will be injured and violated. As I will show later in this dissertation, the legal liberalism (i.e. redress through courts) that the Supreme Court condones will be the source of ostensible public change in famous cases like *Brown v. Board* (1954). But legal liberalism inadequately secures the civil rights of racialized communities and thwarts their desire to flourish politically and socially.

In *Scenes of Subjection*, Saidiya Hartman suggests that the condition of emancipation and civil rights is not simply about how "rights are inseparable from the entitlements of whiteness or that blacks should be recognized as legitimate rights bearers" (Hartman 1997:116). Rather, "the issue at hand," Hartman continues, "is the way in which the stipulation of abstract equality produces white entitlement and black subjection in its promulgation of formal equality" (Ibid). Indeed, formal equality produces and perpetuates white entitlement and black subjection, but I would also add that formal equality conceals the fundamental stakes of civil rights. What is concealed, I argue, is how civil rights point to the lack of legal, political, and social protections to *secure* racialized life. As such, attending to the "metamorphosis of 'chattel into man'" (6), as Hartman does, also means attending to the metamorphosis of the formerly enslaved into insecure legal subjects, the subjects of civil rights.

One reason why these issues endure and continue to hold sway is because "the subject of civil rights" applies to different racialized communities. The subject of civil rights, in my construal, is founded on the lack of political and social securities — the essential means of existence — that Harlan decries in the Supreme Court case of 1883. But not only this: as I will show in the following chapter, the subject of civil rights is perpetually subordinated to the concerns of security, protection, and welfare of "the public tranquility," to recall Justice Ruffin's words. In this chapter, I have offered the conditions of the possibility of civil rights. As such, I conveyed how civil rights provoked debates about security, but also how civil rights created the political and social world of the American South. As I will show in other chapters, the world built out of judicial settlement of the American Reconstruction continues to prompt

important questions today, especially with regard to how racialized communities reckon with the violence of formal insecurity.

I now turn to the developments of formal insecurity through the mechanisms and technologies of police power and its imbrications in national security and surveillance. The relationship between civil rights, security, and law enforcement is explicitly addressed in mid-20th century America, when police power is brought to the fore and when the federal government sought to intervene in problems racialized communities faced, specifically with respect to their relationships with local law enforcement. The next chapter examines this historical development and transformation of rights enforcement, by charting the distinguished life of police in modern American empire. Without the essential means of existence that Harlan spoke of, the question remains: How ought the subjects of civil rights be protected and secured?

Chapter III

Police Power I: The Right to Security

> *In various localities, scattered throughout the country, unprofessional or undisciplined police, while avoiding brutality, fail to recognize and to safeguard the civil rights of the citizenry…Where police forces exist, their activities may impair the civil rights of any citizen.*
>
> *-To Secure These Rights: The Report of the President's Committee on Civil Rights* (1947: 25-6).

I want to return to one of the most consequential cases that bears on what I have called "the subject of civil rights," *Plessy v. Ferguson*. In the proceedings of the case, the Supreme Court affirmed Louisiana's Separate Car Act, arguing that separate accommodations on the basis of race is not consistent with the condition of enslavement and thus does not violate the Thirteenth and Fourteenth Amendment. The court's decision grew out of a notion of "police power" that ensured and protected a state's capacity to maintain and manage order in pursuit of the public good. As it was defined later in *Lochner v. New York* (1905), police power "relate[s] to the safety, health, morals, and general welfare of the public." The majority opinion went on to state that both "property and freedom are held on such reasonable conditions as may be imposed by the governing power of the State in the exercise of those powers, and with such conditions the Fourteenth Amendment was not designed to interfere" (*Lochner v. New York*: 53). Like Justice Ruffin's opinion in *State v. Mann* (1829),[43] freedom, like property, is subject to the "reasonable" criteria that aligns freedom with the public safety and general welfare of local municipal communities.

Police power — including the institutions, sensibilities, and arrangements built around it — both regulates and ensures that the freedom held by all political subjects is consistent with the security of the general community. While the dominion of police power is expansive — including public health, public policy, and public morality — its the most important institution takes form in law enforcement agencies. In this chapter, my aim is show how police power, and law enforcement specifically, determined how rights are to be protected for the subject of civil rights. It also shows how rights would become the prevalent discourse through which racialized communities could contest or push for their security. The chapter will specifically highlight key developments in civil rights discourse and practice beginning in the mid-1950s. Such developments are key to understanding the formation of counterterrorism, as a mode of

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[43] It is important to recall Justice Ruffin's adjudication of *State v. Mann* (1829) and the way he deployed public safety and security. The *Plessy* case describes a similar tendency, one consolidated in the formation of police power, to subordinate matters regarding the protection and injury of racialized persons to the security and safety of society — or, in Ruffin's opinion, the security and safety of the slave master. See James A. Wynn Jr. (2009).

police power, and its relationship to Muslim Americans. Today, the policing of Islam and its adherents produces challenges for their civil rights and security. As I will show in Chapters IV and V, Muslim Americans utilize and contest similar forms of police power built out of state wars against racialized communities, which they seek to harness for the protection of their ethical and spiritual tradition — namely, Islam.

The relegation of freedom to police power meant that racialized communities — communities often deemed dangerous to the general public — were subject to the imminent encroachment of local police forces. An important aim of this chapter is to demonstrate the two-pronged importance of local police departments to the pursuit of state sovereignty, and federal intervention to the pursuit of the security of civil rights. In doing so, the chapter analyzes how police power became a tool wielded for and against racialized communities.

The development of local police departments was concurrent with transformations in civil rights precisely because police power proved to be deeply consequential for securing, protecting, and guaranteeing the racial claim to rights. From policing the boundaries of white and "colored" spaces during the Jim Crow era, to the "criminalization of urban social programs" (Hinton 2013), police power's political and social force determines how racialized communities navigate legal battles, interact with white communities, and protect their communities. As I argued in the previous chapter, racialized communities experienced what I call "formal insecurity" through the lack of legal protections coupled with the force of police power. The term "formalization" is important here, precisely because it denotes a legal authorization and enactment of some object, such as a formal right or what is formalized through a contract. Here, formalization denotes the authorization of insecurity of racialized bodies and spirits. By limiting federal intervention to redressive (or corrective) action, and by providing states with the police power to ensure the "safety and general welfare of the public," racialized communities were made vulnerable to the insecurity of racial violence. In connection to my previous contentions, I trace the emergence of this formalized insecurity through the concept of police power and how it perpetuates the conditions of state neglect that the *1883 Civil Rights Cases* established. I ask about the ways in which police power, and the formalized insecurity it entailed, infringed on the security of racialized communities and condoned violence against them. In connection, I also trace the security mechanisms and sensibilities that were born from it, which I develop in Chapter IV.

Beyond its articulation in law enforcement institutions, police power primarily entailed a sensibility that would detect suspicious activity, dangerous behavior, or deviant personalities (Goluboff 2016). The sensibility of police power was intended to be prophetic, proactively attending to transgressions and potential crime before they occurred. This development in police power inevitably became the impetus behind counterterrorism programs and their differentiation from the criminal justice system (Chertoff 2011), the goal of which was to indict a criminal after a transgression. Police power was thus not limited to the criminal justice system, but would supersede it.

Technologies of prevention and preemption find their foundation in 20th century racial struggles surrounding civil rights, injury, crime, and drugs. They were introduced in law enforcement at a time when racialized communities were seeking their political and social standing against the structure of Jim Crow, which continued in the American South until the 1970s. Prevention and preemption not only define the agendas of police power, but help

redefine civil rights as a "right to security." Muslim Americans, like other racialized communities in the present, continue to wrestle with the developments of police power during the mid-20th century, as well as what was to follow as a consequence of federal funding, aid, and support for local and state police. In the following, I show that the historical transformation of police power was a catalyst for the security and surveillance methods applied to Muslim American communities in the United States, both by law enforcement agencies and by Muslim Americans themselves.

To Secure these Rights

By the late 1940s, security became the definitive paradigm for rethinking civil rights and for ensuring the political, economic, and social conditions under which "collective security" could be construed as a national telos (Truman 1947). President Truman, who was nicknamed "Mr. Civil Rights," defined collective security as "not [only] consist[ing] of an army, a navy, and an air force," but also, among other things, of "civil liberties and human freedoms — on all the forces which create in our men and women a strong moral fiber and spiritual stamina" (Ibid). This moral fiber and spiritual stamina would be the basis on which a new concept of civil rights would emerge, and which Truman aligned with the incipient security apparatus and its institutions.[44]

At the beginning phase of the Cold War, the United States faced as many problems within its internal borders as it did internationally. Through civil and military force, the United States aimed to obstruct the expansion of communism and deter the spread of nuclear power and intelligence (McEnaney 2000). With the formation of a new international order in the post-war period, and the concurrent changes to geopolitics across Africa and Asia, American liberalism became a dominant military, economic and political force (Slobodian 2018). In many ways, during the long 20th century, American liberalism reinvented the boundaries of the national and the international.[45]

Developments in American liberalism also took place through the consolidation of "national security" and its relationship to civil rights in the US. Before the National Security Act of 1947 was signed, President Truman organized a Committee on Civil Rights, which focused on the vulnerability — or, the formal insecurity — of racialized and "marginalized" communities. Formed in 1946 and disbanded in 1947, the "President's Committee on Civil Rights" was the first of its kind to address the current state of civil rights in the United States. The committee was made up of 15 committee members that included religious leaders, Black civil rights activists, and leading businessmen, the most famous being Sadie T. Alexander,

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[44] In his first ever publicized state of the union address (1947), Truman brought the problem of civil rights to bear on a more expansive understanding of security that was aimed at the transformation of the conditions of those racially subjugated. This transformation would be holistic in that it included urban renewal programs that displaced Black communities and funneled them into primarily white suburbs (this was intensified in cities like Greensboro, NC), the legalization of minimum wage, and especially a new understanding of what security is and how it would be guaranteed outside of the scope of warfare and militarization.

[45] See Aziz Rana (2010) who offers an account of American empire both through its logics of exclusion applied against marginalized communities in the United States and through the logic of democratic expansion that conjured the liberal world order.

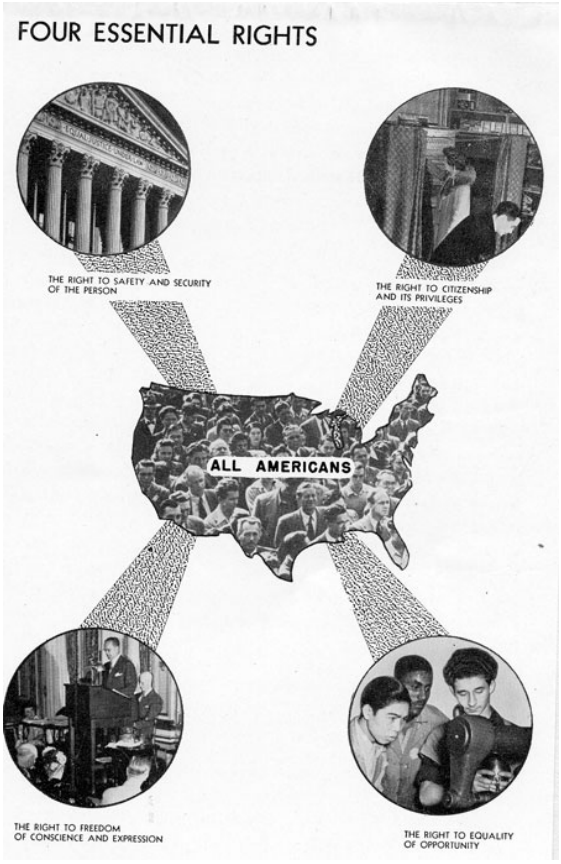
Franklin D. Roosevelt Jr., Channing Tobias, and CEO of General Electric and the chair of the committee, Charles Edward Wilson. These members reflected on "The American Heritage: The Promise of Freedom and Equality" and sought to recast the history of the United States in light of the ongoing inequality of the 20th century. Recasting this heritage required a reinterpretation of the Constitution itself — its meaning and relevance to racial violence and injury. The committee's report noted that "freedom, however, as we now use the term, means even more than the traditional 'freedoms' listed in the Bill of Rights — important as they are" (President's Committee on Civil Rights 1947: 6).

While civil rights are legal entitlements to individuals, the President's committee aimed to show that civil rights would benefit the general welfare by providing social goods to communities and individuals who are vulnerable to injury, police surveillance, and other kinds of violence. Whereas *social rights* usually protect the freedom of an individual — which is "the right of a man to manage his own affairs as he sees fit"— *the right to security* introduced by Truman's committee considered how particular societal forces interfere "with the equal rights of others in the community" (Ibid). Freedoms and entitlements, which remain subject to police power and the public good, would be contingent upon the possibility to avoid "injur[ing] the welfare" of the general community. "Man's freedom," the committee wrote, "in this broader sense is not and cannot be absolute — nor does it exist in a vacuum — but instead is hedged about by the competing rights of others and the demands of the social welfare" (Ibid).

Compared to important US Supreme Court decisions made between 1880-1905, this definition of civil rights redefines the boundaries of political or social rights, such as the rights of civic participation and the rights of the private. Previously — for example, in the *1883 Civil Rights Cases* decision — the political and the social were deemed impervious to both federal and state intervention, transforming them into spaces of insecurity and producing the subject of civil rights. In their elaboration on "man's freedom," the committee subordinate political and social right to the "competing rights of others and the demands of the social welfare" (Ibid). It is important note how the committee addressed the plight of racialized communities by centering the question of "man's freedom." In amending the rights of racialized subjects, the committee commits a philosophical act, one that reinvents the ontology of political subjectivity — that is, "man's freedom" — by incorporating the problem of racial violence within freedom's vison. Now, "man's freedom" is not only facilitated by rights and disrupted by racial violence, it is also constituted by security. While this profound reinterpretation did not always provide productive outcomes for racialized communities, it is nevertheless important to understand how the committee sought to redefine civil rights in the image of man's secured freedom.

The committee addressed their concerns by foregrounding four essential rights that defined the spiritual stamina of civil liberties and American liberalism, famously known as Franklin D. Roosevelt's "Four Freedoms." These rights are (1) "the right to safety and security of the person," (2) "the right to citizenship and its privileges," (3) "the right to freedom of conscience and expression," and (4) "the right to equality of opportunity." These rights are not necessarily a part of the Bill of Rights, neither were they intended to be amendments to the Constitution. Rather, these were the "conditions of our rights" on which "civil rights" is guaranteed. While the Four Freedoms are all relevant, I want to focus on the "the right to safety and security."

Image 2.1: Illustration of Four Freedoms in Final Commission Report



As a condition for civil rights, the right to safety and security of the person concerns the spiritual and "physical freedom" of each individual in a "democratic society" (1947: 21). For racialized communities, the committee recognized that this right protects and provides "security against illegal violence" that emerges due to the mismanagement of police power (Ibid). The object of this illegal violence was practices perpetuated by local governments and local police departments. These entities either committed, ignored, or condoned violence that particularly targeted Black and other racialized bodies. Examples included lynching, police brutality, the poor administration of justice, and involuntary servitude that persisted through peonage and forced labor. The objective of governmental security was to inhibit the illegal violence that created the poor "administration of justice." Such violence was part and parcel of the unfulfilled heritage of freedom, which the newfound prerogative of security would seek to obstruct. *Securing* civil rights did not only mean guaranteeing them, but transforming the political and social conditions that perpetuated "illegal violence" against the subjects of civil rights.

Despite the corrective forms of recourse against official misconduct promised by the US Supreme Court in 1883, "widespread and varied forms of official misconduct" proliferated across the nation (1947: 26). The President's committee identified the effects of such misconduct, and understood them as perpetuating racial violence against particular religious and racialized communities and making "defenseless groups" more "apt to suffer" (Ibid). One

of the most important objectives of the committee was to find remedies for official misconduct at the level of law enforcement, and in the process to deconstruct the social and political architecture that targeted defenseless groups. State authorities were put on the defensive once again, but the attention shifted to state officials and governments accused of taking advantage of defenseless groups who did not have the resources to secure themselves against "illegal violence." Given these conditions, the federal government would take on a more aggressive role against infringements of rights, a role that the government understood as being promised by the Constitution and the "Four Freedoms" outlined by Truman's committee. The force of security would target the racism of local governments and political structures that failed to distribute rights and provide safeguards for defenseless communities. Illegal violence would be replaced with legal force that would assist racialized communities in securing their rights.

The goal was to repurpose justice and enforcement institutions by elaborating a different relationship between civil rights and government, redefining civil society away from its conceptualization as a separate sphere from and a protective shield against governmental management. Civil rights had to accommodate the social and political architecture of society that created fragmented interracial relationships, resulting in the poor administration of justice. Instead of civil rights being the "protection of our rights against government," it would be the "protection of our rights against private persons or groups seeking to undermine them" (100). The commission quoted President Truman in support of this aim in the following manner:

> We cannot be content with a civil liberties program which emphasizes only the need of protection against the possibility of tyranny by the Government. We must keep moving forward, with new concepts of civil rights to safeguard our heritage. The extension of civil rights today means not protection of the people against the Government, but the protection of the people by the Government (99).

"The Government" was re-envisioned as the vanguard of civil rights and the protector of the private interests of racialized communities. The committee profoundly reconfigured the relationship between civil rights and law and order within the liberal tradition. As Michel Foucault demonstrates in *The Birth of Biopolitics*, civil society, as the domain of private right, was traditionally construed in opposition to government. "I think, I hope," Foucault remarks, "we can study successively the problem of *law and order*, the opposition between the state and civil society, or rather the way this opposition functioned" (Foucault 2008: 78; original emphasis). However, as Foucault later argued in his 1978-1979 lectures, civil society is not a domain outside the scope of government. Rather, it is a technology of government, an extension of the state itself. Coeval with the early phases of the Civil Rights Movement in the mid-20th century, Foucault identifies civil society with the emergence of the welfare state and neoliberalism in the United States.

The committee's discourse on civil rights and civil society brings to the fore how they are both fundamentally constituted and protected by what is broadly understood as "security," which law enforcement serves to safeguard. While Foucault does not refer to the racial struggles in the United States that profoundly influenced American liberalism and its

conception of rights and civil society, what he calls an "omnipresent government" nevertheless applies to the condition of the subject of civil rights. Foucault writes:

> And I think that civil society — which is very quickly called society, and which at the end of the eighteenth century is called the nation — make a self-limitation possible for governmental practice and an art of government, for reflection on this art of government and so for a governmental technology; it makes possible a self-limitation which infringes neither economic laws nor the principle of right, and which infringes neither the requirement of governmental generality nor the need for an omnipresence of government. An omnipresent government, a government which nothing escapes, a government which conforms to the rules of right, and a government which nevertheless respects the specificity of the economy, will be a government that manages civil society, the nation, society, the social (296).

An omnipresent government, in Foucault's understanding, is one that not only respects the principle of right (i.e. a principle of governmental self-limitation), but also protects and surveils the principle of right. This highlights what is at stake in the committee's arguments: with the widespread mismanagement of government against defenseless racialized and criminalized communities, governmental protection should not diminish, but rather expand into the domain of rights and securities — including civil, political, and social. Thus, the right to security meant that the responsibility to secure rights was handed to governmental powers to surveil and supervise how rights are protected or destroyed.

President Truman's request for "new concepts of civil rights" ushered in the protective gear of federal government that would bridge the gap between federalism and state action with regards to the matter of civil rights and the protection of racialized communities. The formation of federal law enforcement agencies, what the committee called "federal safeguards," would become the tools through which a new concept of civil rights would emerge. While I think it is important to note the complex dynamic between federal and state government when it comes to securing civil rights, it is more important to focus on the concept of civil rights that consequently emerged from this document.

The demand for national government and federal agencies to take responsibility for protecting civil rights is a "demand rooted in the folkways of the people" that would strengthen local forms of government and the freedoms that it seeks to ensure. The freedom of defenseless communities, however, could not be promised without the security that federal government could make possible. From voting suppression to lynching, these practices were inherent to the Southern states whose local governments did more to enable illegal violence and political inactivity than to inhibit it. As I have previously shown, such inactivity on the part of local governments during the Reconstruction persisted thereafter and can be termed "state neglect" (Brandwein 2011). Within the history of civil rights, *To Secure These Rights* is more than a report on the desired shifts in law enforcement and local politics. The historical document explicates what previous debates, court cases, and other contestations around civil rights only implied: that the fact of civil rights speaks to the insecurity of racialized communities in the United States. This is stated as much in the other sections as it is in the

first few pages of the document where the committee defines the extra-constitutional rights that undergird the existence of constitutional rights:

> Freedom can exist only where the citizen is assured that his person is secured against bondage, lawless violence, and arbitrary arrest and punishment…Where the administration of justice is discriminatory, no man can be sure of security. Where the threat of violence by private persons or mobs exists, a cruel inhibition of the sense of freedom of activity and security of the person inevitably results. Where a society permits private and arbitrary violence to be done to its members, its own integrity is inevitably corrupted. It cannot permit human beings to be imprisoned or killed in the absence of due process of law without degrading its entire fabric (6).

Security is defined both as a positive capacity to act and be free as well as a buffer from the recurrence of violence waged against racialized communities. Motivated by widespread illegal violence, the requisite security to ensure the civil rights of racialized communities illustrates how the subject of civil rights has not only been exposed to violence historically, but is always susceptible to this violence. While the right to security makes legible "the predictability of violence" (Murakawa 2014: 43), it also makes conspicuous the political and social fact that being racialized redefines what a right ought to do; and, as I will show later in the dissertation, this social and political fact requires supplemental equipment for the protection of corporeal and spiritual life.

Police Power and Illegal Violence

As I argued in the beginning of this chapter, police power provided the authority to manage the distribution and protection of civil rights on the condition that they are consistent with "the safety, health, morals, and general welfare of the public." If civil rights were an operation of police power (that is, an operation of an omnipresent government), then how did police power's institutions secure or, conversely, unsettle the guarantee of civil rights? By 1950, police power, and specifically law enforcement, was essential to the debates concerning civil rights and how to mitigate the effects of official and administrative misconduct. The apparatus of police power underwent significant transformations in its structure and public role, leading to the development of federal welfare programs, the expansion of the carceral system, and the early formation of national security.

This was especially relevant to the 20th-century reemergence of vagrancy laws, which were an established set of status laws that criminalized persons based on who they were, not what they did. Risa Goluboff's book *Vagrant Nation: Police Power, Constitutional Change, and the Making of the 1960s* (2016) examines the constitutional puzzles that the US Supreme Court, law enforcement institutions (especially local police forces), and civil rights underwent due to the legal authorization of vagrancy laws. As she demonstrates, vagrancy laws were not only status laws that racialized such groups as Black Muslims and queer and immigrant communities, but more profoundly, gave police and law enforcement a sixth sense, an extrajudicial capacity to

identify a criminal before an act of transgression.[46] This capacity motivates discretion's suspicion over who is criminal and who is protected in their rights against the intrusions of police power. As such, police power provides law enforcement with what Wadie Said, in relation to the war on terror, calls "limitless discretion" (Said 2018). To be clear, I am not primarily concerned with practices of "racial profiling," as Said is.[47] I am interested in the logics and sensibilities that form police power and the questions this power provokes regarding the civil rights of racially profiled communities. This will be essential to understanding the ways such a logic is not limited to law enforcement, but also applies to racialized communities who seek security against racial violence.

Returning to Goluboff's study, the questions provoked about vagrancy laws immediately concern both local law enforcement and the subjects of civil rights, the racialized communities that were often deemed a danger to public welfare. Goluboff explains:

> The escalation of the civil rights struggle simultaneously clarified and publicized the illegitimacy of vagrancy enforcement. Revelations of this repressive use of vagrancy laws made undeniable what many African Americans had known for at least a century: that the toppling of Jim Crow required challenging not only segregation and inequality but also the laws that police used to defend and maintain the system (Goluboff 2016: 114).

She continues by addressing "southern justice":

> Though no avalanche of judicial invalidations followed immediately on the heels of civil rights vagrancy enforcement, movement-related lawyers propelled the challenge forward in two ways. First, the institutional realities of southern justice—dominated by whites, by people often intent on or at least acquiescent in, maintaining Jim Crow—added a racial dimension to the charge that it was not only vague laws that made vagrancy regulation and repression possible, but also unconstrained police power and rigged judicial procedures. As lawyers moved from defending protestors in state and local courts to affirmatively suing police and other officials for declaratory judgments and injunctions in federal courts, they created new procedural mechanisms for use in future vagrancy cases. Second, lawyers defending civil rights clients against vagrancy and loitering charges began to think systematically about the constitutional problems with such laws. Their conclusions would define the contours of vagrancy law challenge far beyond the Jim Crow South (114-5).

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[46] As do counterterrorism programs.

[47] This is an important departure to make, especially with regard to the legal concerns, asserted by Wadie Said, regarding racial profiling and its relationship to limitless discretion. What I want to do is outline the sensibilities that fold into counterterrorism protocols and which, fundamentally, seek to sense the future possibility of violence, crime, and threat. While racial profiling is a political consequence of this sensibility, there is more to an analysis of police power and the discretion given to law enforcement. I develop this in Chapter IV.

I want to emphasize two aspects of Goluboff's important study. First, when civil rights debates were at their climax in the mid-20th century, they were not merely concerned with the acquisition of legal entitlements, state recognition, and equality. More fundamentally, what is understood as "civil rights struggle" concerns the underlying conditions that make racial violence possible: namely law enforcement and a feeble judicial process. Second, it is important to note that civil rights struggles found resources within the very system that perpetuated conditions of racial violence. As Goluboff shows, "legal challenges" against Jim Crow, local police, and vagrancy laws "generated new resources against it" (114).[48]

The problem of police power was paramount to racialized communities who sought security due to the police supervision that led to arrests and violence. The President's committee also recognized this point. In *To Secure These Rights*, the committee addresses police power and especially the problem of local police departments who are at the interface between an omnipresent government and the subjects of civil rights, between law enforcement and racialized communities. In their discussion regarding "The Right to Safety and Security of the Person," the committee acknowledges how "lawless police" impair the political, social, and legal life of racialized communities and hinder their "physical freedom" (20). Without the right to "physical freedom, to security against illegal violence, and to fair, orderly legal process," a person cannot be expected to flourish (Ibid). As such, the committee centered fear and illegal violence in order to describe how rights become obsolete and the steps forward to change this condition for racialized subjects. "Most Americans enjoy [the right to security], but it is not yet secure for all," the committee continued, stating that "many of our people still live under the harrowing fear of violence or death at the hands of a mob or of brutal treatment by police officers" (Ibid).

In their articulation of the right to security, the committee identified "arbitrary," "lawless," and "illegal" violence as the basis for the insecurity of racialized communities. The report denounces the actions of police officials, and other governmental personnel, as illegitimate, leaving open what is legitimate force and how it should be wielded for the security of communities at risk. The report's construal of violence in this manner — between legitimate force and illegitimate violence — acknowledges two important aspects about the relationship between law enforcement and racialized communities. The first is with respect to the tightrope that law enforcement officials tread between using legitimate force and falling into illegal violence. In this case, police officers could illegally "impair" and legitimately "safeguard" the civil rights of racialized communities. The report, thus, acknowledges the significant role of police discretion in matters regarding the civil rights of racialized communities, impairing or securing their rights. As Walter Benjamin wrote in his 1921 "Critique of Violence," the extralegal power of law enforcement in democracies "bears witness to the greatest conceivable degeneration of violence" (Benjamin 1996: 243). Thus, the differentiation between legitimate force and illegal violence does more to show their congruence than their incompatibility.

Second, in their differentiation between illegitimate violence and legitimate force, the report depicts how racialized communities are more susceptible to violence than others. The

[48] While vagrancy laws were nullified after constitutional struggles in the 1970s, law enforcement did more to adapt their methods to legal regulations than to eradicate the surveillance of racialized communities. I develop this point in my next chapter when I examine counterterrorism programs.

report describes how racialized subjects require supplemental protection precisely because of their exposure to different forms of violence: including, domestic violence, mob violence, racial violence, and governmental violence. As Naomi Murakawa argues, "the right to safety established the predictability of violence," whereby legitimate force used by police and law enforcement would preventively assuage the force of lawless violence (Murakawa 2014: 43). Following Murakawa, the predictability of violence did take shape in legal mechanisms to help the condition of racialized communities. Moreover, it also acknowledged the subject of civil rights as a subject of violence by paying attention to legal and illegal force that is involved in the production of racialized vulnerability.

In her book *The First Civil Right* (2014), Murakawa takes the right to security as "a flash of radicalism" (43) in American liberalism and a ploy to differentiate illegal violence in police conduct from the legitimate violence of the criminal justice system and other carceral machinery. She writes:

> Still, recognition of structural violence was nested in a more constrained vision of civil rights. The liberal right to safety translated race-based vulnerability to *excessive* arrest and punishment into a problem of "*arbitrary* arrest and punishment." Lost in translation was the fact that carceral violence was so lethal precisely because it was not arbitrary. Consistent with the logic of postwar racial liberalism, prejudice was baseless and irrational, as arbitrary as the designation of race itself. So long as state-sponsored racial violence, or white violence enabled and administered by the criminal justice system, was predictable, it might be construed as legitimate. Racial equality might therefore be achieved by ensuring predictability [of violence]" (44; original emphasis).

The predictability of violence rearticulated the racial problem in government and legal procedures as one of mismanagement as opposed to one that is foundational to the legal structure itself. For Murakawa, the underlying structural violence of the carceral state was ignored and disguised by the discourse around arbitrary and illegal violence. Civil rights were to be protected from illegal violence, not from legitimate governmental force.

While structural violence was indeed ignored, both the predictability of violence — or what I rather call the susceptibility to violence — and the right to security helped perpetuate the formal insecurity that the subject of civil rights remained subordinate to. Given that racialized communities were considered susceptible or even prone to particular forms of violence, the right to security as an entitlement was fundamentally constituted by the future possibility of this violence. In other words, as security became a right, it also sealed the fate of racialized communities who would unavoidably be subject to the violence that such a right sought to obstruct. The question, then, is how such racialized communities began to understand themselves as bearers of violence and the ways in which security was wielded for and against them. If the predictability of violence, as Murakawa argues, was established by the right to security, then it also established security as a preventive measure against it.

Prevention and Preemption

The committee's report showcases a fundamental transformation in the concept of civil rights. While civil rights are a protective measure, the right to security points to an important fact of living a racialized life in the United States. The right to security expresses the need for security in communities that are susceptible to the violence of the police, the criminal justice system, and their neighbors. Civil rights purportedly protect, but the subjects of civil rights require a different set of tools, besides legal protections, to support their form of life.

As noted in the *1883 Civil Rights Cases*, the Supreme Court provided "corrective" legislative action as a source of recourse in the case of official misconduct and racial discrimination. As opposed to fines or the criminalization of racial discrimination, the court's provision of corrective action was predicated on the future possibility of racism and violence. In the 1883 Supreme Court case, the court relied on concepts of social and political rights that were impervious to state and federal government intervention. On the other side of things, civil rights were differentiated as natural rights of life, liberty, and the pursuit of happiness, which were ordained by God and secured by the constitution (Foner 1995). By this definition, the court excluded the possibility that a private citizen could abridge civil rights, precisely because they were natural rights given by a Christian God. Only official misconduct deserves the attention of legal recourse, which ignores the possibility that racial violence in other forms can be organized by non-governmental bodies.

In a like manner, the right to security presupposes the need for security against the perpetrators of illegal racial violence. By doing so, it assumes a susceptibility of violence that will be incurred by racialized communities. However, whereas the Supreme Court limited recourse in corrective action — namely, after the injury is incurred — *To Secure These Rights* invites a different mode of recourse that prevents and preempts racial violence. The logic of prevention and preemption looks toward the horizon of securitization, in which future violent events are inhibited prior to their actualization. Like prophecy, securitization cautions about the potential of violence and seeks to install protocols that function in the present, but look to the future. As the report recommends, racialized communities employed preventive action to protect themselves by bearing arms and by becoming aware of and competent in local police strategies.

This logic, moreover, finds its foundations in law enforcement protocols that emerged before and after the collapse of the short Civil Rights Movement. One of the demands made by the President's Committee on Civil Rights was to reorganize police strategy and reform police training so as to mitigate illegal violence and official misconduct. The demand was fulfilled when police training and strategy were supplemented with, according to Elizabeth Hinton, a "preemptory strike" (Hinton 2013). This entailed that local law enforcement agencies, particularly local police departments, were to be the front-line of defense against crime, drug trafficking and use, and racial profiling in urban neighborhoods deemed dangerous or prone to criminal activity. Surveillance and security were installed through soft measures that encouraged police forces to engage with local racialized communities in convivial face-to-face encounters.

The preemptory strike not only established convivial protocols to build relationships with racialized communities, but also established the presence of law enforcement authorities in racialized communities. "Whereas in the rest of the country police most often came into contact with civilians in response to emergency calls or specific incidents," Hinton states, "in

low-income African American neighborhoods, law enforcement authorities would become a ubiquitous part of the *social* and *political* landscape as a measure to prevent both rioting and crime" (97; emphasis added). While counterterrorism programs were not in place during the time that Hinton speaks of, domestic terrorism today is prevented with the very same protocols that were used to fight drugs and crime in the late twentieth-century (Said 2018). The war on crime, drugs, and terror, in other words, have similar, if not identical, agendas that seek to uproot crime or terrorism from its social and political foundation. Examining the effects and technologies of crime control during the War on Crime will illuminate some aspects of the social and political landscape in which Muslim Americans make demands for their security against the securitization measures of counterterrorism.

Hinton's argument is situated within a political context where urban social welfare programs initiated by the federal government became the condition for the infiltration of carceral technologies within racialized communities. During his presidency, Lyndon B. Johnson established urban social programs and supported enhancements in carceral technologies. Law enforcement agencies, especially local police departments, were positioned as vanguards of civility and safety for all communities. As Hinton notes, crime control entailed a kind of social power where law enforcement agents would play the role of both friend and foe. Social programs invited local police departments into communities that were deemed prone to crime, or who had individuals who were "hard-core," "potentially delinquent," or "troublemakers" (2013: 117). What the Crime Commission sought to penetrate was what they called "precrime," or the stage at which individuals were not yet criminals or violators of the law, but were in locales where crime was prevalent. "Specifically the program," Hinton remarks about the Youth Service Bureaus created by the Crime Commission, "[was] geared toward locating children and teenagers who had not committed any crime but were seen by law enforcement and social service officials as predisposed to delinquency, and keeping them under informal supervision within neighborhood centers, YMCAs, settlement houses, and other social institutions" (118). Precrime did not only provided justification for the presence of law enforcement in racialized neighborhoods, it was also a prerequisite for receiving federal funding for social programs.

As law enforcement agencies transformed social welfare programs into social control measures such that police supervision contravened the social rights of the potentially "delinquent." Law enforcement functioned as a barrier between precrime individuals and their social world, such that law enforcement took on the responsibility of being surrogate parents to those predisposed to crime. Where parents of racialized youth "failed," law enforcement and crime prevention would intervene so as to maintain order in spite of "disorderly" kinship structures.

As an extension of police power, precrime put into place preventive measures that put "potentially delinquent" individuals under police supervision. In this way, prevention produced a structure of control and preemption conditioned by the racialization of precrime individuals. It also helped integrate the world of civil rights within the larger system of security that law enforcement sought to implement. The Law Enforcement Assistance Act (LEAA) of 1965, which was initiated during Lyndon B. Johnson's presidency and developed during Nixon's, helped create an urgency for security after the mid-twentieth century civil rights battles. As crime control became a framework for law enforcement agencies, securitization

proliferated throughout the nation and extended beyond public policy. Projects and committees such as the Kerner Commission and *Residential Security* were at the heart of LEAA's agenda, what is called "the reduction of crime pressure."

In particular, *Residential Security* provides important insights into how securitization became a method beyond the reach of law enforcement. Headed by Arnold Sagalyn, who was one of the architects behind the Kerner Commission and reported on counterterrorism measures after September 11th, *Residential Security* is a project and document that outlines the methods, technologies, and tools that could prevent crime. What is fundamental about this document is its construal of security, which is defined in two ways: security as "actual protection against a threat" and security as "freedom from apprehension or fear about [threats]" (*Residential Security* 1973: iii). Crime pressure, as employed in the document, articulates the feelings that one has in a space of danger, especially as this relates to one's understanding of home. Security ought to provide affective and psychic relief that maintains a "sense of personal identity" (xvi). With reference to "environmental psychologists," the report suggests a strong relationship between "environment and behavior" that could potentially afford a sense of security through new kinds of design. Designing urban environments in the image of security would not only provide an opportunity to transform the relationship between an individual and their environment, but also occasion the possibility to transform American society itself. "Design," the report states, "offers a chance to build an open society rather than the 'fortress America' that is a possible (if repugnant) alternative" (xvi).

If security was once established by fortresses, walls, and enclosures — or what has been called a "garrison state" (Lasswell 1941) — security could provide the conditions for an open society. Redesigning security for purposes of an open society makes "socially responsible art" a necessity, one in which "[p]lanners, builders and architects" need to incorporate in their construction of security and safety not only of the state, but of the home and its social environment. With this reconstruction of security design, "a new approach to crime prevention" materialized and foregrounded "a natural system of community protection and self-defense" (xvi). Thus, the capacity to maintain public welfare—i.e. the authority of police power — was transformed not only at the institutional level or the reformation of local police forces, but was also distributed onto local communities who would now be responsible for the "protection and self-defense" of their territory, their social and political worlds.

The concept of territory is given emphasis as a source of property in the traditional sense, and a source of self-affirmation. The security of territory is not only outside the person, but internal to them. As it is cited in the report, "[u]nconsciously [the environment and territory are] felt, I believe, to be not only an intense important conglomeration of things *outside* the self, but also a large and integral *part* of the self" (31; original emphasis). The internalization of security is part of a larger subset of crime prevention that is coined "natural surveillance." Natural surveillance is the groundwork of prevention precisely because it integrates techniques of surveillance into the environment one lives in. Natural surveillance, while applied to general residential security measures, became an essential part of being a racialized subject after the buckling of the short-lived Civil Rights Movement and the emergence of Black Freedom

Struggles. It makes protection and security into natural dispositions, which always already prepares for unseen threats.[49]

The "psychological sense of security" is performed inside the orbit of natural observation and surveillance where all aspects of the environment are considered. This includes lighting, windows, street, entry ways, landscaping, and other parts of design. Natural surveillance, moreover, is established as a social right that relies on the recognition of *neighbors* and the detection of strangers. The report explains:

> Design and planned opportunities for surveillance are critical factors in reducing anonymity in a residential setting. If natural surveillance is an important element of security, it is equally important that the observers be known to one another, that the form of the residential setting encourage neighboring and the casual repeated social interactions that reduce the sense of isolation and anonymity so often present in contemporary communities (36).

Here, the mechanism of surveillance, and the logic of security that undergirds it, succeeds in being a collective principle that organizes the social and motivates social activity (and I would also extend this to the political as well). Security, in other words, creates the sensory conditions for living in a social and political world, where neighbors are deemed safe and racialized strangers are detected as threats to the neighborhood.

Residential Security points to the growing anxieties around interracial relationships during the incipient phases of the war on crime. On the surface of things, it is a report that seeks to inform home-owning communities about how to protect themselves from the potential of riots, protests, and urban transformations that were occurring across the country. It is important for my purposes not to mistake the task of *Residential Security* with the neoliberal inclination to the privatization of security, through which commodities like property, land, and private resources are valorized. While neoliberalism emerged during the time *Residential Security* was written, the desire for security is irreducible to neoliberalism as an austere political and economic regime that sought to reorganize the world. There is, moreover, a relationship between demands for security and the reinvention of liberalism that foregrounds questions regarding rights and race within the framework of securitization. Securitization, as opposed to the neoliberal impetus, takes on the risks of the future, redesigning the political and social as a result.

Residential Security represents a more critical transformation in liberalism in the twentieth century: the epidermalization of security. Security becomes a "*part* of the self," as the document notes, not merely a protective shield over the self. Security takes the body, the home, and the senses as weapons and tools for protection. Police power is no longer beholden to law enforcement agencies, state or federal, but is sewn into the liberal image of a person charged with defending body and home. As a preventive measure, the naturalization of

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[49] This is essential for thinking about the subjectivity that undergirds civil rights and its relationship to public safety and security. Because civil rights emerged from a natural rights tradition, such rights were given with the assumption that they would also be given to men, the natural bearers of rights, who are prone to respect the integrity of public order and safety. See Mark Kann's *On the Man Question: Gender and Civic Virtue in America* (Temple University Press, 1991).

security redefines what it means to be a political and social subject, especially in light of the racial struggles before, during, and after *Residential Security* was published. While it applied to property-owning communities, it also applied to the racialized communities that were the implicit targets of residential security. Security, as the LEAA project claimed, is no longer how we protect our world, but how we design it.

Chapter IV

Police Power II: Counterterrorism, Liberalism, and Islam

> *…it has become a part of the drinking water that we have had to encroach upon civil liberty and trade some of that liberty we cherish for some of that security that we cherish even more.*
>
> *- "Fighting Terrorism and Preserving Civil Liberties" (2005), James B. Comey*

The impetus behind residential security — namely, the desire to redesign America's political and social world in the image of security — also finds its way into the formation of counterterrorism protocols, inventing modes of securitization against Muslims and Islam. Like with all forms of police power, counterterrorism elucidates and reproduces the relationship between civil rights and security in more ways than one. As a part of a larger dispositif of securitization, the logic of counterterrorism endeavors to redesign the political and social world by virtue of its criminalization of Islam and its racialization of Muslims that resemble the kinds of superintendence and surveillance formed during the war on crime and drugs. Contemporary research on the war on terror and counterterrorism protocols have not placed them within the history of American police power,[50] the authority responsible for the "safety of the general welfare" and the security of civil rights. In the last part of my genealogy of civil rights, I demonstrate how counterterrorism is not only a mode and expression of police power, but how it produces new forms of surveillance—differentiating counterterrorism from the criminal justice system—and crystallizes the relationship between civil rights and security.

Incorporating counterterrorism within the history of police power entails three things. Primarily, it means that we attend to the continuity between "precrime" formed during the war on crime and what counterterrorism calls the "radicalization" process. Secondly, it means that we attend to the development of carceral machinery, not only in terms of its institutions, but also in terms of the kinds of political and social relationships it makes possible. I think this is important as I describe the way counterterrorism creates intercommunal relationships that are used as security mechanisms in Muslim American communities. Lastly, it means that we interrogate the prophetic mechanisms of preemption and prevention. That is, the way prophecy materializes itself in the articulation, by law enforcement, that crime and terror can be stopped before they occur in real time. Thinking with Elizabeth Hinton's "preemptory

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[50] Perhaps the most compelling research on police power and the formation of counterterrorism comes from legal scholarship written on the topic. See Amna Akbar's "Policing 'Radicalization'" (2013); David A. Harris "The War on Terror, Local Police, and Immigration Enforcement: A Curious Tale of Police Power in Post-9/11 America" (2006); and Matthew C. Waxman "Police and National Security: American Local Law Enforcement and Counterterrorism after 9/11" (2009). This literature has examined the transformation in policing protocols at the federal, state, and local levels, drawing out the implications this has for national security and the role of police in it. Police power, however, is not reducible to police per se. Police power, as I have shown thus far, is a dispositif that organizes the political and the social around the safety and security of the general welfare. The history of police power I adhere to regards the formation of police power from its incipient phase in post-Civil War America up to its development in counterterrorism.

strike" (2013), I want to consider how it establishes a new sensibility that oddly converges with the Muslim American logic of securitization, what I will later refer to as the "spirit of security."

The Hermeneutics of Counterterrorism

The 'hermeneutics of suspicion' describes the law enforcement practices and policies that strategize around and form the basis of counterterrorism security protocols that counter the radicalization process, often associated with Islamic practices. While counterterrorism is irreducible to the US criminal justice system and the procedures it prescribes, it is, I argue, one of the most significant elaborations of American police power in the 21st century. In particular, my goal is to highlight the way police powers address the problem of domestic terrorism and Islamic radicalism. I begin with an examination of former Secretary of Homeland Security Michael Chertoff's "9/11: Before and After" so as to outline the significant differences between counterterrorism and criminal justice. I underline Chertoff's narrative account of counterterrorism because he illustrates the discontinuities between criminal justice and counterterrorism procedures, and because he highlights the preemptive measures necessary for law enforcement to thwart terrorism before its actualization. This preemptive shift in counterterrorism protocols provides one window into the convergence between the prophetic capacity to avoid ominous events (i.e. the goals of counterterrorism and homeland security) and the ways Muslim American communities in North Carolina are able to incorporate security in their mosques and their interpretations of the Islamic tradition. This will be key as I segue into my ethnographic accounts in the second half of *Who is the Subject of Civil Rights?* I then move on to law enforcement reports (specifically, those published by the FBI and NYPD) and policy documents regarding Islamic radicalism in the United States. These documents shed light on counterterrorism theories and programs that outline how law enforcement should approach the problem of Islamic radicalism as much as they focus on the compatibility between civil rights and securitization.[51]

The legal architecture before 9/11, according to Michael Chertoff, was insufficient in detaining and inhibiting terrorists and their networks due to a system that relied on capturing terrorists after the actualization of terrorism (Chertoff 2011). For Chertoff and other security experts, the problem regarding terrorism and counterterrorism should be about *timing*: at what point should one be captured and detained as a terrorist. If law enforcement and security agencies relied solely on the acts of transgressions committed by terrorists, then these agencies would fall into the same trap—arresting terrorists after the act of terrorism—and fail to protect "innocent lives". In order to incapacitate terrorists law enforcement agencies and their counterterrorism programs cannot be derived from the existing criminal justice system, which at its core persecutes and charges for offenses and criminal acts that have already occurred.[52]

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[51] Also see Saher Sebold's *Forever Suspect: Racialized Surveillance of Muslim Americans in the War on Terror* (2018). Sebold offers important insights about Muslim Americans and their racialization through surveillance technologies. What is wanting in her analysis is a thick description of how these practices are not simply about the racialization of Muslim Americans, but about racialization in the United States itself.

[52] This is best portrayed in documentaries like Assia Boundaoui's *The Feeling of Being Watched* (2018), where she traces and documents the surveillance placed on her family and community before the 9/11 attacks. Boundaoui's documentary is based on federal surveillance documents that she gained access to through her

The criminal justice system, in other words, does not "identify patterns of behavior that might [provide] warning of attack" (Chertoff 2011: 1).[53] Counterterrorism programs, Chertoff explains, cannot duplicate the strategies used to fight the battle against crime, but rather the battle against terrorism requires a different set of tools, strategies, and sensibilities. This was the "fundamental lesson" learned after the 9/11 attacks. Chertoff expounds:

> [A] counterterrorism architecture that is founded on criminal justice principles is fundamentally oriented to punishing those who have plotted or carried out attacks. But with the danger to innocent life posed by modern terrorism, prevention and not punishment becomes the critical driver for counterterrorism. And that required refashioning our legal tool set (1).

"Prevention and not punishment" must be the guiding principle in counterterrorism measures that endeavor to capture terrorists before they put "innocent life" in danger. The notable deficiency that Chertoff locates in the criminal justice system is not to suggest a needed transformation in criminal justice. Instead, Chertoff seems to imply that the criminal justice system, and the logic of punishment that it entails, needs to be superimposed with a different logic, one of prevention and preemption that would halt a terrorist attack before it even happens. In other words, it is the shift from capturing and finding terrorists on criminal charges that could be upheld in court, to a logic of prevention that relies less on terrorists and more on terrorism itself — as a social network, political philosophy, and way of life. Chertoff's distinction between old criminal justice measures and new counterterrorism measures also indicates a fundamental distinction that counterterrorism relies upon: the differentiation of dangerous individuals who may require a more dynamic set of security protocols and procedures. Like the differentiation between criminal justice and counterterrorism, the terrorist cannot be subsumed under the umbrella of criminal. Counterterrorism, then, is not concerned with identifying criminals and crime, but concerned with identifying the process through which terrorists are produced and intervening in that process accordingly.

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victory in court against the FBI (c.f. *Boundaoui v. FBI*). With over 30,000 documents collected, "Operation Vulgar Betrayal" surveilled a Muslim American community in the Chicago suburbs between the 1990s and the 2000s. Despite the lack of policy writings or legal cases regarding Islamic terrorism before 2001, *The Feeling of Being Watched* depicts the inner workings of surveillance programs against Muslim American communities. Despite the extensive surveillance made on Boundaoui's community (30,000 documents worth of intel), no arrests or indictments were made against her community. Although distrust and suspicion piqued the interest of law enforcement, legal persecutions against terrorism still relied on explicit acts of transgression that had to be upheld in court with adequate evidence. In a way, Boundaoui's documentary supports the claims made by Chertoff and other security experts. That is, under the logic of capture and arrest, counterterrorism programs and their protocols were ineffective due to the fact that they relied more on terrorists acting violently and less on the roots of terrorism itself, how it is produced in an individual, what motivates them, and what they look like.

[53] Chertoff urges the need to collect intel on domestic terrorism while also acknowledging the difficulty of tracing and preventing it. While new legislation is needed for the matter of domestic terrorism, Chertoff cites three major statutes, two of which were ratified during the 20th century war on crime and drugs: the Foreign Intelligence Surveillance Act, Title III of the Omnibus Crime Control, and the Safe Street Acts (see Hinton 2016).

Whereas precrime measures in the war on crime sought to transform individuals who were prone to criminal activity, counterterrorism elaborates precrime measures by supplementing it with lethal force. Instead of transforming individuals, counterterrorism seeks to eradicate the source of violent terrorism, and not violence or crime itself. As House Representative Jan Schakowsky observed, counterterrorism programs are "not looking at criminal behavior"; neither are they "looking at violent behavior." Rather, Schakowsky continues, "we're focusing on religious practices…that describe people who, you know, wear Muslim clothing, etc., as being signals that they may be violent" (Akbar 2013: 810).[54] This was the fundamental shift that occurred after the 9/11 attacks. Simultaneous with the formation of new law enforcement and security agencies (e.g. Department of Homeland Security) and the establishment of a new legal architecture, these shifts enabled the mass surveillance of Muslim American communities and mosques across the nation. These drastic changes that occurred after 2001 effectively widened the boundaries of suspicion and conspiracy, giving law enforcement agents the latitude to profile Muslim Americans as potential terrorist threats and to theorize about the Islamic tradition and the alleged violence it encourages. Thus counterterrorism, like the precrime measures that preceded it, seeks to prevent terrorism by intervening in the production of terrorists. Hence, as Schakowsky suggests, the identification of terrorism and violence with Islam, its practices, and its adherents.

Chertoff's vision for counterterrorism became an actuality as law enforcement agencies collected intelligence on Muslims throughout the United States. Federal and state agencies interrogated Islamic routines, spaces of worship, and religious doctrines and differences so as to become more attuned to the patterns that they considered as contributing to terrorist activity. As a result of this accumulated intelligence, law enforcement agencies construed the "radicalization thesis," which demonstrates a stark change in security programs beginning in 2002 and was officially established when the FBI opened the Countering Violent Extremism Task Force in 2011.

Two confidential documents, now public, have set the groundwork for combatting Islamic radicalization in the United States. The first, written by the FBI in 2006, is entitled "The Radicalization Process: From Conversion to Jihad," and the second is a document authored by the NYPD in 2007 entitled "Radicalization in the West: The Homegrown Threat."[55] At its kernel, the theory of radicalization prepares law enforcement agents—local, state, and federal—to sense how Islamic radicalism forms and the collectives it fosters. As a "conceptual framework," the radicalization thesis provides law enforcement agents with the hermeneutics and sensibilities required to detect the early motivations and activities that lead a Muslim to terrorism (NYPD 2007: 14).

According to this thesis, radicalization brings Muslims in the US into the fold of terrorism and transforms them into potential threats by virtue of the religious infrastructure provided by the Islamic tradition. This includes "mentors and agents of influence" (i.e. imams

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[54] I am citing Representative Jan Schakowsky from Amna Akbar's "Policing 'Radicalization'" (2013).

[55] There are numerous documents authored by other US law enforcement and security agencies and I have selected these two documents because of their expressed urgency for counterterrorism measures in relation to the "non-criminal" (NYPD 2007: 10) actions of Muslims in US. While they were authored by the NYPD and FBI, they have significant consequences for Muslim Americans throughout the country and, in my case, North Carolina.

and religious leaders); mosques and other spaces like hookah bars, cafes, and restaurants attended by numerous Muslims; different sects in Islam and their doctrinal differences (i.e. primarily those that depend on "jihadi-Salafi ideology"); and those who are "religious seeking" and tend to the spiritual aspects of the Islamic tradition, including prayer, attending the mosque, and learning about Islam through informal and formal teachings. Law enforcement agencies are tasked with perceiving a kind of conduct that is not immediately available to their field of vision or the field of criminal activity. The NYPD's "Radicalization in the West" acknowledges the difficulty of distinguishing between forms of conduct that identify a Muslim and the process of radicalization:

> The subtle and non-criminal nature of the behaviors involved in the process of radicalization makes it difficult to identify or even monitor from a law enforcement standpoint. Taken in isolation, individual behaviors can be seen as innocuous; however, when seen as part of the continuum of the radicalization process, their significance becomes more important. Considering the sequencing of these behaviors and the need to identify those entering this process at the earliest possible stage makes intelligence the critical tool in helping to thwart an attack or even prevent the planning of future plots (10).

Security technologies against Islamic terrorism must develop accordingly, providing law enforcement officials with a strategy to *see the unseen* through the prism of "the radicalization process." By approximating radicalization with Islam, the logic of security implemented by law enforcement officials attends to the cultivation of Islamic virtues—through the increase of prayer, dressing in Islamic attire, or visiting the mosque—as much as it attends to the problem of terrorism. The concern for law enforcement is not only to detect, but to "thwart" (Chertoff 2011) the process of radicalization—namely, the process of becoming Muslim.

Radicalization

The radicalization process entails four different phases that could potentially lead a Muslim to terroristic activities. The four phases are 1) pre-radicalization, 2) identification, 3) indoctrination, and 4) action/jihadization. Each phase has its relation to a readiness to act and to the affections, emotional reception, economic circumstances, and political and social ties that can encourage terroristic action. The first phase, pre-radicalization, involves the economic, social, and psychological conditions that catalyze a person's desire to rediscover their religious faith. Both the FBI and the NYPD attach the process of pre-radicalization to one's close ties to "ethnic populations that are largely Muslim" that serve as "'ideological sanctuaries' for the seeds of radical thought" (NYPD 2007: 22). These "ideological sanctuaries" are majority-Muslim diasporic communities that purportedly foster feelings of isolation and incline a person to bond with others on account of their religion and their feelings of exile.

The demographic for pre-radicalization, and those who are deemed most inclined to be funneled through all four phases, are Muslim men between the ages of 15 and 35. The NYPD describes these individuals as "residents and citizens of Western liberal democracies," ordinary and "unremarkable," and do not have a criminal history (23). As the pre-radicalized

individuals are welcomed within a larger group, their feelings of isolation are diminished and replaced with a sense of zeal for the practice of the Islamic tradition, redefining their identity with "Salafi philosophy, ideology, and values" (30). These Muslim men, whose previous criminal history bears no evidence of an inclination for terrorism or violence, imbibe the herd instinct of radicalism and live inconspicuously in an Islamic community. Of the numerous spaces that breed pre-radicalized Muslims, mosques are the first to be mentioned, ahead of prisons, universities, and internet chat rooms. The space of the mosque is a prime location for extremists to scout and "observe other Muslims' commitment to the faith and their reaction to the Islamic message" (FBI 2006: 6).

The second phase begins when the pre-radicalized individual politically and religiously aligns himself with "a particular extremist cause and accepts a radicalized ideology" (7). The radical ideology plays an essential role in supporting "violence or other criminal activity against the US Government, its citizens, its allies, or those whose opinions are contrary to his own extremist agenda" (Ibid). In this phase, the self-identifying individual bonds with the herd of radicals who welcome them within the collective effervescence of Islamic radicalism. When an individual imbibes an Islamic way of life, according to the FBI, it requires a narrative break in one's relation to their past, where the individual is "increasingly isolated from his former life" (Ibid). The dramatic transformation in lifestyle and "ensuing isolation creates a vacuum requiring even more guidance on how to build a new life that supports his newfound ideology" (Ibid).

The narrative shift in one's life that alienates an individual from their past contributes to the "moral shock tactics" that bring Muslims into the fold of Islamic radicalism. These characteristically "Salafi" practices include "wearing traditional Islamic clothing," "growing a beard," and "becoming involved in social activism and community issues" (NYPD 2007: 31). This aspect of the radicalization thesis is the most damning to Muslims and to the virtues associated with these activities and practices. Virtues such as modesty (*haya'*), charity (*sadaqa*), and justice (*'adl*) that are accomplished and cultivated through wearing Islamic clothing, growing a beard, or volunteering one's time for social services, are now transformed into subtle forms of Islamic extremism that could potentially lead a Muslim into terrorism.

The third phase of radicalization, "indoctrination," begins when a Muslim becomes convinced by the Islamic message and deems it necessary for action to be taken to "support and further the Salafist cause" (36). The most significant change in this phase, besides the intensification of belief in the Salafi cause, is the acceptance and support for violence "against anything *kufr*, or un-Islamic, including the West, its citizens, its allies" (Ibid). This phase begins when a Muslim withdraws from mosques, deeming them insufficient to convey the Islamic message for action against the West. After dislocating oneself from the house of God, Muslim radicals bifurcate their worlds, between "enlightened believers" and "unbelievers."

The careful association made between the Islamic tradition and the process of radicalization, seen in the first three phases, reaches its logical conclusion in the last phase. The last phase of the radicalization process, as described by the NYPD, places the action of Muslims within "acts of furtherance" that guide them toward the "planning, preparation, and execution" of terrorism (43). This last phase is called "jihadization," through which "jihad" is accepted as "an individual obligation" (Ibid). In terms of obligation, jihadization not only propels a Muslim to act, it also transforms their status, "anointing themselves as holy warriors

or mujahedeen" (Ibid). While this phase of the process presupposes that the previous three phases are completed, the NYPD also recognizes that the will to act "can occur quickly, and with very little warning" (Ibid). As such, the vague timeline of the radicalization process both broadens the scope of terrorism and broadens the category of the terrorist.[56]

Outlining the radicalization process underlines the formation of a new social enemy. In their construction of a radicalized individual, the FBI and the NYPD carefully identify terrorism with Islam. Islam, thus, becomes the primary target of counterterrorism that is fought by virtue of a newly found sensibility that can detect inconspicuous and non-criminal behavior as fundamentally deviant and violent. Provided this new sensibility that depicts Muslims as violent, what role does the logic of liberalism play in both securitizing the nation from Islamic radicalism and, simultaneously, protecting the civil rights of Muslim Americans? I engage this question in the following sections.

Liberalism and Islam

As a theory based on the mass accumulation of intelligence, radicalization draws an account of Islam and its virtues that ties them to the detriments of terrorism. But not only this, the radicalization process also associates the process of being Muslim with an antagonism to liberalism and democracy, or rather to the mode of government that seeks to thwart the violence of Islamic radicalism. This is significant not only because it circumscribes a violent image of Islam, but also because of the way it implicitly assumes liberalism's opposition to Islam. It is important to pause here and reflect on the resemblance between law enforcement's understanding of Islam and Islam's relation to liberalism, and the recent scholarly literature on this very topic. Scholars such Wael Hallaq (2013) and Joseph Massad (2015) articulate a significant argument regarding this relationship between Islam and liberalism. To take an example, Hallaq's *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* circumscribes the liberal tradition and its moral and normative ascriptions—such as law, the state, or ethics—and asserts that such ascriptions cannot account for Islamic forms of jurisprudence, ethical conduct, or political and social organization. Hallaq's point is well-taken, that terms like 'Islamic law' or the 'Islamic state' are impossible precisely because of the incommensurability of Islamic terms to the liberal order of knowledge. While his main target is the 'Islamic state', which he describes as "*inherently self-contradictory*" (Hallaq 2012: xi; original emphasis), I take it that the state-form he critiques is only one element in the topography of modern liberalism.[57]

I want to recall my argument from the introduction regarding the relationship between the Islamic tradition, as Asad (1986) conceptualizes it, and liberalism's desire to secure. If liberalism's normative order is merely circumscribed against Islam's normative order, then I

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[56] This expansion of the web of conspiracy continues to be consequential for Muslim American communities in a place like North Carolina, where Muslim American men have been arrested on the account that they have donated to, supported, and assisted a terrorist organization.

[57] The relationship between Islam and liberalism requires further interrogation beyond the critiques of liberalism that have been popularly received. See, for example, Paul W. Kahn's *Putting Liberalism in its Place* (2008) and his unmasking of the fundamental claim of liberalism on the rule of law and social contracts. The goal here is not to unmask the hidden work behind liberalism, but to interrogate its logic that coheres with the Muslim American impetus to securitize their spiritual lives.

am wary of the clash of civilizations that Hallaq's argument might negligently reproduce. Such a relationship between Islam and liberalism is also reproduced in the FBI's and NYPD's understanding of Islam and its relationship to liberalism. One goal of my dissertation is to rethink the relationship between Islam and liberalism against the propensity to see the two as incommensurable. This is not to suggest that Islam is compatible with liberalism's promise for tolerance, equality, and the free exercise of religion. Rather, I want to reconsider the fundamental logic of liberalism by situating civil war within its conceptual framework. Civil war, I argue, provides the vocabulary to think about the strategies used to think about securitization and ways it takes shape in the police powers that regulate the rights of the racialized.

As I pointed out in my introduction, civil war is one problematic on which liberalism and its securitizing impulses relies. It is important to understand the mode of civil war that law enforcement is committed to in their surveillance of Islam. To reiterate, a civil war takes place not simply between two contending parties, but is a process that takes place through "barely perceptible conflict," to draw on David Theo Goldberg's (2020) words. With the techniques of counterterrorism in mind, the radicalization process devises and extends the problematic of civil war by paying attention to barely perceptible terroristic behavior. Or as the NYPD report states, the "subtle and non-criminal" behavior behind Islamic radicalism. The question of the 'barely perceptible' here is of crucial importance, precisely because it brings together the mechanisms of counterterror with the mechanisms of securitization in Muslim American communities. Whereas law enforcement securitizes against the unspecified threat of Islamic radicalism, Muslim Americans articulate their relationship to Islam through protection against the barely perceptible violence of racism and surveillance. Both racism and violence motivate the terms of debate between Muslim Americans and law enforcement agencies, who engage with and surveil Muslim American communities.

If we consider the impetus behind securitization in liberalism, of which police power is central and counterterrorism is only one elaboration among others, then we can look for the curious convergence between Islam and liberalism. A curious convergence is akin to what Max Weber called an 'elective affinity' (2002), whereby two parallel forces—in Weber's case, Protestantism and capitalism, and in mine, Islam and liberalism—affect one another while maintaining their coherency as disparate entities. If the surveillance of Muslim America, and the securitization measures developed out of this surveillance, are considered, then their convergence becomes more intelligible. Such a convergence occurs both in the utilization of liberal technologies — such as, rights, security, and police — by Muslim Americans and the similar sensibilities deployed, by law enforcement and Muslim Americans, to detect violent behavior. But not only this, the relationship between Islam and liberalism is accentuated in Countering Violent Extremism (CVE). As an extension of counterterrorism protocols, CVE makes Muslim communities both the objectives of counterterrorism programs and a tool that could be used to protect the fundamental promise of liberalism: the security of civil rights.

In other words, as counterterrorism develops, a new mode of surveillance is created to account for Muslims not only as security threats, but as security tools. While others have

scrutinized the public effects of CVE (Aziz 2017),[58] I want to examine the modes of securitization that emerge through a new phase of counterterrorism aimed at obstructing the practice of Islam. As I will show in the next part of my dissertation, this does not only concern the safety of the nation, but the security of the Islamic tradition.

Civil Rights and Violent Extremism

In order to understand the use of police power and the language of civil rights in Muslim American communities, I turn to the reports, speeches, and documents regarding the formation of Countering Violent Extremism. When the PATRIOT Act was eventually nullified in 2011 by the Obama administration, the shift into CVE did not dispose of the radicalization thesis. CVE, however, remains markedly different from earlier forms of surveillance that encroached on the Muslim American community. I differentiate CVE from earlier surveillance programs and agendas to mark an important shift in security protocols that focus on engaging with Muslim American communities who welcome and solicit the aid of local, state, and federal law enforcement agencies for matters concerning racial violence and to contest the boundaries of governmental surveillance. The distinction between CVE and counterterrorism extends Michael Chertoff's desire to differentiate counterterrorism programs from criminal justice procedures (Chertoff 2011). As such, CVE takes less clandestine forms of surveillance and invites Muslim American communities to participate in security protocols and intervene in the early phases of Islamic radicalization.

The distinction between CVE and counterterrorism is more continuous than the earlier distinction made between criminal justice and counterterrorism. The earlier distinction depended on the difference in time and temporality of a criminal act, criminal justice being the custodian of transgressive acts happening in the past and counterterrorism having the prophetic capacity to identify future transgressive acts. Countering Violent Extremism takes on this prophetic capacity to see the unseen, but what differentiates it from counterterrorism is the ability to openly penetrate Islamic spaces and communities, creating public partnerships with Muslim Americans in an effort to secure their civil rights and obstruct Islamic radicalism.

[58] Countering Violent Extremism remains an important topic of debate in Muslim American communities. See the document, published by the Triangle Center on Terrorism and Homeland Security, and the Sanford School of Public Policy at Duke University, titled *The Challenges and Promise of Using Community Policing Strategies to Prevent Violent Extremism* (2016).



Source: GAO analysis of information from the White House, the Federal Bureau of Investigation (FBI), and the Department of Homeland Security (DHS); FBI (adapted photographs); Art Explosion (clip art). | GAO-17-300

As security programs center on Islamic spaces and the adherents of the Islamic tradition, such spaces become sites of spiritual, social, and political contestation between law enforcement agents and Muslim Americans. In this engagement between law enforcement and Islamic spaces, the Islamic tradition incorporates security as a theological and ethical orientation. CVE, then, not only fosters a relationship between law enforcement and Islamic communities across the United States, but it also profoundly transforms how a Muslim relates to the Islamic tradition and its spaces.

What is at stake with the creation of CVE, as a method used by law enforcement, concerns the compatibility between the civil rights of Muslim Americans, the integrity of the Islamic tradition for them, and a security strategy that attends to the roots of terrorism, its philosophy and religion. These stakes are expressed as much in Muslim American communities as they are in governmental documents that address CVE and what it means for national security. In August 2011, the president's office published a brief summary on CVE and its aims, entitled "Empowering Local Partners to Prevent Violent Extremism in the United States." In this document, civil rights and their relationship to security is rhetorically woven together to draw out CVE's implications for the protection of national borders and the guarantee of civil freedoms. "Our security—preventing radicalization that leads to violence," the document asserts, "is inextricably linked to our values: the protection of civil rights and civil liberties and the promotion of an inclusive society" (White House 2011: 2).

This is at the heart of CVE: bonding liberalism (i.e. freedoms, civil life, and national community) to the national security threat of radicalism purportedly endemic to Islamic practices. President Barack Obama, whose administration ushered in CVE, clarifies and solidifies the necessary relationship between civil rights and security throughout his speeches in the early and later phases of his presidency. In two speeches he gave during his first year as President, 2009, he addresses the problem of security and the troubles of Islamic terrorism. "That we are in the midst of crisis is now well understood," Obama states; "[o]ur nation is at

war against a far-reaching network of violence and hatred" (Obama 2009a). Obama's role in the War on Terror was essential not only because he developed and utilized new security technologies at home and abroad, but also because of his open insistence that national security does not abridge the "the rights of man"; instead, national security defends them. "As for our common defense," Obama asserts, "we reject as false the choice between our safety and our ideals…our Founding Fathers, faced with perils that we can scarcely imagine, drafted a charter to assure the rule of law and the rights of man" (Ibid). In this speech, like in other documents published by his administration, Obama makes a wager that wars are not won only by military force, but with "alliances and enduring convictions." Referring to the generations who fought "fascism and communism," he regards the way they "understood that our power alone cannot protect us, nor does it entitle us to do as we please." Rather, "they knew that our power grows through its prudent use; *our security emanates from the justness of our cause*, the force of our example, the tempering qualities of humility and restraint" (Ibid; emphasis added).

While it is not publicly addressed as a civil war, using mechanisms such as "alliances and enduing conviction" in the War on Terror foregrounds CVE as a mode of social and political warring. In other words, a war of alliances and enduring convictions is a war without military force, a war of barely perceptible conflict. This is clarified in another 2009 speech at the National Archives, where Obama draws out his national security program and his goal to fight against Islamic extremists, not Islam itself, whilst maintaining diplomacy with Muslim Americans. In that 2009 speech, Obama uses the language of war to describe the economic crisis and the fight against the far-reaching networks of global jihad. "We're fighting two wars," he states from the outset (Obama 2009b). "In the midst of all these challenges," he affirms, "my single most important responsibility as President is to keep the American people safe." With the "extremist ideology" that "threatens [the American] people," Obama sought to implement "21st century military and intelligence capabilities" that would protect against the "nimble enemy" that is Islamic radicalism. But Obama also recognizes that securitization and protection often come at the expense of constitutional values, the rights of man, and the protection of civil life. He claims at length:

> We're better protecting our border, and increasing our preparedness for any future attack or natural disaster. We're building new partnerships around the world to disrupt, dismantle, and defeat al Qaeda and its affiliates…These steps are all critical to keeping America secure. But I believe with every fiber of my being that in the long run we also cannot keep this country safe unless we enlist the power of our most fundamental values. The documents that we hold in this very hall—the Declaration of Independence, the Constitution, the Bill of Rights—these are not simply words written into aging parchment. They are the foundation of liberty and justice in this country, and a light that shines for all who see freedom, fairness, equality, and dignity around the world…I took an oath to preserve, protect, and defend the Constitution as Commander-in-Chief, and as a citizen, I know that we must never, ever, turn our back on its enduring principles for expedience sake. I make this claim not simply as a matter of idealism. We uphold our most cherished values not only because doing so is right, but because it strengthens our country and it keeps us safe. Time and

> again*, our values have been our best national security asset*—in war and peace; in times of ease and in eras of upheaval (Ibid; emphasis added).

Merging constitutional "values" with mechanisms of war and security, Obama rearranges the boundaries of national police power and its ability to secure the "American people" while simultaneously securing their rights. The objective of securing the rights of the people, however, is a complicated task in matters regarding national security.[59] Nevertheless, Obama rhetorically approximates the civil liberties of the "American people" with his desire to secure them by using military and intelligence technologies in the wake of homegrown and international networks of terror. What is interesting, moreover, is that national security is not implemented to protect civil rights, the rights of man. Obama reverses the order of motivation: it is the constitutional values, on which civil rights stand, that urge the need for security. This, I want to suggest, is fundamental when thinking about the 21st century rendition of civil, political, or social rights. Like the earlier formulation of these rights—established during the judicial settlement of the American Reconstruction—Obama's claim that security upholds the rights of man creates the conditions of formal insecurity for Muslim American communities. Precisely because he acknowledges that the protection of rights inspires the securitization of the people, the civil rights of Muslim Americans will be subordinated to the urgency of this claim. As such, the security of civil rights is insufficient to protect from the political and social consequences of CVE in Muslim American communities, rendering the practice and spirit of Islam insecure.

What was called the 'right to security' during Truman's presidency, through which law enforcement and national security were developed, is reanimated during Obama's presidency. The objective to secure the civil rights of Muslim Americans is made compatible with the desire to thwart the source of terrorism, the radicalization of Islamic virtues. This is especially the case in Obama's 2013 speech on national security at the National Defense University. There, Obama addresses the civil rights of Muslim Americans and their role in the domestic War on Terror. The best method to "prevent violent extremism inspired by violent jihadists," Obama acknowledges, "is to work with the Muslim American community—which has consistently rejected terrorism—to identify signs of radicalization and partner with law enforcement when an individual is drifting towards violence" (Obama 2013). From targets to tools, Muslim American communities, as expressed by Obama, are a central part of the technologies used to "thwarting homegrown plots" of violent extremism. This does not ensure the protection of their rights and form of life; it in fact recognizes the formal insecurity that Muslim Americans experience. In this way, partnerships between Islamic communities and law enforcement are created not only to protect the American people, but also to "guard against any encroachments on [Muslim Americans'] civil liberties" (Ibid). This is a part of the "proud commitment to civil liberties for all who call America home," including Muslim American communities. Such a commitment, nevertheless, will remain a part of the "balance between our need for security and preserving those freedoms that make us who we are." Like

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[59] While *Korematsu v. United States* (1944) does not play significant role in this dissertation, the case proves to be of fundamental importance when it comes to the relationship between national security and civil rights. See *Korematsu v. United States*, 323 U.S. 214 (1944).

the mid-20th century committee on civil rights, Obama exhorts the need to review "the authorities of law enforcement" so as to "intercept new types of communications" and in order to "build in privacy protections to prevent abuse."

The review of law enforcement's authority also entails the renewal of its security technologies and mechanisms that is situated within a new horizon for American police powers. In particular, the security mechanisms and weapons within CVE's paraphernalia will not take shape in lethal force, CCTV cameras, or security guards. Instead, as "Empowering Local Partners" suggests, CVE will use "a broad range of tools and capabilities that are essential to prevent violent extremism in the United States," noting that the "best defense against violent extremist ideologies are well-informed and equipped families, local communities, and local institutions" (White House 2011: 2).[60] Under the "Community-Based Approach," countering violent extremism invites Muslim American communities, who are ascribed "blame" for burgeoning radicalism that is born out of their communal spaces, to become a part of the crucial phases of security protocol by identifying potentially radical behavior.

While mosques and similar Islamic communal spaces are not mentioned in CVE policy documents available to the public, mosques remain the key site targeted by law enforcement agencies and security programs aiming to foil the growth of domestic terrorism. It also provides an interface between Muslim communities and law enforcement, where Muslim Americans become security technologies and appropriate the logic of security. In this way, the mosque serves as the interface that facilitates a forum between Muslim Americans and law enforcement agencies, and also facilitates a discussion about the Islamic tradition, its virtues, practices, and place in social and political life. While CVE does extend the racialization of Muslim Americans that was established by the radicalization thesis, CVE provides an occasion for Muslim Americans to contest and renegotiate the boundaries of securitization in their communities. Such a contestation takes place not in resisting securitization, but in imbibing it and implementing security technologies that include, but are not limited to, CCTV cameras, guns, security guards, and bulletproof windows. CVE, then, asks Muslim American communities to invite law enforcement and other security personnel inside mosques and other Islamic spaces in order to support the implementation of security technologies and security sensibilities. As an extension of police power, counterterrorism fundamentally defines the boundaries of the civil, political, and social rights of Muslim Americans and establishes the "need for security," as Obama stated, within the spirit of the Islamic tradition. The spiritual security of Muslim Americans in North Carolina today relies on this intricate exercise of police power and the use of the very technologies, strategies, and institutions that antagonize the practice of Islam.

The Securitization of Racial and Spiritual Life

[60] The use of families and local communities is not a new feature of national security discourses in the US. Since the cold war, security and securitization in the US has attended to the everyday aspects of life and ordinary citizens as weapons for security and surveillance. See Laura McEnaney's *Civil Defense Begins at Home: Militarization Meets Everyday Life in the Fifties* (2000).

In the 2013 speech referenced above, Obama laments the undefeatable nature of evil in the world. Because no political leader can "promise the total defeat of terror," Obama explains, "[w]e will never erase the evil that lies in the hearts of some" and neither will military combat "stamp out every danger in our open society" (Obama 2013). If evil presents a permanent enemy for Obama, what kind war does police power wage that does not hinge on lethal force? What is the spirit of warfare such that the evil that American police power seeks to defeat is perpetual and everlasting? Like Obama's realization, racialized Muslim Americans are also confronting the perpetual evil of racial violence and governmental scrutiny. In spaces like North Carolina, the conjoining of racism and surveillance brings about a need for security and the protection of the spiritual life of racialized communities.

As I touched on earlier, Elizabeth Hinton (2013) has shown that the activities and projects of precrime did more to pathologize and criminalize racialized communities, as subjects prone to delinquency, than it did to support or protect those communities. It is difficult to think about how the very same communities who are pathologized and criminalized by law enforcement, take up their technologies and methods as sources of protection and security. Racialized Muslim Americans, then, do not simply appropriate the logic of security alongside law enforcement, but take on the responsibility and sensibility of police power and redefine it in the process. How does security and surveillance emerge in communities who are the objects of security protocols utilized by police power? This is a question that I hope to answer in the second part of this dissertation. The history I have illustrated over the past three chapters shows how civil rights, security, and police power were redefined in relation to one another in light of the growing anxieties surrounding race in the United States. Not only this, these chapters also demonstrated the enduring significance of the subject of civil rights, its conditions of formal insecurity, and the enduring legacy of political and social rights.

As I move into my ethnographic work, it is important to remember some points regarding the subject of civil rights. As I mentioned in the previous chapter, the subject of civil rights was produced out of the lack of political and social security that was disregarded by federal or state government. Social and political rights—the right to community and the right to participation—were differentiated from civil rights, resulting in the legal circumscription of what can be secured and what cannot. With the conditions of formal insecurity in mind, racialized communities were urged to think about how to protect themselves from non-state actors who committed violence against their bodies and spirits.

The need and demand for security became twofold, as I have shown in this chapter. Not only did the subjects of civil rights require protection from their fellow neighbors, but also from law enforcement and the encroachments of police power. If law enforcement agencies are responsible for the health of society, then racialized communities were seen as the ailments of society that require convalescence. As national security ushered in a new paradigm for defense and protection, rights took on a meaning that went beyond their legal import. To secure these rights, as the President's committee proclaimed, is also to make security a right and a right into a security. Rights as a security measure is not limited to a legal entitlement guaranteed by government. Rights as a security measure, in fact, seeks to protect from potential racial violence, an unknown fear, or an unseen threat. The subject of civil rights is not only cognizant of the security that is required to thrive in an unprotected political and social world, it is also concerned with the spiritual threats that political and social insecurities

accentuate in the context of austere governmental surveillance and racial violence. I turn to these political, social, and spiritual concerns in the following chapters.

Part II:
Securing Islam



Remi Benali/Getty

Chapter V

The Spirit of Security

Spiritual protection is the soul's home in a place of violence.

- *Sana, an interlocutor*

For the past few years, the Islamic Association of Raleigh (IAR) holds an outreach event that invites non-Muslims inside the mosque for a day of activities, lectures, and presentations. I attended this annual event on March 7th, 2020, where I witnessed hundreds of non-Muslims listen to and engage with the Islamic community in Raleigh. On that day, I met Aman, a local community member of South Asian descent who grew up in Raleigh and witnessed the IAR built from its beginning. With a number of police officers and private security guards roaming in and around the mosque, Aman and I spoke briefly about the significance of security within the Muslim American community in North Carolina. For Aman, security is not merely a mechanism to protect from unseen violent threats, security is a practice that stabilizes what he called their "spiritual line." Between the Islamic community and what he called the "general community," their spiritual line finds metastability[61] when Muslim Americans in Raleigh can remediate their relations with local and federal law enforcement agencies and tackle the problems of racial violence and surveillance that have plagued Aman's community. "Muslims are facing security issues inside and outside their communal walls," Aman tells me. "Working with local police departments, the FBI, [and] SBI (State Bureau of Investigation) doesn't only provide security inside the mosque, but *in us*." As a strategy and condition, securitization — although installed both inside and outside communal spaces—takes effect in the spirits of Muslim Americans.

When it comes to the matter of security, I am concerned with its spirit and the way it inflects the Islamic tradition. Throughout the dissertation I have referenced these terms, the 'spirit' and the 'spiritual', in order to indicate the consequence of *formal insecurity*, a condition in which racialized communities experience the insecurity of their bodies and, more profoundly, their spirits and souls. In this chapter I want to outline the contours of the spirit of security and its place in Muslim American communities in North Carolina. At the heart of it, the spirituality of security foregrounds questions and concepts related to sentience, about what the sensorium can account for and what it cannot. The spirit, in a juridical and theological vein, is a window into what is sensible, what is supersensible[62], and how to orient the

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[61] I use the term 'metastability' in order to denote the precarious and contingent stability that Aman addresses. While he recognizes the need to balance both sides of the spiritual line — the general community, on one side, and the Islamic community on the other — Aman also acknowledges the way the stability of the spiritual line is only temporary. Thus, the community seeks to find a sense of *metastability*, knowing that their security is never guaranteed, continuously working toward the balance of the spiritual line.

[62] I refer to the term 'supersensible' as a philosophical and ethnographic concept. Philosophically, I take the term supersensible from my reading of Immanuel Kant's work, especially his *Groundwork of the Metaphysics of Morals* (2012). Although Kant does not use this term, it is nevertheless apt to describe some parts of Kant's

sensorium towards detecting both. This includes bodies, threats, death, racism, surveillance, and spirits.

Security's relationship with sentience also speaks to Aman's concern, which regards the use of securitization mechanisms to ensure the spiritual stability of his community. In *Security: Politics, Humanity, and the Philology of Care* (2013), John Hamilton situates security within its larger linguistic and conceptual field, which includes surveillance and state power as well as concerns for care and human mortality. At its etymological root, security emerges from the Latin *securus*, meaning without (*se-*) care or anxiety (*cura*). As Hamilton draws his argument, he shows a fundamental paradox within *securus'* etymological form that manifests itself in the technological expression of security: "…a concern for security is always a concern for being without concern" (Hamilton 2013: 282-3). Security, then, refers to a concern, a desire, and an anxiety about being without concern, regulating desire, and eradicating anxiety. With reference to Cicero and the Stoics, Hamilton elucidate upon this fundamental paradox — what he calls a "mad logic" — of security and securitization:

> To be *securus* means to have one's mind free from agitation, to stand psychologically upon solid, unassailable asphalt. If a notion of defense is to be included among Cicero's connotations, it should be limited to an idea of protection against matters that would upset this balance, matters generally stemming from the political sphere. The fortification erected by these security projects therefore names the bulwark of tranquil selfhood, the Stoics' "inner citadel" that makes the soul invulnerable and steadfast in character. It would be a mistake, however, to ignore the concrete political implications of this image (282).

I want to take seriously the "concrete political implications of this image" of security, one that focuses on the balance of the spirit, making it invulnerable to the agitations of formal insecurity. Such political implications have consequences for the way I think about the devices used to bolster security through surveillance. It is here where sentience comes into play, as Hamilton describes, especially when security technologies take shape in "gadgets, devices, and sensors *to catch what human senses might miss*" (284; emphasis added). Given the limitations of the human sensorium, the soul and the spirit necessitate machines to see the unseen and account for what is undetectable by the sensorium.

But why center the 'spirit' and its relationship to securitization in a genealogy of civil rights and police power? This question has been partially answered in my last three chapters,

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system. In the *Groundwork*, Kant outlines two kinds of worlds: the world of sense and the world of understanding. While the world of sense is constituted by appearances of objects and things, the world of understanding cannot be grasped by intuition or our sensibilities used to apprehend the material world. For Kant, ideas cannot be grasped by the human sensorium. I want to extend this line of thought to my understanding of sentience. Ethnographically, I take Kant's two worlds in order to think about seeing the unseen and detecting what is not apparent to the senses. Both seeing the unseen and detecting what is not apparent defines what I mean by the 'supersensible' and organizes a set of terms — such as, Islamic concepts that I outline in this chapter and the sensibilities of police power that I outlined in previous chapters — that I situate within the logic of security in liberalism.

where I outlined the formation of formal insecurity through a reading of major court cases, legal documents, and political speeches and debates. With the security of Muslim Americans' civil rights comes the need to situate such concerns, as I have, within a longer history about police power and its culmination in the formation of counterterrorism. What is missing is an ethnographic account of how the demand for civil rights and security in Muslim American communities materializes into the securitization of racial as well theological life—indeed, the securitization of the racialized spirit and soul of the Islamic tradition in the United States.

In order to arrive at this understanding of security and its relation to the spirit, I want to recall three concepts that I outlined in the beginning of the dissertation: *rights*, *civil war*, and *spiritual security*. First, I recapitulate my understanding of rights and their relationship to spiritual agitation. As I stated earlier, my understanding of rights is deeply informed by Patricia Williams' provocation to think about rights against their reduction to legalism, what she described as "the sop of minor enforcement of major statutory schemes like the Civil Rights Act" (Williams 1991: 164). Instead, Williams invites us to think about rights as (1) boundaries against "bodily and spiritual" intrusion, (2) a magical wand of visibility and invisibility and (3) the condition for a "relation to others" (Ibid). How do Muslim Americans establish secure boundaries and remediate their relation to others, law enforcement included, through securitization? I investigate this question, and the concept of rights I outlined above, through the ethnographic engagement between Muslim Americans in North Carolina and their reading of the Islamic tradition. As such, when counterterrorism protocols and the sensibilities of police power encroach on the civil rights and spiritual life of Muslim Americans, rights are not only invoked but are transformed into a source of Islamic interpretation.[63]

Second, my conceptualization of civil war and spiritual security work together. Following the work of Michel Foucault, civil war takes place on the level of a social war, where security is forged so as to protect society from its enemies, not simply criminals. More fundamentally, Foucault expands the notion of civil war to encapsulate "the daily exercise of power" (Foucault 2003: 31) – that is, to take note of all the "instruments, tactics, and alliances" that we can identify in terms of civil war. In tandem with securitization, civil war seeks to combat (not only in terms of military force) and surveil not only identified social enemies, but also those who are suspected of being criminal or violent. The spiritual emerges here in an important manner, both in the speculations made through the racial profiling of Muslim Americans, and through the desire to arrest that which cannot be seen. I situate how Muslim American communities acquire power, as some of my interlocutors mention, within this field of civil war and spiritual security. What I want to focus on in this chapter is the manner in which civil war and spiritual security are activated through an engagement with the Islamic tradition and its conception of the soul and spirit. The desire to acquire power—or, as Foucault put it, "the daily exercise of power as civil war"—also motivates a rereading of the soul within the Islamic tradition. Thus, I demonstrate the way the soul, as well as physical spaces like the mosque, are transformed into security technologies themselves.

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[63] The previous chapters were written to think about the conditions under which Muslim Americans today think about and articulate the need for security. That is, the conditions of formal insecurity that give life to the subject of civil rights. This chapter attempts to draw out the implications and effects of these conditions, although I do not refer to them extensively.

In the previous chapter, I demonstrated the ways in which counterterrorism is formed not only out of concern for Islamic radicalism, but also out of a concern for the protection of "innocent life" and the civil rights of Muslim Americans. The effects of this new phase of police power appear in the reorganization of Muslim American communities in North Carolina. As I will show below, the spirit of security emerges in the political and social binds that compel Muslim Americans to reorganize their communal spaces and reinterpret the soul and the spirit of the Islamic traditions. Through a call to protect their civil rights, Muslim Americans seek the virtues of securitization in order to protect from physical and spiritual harm.

Inner Security

Of the many interlocutors I engaged with during my time in North Carolina, Habibullah was one of the most important. At the age of 32, Habibullah serves a significant function for the Muslim American community in the Triangle region, where he supports and oversees the renovation of numerous mosques. Habibullah was well-known in the community for his quirky, kind, and generous demeanor that allowed him to connect with Muslim and non-Muslim communities. As an Arab-American, he was raised in Jordan and lived the majority of his life in North Carolina where he would study, work, and build a home. He served the outreach programs, established libraries, created youth programs, and forged intercommunal conversations about racism and Islam in the South. Habibullah was also a committed student of Islamic sciences and jurisprudence. Although his schedule did not allow him to pursue Islamic knowledge more seriously, he often spoke to me about the seminars and books he was reading regarding *fiqh* (science of interpretation of Islamic law), *tasawwuf* (spirituality), and *ahadith* and *sīra* (the conduct of the Prophet Muhammad). For Habibullah, his Islamic knowledge was essential to the way he oriented himself in this world and how he vouched for the securitization of Islamic life in North Carolina.

Habibullah did not reserve his criticism for the mosques and Islamic centers he worked for. His criticism, in fact, fueled his desire to transform the mosque with the future in mind and spirit. He often spoke to me about how mosques in North Carolina required urgent renovations, telling me on one occasion that the standards held for mosques were "vague" and "dated." "It's like your computer has been functioning on Windows Vista," he said; "there needs to be updates and reprogramming." On this occasion, Habibullah and I sat in a café in Raleigh, where we enjoyed a cup of coffee and spoke about his relationship to the mosques in the Triangle region. He continued to discuss his investment in building educational and outreach programs that would bring Islam to the general public. As he began to address his concerns about this issue, the conversation picked up, his voice changed, and he became more assertive about the structures inside his community that were both stubborn and necessitated alteration. Our "Islamic center is neither Islamic enough nor is it centered enough," he suggested. He then asked rhetorically, "What does it mean to be an Islamic center"? For him, ascribing the name 'Islamic center' to his communal spaces entailed reshaping such spaces in line with a new vision.

Habibullah is convinced that to have an Islamic center means that "we're able to account for all Muslims, address their concerns internal and external to the mosque, and enjoin with those who seem to be outside the mosque: Christians, Jews, Atheists, police officers, lawmakers, firefighters." Throughout our conversation, Habibullah emphasized the importance of *acquiring power* in the community. Power, he explained, is not about being able to coerce others to do something. Power, instead, is about the ability to protect and secure the tradition with the public community in mind. While I will return to this sentiment and how Muslims engage the public in the next chapter, I want to focus on Habibullah's understanding of the Islamic tradition, how he places securitization within the tradition, and how it forms what he calls "inner security."

Inner security is central to securitization initiatives in Muslim American communities in North Carolina. As described by Habibullah, inner security not only enables the practices of Islam in a site of racial violence, but it also situates the cultivation of Islamic sensibilities within the field of security. Acquiring power, as he stated earlier, is for the purposes of gaining "coherence in our lives, and especially for our leaders in their ability to excel and guide the community with clarity, ease, focus, and grace." Within the conditions of formal insecurity, the coherency of Islamic life was jettisoned due to the fear and anxiety felt by the community. But the goal is not to return to a prior state of peace, when Muslim Americans were safe and sound from the agitations of the soul. Rather, the goal is to forge the boundaries and to form the self in a way that securitizes the Islamic tradition. This occurs, moreover, not simply in the deployment of security technologies. This occurs through "the inner power of character of being committed to the Islamic tradition," as Habibullah articulated. "If we want to be safe," Habibullah continues, "we have to secure our hearts too. That's how we become safe from physical violence." The grounds for physical security, as explained by Habibullah, emerge not from the boundaries created in the external world, but within the soul and spirit that guides a Muslim through the trials of formal insecurity. He states:

> The Prophet [Muhammad] always told us that our tradition is our ethical character and our relations with others. He means this when tells us that "the best of you are those best to your family." Or, when he tells us, "the best of you are the ones that are most consistent." We need to form ourselves into better Muslims, but we also need physical security and we need to use security tools to make sure that our communities are safe so that we could be the best and the most consistent. You can't have consistency with people who are afraid…It's really a circle: we need security and safety to be consistent Muslims and to live a coherent life, but we also have to be strong Muslims to be able to properly secure ourselves.

The circle that Habibullah speaks of is an important one. This circle that the Islamic tradition coheres around, tethers security to the topography of the Islamic soul, which becomes a mechanism used by Muslim Americans to ward off the spiritual and physical dangers of racial violence.

In order for the Islamic tradition to regenerate, Muslim Americans necessitate a "clarified vision," one that allows them to see security threats and dangerous situations before

their occurrence. I asked him to elaborate on the kind of vision that securitizes the Islamic soul and its relationship to what he called a "strong Muslim." He expounds:

> Well, first off, you need to have a purified soul and clarified vision—the *basīra*—to see and understand the environment and what it needs at a particular moment. If your soul is distracted you'll misunderstand what the environment and particular situation needs, especially if it's a dangerous situation. Once you have *basīra*, you'll know how to react with ease and you'll be able to speak to your neighbors, or even those who harm you, with clarity and the best kind of security. Otherwise, if you blind the heart with sin you can't protect yourself or your community from physical danger. This is why we have to make our mosques into Islamic centers, true Islamic centers. So that our souls are aligned and so we can see things that others can't.

I want to emphasize Habibullah's topography of the soul in order to take seriously the inner dimensions of security for Muslim Americans.[64] For him, the soul plays a significant role in securitization, because it is the condition for clarified vision, or *basīra*. Within an Islamic lexicon, *basīra* is not the capacity to see the physical world with one's eyes. *Basīra* entails a different kind of vision, a kind of perceptual capacity to see things unseen or undetectable by the human sensorium. For Habibullah, *basīra* is the original security technology, the capacity of a soul to see a dangerous threat before its occurrence. "If you are blind in the heart," he asserts, "you can't protect yourself or your community from physical danger."

In *The Knot of Soul: Madness, Psychoanalysis, Islam* (2018), Stefania Pandolfo takes seriously the contours of a world outside of time and history, an orbit she calls "the world of the soul." The soul as an entity is imbricated within the world of history, where politics takes place and can constrict, or even disable, the capacities of the soul. What she calls "soul choking" — the strangling of the soul — becomes a kind of "crippling of the ethical faculty" of the soul, "a disablement of the soul fostered in existential and political trauma" (Pandolfo 2018: 8). Putting Habibullah's topography of the soul in conversation with "soul choking" illuminates both the political and theological stakes of purifying the soul. As Habibullah put it, physical danger is not deterred by weapons. The mode of securitization that he refers to requires that the soul is cultivated and its ability to see is clarified. What this entails, moreover, is that physical signs of aggression are insufficient to deter a security threat. As such, the disablement of the ethical

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[64] When I speak of "inner dimensions," I am not exacerbating the gap between the interiority and exteriority of the subject. Saba Mahmood's *Politics of Piety* (2004) engages with this question, about interiority and exteriority, and its relationship to the ethical form of life of Muslims. The question for Mahmood is not one of priority or one that is concerned with where ethics takes place, inside the psyche or outside on the body. Rather, for her, ethics performs a different kind of work on the subject. In reference to Pierre Hadot's (1995) concept of "spiritual exercises," Mahmood takes seriously the way subjects are transformed through ethical practices. While I too am concerned with the way subjects are transformed through ethical practices, I also hold an adjacent concern about how Muslim Americans conceptualize and articulate this transformation – what kind of language, or rather what kind of Islamic concepts are valorized, in a context of racial violence where securitization becomes a tool for the Islamic tradition.

capacity of the soul, which Habibullah seeks to prevent through exercising *basīra*, is simultaneously the disablement of security for the Muslim American community.[65]

As Habibullah and I continued our conversation regarding the relationship between security and the spirit of Muslim Americans, he expanded on his topography of the soul and its relationship to the event of death. "Muslims just want to survive now," he complains, "we don't want to have the best morality. Most Muslims would be scared if they faced death, they'd give up their morality if they faced death just to survive." Death cannot be the limit, as survival cannot be the goal, for Muslim Americans who seek to protection and security. The dialectic between death and survival must be overcome such that *basīra* supersedes and regulates the fear of death. "We need to go beyond survival, we need to have morality in the face of death. As Muslims in the South there's a chance of death and violence. But it doesn't matter. We have to hold onto our morality. We have to go beyond the desire to survive." Because the security of the soul outlives the finitude of the human body, Habibullah's demand for security in his Islamic community attempts to think "beyond the desire to survive." An ethics of survival, as he demonstrates, cannot cultivate *basīra* in the face of violence.[66] Although Habibullah speaks hypothetically, death, or any other violent matter, should not deter a Muslim from their ethical capacity, which must be the groundwork for the securitization of Islamic life.

The desire to move beyond survival has to be placed within the orbit of the *nafs*, a counterpart of the soul that determines desire. When Ibrahim brought up the question of survival, I asked why it was important for him and his community to move beyond survival? Wasn't survival the goal of securitization in the Muslim American community? He immediately retorted, "No!" The exercise of the *nafs*, according to Habibullah, was the condition on which one can move beyond death and deploy securitization for the purposes of tranquility and control. "We can go beyond [death], but it all depends on what parts of the *nafs* you feed on a daily basis." He went on to describe the *nafs* in its three different parts:

> There are three parts of the *nafs*. The first is *nafs al-lawwama*, the extreme side of the soul, where you're either extremely Muslim or a sinner. The second is *nafs al-mutminna*, where one can find tranquility and peace. This is the middle ground. And the third one is *nafs al-amara*. This part of the *nafs* commands and controls the person, it orders you to do something. We need all three parts of the *nafs*

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[65] Stefania Pandolfo's work is important here in order to think about the soul as a site of ethnography. As she demonstrates in his 2018 book, *The Knot of the Soul*, the world of the soul can become a place to ask questions regarding historical and political violence as well as questions related to the tradition of psychoanalysis and its inheritances.

[66] Amira Mittermaier's work is relevant here. In *Dreams That Matter* (2011), Mittermaier argues for the agency of dreams and the imagination in relation to Islamic practitioners. Where Charles Hirschkind and Saba Mahmood emphasize modes of self-cultivation, Mittermaier emphasize the Divine and the contingency attached to the Divine. While I appreciate her move to think with the Divine in a way that gives it agency over and against the agency of a Muslim subject, I think she underestimates the necessary tools and capacities required for the Divine to take shape within the imagination of this subject. As Habibullah demonstrates, the capacity of *basīra*, which is a capacity to engage the Divine, is not a given. On the contrary, *basīra* requires the exercise of the soul and the cultivation of ethics which secure the heart from sin and, in turn, produce a subject who is able to protect themselves in the world.

> and they need balance. But you have to decide which part you'll feed more, which other people will help you feed too. We have needs and desires, but we cannot be attached to them. Our security is a need and a desire. We need to work on the security of our *nafs* to make sure we have security in our bodies.

As a part of the soul, the workings of the *nafs* balance the need for securitization and the desire to live a secure Islamic life. Habibullah elucidates the fundamental paradox of security, "a concern for being without concern" (Hamilton 2013: 283). Habibullah envisions a mode of securitization that not only relies on weapons or surveillance technologies, but on the health of the spirit and its relationship to God. "In the end," Habibullah tells me, "God is our need and desire to keep us secure."

Moving beyond a logic of survival, Habibullah points to a different form of life, one that invites securitization in the world as much as in the spirit. Habibullah's topography of the soul is the precondition to forge secure boundaries inside Islamic spaces in North Carolina. But his topography of the soul transforms the theological matter of the *nafs* into a political weapon used in civil war. For the North Carolina community, the cultivation of *basīra* is a technology used to identify potential security threats as well as to identify informants inside communal spaces. His community, thus, brings together the need for spiritual balance with the bolstering and securitization of Islamic spaces. As I will show, the Islamic community in North Carolina attempts to go beyond the spaces of death and formal insecurity by establishing security within their mosques and within the Islamic tradition. Habibullah demonstrates the valence of security for the endurance of the Islamic spirit. His topography of the soul is indeed remarkable, but it is not unique to his Islamic community. As the next section depicts, the topography of the soul that ties Islamic sensibilities to the practice of securitization will materialize in the transformation of mosques and Islamic communities in North Carolina.

Securing the Mosque

I met Abdus-Salam one Friday morning during *fajr'* prayer. A longtime member of the Islamic Association of Raleigh (IAR), Abdus-Salam was one among many young adults who used their time and service to refashion the mosque in light of concerns regarding hate violence, austere surveillance programs, and the fear that this fosters in Muslim children, parents, and families in Raleigh. After completing our prayer, I followed Abdus-Salam to the front desk where we had a brief encounter with the hired local police officer who is in charge of the mosque's numerous CCTV cameras, reconnaissance, and what Abdus-Salam called their "first line of defense."

The white non-Muslim police officer and Abdus-Salam discussed the need to make space in the parking lot for a large bus that was coming in that day during and after Friday prayer (*jumma'*). After the police officer and Abdus-Salam came to an understanding about the bus, he and I walked outside and continued our conversation. I asked him, "how do you trust this police officer to be your 'first line of defense'?" With no time needed to think about his response to my question, Abdus-Salam replied that the community and the police officers they hired "have an understanding about a common goal." He continued: "We hire them so that

we don't have to think too much about our safety and the security of the mosque when we're here and when we're not." As the conversation continued, Abdus-Salam spoke more passionately about the need for security and police in the mosque, directing his concerns to mosque leadership:

> I believe the Muslim community and leadership need to fix security and protect us better. They need to gather better intelligence and watch out for us…Since the beginning of Islam, being secure meant being Muslim, they go hand in hand. You think the Prophet let people pray without protection, or Omar Ibn Khattab? No! They understood that if we want to be Muslims, have a community, pray in mosques we need to protect that community through security. One of our goals has to be to secure the mosques and ourselves in the spaces that we pray to God and where anyone can walk in and kill us.

Finding recourse in the actions of the Prophet and his companions, Abdus-Salam unites the feeling of being secure through "the first line of defense" (the police officer), the capacity to build a Muslim community, and completing the requisite actions for being a Muslim.

Perhaps the most prominent mosque in North Carolina is the Islamic Association of Raleigh. It attends to thousands of Muslims; has its own parliamentary council including a CEO, three Imams, and other officials to take on daily activities; and has a K-8 school with over 250 students. Its importance is not only indicated by its mega-size and large constituency, but also because it brings together the other smaller mosques on the matter of security and safety. Although it may not be the first mosque to have considered security in NC, it is the first mosque to have officially established an Office of Security and Safety. Headed by local community member Rashid Salahat, an owner of Subway restaurants in Raleigh, the Office of Security and Safety is tasked with organizing, hiring, and managing law enforcement and private security personnel and training mosque congregants in defense strategies as well as supporting their efforts to obtain a North Carolina Concealed Carry Handgun Permit (NC CCH).

Mosque administration and leadership across the Triangle region have united under the "Triangle Imams Council" in order to address anxieties about the safety and security of their members, as well as their concerns relating to reading and teaching orthodox Islamic sources. Mosques like the Islamic Association of Raleigh (IAR), Jamaat Ibad Ar-Rahman (Durham, JAIR), and Ar-Razzaq Islamic Center (Durham) are composed of multiple imams (in some cases, four or five), thousands of congregants, and have built their own private educational institutions as alternatives to local public schools to teach and transmit the Islamic spirit to the youth. Security and its technologies and strategies have been at the center of how to arrange the mosque's surrounding territory and its internal functioning. On any given day, these Islamic centers are bustling: children everywhere for school activities, men and women coming in and out for meetings and prayers, and, most importantly for me, security technologies surrounding the exteriors and interiors of these Islamic spaces. Throughout the week, these mosques maintain their daily regimen of spiritual activities, meetings with law enforcement agencies (including the FBI and local police departments), and organizing intercommunal events with local activist groups or other religious organizations. Their spaces are bolstered by

security personnel, including private Muslim security guards who are trained in self-defense, armed with a 9mm, and protected with a body vest; local police officers at the front entrances; and other volunteers to look after children and youth. Alongside these reinforcements, IAR has implemented CCTV systems inside and outside of their spaces, established perimeter security in the form of built fortification that surrounds the entire mosque, and tinted every window throughout the mosque to ensure that internal activities are protected and not visible.

This security reform within the mosque has taken place for two main reasons. The first are the fears of parents, congregants, and mosque leaders regarding racial violence. Their fears are warranted given the amount of arson, vandalism, defacement, and threats sent on a monthly basis to the mosque. They fear, moreover, that they have not experienced the range of racial violence, which may culminate in other, more lethal forms of violence – especially after the February 2015 murders of Razan Abu-Salha, Yusor Abu-Salha, and Deah Barakat (which I focus on in the next chapter), the Dylan Roof shootings in neighboring South Carolina in June 2015, and more recently the Christchurch mosque shootings in Australia. The visceral fear of murder and guns inside and outside of the mosque provides one impetus behind fortifying security throughout the mosque and within Muslim Americans themselves. The second reason concerns encroaching federal and state security and surveillance programs that have fragmented the community and have caused suspicion among mosque congregants. With the speculation that numerous FBI secret agents are planted inside the IAR since 2002 (and maybe prior), these federal security programs deter Muslims from mosques and other communal spaces. Speculation and suspicion have caused many of my interlocutors to question whether or not the mosque is a secure space, both from entrapment and from racist violence. *Basīra* — the Islamic capacity and virtue to see from the soul — in this context, is not only used to see a potential threat, but also to speculate about who is and who is not an informant.

Within this security context and its history, my interlocutors critically address the questions about the role and function of the mosque, how to maintain a secure relationship to it, how to build a secure community from it, and how to become a Muslim in light of the fear of being killed or arrested. As 'Adila mentioned, it was her generation who "were the generation who left the mosque." 'Adila is a 30-year-old mosque congregant who grew up around the IAR, is South Asian-American, and plays a large role in connecting local politics with mosque communities in the Triangle region. Because of 'Adila's efforts, the mosque contributes to important conversations about policing, surveillance, and racism in the American South, participating in the political movement called "Moral Mondays."[67] Like many other Muslim Americans in the North Carolina communities, 'Adila's desire to politically and socially participate in her local public has also fueled her desire to be secure while doing so. For 'Adila, securitization would provide the tools to welcome Muslims inside their mosques: "we couldn't risk our brothers, fathers, or other community members being caught or entrapped in some kind of terrorist conspiracy. The FBI, police, secret agents, we knew all of them were in the mosque, somewhere, somehow." 'Adila recognized that these law

[67] Moral Mondays is a significant political and social movement that developed in 2012. It seeks to address a number of issues related to racial, economic, political, and social injustice in the American South. Today, it is led by young activists like 'Adila and spearheaded by Rev. Dr. William J. Barber II.

enforcement and security personnel were certainly planted in the mosque and worked under covert operations. As such, ʻAdila recommended the capacity to discern — or, rather, to employ the capacity of *basīra* — who may or may not be secret agents in order to avoid and protect themselves against them. Avoiding the expansive grasp of security programs, alongside the threat of racism, was a difficult task that required awareness and sensitivity to one's external world and social community. "It gets confusing. Who is and who isn't an agent. Who is and who isn't a Muslim…Over time, you get to know these people, talk to them, get a sense of them and you learn who is and who isn't an agent, who is and who isn't a Muslim." Other young Muslims in the IAR community, like Ebad, concurred on this issue. "We have to be on edge at all times. We had some friends growing up that suddenly disappeared or were arrested or others we haven't heard about for a while now. That's suspect."

I want to take note of the sensibilities that both ʻAdila and Ebad describe when they mention the need to be suspicious about informants within their mosques. This kind of speculative warfare, which folds into civil war, fosters the need to question who is and who is not a Muslim. I do not want to reduce their speculation to the question about "good Muslims" and "bad Muslims."[68] Instead, it is important to understand the sensibilities that they deploy to think about the cohesion of their community and the need to be wary of informants who are disguised and undetectable by the eye. In this manner, I situate their need to detect informants within Habibullah's invitation to cultivate *basīra* as the original security technology. That is, the use of an inner mode of perception that fashions and deciphers dangerous threats to Muslim American bodies and spirits.

Returning to my conversation with ʻAdila, although it was the knowledge of secret security operations that turned ʻAdila's generation and their parents away from the mosque, it is the new establishment of security councils, ʻAdila tells me, that is "bringing the old and new generations back to the mosque." For her, her family and community, "security isn't something [they] could ignore. It's in our face…. if we want to change the system we can't run away from it anymore, but we have to fully enter it, and change it from within." Changing from within entailed two things, the first being the implementation of security technologies: tools, technologies, and methods to redirect the aims of governmental surveillance and to protect from racist violence. Second, such security mechanisms seek to resuscitate the spirit of Islamic practices and virtues within the community.

This, moreover, is not a vague sentiment and desire to become secure by congregants of the IAR and persons of the Muslim American community, like ʻAdila or Ebad. It has now become a developing program and protocol to reestablish Islamic practices and the spirit of the community through engaging with federal, state, and local law enforcement. As of April 2019, it has become a publicly recognized initiative. That is, Muslim Americans in North Carolina have a publicly-recognized partnership with the FBI and other law enforcement agencies on the basis that the two will help support each other in the effort to defend American territory, keeping it safe and protecting it from racial violence and violent extremism.

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[68] See Mahmood Mamdani's *Good Muslim, Bad Muslim: America, the Cold War, and the Roots of Terror* (2004). While it certainly has been the case that the "good Muslim" and "bad Muslim" distinction has had purchase in the American discourse on Islam, I do not want to reduce every claim related to differentiating Muslims, and in my case differentiating them from informants, to this paradigm. I prefer to tease out the sensibilities and motivations that are germane to my interlocutors and the contexts in which they deploy such sensibilities.

Attended by a representative of most mosque communities in the Triangle region, this April meeting was convened by FBI special agent Timothy Stranahan and other law enforcement officials. At that meeting, the CEO of IAR explained the reason behind this newly established partnership, stating: "When you don't know people it causes anxiety, and that causes fears." Mohamed Elgamel, the CEO of IAR, continues to reason: "So they think every Muslim has a bomb in their pocket or something. This is, of course, not true. We also have bad lemons and have to take care of them. We see something that harms our city and our country, we have to work with law enforcement." The Islamic community in NC take this to heart; when you do not know people it provokes anxiety and fear. This sense of unknowing enables Muslim Americans in NC to take on the task of knowing and approximating oneself— in partnerships, intelligence, and other security protocols— with law enforcement agencies, transforming anxiety and fear into productive energies toward the security of the Islamic tradition.

This became clear when I met Aman, the interlocutor I mentioned in the beginning of this chapter. Aman was a devoted member to the community who was often lauded as kind, articulate, responsible, and collected. Now raising his own family at the IAR, Aman has a holistic understanding about the resources required to maintain the IAR (administrative, financial, etc.) and to maintain the adequate practice of the Islamic tradition as a community. Aman, as I mentioned earlier, called this the "spiritual line" that measures the needs of the Islamic community in terms of its relationship with the "general community" and its relationship with God and the Prophet Muhammad. "Our spiritual line is dependent on a variety of factors," Aman tells me. "You have to be able to balance those factors out." After I asked him about IAR's relationship to law enforcement agencies in NC and the US, he explained his support for the endeavor and explained the need to uphold it in spite of criticism. "Our spiritual line relies on a codependence between Muslims and law enforcement. Muslims are facing security issues inside and outside their communal walls. Working with local police departments, the FBI, SBI (State Bureau of Investigation) doesn't only provide security inside the mosque, but *in us*."

Creating a bolstered "spiritual line," then, relied not only on the work of Muslim Americans, but on that of law enforcement. Aman is also highly aware of the suspicion between both communities: "There was a period of time when the Raleigh Police Department could be unfair to Muslims and this led to numbers of entrapments."[69] Aman continued, "this was a period of time when it was hard to engage with law enforcement, they had informants inside our mosques, and we saw a huge drop off in Muslims' engagement with their own communities." The telling drop in engagement within the NC community coincided with the slow evacuation of mosque congregants and their desire to be a part of an Islamic community. During this time, the spiritual line did not accord to Aman's desire for balance; the disequilibrium between Muslim Americans and law enforcement turned Muslims away from

[69] Although I do not address them here, there have been a number of terrorism-related charges against some Muslim congregants in the Triangle region. Aman referred to some during the interview, which I will elucidate in a different version of this dissertation. For more information about these charges, see Lea Speyer's "Islamic Radicalization in North Carolina, United States" (International Institute for Counter-Terrorism, 2013).

the mosque due to their spiritual insecurity. "[Law enforcement agencies] didn't know us," he tells me, "and we didn't know them."

The question of security at the IAR and the larger community is compounded by the fact that they experienced the murder of Razan Abu-Salha, Yusor Abu-Salha, and Deah Barakat in February 2015. "February 10th, 2015 was a spiritual awakening, a call in the Muslim community," Aman states. The spiritual line between the general community and the Divine required a tragic "*nuqsan* [loss]," a *Qur'anic* concept Aman told me about, one through which the community can reunite under the cause of security:

> There's no such thing as long-term stability, there's always uncertainty. An individual never knows when *nuqsan* is around the corner, that's scary, but that is reality. None of us are immune from devastation. The goal of spirituality and our spiritual line is to prepare us for *nuqsan*. When February 10th, 2015 happened, it spiritually awakened us. We needed that.

Aman continues his explanation of *nuqsan* by restating his defense of security in the Muslim American community:

> We have to take our spirituality up a notch. Our spirituality has to be strategic and with intent. From this we can grow spiritual strength. We hired Imam Abu Taleb to help us with this. We have to have spiritual strength to withstand crisis. We have to build a resilient community that goes beyond crisis…The mosque is a place of healing and healing happens in the heart and the mind. Spiritual strength comes from the heart and the mind. After the shooting and the Christchurch massacre, we took on the task to vamp up our security. We are spiritually strong when we lock our gates and secure our community. We come to the community and we see that we have armed police and security guards, you're safe. After that, our religious leaders can do their jobs with the *sunnah* and *Qur'an*…The false idea that we don't need security and all we need is *tawwakul* [reliance, faith] with Allah forgets that we have to do our part to secure ourselves and then we trust in Allah to secure us: tie your camel first, Allah has given you the rope, then you *tawwakul* with Allah. But you have to do something. We have to draw the balance between addressing needs and trusting Allah.

Articulating his need for spiritual strength between the heart and the mind, Aman speaks of the concurrent psychic relief a Muslim receives at the sight of security and the healing that this enables by being in the mosque, dwelling within it.

The Virtues of Security

In light of my argument made in the introduction regarding the Islamic tradition and how it is enabled by the instruments of liberalism—which include security, its protocols, and its programs—it is important to identify the ways in which Muslim Americans in North Carolina rearticulate their relationship to the Islamic tradition through the implementation of security. As such, I take Abdus-Salam's earlier equation, that "being secure mean[s] being a Muslim," narrowly. In the context of hate violence endemic to the American South and

encroaching surveillance that equates Islam with terrorism, being secure not only conditions the possibility of being Muslim and exercising one's tradition accordingly, but also rearticulates a Muslim American's relationship to the Islamic tradition and the Divine. Muslim Americans who hope to maintain a relationship to their Islamic community, the mosque, and the "general community" (i.e. their neighbors, the police, and the public) have to respond to the forceful presence of security that intrudes into their houses of worship, fosters fear and anxiety in their hearts, and fractures the social life of their Islamic communities.

For the Islamic community in Raleigh, security anxieties are conducive to redressing the fear of law enforcement and contesting their inadequate, detrimental ability to cast the mosque under surveillance. The desire to engage law enforcement expressed by Habibullah, 'Adila, Ebad, Mohamed, and Aman demonstrate the ways that securitization provides the grounds for critique, redress, and transformation. However, this transformation is not aimed at reforming police or changing the agendas of law enforcement officials. The telos of these security technologies, protocols, and partnerships implemented by the North Carolina Muslim American community points to the Islamic tradition, establishing a link between one's relationship to God and the Prophet by virtue of a renewed relationship to the "general community." Security, then, transforms from being a mere instrument for protecting "innocent life" to a virtue that facilitates the experience and exercise of the Islamic tradition.

The spirituality required to prepare for *nuqsan* [loss] is the groundwork for the political and social existence of Muslim Americans who invite security technologies into the fold of Islam. As Aman articulated, *nuqsan* is not aberrant to or outside the fold of the Islamic tradition and its practices. The spirit of the tradition, and the goal of spirituality itself, prepares Muslims to foresee imminent threats not to the integrity of their physical bodies, but to the integrity and transmission of the Islamic tradition. Such security practices implemented in the Islamic community in NC are as much about making the past present as they are about anticipating the future. The Islamic community in NC does not only seek to make the past present, transmitting the Islamic tradition from one generation to the next. They also seek to prepare the present for the future, anticipating its contingencies, and orienting themselves to it—cultivating an ethical infrastructure that, as Aman puts it, will go "beyond crisis."

Or, as Habibullah put it earlier, one's relationship to the ethical life of Islam must go beyond death. Death plays a large role in the Muslim American community in North Carolina, not only because of the murders of Deah, Yusor, and Razan. Death plays a metaphysical role in community members' lives, one that determines their relationship to Islam. Throughout my conversations with members of the community, death emerged as a fundamental aspect of their desire to securitize and their desire to be Muslims. As one local activist told me, politics not only misrepresents Muslim communities, but it also misrepresents what politics is about for Muslims. For Muslims like Sarah, who was a Black Muslim activist in Durham, politics was not about representation, but a matter of life and death. With reference to Eboo Patel[70], Sarah makes a claim about politics, stating: "That's why Eboo Patel doesn't understand the conditions of Muslims in the US. He thinks it's only about working with others who actually

[70] Eboo Patel is an author and figure in the Muslim American community who has advocated for interfaith dialogue. He is the founder and president of the Interfaith Youth Core and was on Barack Obama's inaugural Advisory Council on Faith-Based Neighborhood Partnerships.

don't want us here." The political, as she continued, was not a space for representation, it wasn't about "good and bad politics. It's about our existence," she exclaimed.

For many racialized Muslim American in North Carolina, the political and social are indeed about existence itself. The vicissitudes of the political and the social force Muslim Americans today to think about how racial violence does not only harm the body, but can also injure the soul. Sarah recognizes the importance of politics both to her individual and collective life. She also displays the urgent need to understand that politics is beyond good and evil. In the following chapter, I want to take account of politics as the condition to protect one's life through an awareness of death, the finitude of existence. I chart the centrality of death in Muslim American communities in North Carolina and the way it reorients their relationship to politics, sociality, and securitization.

Chapter VI

The Knowledge of Death

No soul knows what it will earn tomorrow, and no soul knows in what land it will die.

- *Qu'ran 31:34*

In his "Second Discourse," Rousseau makes a passing, yet profound comment about the origin of the political and social subject and his descent from the animal condition. Prior to becoming a subject, the "only good [that animals] know in the Universe are food, a female, and rest; the only evils he fears are pain, and hunger" (Rousseau 2010:142). He continues, "I say pain, and not death; for an animal will never know what it is to die, and the knowledge of death, and of its terrors, is one of man's first acquisitions on moving away from the animal condition."

The *knowledge* of death, while alienating the animal from their natural condition, transforms the animal into a subject of sociality and politics. At the most fundamental level, the social and the political—as spaces for the interaction and contestation of community—are given life by the knowledge that death is imminent. The relationship between death, the social, and the political is an ambivalent one in theories of liberalism. For, on the surface of things, liberalism purports to neutralize the violence of war through social and political interaction, domains in which communicative rationality supersedes the need for deathly combat. Hence, the need for a social contract premised on the submission of the social community (or what Rousseau called the "general will")[71] under the authority of a political sovereign, exchanging obedience for protection.[72]

In this chapter I rethink the relationship between death, the political, and the social in order to understand the ways they mutually constitute one another. Within the frame of liberalism, the social and the political are much less neutralizers of war than they are produced from war's effects — including the "terrors," as Rousseau put it, of death. In the context of racial violence, the knowledge of death is acquired by my Muslim American interlocutors and brings them into the fold of a political and social world — learning its language games, concepts, and practices — in order to secure the Islamic tradition and protect their civil rights.[73]

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[71] Rousseau makes an argument for the general will in his *Discourse on Political Economy* (2019) where he argues for the need of a collective will that would protect and secure the rights of men from the coercion of the masses.
[72] In the "Introduction," I made note of this in reference to Foucault's lectures (2003) where explains the political technologies that undergirded the social contract. For more an interesting reading on the social contract traditions, see the work of Quentin Skinner: *Liberty before Liberalism* (1998) and *The Foundations of Modern Political Thought, Vol. 2* (1978).
[73] The relationship between death, life, and politics has provoked important debates within political theory and anthropology about concepts such as sovereignty, biopolitics, and civil and natural life. I think this question is fundamental to this dissertation, although I do not elucidate upon it. The work of Giorgio Agamben (1998),

As I conceptualized it in the first part of the dissertation, formal insecurity is central to understanding how death and violence were imbricated in the emergence of the subject of civil rights. Formal insecurity, the conditions under which the subject of civil rights emerged, was built out of the judicial settlement that left the social and the political domains outside of governmental protection. As the *1883 Civil Rights Cases* demonstrated, racialized communities would be protected in their civil rights from racial discrimination, but not from the violence materializing in the social and political. With the lack of legal protections coupled with the force of police power — the power that would administer civil rights — formal insecurity also demonstrates the endurance of civil war in American liberalism. Thus, formal insecurity is not only a condition, it also exhibits "the daily exercise of power" (Foucault 2003) conducted in political and social life and resulting in political and social violence against racialized communities. If the power of liberalism cannot halt the violence of war or the terrors of racism, then liberalism's task is to find the means and technologies to facilitate a civil war through the management of racism and racial violence. As such, the *knowledge of death* indicates the potential violence of racism and a caution to preempt this violence. As I will show in this chapter, the knowledge of death can provide forewarning as it can also become a virtue cultivated in the fight against racial violence, a perpetual civil war.

In this chapter, I provide an account of the knowledge of death, its relationship to racial violence in the American South, and how it prioritizes securitization in Muslim American communities. The knowledge of death applies both to individual and communal existence, and its force is felt in the everyday life of Muslim Americans who are required to think about the imminent violence of racism. These questions are given more urgency in North Carolina, where three young Muslim Americans—Razan Abu-Salha, Yusor Abu-Salha, and Deah Barakat—were murdered by their white neighbor, Craig Hicks. The knowledge of their deaths and the potential that it may occur again organizes a communal agenda toward questions regarding the security of their corporeal and spiritual lives. Since their murders, the Islamic community in North Carolina situates itself within public discourses about civil rights, security, and intercommunal solidarity, informing its practice of the Islamic tradition and the cultivation of Islamic sensibilities.

More profoundly, their deaths have provoked questions regarding the history of racial violence and racial contestation in North Carolina. In the space of racism and racial violence, death is not simply a part of fate and the finitude of life; death constitutes a social and political world founded upon the antagonism between neighbors and others. Thus, the question of the neighbor — that is, those who simultaneously stand in proximity to you and are external to you, those who can potentially protect you and attack you — is palpable. I emphasize the problematic of the neighbor and the questions it provokes in order to think about how the subject of civil rights orients their sensibilities and conduct toward others. As such, I continue my conceptual labor to demonstrate the inflection of Islamic sensibilities by emphasizing two aspects of the knowledge of death. The first regards the deaths of Yusor, Razan, and Deah *at the hands of their neighbor*, Craig Hicks. I situate the knowledge of death through an engagement with the neighbor, which underlines how this knowledge dovetails with a number of social,

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Roberto Esposito (2008), and Eric Santner (2011) demonstrate the interrelationship between death and politics and the way it informs contemporary modes of governance and national belonging.

political, and spiritual techniques. Thus, I examine the way Muslim Americans in North Carolina foreground an understanding of death in order to remediate their relationships with police, non-Muslim communities, and others, who may cause death and violence or security and relief.

The second aspect of the knowledge of death addresses what Mark Smith (2006) calls "the sensory history of race," which attends to the formation of visual and nonvisual techniques for "sensing race" in the American South (Smith 2006: 9,4). As Smith argues, the sensorium played a crucial role in creating processes of racialization that amassed into ways of detecting racial subjectivity, including "smelling, touching, listening, and tasting, as well as looking" (4). For my purposes, I look at how this racialized sensorium is weaponized as a security technique and enveloped within the repertoire of sensibilities appropriate to the Islamic tradition and its practices. The technique of *basīra*[74] looms large in this regard, where sensing the supersensible and being circumspect[75] orients a racialized person within a world saturated by violence and insecurity. While I turn to the sensorium and *basīra* later in the chapter, I now turn to the question of the neighbor.

Neighbors

The question of race and racism in North Carolina's Muslim American community is not limited to questions regarding the War on Terror and the surveillance regime that antagonizes Islam. For many Muslim Americans in North Carolina, race and racism precedes their relationship to Islam. It defines the way they relate to their social and political community. Ibrahim, along with many of my interlocutors, was a Black Muslim who grew up in North Carolina, saw the emergence and end of the Civil Rights Movement, experienced segregation and desegregation, and witnessed the many changes and transformations of the Muslim American community in NC. Now a communal leader, retired urban planner, and devout practitioner, Ibrahim's life is devoted to establishing an Islamic community, ensuring its longevity, and safeguarding its principles and community, young and old. I met Ibrahim during an event in Durham that commemorated the influence of Black Americans and African immigrants on the Islamic community in North Carolina. There, numerous Muslims held booths that exhibited the traditions of Black Islam, from bean pie to attire and jewelry. Ibrahim

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[74] To recall, *basīra*, as I outlined in my conversation with Habibullah in the previous chapter, entails a different kind of vision, a kind of perceptual capacity to see things unseen or undetectable by the human sensorium. For Habibullah, *basīra* is the original security technology, the capacity of a soul to see a dangerous threat before its occurrence. "If you are blind in the heart," he asserts, "you can't protect yourself or your community from physical danger."

[75] I take the concept of circumspection from the early writings of Martin Heidegger. Heidegger refers to circumspection as the kind of attention, concern, and awareness that one has of their environment (or literally surroundings or aroundness, *Umhafte*. This is also related to the more well-known term *Umwelt*). Circumspection is a kind of enveloped knowledge of the world that does not differentiate between a knowing subject and an object in the world, but it is also a kind of knowledge that provides the conditions to apprehend death and finitude. It is important to keep this in mind as I develop the question of death in relationship to the knowledge of the environment that some of my interlocutors underline in our conversations. See Heidegger's 1925 Marburg lectures *History of the Concept of Time* (1992), p. 167-171.

had his own booth where he shared some of his knowledge about the history of Islam in Durham. Ibrahim offered an authoritative account, one that many in his community respected and admired. What struck me about Ibrahim's account was not its authority, although this is what first attracted me to him. What struck me was his narrative about the Islamic tradition in North Carolina: a narrative the took account of the fragments and frictions of Jim Crow, the pains of racism, and the resolution and perseverance of the Islamic community in the face of trials unforeseen. Our conversation began at this large event and I insisted on meeting later in the week to hear more about his story. He agreed.

Later that week, we met during a midday prayer (*'dhur*) at Jamaat Ibad Ar-Rahman mosque in Durham. After we prayed in congregation, he introduced me to other community members, some of whom were the current board members at the mosque. We decided to continue our conversation over lunch and, later, he would guide me through some of Durham's Islamic institutions, including a local Muslim graveyard he constructed and developed. During the time I spent with Ibrahim, the mosque he continues to manage and participates in as a board member was undergoing major renovations. Jamaat Ibad Ar-Rahman (henceforth, JAIR) has a significant history for Muslim Americans in North Carolina, not only because it was one of the first Sunni Mosques, after Masjid Ar-Razzaq, but because it historically exemplifies some of the fractures internal to the Islamic community in NC. While JAIR was first established in 1981, some of its participants decided to turn away from the mosque due to differences in management and started another JAIR down the street on Fayetteville Street in Durham. Now, Ibrahim and his community are preparing for the demolition and reconstruction of their mosque, with the hopes to build Islamic academic institutions inside of it. "We've been hurt by floods in the past couple years," Ibrahim explains, "because of the new highway in Durham. The water moves our way and the building is too low to be protected from the water." The goal, he elucidated, was to rebuild the mosque, elevating its infrastructure and protecting it from the weather and other threats.

His concern for the weather also applied to the security of his community, both from theological threats that might deceive the youth and from political and social threats that perpetuate fear. "Safety and security are serious issues in the community," Ibrahim asserted. The tumultuous beginning of JAIR on Fayetteville Street did not only raise intracommunal challenges, it also forced Ibrahim and his congregation to find a space where they could assert themselves as Muslims with the right to secure their communities and protect their practices. The concern for him was to be able to animate the knowledge of Islam that he had acquired over time with his sense for the environment, the political and social space that his Islamic community must navigate. For JAIR and like communities in NC, law enforcement agencies are a part of the equipment that provide security for the community. "Police, law, rights, etc. are tools that the Muslim American community can use," Ibrahim states. "They have power and control."

Ibrahim admits that police, and law enforcement generally, have a "long and complicated history in the South," but it is for this reason that Muslim Americans must reconcile these relationships and use them as "tools" to uphold the integrity of the Islamic tradition and publicly display its way of life. Sounding the *adhān* [call to prayer] is one way that JAIR communicates its message and asserts itself in the local community. "We know when we sound the *adhān* we run the risk of racism and hate, especially for *fajr'* [prayer before sunrise]."

In Durham, publicly sounding the *adhān* has incited racist sentiment and debates about the spaces Islam should and should not occupy. The contested soundscape surrounding the *adhān* brought police to the front doors of mosques and, on one occasion, Duke University. In 2015, Duke University agreed to sound the *adhān* in an effort to support the "diversity" of faiths. Among other times, the adhān would call Muslim students to *jumma'* prayer (the Friday congregational prayer). In the immediate aftermath of this decision, Duke received numerous threats and protests against the call to prayer, from donors, parents, and anonymous complainants. The *adhān* and its politics brought about "security concerns" (Gallman 2015) according to campus administration and leadership, calling in the F.B.I. and other law enforcement agencies. Within days of these so-called "security concerns," the university decided to reverse the decision to sound the *adhān*, disavowing its principle of diversity and toleration.

For Ibrahim and his community, publicly sounding the *adhān* is not a sign of diversity or toleration, it is about asserting their way of life with the risk of deathly and racist threats in mind and spirit. Although Duke has denied this claim to assert an Islamic way of life due to "security concerns," Ibrahim and his community confront these security concerns in their environment and soundscape. JAIR's decision to sound the *adhān* was debated in other venues and mosques as well. One Imam at a nearby mosque mentioned his frustration with JAIR and how the decision to sound the *adhān* would bring about "racism" and would cause a nuisance between Muslims and non-Muslims. In light of these concerns posed by sounding the *adhān*, I asked why the JAIR board decided to continue announcing the *adhān*, especially given the Islamic legal rulings suggesting that it is not required for prayer. Why assert the community in such a way given the number of police complaints, upset neighbors, and racist threats? He answered:

> It's not about Islamic legal rulings, it's about our right to safely practice Islam in the United States! We're practicing our rights while we practice Islam, this doesn't hurt society, it helps it…I have a career and a lot of experience in urban and community development. I've done work on neighborhood revitalization projects which taught me how to work with neighbors and bring neighborhoods together. I know how and where and when to use people to get together from different backgrounds and ethnicities. I know my rights within these neighborhoods and I know how to deal with my neighbors.

I want to pause on the relationship that Ibrahim calls for, a relationship that translates the theological maxim of "love thy neighbor" into "know your neighbor," "deal with your neighbor." Why does Ibrahim's relationship to his neighbors require that he and his community know how to deal with their neighbor? What brings Ibrahim to exhort the need to know his neighbor in the context that this neighbor may inhibit the practice of his tradition and its intergenerational transmission?

The question of the neighbor provokes a set of theological and philosophical themes that are pertinent to Ibrahim's concerns about his community and neighbors. It also takes us back to the fundamental relationship that Patricia Williams outlines in her conceptualization of rights as the grounds for a "relation to others" (Williams 1991: 164). In this manner, the

figure of the neighbor is exemplary for thinking about the fundamental alterity that constitutes being an ethical or legal subject, as Emmanuel Levinas (1969) suggests. That is, the figure of the neighbor underlines how rights and security could enable a relation to others. For Levinas, the ethical subject is always already a subject situated within relationships toward others, which violence and politics dissimulate for purposes of war and enmity.[76] While Levinas leaves us with an ontological (or what he calls "pre-ontological") account of social being, the question of neighborliness or sociality within a site of racial violence and racism remains unquestioned. While he suggests that war forecloses our relation to others, I want to suggest the contrary: that our relation to others stems from the agonism of civil war, which runs through my conversation with Ibrahim. Dealing with one's neighbors, or more broadly dealing with others, in a site of racial violence requires attending to the dangers and threats of sociality and politicality, of being and interacting with others.

To recall, as I outlined in an earlier chapter on the formation of the subject of civil rights, the social and the political were circumscribed domains made to be independent from governmental intervention and protection. For this reason, I argued, the social and political are domains that are dangerous for the subject of civil rights, not simply because of the lack of federal or state intervention. Rather, because the social and the political were domains of contestation that were often decided by the force of white terror and the fear and insecurity it fostered in racialized communities. From this, security was a foremost necessity within these communities due to the violence they endured. As such, the social and political is as much a domain of interaction as it is a domain of violence enacted against racialized communities. When thinking about these concepts today in relation to Muslim Americans, I want to consider the "sociogeny" (Fanon 2008) out of which the subject of civil rights is produced, through their subjection to the violence of the racism. The question, in this chapter, is not "how is the subject of civil rights produced?" – a question I answered in the chapter titled "The Subject of Civil Rights." The question, instead, is: how does the subject of civil rights negotiate being produced by conditions that concomitantly threaten the possibility to flourish for Muslim American communities?

When Fanon speaks of sociogenesis, he attends to the twofold structure of being racialized and experiencing racism. On the one hand, the social genesis of the subject entails that the human "is what brings society into being" (4), an artifact manufactured from human labor. On the other hand, for Fanon, the social that alienates the racialized subject is generated from "worm-eaten roots," a poison that condemns the racialized to social denigration. Thinking about race through Fanon's sociogenetic principle points to the difficulty of neighborliness in the world that Ibrahim and his community navigate. It bears on the question of masks, as Fanon probes in his *Black Skin, White Masks* — especially how the very acquisition of masks, as David Marriott shows (2018), is required to protect against the violence of the social and political, the force which simultaneously produces and condemns the racialized. Being constituted by the social — or, as Freud put it, being fundamentally constituted by others — means that the subject of civil rights acknowledges the need to know the social (or, one's neighbors) while being precautious and circumspect about its dangers. Knowing one's

[76] See Emmanuel Levinas' "Preface" to *Totality and Infinity: An Essay on Exteriority* (Duquesne University Press, 1969).

neighbor, as Ibrahim exhorts, is about treading the tightrope between the assertation of right and the risk of racism that may result in political or social violence.

Returning to my conversation with Ibrahim, the maxim to deal with and know his neighbors foregrounds the *problematic of the sociopolitical*. Dealing with one's neighbors, as he tells me, means that he navigates his local community with precaution, with the fragility and violence of the sociopolitical in mind. Ibrahim emphasizes the need to understand the sociopolitical world that he is a part of because it exceeds the boundaries of Islamic knowledge, the knowledge that prescribes the actions and ethics to be in the world. He explains: "Islamic knowledge is not enough to survive here and it ain't my job to be an Islamic scholar. We need a mix of professionals working together to understand this society and to work within it." He continues: "We developed our community, built it so our community and its *īmān* [often translated as "faith; trust"] cannot be erased. But we need to know how to understand this society. That's the only way we cannot be erased. That way we can change our community and protect it. Some want to reject this society, but that's not right." Beyond knowing how to be in the world as a Muslim, Ibrahim suggests that this knowledge is limited without the knowledge of the sociopolitical, especially without being cognizant of the violence it breeds. Precisely because the sociopolitical is constituted by the violence of racism, Ibrahim urges the need to know the sociopolitical in order to enable an Islamic form of life, so that it "cannot be erased."

This knowledge of the sociopolitical, which is in fact a knowledge about the potential of spiritual death, is used to protect the Islamic community and its spirit. Much of Ibrahim's concerns relied on his knowledge as a trained and practiced urban planner. Dedicating his work to the state of North Carolina, Ibrahim was highly aware of the landscape that his Islamic community was a part of, its dangers and its goods. For this reason, Ibrahim was critical about how the Islamic community positioned and placed mosques and other communal spaces, like graveyards and educational institutions. "As an urban planner I know where to place things, how to organize things. We have to understand society because of this, so we put and organize our communities in safe and secure places." Given his training, Ibrahim argued that the insecurity felt in Muslim American communities stems from the misplacement of mosques across North Carolina. Ibrahim, however, prefers to do things different: "I know I'm not going to put the mosque in a white middle class suburb in Raleigh and not expect a lot of friction from the neighborhood. If you know your environment, the rules, the people, the laws, the regulations you can assert yourself. If you don't, you can't."

At this point in our conversation, Ibrahim and I were sitting in a restaurant near JAIR on Revere Road – the original Jammat Ibad Ar-Rahman before it was divided. One of the prominent and prized features of JAIR on Revere Road is An-Noor Academy, an accredited elementary school that guides young students through the Islamic sciences and other mandatory educational requirements needed for state accreditation. As Ibrahim began to address the question regarding racism and the environment, about where to place and position mosques, a group of Muslim children from An-Noor were walking in a line with their teachers. As they came out, one-by-one in a single-file line, Ibrahim stared at them slowly, with awe and endearment. He then turned to me and said: "We need to know our society to protect them," pointing to the children outside the restaurant window. "We have to reproduce our *īmān* in them, our understanding of our society, and to make our place in it with others. This is all for

them to have our tradition." Ibrahim's anxieties around rebuilding the mosque and establishing it within a space that would be convivial to the Islamic community also occupied his desire to transmit his tradition to children and others. It became clear that *knowing* how to deal with one's neighbors, those who are outside the Islamic tradition, would make possible transmitting the tradition and its knowledge, to children and others.

The force of racism and the dangers of the sociopolitical did not only pose a physical threat to the practice of the Islamic community, they also penetrated the tradition itself, how Muslims lived their present lives and afterlives, and how they would present this within the larger public. This meant that Ibrahim created sound divisions, walls, and enclosures — boundaries, as Patricia Williams refers to them — that would define who Muslims are in a neighborhood in which Islamic communal spaces reside. As we concluded our lunch and made our way back to JAIR on Fayetteville, Ibrahim wanted to show me the cemetery he designed and constructed for his Islamic community, his "most prized project" he told me. The cemetery sat on a hill, a block away from the mosque, lush with grass and greenery. "The cemetery is probably one of the most important places for Muslims. We plan for it our entire life...Our understanding of death brings us to Islam. Don't you know?" he asked me. "We submit because we know death comes. That is what *al-Islam* means." For this reason, the cemetery, like the mosque, must be protected and secured, Ibrahim explained. Racial violence does not only make one susceptible to the pains of this world, but penetrates the theological afterworlds of Muslims. With built fortification and other security technologies surrounding the cemetery, Ibrahim tells me that "we can't just keep Muslims safe and secure in this world. We have to secure the graves, their lives in the grave. The voices they hear inside. We have a wall for the cemetery like we have a fence for our mosque. We protect ourselves from people who don't want us here. They only see this world and want to kill us. But I'm not worried about that. I'm worried about those who want to kill our *īmān*."

My interaction with Ibrahim exemplifies one modality of the knowledge of death, through which an Islamic form of life is enabled by the need for security and protection. Ibrahim's knowledge of death, moreover, is an important one, because of the way he articulates it in relation to the placement of communal spaces, the intergenerational transmission of Islam, and his desire to protect from the death of corporeal life and the death of *īmān*. It is within this apprehension of death that the Islamic community learns how to conduct itself and draw its communal lines. The knowledge of death, then, underlines the fraught nature of the sociopolitical, between being constituted and, simultaneously, antagonized by others: neighbors, the public, and police included. While Ibrahim efforts move centripetally, fortifying the community and its spaces, others work centrifugally, toward those outside the community and the spaces that are not characteristically Islamic. I turn to these efforts in the following sections.

Death and Īmān

The knowledge of death works in more than one way. For Ibrahim, the knowledge of death creates boundaries[77] around his community, about who they are, what is within their right, and how to build a community against the potential of racial violence. As he mentioned, *īmān*, like one's life, is susceptible to death. As the verbal noun (*masdar*) of *'mn*, *īmān* does not only denote the faith of a Muslim, the interior belief one has in a transcendent God. Rather, *īmān* denotes a different relation to the Divine that centers trust and security, inviting Muslims to orient themselves towards the Divine as a source of defense against unforeseen dangers. Thus, within its semantic and conceptual field, *īmān* is less contiguous with the notion of "belief" as sincerity (Keane 2007) than it is with a sense of "being secure, trusting in, [or] turning to" the Divine as a source of protection (Gardet 2012). For example, the fourth form, *āmana*, indicates a deeper sense of "[giving] one's faith" to (*bi*) something, thus implying a relationship of security in something and less a conviction about its existence (Ibid). Giving one's faith, then, also entails that this gift of trust is reciprocated with a sense of protection, of placing fears in the "safety" of God (Ibid).

I want to emphasize this conceptual field of *īmān*, one that takes account of the desire for security and protection in and through God. What this entails is not merely a transaction between God and a *mu'min* [seeker of protection], where one places their conviction in God safety in God in exchange for safety. Instead, what this entails is a "sensory disposition," as Charles Hirschkind (2006) aptly calls it, that centers security and securitization against the unknown and unforeseen threats of racism. Such a relationship is amplified and enabled in the context of racial violence, in which Muslim Americans' relationship to their social and political world is engulfed by dangers, seen and unseen, that allow for a convergence between the security one seeks in God and the security one seeks from securitization measures. The two are distinct—the security of *īmān* and the security of securitization—but in their convergence *īmān* and securitization provide the conditions for Muslim Americans to cultivate a sensibility towards the supersensible, in God and against threats.

In his book *Ethical Soundscapes* (2006), Charles Hirschkind invites us to think about how the "knowledge of death is an epistemic condition" that instructs an ethical subject to "reason and act correctly in this world" (180). For Hirschkind and his Muslim interlocutors, the knowledge of death is akin to seeing with "dead eyes," where one hones the sensory capacities that appeal to this "intense" personal experience of the truth of death. Hirschkind explains:

> What is required is not an intellectual knowledge of the Islamic doctrines of death and the hereafter but a refashioning of one's sensory experience until one becomes capable of perceiving this reality [of death]. Such a knowledge must, in other words, be an active belief, a honed attitude of recognition, acceptance, and responsibility infused with the appropriate emotions of fear, sadness, and humility…Fear of death, in this sense, constitutes an adverbial virtue, one that orients the individual to the world by coloring and shaping all of his or her actions. As an ethical emotion, such a fear does not simply inhibit wrong

[77] Boundaries, as I have explained elsewhere with reference to Patricia Williams (1991), does the double work of circumscribing and protecting a racialized community from "bodily and spiritual" violence.

> behavior or limit human agency but allows one to achieve excellence in the performance of the moral acts one undertakes (180-181).

Fear of death, in this context, establishes the "sensory horizon" that guides a Muslim toward being in the world while taking account of one's afterlife. As such, the remembrance of death is a virtue because it joins an Islamic form of life with a recognition of one's own death.

Hirschkind invites us to think about how the Islamic tradition and how its adherents cultivate an ethical and sensorial disposition toward death. I want to supplement this with two considerations. The first consideration regards the force of violence, and especially racial violence. The sensorial disposition toward death before its actuality is always already entangled with encounters of violence: whether we mourn the death of others, witness the blood of war, or experience violence itself. Although all deaths are not violent, our knowledge of death takes account of this violence, the "terror, as Rousseau called it, of death. In the political and social world of the American South, the violence of death takes an intensified form, imprinted and folded into the cultivation of an ethical and sensorial disposition toward death. Thus, the theological worlds that Hirschkind speaks of are engendered precisely because our experience with (not of) death in this world asks us to bear witness to its violent conditions.

This brings me to my second consideration. In his short afterthought to "Thoughts for the Times on War and Death," entitled "Our Attitude Toward Death," Freud investigates the space of death within our unconscious. Even if we deny the unavoidability of death, "in the unconscious every one of us is convinced of his own immortality" (Freud 1925: 289). But one's conviction of death is not equated to imagining it: "It is indeed impossible to imagine our own death; and whenever we attempt to do so we can perceive that we are in fact still present as spectators" (Ibid). It is precisely because death is unimaginable, even if with a cultivated sensorial disposition towards it, that we fear its inevitability. If death is indeed unimaginable — or, as Samuel Weber translates *unvorstellbar*,[78] "unrepresentable" (Weber 2005: 52) — and we are only spectators to its force, then the ethical and sensorial dispositions must also be attuned to the unrepresentable, or rather supersensible, quality of apprehending one's own death. In the context of racial violence, sensing the supersensibility of death enables another virtue, the virtue of security.

In North Carolina, sensing the supersensible is what undergirds the desire to implement security and build a robust political and social agenda to protect from unseen threats against the death of both bodily and spiritual life. For this reason, as I mentioned in the previous chapter, sensing the supersensible also accounts for the surveillance mechanisms used for and against the Muslim American community. It accounts for the stealthy nature of informants and secret gathering of information by law enforcement agencies that fosters social fragility and suspicion inside mosques. The securitization implemented by Muslim American communities likewise endeavors to detect the formation of terrorism inside mosques, the

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[78] The term *unvorstellbar* refers, quite literally, to the impossibility of representation. But there is a long philosophical history that lies behind this term, its relationship to representation, and, for this reason, to questions related to intuition and sensibility. Fundamentally, the term refers to what one's intuition can capture through the human sensorium. That is, what is representable is also detectable through the senses. Thus, what Freud points to here, and Samuel Weber too, is not only the lack of representation one has for one's own death, but the impossibility of sensing it and therefore anticipating it.

threat of racial violence, and infringements on their civil liberties. Taken as a whole, death, security, law enforcement, and violence fundamentally constitute my Muslim American interlocutors' relationship to and awareness of the Divine, inflecting the way they cultivate *īmān*. Muslim Americans in North Carolina have imbued politics and sociality with a renewed meaning, one that hinges on becoming *mu'minīn*[79] in the encounter with the violence of death as an effect of racism. What may seem like conventional political and social practices—running for political office, mobilizing voting networks, maintaining intercommunal relations with law enforcement and other marginalized communities—are at once mechanisms of security and practices of *īmān*. This forms the groundwork of *basīra*, sensing the supersensible, and a relation toward others that brings them into the fold of transmitting the Islamic tradition.

Relation to Others[80]

On February 15th, 2015, Razan, Yusor, and Deah were accosted by their white neighbor, Craig Hicks. What first appeared to be a neighborly dispute turned into a murderous scene. Hicks barged into Yusor and Deah's apartment, first shooting Deah in the chest, then moving into the bedroom where he would execute Yusor, and her sister who was visiting for dinner at the time, Razan. Both were fatally shot in the head. Before fleeing the scene, Hicks returned to Deah's body and shot him once more in the head.

Razan Abu-Salha was 19 when she was murdered; she had dedicated herself to volunteering for charity organizations and was a student of architecture at North Carolina State University. Yusor Abu-Salha, 21, and Deah Barakat, 23, were aspiring dentists and recent newlyweds who had moved into their apartment a few weeks prior. During my conversations with their friends, family, and fellow mosque congregants, Razan, Deah, and Yusor were held in high esteem. They were moral examples who dedicated their time to their mosques, the general Islamic community, local politics, interfaith dialogue, and social activities. They were kind, honest, generous, and dedicated.

Before their murder, Deah and Yusor had had other encounters with Hicks, who would comment on Yusor's *hijab* (head covering) and would argue and complain to them about parking and other nuisances. On one occasion, he flashed his gun at them as well. This caused Yusor and Deah to feel insecure in their own home, fearing the consequences of Hick's racism and his disregard for their safety. As some of their friends mentioned to me, they were worried about Hicks' behavior. Nonetheless, they believed that it was important to treat their neighbor with courtesy, because he was their neighbor. Instead of calling upon the police to redress Hick's racism, they hoped that the conflict between them would resolve on better terms.

In the aftermath of their murders, the Islamic community in North Carolina appealed to the public, law enforcement agencies, and local community members to redress the pain and violence that culminated in the murders of Razan, Yusor, and Deah. In the name of their civil rights, they called on local officials and provoked the public to think about the racial

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[79] While mu'min is often translated as "believer," I take "seeker of security/protection" as a more apt translation.

[80] "Relation to others" references a statement made by Patricia Williams in her description of rights as boundaries. As she states: "The concept of rights, both positive and negative, is the marker of our citizenship, *our relation to others*" (Williams 1991: 164; emphasis added).

violence inflicted on Muslim Americans. The case, however, was not taken up by federal or state law enforcement agencies as a "hate crime," meaning that the case would proceed without the legal recognition that the murder committed by Hicks was premised on his hate for Muslims. While the hate crime was not recognized as such, the Islamic community in North Carolina questioned what it means to be protected by civil rights, how this would be possible if the very institutions they seek recognition in cannot account for their security. How were law enforcement agencies combatting or, conversely, perpetuating racism against Muslim Americans? Motivated by the distrust, fear, and suspicion they harbored for law enforcement and racism, Muslim American's began to make demands for their security and safety by asking questions about their civil rights, about what it means to be a subject of civil rights.

Such concerns for civil rights were enshrouded by a concern for death that permeated the community. Throughout my conversations with community members they often spoke of the worries they have about being racially violated or dying at the end of a gun. On one occasion, during his daughter's birthday party that I coincidentally attended, a father spoke to me about how he often thought about his daughter's death at the hand of a white man: "I'm not sure if my daughter will walk out the house and return alive…I wait to hear about the next Muslim murdered in a parking lot. We must do our best to protect our families and we have to learn to live with others who are not Muslim."

The concerns surrounding death, intercommunal life, and civil rights provoked a set of question about how to transmit the Islamic tradition in such conditions. How can the Islamic tradition flourish with the fear of death so palpably felt by the Muslim American community? The event of the Chapel Hill murders brought about an *īzala* [a transformative event] for the Muslim American community in North Carolina, as Ayoub described to me. Ayoub was an Arab-American Muslim in his late twenties, who attended the mosque religiously, was educated in the Islamic sciences, and was devoted to transforming local politics. Ayoub and I spoke on an early morning; he asked to meet for a coffee after morning prayer [*fajr*']. During our conversation, he spoke to me about the need to transmit the tradition not simply *to* others, but *through* them. The transmission of the Islamic tradition required that Ayoub and his community not only teach the Muslim youth, but also to "educate *others* about the tradition." Educating others outside the tradition was the condition for its transmission: "We need their support. We don't have protection if we can't talk to our neighbors or our co-workers or even police officers about our tradition." Ayoub's will to communicate the tradition to others took shape in his outreach initiatives that were central to Islamic communities in Raleigh, Durham, and Morrisville. He organized numerous events, including annual open houses in mosques, Sunday introductory classes for non-Muslims, and interfaith dinners between Imam, Rabbis, and Priests during the week. The transmission of the Islamic tradition, as Ayoub demonstrated in both word and practice, would manifest itself through those who take the oath of being a Muslim as well as those who attended these events.

For him, the goal was to learn the language game that those outside the tradition would deem intelligible, a language game in which the Islamic tradition could be conveyed in order to create protective alliances. "We have to embed ourselves in their society, their lives, their laws, their values, their rights." Conveying Islam also meant attending to the context in which it is translated and made intelligible to the ears of other, precisely because, as Ayoub explained, "you can't come to the United States speaking the language of Islam and expect Muslims and

non-Muslims to understand you. You have to learn their language." But Ayoub insisted that transformation in communal structure is needed for the acquisition of this language game. While prayer allows Muslims to maintain their relationship with God, *īmān* necessitated a different orientation to the world and the Divine, one that exposed the Islamic community to others. "We have to transform if we want to reconnect with God. My teacher taught me two kinds of spiritual transformation: *īmala* and *īzala*." *Īmala*, as he explained to me, signified a less profound relation to God, one that focused on the small acts of ethical self-transformation. "It's like kicking a soccer ball," he told me, "it takes time and practice." By contrast, *Īzala* is not a subtle mode of ethical self-transformation, it symbolizes a tragic event that forces one to reconsider their place in the world. "There are more difficult and troubling events that force you to change. For our community it was the murder of Deah, Razan, and Yusor. The entire community changed. It made us stronger because we came together."

The *īzala* of the Chapel Hill murders also pushed Muslim Americans toward their sociopolitical world, to address the pains of racism and to transmit their tradition. Ayoub tells me, "if others don't understand us and our beliefs, that misinformation isn't their fault. It's ours…if we want to transmit our knowledge about Islam we can't just talk to Muslims, we have to talk to the community as a whole. That's what the Prophet meant by *ummatan wahīda* [a singular community]." This is what Ayoub referred to as "social power": the ability to address others in a way that can make oneself intelligible in order to forge protective alliances and in order to enable the transmission of the Islamic tradition. "The transmission of Islamic knowledge cannot only be in Muslim communities," Ayoub tells me. "We have to involve others…Knowledge is like light; the light cannot be in the heart of one person. When human beings become arrogant and don't speak to others we lose the ability to make Islam relevant for our environment. This is why we need social power; and if we want social power, we can't stop with Muslims. We have to reach others."

Ayoub's will to social power is important to highlight. It is a kind of perlocutionary act, the force of which imprints on the addressee and transforms them into a vessel of Islamic knowledge. This kind of communicative action deployed by Ayoub makes an important claim about how the Islamic tradition endures in light of the racial violence that him and his community underwent in the aftermath of the Chapel Hill murders. How is it that Ayoub's desire to transmit the Islamic tradition is only made possible with the support of those who stand outside the tradition? Or, in other words, why rest the security and transmission of the Islamic tradition on the perlocutionary force of intercommunal conversations? In order to understand the need to transmit Islam through others, I situate Ayoub's desire within a "logic of strategy," as Michel Foucault outlines in his lectures on the *Birth of Biopolitics* (2008: 42). I do this to avoid reducing Ayoub's words to the prevalence of multicultural or multiracial dialogue, which tends to obfuscate the Islamic tradition in the process of conveying it to others.[81] This reduction is what Foucault called, in contradistinction to a logic of strategy, a

[81] This concern is often raised in critiques of secularism. According to the critique of secular reason, political forms like liberalism necessitate religious and political minorities to imbibe its language in order to be intelligible to its authority. What is often described as an incommensurable divide between the language of Islam and the language of liberalism is now, in the case of Ayoub, transformed into a strategy. But there is purchase to the claim that such languages are incommensurable insofar as the process of translating the two language games could lead to obfuscation. See the work of Saba Mahmood (2009) and Talal Asad (2008), who demonstrate the

"dialectical logic." On the one hand, the logic of dialectic, Foucault suggests, "puts to work contradictory terms within the homogenous" (Ibid). That is, dialectical logic forces contradictions to be sublimated within a homogenous whole, producing a coherent identity. One can see how a dialectical logic can play out in political forms that call upon consensus or group identities. As a political form, then, dialectical logic materializes in forms of national belonging, such as citizenship, that put disparate entities within a homogeneity. This, I argue, does not approximate to what Ayoub invites us to think about when he suggests that "we have to reach others" in order to transmit the Islamic tradition.

On the other hand, "the function of strategic logic is to establish the possible connections between disparate terms *which remain disparate*" (Ibid; emphasis added). Such a logic entails that relations (or, what Foucault called "connections") are made between disparate entities without the demand to be homogenized. In the case of Ayoub, his logic of strategy is deployed in his desire to convey the Islamic tradition to those who are outside of it, making relations of security without the need for such alliances to be characteristically Islamic. Thus, Ayoub deploys a strategic logic in order to generate the conditions that make the transmission of the Islamic tradition possible.

A strategic logic, then, brings together a diverse set of practices that are politically and socially relevant to Ayoub's world. It not only connects "disparate terms" and practices, as Foucault suggests, but it also situates these practices within the framework of securitization. The logic of strategy dovetails with the logic of security precisely because it focuses on the actions and conduct that are undergirded by a telos, not by the desire to find consensus or homogeneity. As such, Ayoub does not hope to convert others to the tradition, to make them a part of the Islamic community. His goal, rather, is to conscript others to understand and protect the tradition without the need to be Muslim. For Ayoub, strategically inviting others to know and transmit the Islamic tradition provides the conditions to secure its spirit, in the present and for the future.

As we finished our coffee, I drove Ayoub back to his place and we listened to a sermon [*khutba*] he wanted to share with me on his phone. The sermon addressed the problem of evil in the world and how the Islamic tradition does not care to resolve it. "As Muslims," Ayoub told me, "we know that evil will happen to us and to our communities, but it isn't God's fault…We have *bala'* [tribulations] in our life, but we need the law and other tools to deal with it. We don't need to blame God for our *bala'*." An Islamic form of life cannot confront evil through blame, Ayoub tells me. Instead, what is needed is a set of tools to deploy and use for the security of Islamic life. An Islamic form of life, moreover, cannot be untethered from the environment and its history, which determine the conditions under which the Islamic tradition is practiced. The tools of "*basīra*" or technologies like civil rights provide a springboard for Ayoub and his community to contest the effects of racism and institute the means to protect Islamic life. "An essential part of *sharia'*," he continues, "is that we follow the rules of the land, the law and what it orders us to do. We are protected by our civil rights and the Constitution." The use of civil rights and the constitution, moreover, are not limited to their legalism. That

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impossibility of translating Islamic concepts into the language of liberalism. I want to examine Ayoub's desire to convey the Islamic tradition to the public in a different manner, one that is not beholden to the critique of secular reason.

is, Ayoub is not calling for legal reform or the need to be protected by the courts. Ayoub references his civil rights and the protection offered by the Constitution as "our *ibada* [ritual worship] as Muslims." For him, the use of these technologies is "a way of obeying God."

The knowledge of death focuses the Islamic community in North Carolina. It provides a window into the violence of racism and the difficulties of transmitting the Islamic tradition in the face of it. As I mentioned in the introduction, for Rousseau, the knowledge of death presents a severe *evil* to the sociopolitical subject. Not because death itself is criminal, but because the knowledge of it petrifies this subject, turns them away from their natural conditions, and forces them to prepare for an event that cannot be anticipated. For Islamic communities in North Carolina today, the knowledge of death is a virtue, the preparation of which brings them closer to the Divine and adjusts how they conduct themselves, spiritually, politically, and socially. Death breathes life into the sociopolitical. The knowledge of death, moreover, compels Ibrahim, Ayoub, and their communities to reorient themselves in a world determined by racial violence and how they engage their environment. Within the orbit of the Islamic tradition, seeking protection in civil rights, as Ayoub makes clear in the last part of our conversation, is not a form of legal recourse. It is, on the contrary, a mode of securitization that not only enables the practices and transmission of the Islamic tradition, but is itself a form of *ibada* — a genuflection before the Divine.

Epilogue

The Mythico-Religious

In his book *Language and Myth* (1953 [1925]), Ernest Cassirer outlines the formation of language and its genesis in "mythico-religious" logic (42). In this 1925 essay, Cassirer recuperates the mythical kernel of language, demonstrating how the denotative and expressive function of linguistic forms are generated from an encounter with the world that is fundamentally mythical. But his description of the "mythico-religious" presents a curious account not only of the genesis of language, but of sentience and one's enthrallment in an immediate and unforeseen event. Although his description refers to mythical thought, it pertains to my concerns regarding security and its relationship to the Divine. Cassirer explains at length:

> It comes to rest in the immediate experience; the sensible present is so great that everything else dwindles before it. For a person whose apprehension is under the spell of this mythico-religious attitude, it is as though the whole world were simply annihilated; the immediate content, whatever it be, that commands his religious interest so completely fills his consciousness that nothing else can exist beside and apart from it. The ego is spending all its energy on this single object, lives in it, loses itself in it. Instead of a widening intuitive experience, we find here its extreme limitation; instead of expansion that would lead through greater and greater spheres of being, we have here an impulse toward concentration; instead of extensive distribution, intensive compression. This focusing of all forces on a single point is the prerequisite for all mythical thinking and mythical formulation. When, on the one hand, the entire self is given up to a single impression, is "possessed" by it and, on the other hand, there is the utmost tension between the subject and its object, the outer world; when external reality is not merely viewed and contemplated, but overcomes a man in sheer immediacy, with emotions of fear or hope, terror or wish fulfillment: then the spark jumps somehow across, the tension finds release, as the subjective excitement becomes objectified, and confronts the mind as a god or daemon (33).

Here, the Neo-Kantian philosopher makes an appeal to the spontaneous — an appeal, indeed, to an encounter with the sublime,[82] which "overcomes man in sheer immediacy, with

[82] Immanuel Kant's practical and aesthetic philosophy is foundational to Cassirer's understanding of mythical thought. Indeed, Cassirer addresses Kant's philosophy in *Language and Myth* (1953), with implicit reference to spontaneity and the sublime. For example, when Cassirer describes the mythico-religious in a different section, he calls it a "spontaneous feeling" (18). Provided the intellectual backdrop of Cassirer's work, I think it is apt to approximate mythico-religious logic to the spontaneous self-activity Kant conceptualizes in his practical philosophy and the dynamic sublime that Kant outlines in his third critique. Thus, the "momentary god" of the mythico-religious is indeed an instance of spontaneity through which autonomous self-activity (in Kant) is transformed into the genesis of linguistic forms (in Cassirer). For Cassirer, ideas, moral precepts, and

emotions of fear or hope, terror or wish fulfillment." Thus, the mythical origin of language takes place through the annihilation of a world that is recreated from the "intensive compression" of the "sensible present."

What would it mean to take seriously the mythico-religious generation of security, which forms itself out of violent moments that overcome persons and enthralls them in the tension between this world and a world to come? Or, in other words, what would it mean to situate the desire for security within the mythico-religious, in which "*every danger that threatens [the person] can affect him thus religiously*" (18; emphasis added)? In an important manner, *Who is the Subject of Civil Rights?* attempts to do just that — that is, to determine the mythico-religious foundation of security, which emerges from the sensory experience of racial violence that creates a "spontaneous feeling" invested with "an air of holiness" (Ibid). Throughout my dissertation, I have demonstrated the "air of holiness" that racial violence engenders and how it becomes both the object and subject of police power, a power responsible for the prophetic calculation of future events. The sensory life of racialization and securitization is thus infused with a kind of holiness where legal, political, and social matters facilitate a relationship with the Divine.

While I am neither wedded to Cassirer's description of the "mythico-religious" nor wedded to its conceptualization, I am committed to thinking about how security is invested with a kind of mythical force that Cassirer considers at the foundation of language. His account of language radically diverges from the account of language centered around a "problem-space" (Scott 2004), an account I departed from in my introduction. Where a problem-space is totalized by a language game or a set of questions, the mythico-religious accounts for something else. The mythico-religious, instead, leaves open the space in which a language game, and the questions appropriate to it, is derived. As Cassirer depicts, the mythical force that generates a language is undetermined and thus difficult to discern, unlike the paradigmatic boundaries that determine a problem-space. Mythical thought does not differentiate the "data of intuition, in order to relate and compare them to each other" (32). Mythical force remains undetermined and difficult to sense, like an undetected threat or an indiscernible danger. Both of which create the conditions of possibility for security.

In this dissertation, I have indicated the indeterminacy of security threats — their mythical force — and the manner in which they create (in a theological vain) the *language* of liberalism: of rights, police, and securities. I have presented this mythical force in a genealogical and ethnographic manner. In the first instance, in *State v. Mann* (1829), I depicted the way security guaranteed the status of enslavers and the subjugation of the enslaved. The enslaved and the racialized, thus, threatened the slaveholding class and the safety of white life and settlement. From these concerns identified in legal cases and political debates — which I outlined in Chapter II, "The Subject of Civil Rights" — I showed how the language of civil rights concurrently emerged with a concern for the security of social and political life, in which racialized communities were deemed dangerous and left

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the principles of human judgment — all three of which reference Kant's critique of theoretical (first critique), practical (second critique), and aesthetic (third critique) philosophy, respectively — stem from the mythico-religious. "Theoretical, practical, and aesthetic consciousness," Cassirer asserts, "the world of language and morality, the basic forms of the community and the state — they are all originally tied up with mythico-religious conceptions" (44).

unprotected by governmental powers. I then demonstrated the way in which the formation of police power emerged from a logic of liberalism. Police power was not simply an extension of state power, but a sensory apparatus designed to detect the imperceptible nature of threats and dangers: from the threat of Blackness to the threat of Islam. Police power would not only guarantee the rights of the people, but was intended to protect the "safety, health, morals, and general welfare of the public" (*Lochner v. New York* 1905). This dictum of police power, which I genealogically outlined in "Police Power I" and "Police Power II," radically redefined the very terms of America's political and social world in the image of security.

In the second part of dissertation, I invested my conceptual labor to think about how the mythical force of security became the condition to rethink the Islamic tradition. In light of racial violence and austere surveillance regimes, Muslim Americans took recourse to securitization mechanisms imbued with the language of civil rights. In my ethnographic chapters, I brought together a number of genealogical elements within the "sensible present" (Cassirer 1953: 33): including civil rights, security, police power, and the spiritual. I demonstrated how the security concerns of Muslim Americans in North Carolina, generated from their sociopolitical lives, transformed the manner in which Islamic sensibilities and virtues are deployed and acquired. The force of racialization and racism does not only pose a threat for the corporeal existence of racialized communities. More profoundly, racialization and racism pose a threat to the spiritual and theological lives of Muslim American communities in North Carolina. As such, securitization enabled the practice and transmission of the Islamic tradition through an encounter and experience with the mythico-religious. Or, as Ayoub called it in the previous chapter, the Islamic tradition was enabled by the *īẓala* of the Chapel Hill murders, an unprompted event that transformed his community.

As the last chapter articulates, the question of security and its foundation in the mythico-religious culminates in the relationship between death and the Divine. Not only because death and the Divine are imperceptible, but because their imperceptibility compel Muslim Americans in North Carolina to rethink the transmission and practice of the Islamic tradition in a space of racial violence. Both death and the Divine motivate securitization. On the one hand, the persistent violence against racialized life — which includes the surveillance imposed by law enforcement and other legal authorities — requires that racialized persons cultivate the sensibilities to see the unseen. Indeed, the cultivation of sensory techniques also involves the detection of imperceptible conflict, which, as I have conceptualized, is the foundation of a perpetual civil war. On the other hand, the cultivation of such sensibilities not only protects from racial violence, but supports the acquisition of Islamic sensibilities that facilitate a relationship between God, the Prophet, and the seekers of security [*al-mu'minīn*].

As such, *Who is the Subject of Civil Rights?* reconsiders the constitution of Islamic life in the United States — a form of life that continues to negotiate with the damages of racial violence. I have done so through a genealogy of civil rights, taking this ostensible legal technology beyond its conventional concepts and contexts. Because they often limit an understanding of civil rights, I have not situated the demands made by racialized Muslim Americans within a grammar of citizenship, equality, or secularism. Doing so, I argue, loses sight of the "collective rhythms" (Bourdieu 1977: 162) that form racialized communities into

legal, political, and social objects and subjects. As stated in my introduction, a guiding question of this dissertation could be taken from Saidiya Hartman's *Scenes of Subjection* (1997). "How does one represent the various modes of practice," Hartman asks, "without reducing them to conditions of domination or romanticizing them as pure forces of resistance" (55)? In this dissertation, I suspended the terms of resistance and domination, citizenship and equality, in order to understand the worlds that these terms, at times, misrepresent. Instead of using such terms, I have established a conceptual repertoire to reconsider what being a *subject of civil rights* entails and the germane terms, anxieties, and desires that come with being a subject of civil rights. If police power, security, and their underlying processes of racialization are as indeterminate and intractable as I describe them, then the jargon of resistance *or* domination withers away into the vacuum it emerged from, incapable of addressing the problems of racial violence or the logic of liberalism.

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