

## BOOK REVIEW

### **HIDDEN IN PLAIN SIGHT: REDEFINING THE FIELD OF NATIONAL SECURITY**

RACE AND NATIONAL SECURITY. Edited by Matiangai Sirleaf. Oxford University Press, 2023.

*Reviewed by Aziza Ahmed\**

### **INTRODUCTION**

Throughout his campaign for presidency, Trump called for a ban on Muslims entering the United States. As President, he kept his word. Only days after he took office, the new administration released the first version of the Executive Order: Protecting the Nation From Foreign Terrorist Entry Into the United States.<sup>1</sup>

The first Executive Order, however, did not say the word Muslim. Instead, it listed only Muslim-majority countries as necessary for restrictions on entry. The Executive Order also trafficked in stereotypes about Muslims, such as the need to ban people who engage in acts of “bigotry or hatred,” including honor killings.<sup>2</sup> As scholars note, honor killings are often popularly understood as being linked to the “Middle East and South Asia.”<sup>3</sup>

Lawyers and civil rights advocates objected to the ban. Protests at airports drew significant attention as droves of lawyers and activists stepped up to help people arriving into the United States. Recognizing this new form of hostility towards Muslims, signs went up in stores and restaurants around the United States, often featuring a woman wearing a hijab: “Everyone is Welcome Here.”

Eventually, litigation challenging the Executive Order made it to the Supreme Court. Plaintiffs, including the Muslim Association of Hawaii and

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<sup>1</sup> Exec. Order No. 13769, 82 Fed. Reg. 8977 (Jan. 27, 2017); Faiza Patel & Rachel Levinson-Waldman, *The Islamophobic Administration*, BRENNAN CTR. FOR JUSTICE (2017), <https://www.brennancenter.org/our-work/research-reports/islamophobic-administration> [<https://perma.cc/75PJ-MFWZ>].

<sup>2</sup> Leti Volpp, *Protecting the Nation from “Honor Killings”*: *The Construction of a Problem*, 34 CONST. COMMENT. 133 (2019). The Executive Order states “In addition, the United States should not admit those who engage in acts of bigotry or hatred (including “honor” killings, other forms of violence against women, or the persecution of those who practice religions different from their own) or those who would oppress Americans of any race, gender, or sexual orientation.” Exec. Order No. 13769, 82 Fed. Reg. 8977 (Jan. 27, 2017).

<sup>3</sup> Volpp, *supra* note 2 (drawing on the work of Lila Abu-Lughod); on Islamophobia, *see generally* ISLAMOPHOBIA AND THE LAW (Cyra Choudhury & Khaled A. Beydoun, eds., 2020).

individual Muslims, challenged the constitutionality of the law.<sup>4</sup> In *Trump v. Hawaii*, the Supreme Court found the Executive Order constitutional. Chief Justice Roberts' majority opinion dismisses the claims by the Plaintiffs that the Executive Orders were driven by anti-Muslim animus. The justices separate Trump's comments about Muslims from the Executive Order itself. They "look behind" the Executive Order and use rational basis review to uphold the order on the grounds that vetting immigrants could be "plausibly related to the Government's stated objective to protect the country and improve vetting processes" as an "independent justification" for its legality.<sup>5</sup> For progressives, the unwillingness to read religious (and racial) animus into the law was a form of constitutional "gaslighting."<sup>6</sup> In her dissent, Justice Sotomayor (writing for herself and Justice Ginsburg) concludes: "Based on the evidence in the record, a reasonable observer would conclude that the Proclamation was motivated by anti-Muslim animus."<sup>7</sup>

The invocation of security by the Administration made it possible for the administration to achieve its objectives.<sup>8</sup> The obscuring of race and religion served an important purpose: it allowed the Executive Order to take on the veneer of legitimate, "rational" lawmaking and evade accusations of racism or religious bias, masking the longstanding project of using race and religion to cast some as outsiders to American culture and society.

How does one disrupt a notion of national security that maintains the status quo racial order? Matiangai Sirleaf's volume, *Race and National Security*, bravely intervenes to answer this question. The volume forces readers to acknowledge the histories and assumptions of national security law that are structured by a belief in racial hierarchy. As the example of the Muslim ban shows, and as Sirleaf notes, "race and racial justice is hidden in plain sight."<sup>9</sup> In this review, I highlight what I see as two of the volume's main contributions: institutional erasure of race and racial harm in the discourse on national security and a redefinition of national security. Focusing on these two aspects of the volume help to illuminate how contributors see race is a primary lens through which to read the formation of the field of national security, its current operation, and its impact.

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<sup>4</sup> *Trump v. Hawaii*, 585 U.S. 667, 668 (2018).

<sup>5</sup> *Id.* at 704–06.

<sup>6</sup> Kyle Velte, *The Supreme Court's Gaslight Docket*, SSRN (Mar. 30, 2023), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4405367](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4405367) [<https://perma.cc/7X2D-EFT9>].

<sup>7</sup> *Trump v. Hawaii*, 585 U.S. 667, 728 (2018) (Sotomayor, J., dissenting).

<sup>8</sup> *Trump v. Hawaii*, 585 U.S. 667, 668 (2018) ("Relying on that delegation, the President concluded that it was necessary to impose entry restrictions on nationals of countries that do not share adequate information for an informed entry determination, or that otherwise present national security risks.").

<sup>9</sup> Matiangai Sirleaf, *Introduction: Confronting the Color Line in National Security*, in *RACE AND NATIONAL SECURITY* 3, 5 (Matiangai Sirleaf, ed., 2023).

## I. INSTITUTIONAL ERASURE

Sirleaf begins the volume with an Introduction, in which she reminds readers of the early issues of *Foreign Affairs*, a publication she traces back as having arisen from *The Journal of Race Development*.<sup>10</sup> She turns to the early work of Du Bois, who notes that the “global colour line” will be deepened by the conflicts at the time, including the Italo-Ethiopian war.<sup>11</sup> She argues, evidenced by the vast coverage in the volume, that “racial analysis” is “foundational” to understanding the “world order.”<sup>12</sup> The erasure of race from legal and social discourse on national security is not accidental. It is an obfuscation that serves the purpose of legitimating a world order which justifies its actions not on racial hierarchy but on security of nation and person. The purpose of this move is not simply to refocus our gaze on what has been erased, but it is to recover these histories for the purpose of racial justice. Racial justice, as Sirleaf notes, forces us to redefine what security is and how it operates.

The specific idea that race has been ignored in mainstream national security and international law scholarship is a theme picked up by most of the authors in the volume. James Thu Gathii, a leader in the field of Third World Approaches to International Law (TWAAIL), highlights in his chapter, *Beyond Colorblind National Security Law*, the role that international law played in the “enduring legacy” of race in the context of colonialism.<sup>13</sup> Gathii points to the work of scholars who have drawn a throughline between slavery and techniques of colonization, as well as the iterative inspiration that exists between civil rights activists and movements for independence.<sup>14</sup> Gathii powerfully shows that the legacy of colonialism exists even in contemporary American case law, particularly so in the Guantanamo cases.<sup>15</sup> While explicit mention of race is absent, the cases themselves traffic in notions of territory, foreignness, and nation that draw on past narratives of the outsider.

International institutions, even those like the United Nations who often speak in a discourse of justice and rights, have failed to acknowledge past and contemporary harms along racial lines. Several of the chapters take up the question of anti-Blackness in international law and institutions explicitly. In her chapter, *The United Nations Cannot Rest on Past Laurels: The Time for Courageous Leadership on Anti-Black Racism is Now*, Adele Blackett powerfully argues that the United Nations ought to establish a “Special Representative to the United Nations Secretary-General on People of African Descent and compatible structures in

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<sup>10</sup> *Id.* at 3–4.

<sup>11</sup> *Id.* at 4.

<sup>12</sup> *Id.*

<sup>13</sup> James Thuo Gathii, *Beyond Color-Blind National Security Law*, in RACE AND NATIONAL SECURITY 21, 22 (Matiangai Sirleaf, ed., 2023).

<sup>14</sup> *Id.* at 24.

<sup>15</sup> In his chapter, Gathii focuses in on *Rasul v. Bush*, 542 U.S. 466 (2004). Gathii, *supra* note 13.

United Nations specialized agencies such as the ILO.”<sup>16</sup> Such a position would acknowledge the long history of anti-Black racism and bias at the United Nations as well as the backdrop of slavery in shaping contemporary experiences of injustice. The need for a staff position reflects Blackett’s desire to change and sustain anti-Black racism through altering “staff representation.”<sup>17</sup> In its ideal form, this Special Representative would ensure that the entire United Nations acknowledges and combats institutional anti-Black racism.

Rachel Lopez’ chapter, *Black Guilt, White Guilt at the International Criminal Court*, demonstrates how anti-Black racism operates in the context of international prosecutions. She argues that the International Criminal Court’s attention on African countries and Black leaders furthers the idea of Black guilt while minimizing accountability and harms in white majority countries. Lopez takes on those who have defended the ICC on grounds that the organization is not biased, it is simply following the rules.<sup>18</sup> She argues that a set of background ideas about race is operating to produce the bias in the courts:

Indeed, recent empirical evidence has shown that people often associate dark skin with immorality and wickedness. Specifically, dubbed the “bad is black” effect, psychologists have found that when people learn about “evil acts,” they are more likely to believe that they were committed by someone with dark skin. More problematic still, the darker your complexion, the more likely society is to support extreme punishment of you.<sup>19</sup>

Lopez’s point is not that innocence should shield individuals from prosecutions, but that the selective prosecution speaks to and furthers prior notions of race. Lopez does consider the political and economic backdrop that plays a role in justifying some prosecutions over others, but hones in on race as a driving factor.<sup>20</sup>

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<sup>16</sup> Adelle Blackett, *The United Nations Cannot Rest on Past Laurels*, in RACE AND NATIONAL SECURITY 229, 232 (Matiangai Sirleaf, ed., 2023).

<sup>17</sup> *Id.* at 231 (contending that “emergent spaces to address anti-Black racism can only be sustained with deliberate, honest engagement with racial justice throughout the United Nations system and must encompass issues of staff representation.”).

<sup>18</sup> Rachel López, *Black Guilt, White Guilt at the International Criminal Court*, in RACE AND NATIONAL SECURITY 211, 218 (Matiangai Sirleaf, ed., 2023).

<sup>19</sup> *Id.* at 219 (citing Adam A. Alter et al., *The “Bad Is Black” Effect: Why People Believe Evildoers Have Darker Skin Than Do-Gooders*, 42 PERSONALITY & SOC. PSYCH. BULL. 1653 (2016); Calvin John Smiley & David Fakunle, *From “Brute” to “Thug”: The Demonization and Criminalization of Unarmed Black Male Victims in America*, 26 J. HUM. BEHAV. SOC. ENV’T 350 (2016); Kelly Welch, *Black Criminal Stereotypes and Racial Profiling*, 23 J. CONTEMP. CRIM. JUST. 276 (2007); Cynthia J. Najdowski, Bette L. Bottoms & Phillip Atiba Goff, *Stereotype Threat and Racial Differences in Citizens’ Experiences of Police Encounters*, 39 L. & HUM. BEHAV. 463 (2015)).

<sup>20</sup> Rachel López, *Black Guilt, White Guilt at the International Criminal Court*, in RACE AND NATIONAL SECURITY 211 (Matiangai Sirleaf, ed., 2023).

These chapters, among others, highlight the importance of history and institutional legacy in upholding and maintaining racial hierarchies while disclaiming that in the existence of the institution. In other words, claims of justice and institutional neutrality must be examined for underlying bias. The chapters build to a powerful intervention: failing to acknowledge pretextual claims about institutional neutrality in the register of security undermines the possibility of a racially just future.

## II. REDEFINING THE BOUNDARIES OF NATIONAL SECURITY

A second major contribution of the volume is the redefinition of “national security.” Traditionally, the field of national security often conjures the idea of the nation and the outsider. Relevant bodies of law are related to foreign policy, development, and international law. But, as many contributors to the volume note, even within the bounds of nation, the discourse of national security works to produce outsiders. This insider-outsider status is made by law.

This is certainly the case in the United States where a settler-colonial past produced distinctions, as Aziz Rana notes in his chapter, between the settlers and non-settlers.<sup>21</sup> Rana traces these distinctions to an idea of American exceptionalism that underpins a sense that Americans “enjoy a basic authority to step inside and outside of legal arrangements in fulfilling national destiny or security objectives.”<sup>22</sup> This same exceptionalism produces an abuse of national security power which “falls on the same communities that were historically viewed as racially ‘unfit’ for membership and self-governance.”<sup>23</sup> Rana makes the connection between American foreign policy and its treatment of racial minorities within the United States: “Indeed, one can see deep resonances in American foreign policy between the logic that structured settler expansion and the logic that undergirds contemporary assertions of power.”<sup>24</sup> The commitment to American exceptionalism prevents Americans from seeing the ongoing impact of settler-colonialism and the construction of racial identity in the contemporary moment.

One of the most profound and visible examples of continuities between past and present on questions of security has been the phenomenon of mass incarceration coupled with the expansion of police and policing. In recent decades, scholars have turned their attention to better understanding how ideas of governance and self-governance justified the rise of policing and mass incarceration in the United States. Here Rana’s chapter lays the groundwork for Monica Bell’s contribution to the volume, *Black Security and the Conundrum of Policing*. Bell focuses on the unique crises of security within America. For Bell,

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<sup>21</sup> Aziz Rana, *National Security Law and the Originalist Myth*, in RACE AND NATIONAL SECURITY 56, 66 (Matiangai Sirleaf, ed., 2023).

<sup>22</sup> *Id.* at 65.

<sup>23</sup> *Id.* at 66.

<sup>24</sup> *Id.* at 65–66.

the story of national security begs the question of who is permitted to be secure and how these demands are made.

Illustrative of the burdens borne by some communities, especially “Black and Brown urban communities,” “neighborhood-level police states” emerge under the banner of public safety.<sup>25</sup> Bell uses qualitative research to explore “what some Black people who live in dispossessed and criminalized urban neighborhoods” seek when it comes to “policing and security.” The outcome is an often-ignored complexity about the desire for safety from violence, especially interpersonal violence, and a deep distrust of police institutions.<sup>26</sup> The obfuscation of competing ideas of the police contributes to narrowing of possible responses to the problem of policing itself.

Turning from policing to immigration, Jaya Ramji-Nogalis focuses attention on the body. Her chapter provocatively opens with the assertion that “We carry the border on our skin, in our language, through our religion. In the United States, these traits—racial, linguistic, religious—have become social markers that denote ‘foreignness,’ or out-group status from the community of citizens.”<sup>27</sup> To Ramji-Nogalis, the boundaries of the nation are embodied. Like Rana and Bell, Ramji-Nogalis marks the formation of the “other” that is invoked to justify anti-immigrant laws while deepening the experience of “foreignness,” especially along the lines of race, religion, and language. Ramji-Nogalis traces this history from the Chinese Exclusion Acts through the laws following September 11th.

The institutions, from policing to immigration, which exist at least in part to safeguard the security of Americans, have close ties with the “war machinery” in America’s “endless wars.”<sup>28</sup> These connections are iterative: military action taken by the United States becomes a way to test techniques and technologies of security within the United States. This is illustrated clearly in Aslı Bâli’s chapter, *Extending the Logic of Defund to America’s Endless Wars*. Bâli examines how the “woven logics of policing, border control, and militarism clarifies why calls to defund the police should be joined to a broader movement challenging the highly profitable military-industrial-policing complex that sustains the American security state.”<sup>29</sup> She asks us to consider not only the connections between the security state, but the possibilities of resistance to it: to consider how it opens the door to a broader activist horizon that would include examining and resisting the lucrative war industry.<sup>30</sup>

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<sup>25</sup> Monica C. Bell, *Black Security and the Conundrum of Policing*, in RACE AND NATIONAL SECURITY 73, 73 (Matiangai Sirleaf, ed., 2023).

<sup>26</sup> *Id.* at 78–79.

<sup>27</sup> Jaya Ramji-Nogales, *This Border Called My Skin*, in RACE AND NATIONAL SECURITY 106, 108 (Matiangai Sirleaf, ed., 2023).

<sup>28</sup> Aslı Bâli, *Extending the Logic of Defund to America’s Endless Wars*, in RACE AND NATIONAL SECURITY 145 (Matiangai Sirleaf, ed., 2023).

<sup>29</sup> *Id.* at 147 (also describing that the term “military industrial complex” comes from Dwight Eisenhower).

<sup>30</sup> *Id.*

Widening the aperture of national security allows us to see the capillaries of money and power between governments and through private entities, between states and inside of them. It also helps to reveal the shared goals and projects between activist communities who speak against policing, the military, and carcerality.

### CONCLUSION

Sirleaf writes, “If scholars and policymakers are really committed to addressing race and racism in national security in theory and in practice and to centering the experiences of those terminally on the receiving end of racialized state violence, radical imagination may well be the only meaningful path forward for true national security.” Radical imagination will be a part of what it means to engage in remaking a just world. But, first, as her own writing and the authors in *Race and National Security* make clear, we have to see the world for what it is.