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2018

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Recommended Citation

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On March 15, 2019 in Christchurch, New Zealand, a white supremacist entered a mosque full of worshippers and gunned down over 50 people. He was welcomed into the house of worship as Muslim immigrants and converts were about to start their Friday prayers. News of the attack spread quickly across the globe. Social media news feeds and online sources provided near-instantaneous updates. There were calls to prioritize the lives and stories of the victims and survivors. Although there were calls not to glorify or even humanize the shooter, people understandably professed interest in his writings and his motivation. Once it became known that he was an Islamophobic, anti-immigrant, white supremacist, it did not take long to connect the Christchurch terrorist to others who have gained notoriety for similar mass murders in the West.[1]

In the wake of this tragedy and in stark contrast to the race-baiting Donald Trump, the world was treated to a view of a compassionate leader unafraid to state unequivocally that the New Zealand shooter believed in a radical ideology of racism that had to be confronted. Prime Minister Jacinda Ardern did everything right in that moment: she called out the white supremacy, comforted the Muslim community, and showed her respect for their beliefs. Shortly after the shootings, Ardern called for a global war against racism and she was widely praised for it. In her speech, Arden proclaimed:

> To the global community who have joined us today, who reached out to embrace New Zealand, and our Muslim community, to all of those who have gathered here

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[1] Sushil Aaron, 'Why Jacinda Ardern Matters', *New York Times*, 19 March 2019 https://www.nytimes.com/2019/03/19/opinion/jacinda-ardern-new-zealand.html (accessed 10 June 2019).

today, we say thank you. And we also ask that the condemnation of violence and terrorism turns now to a collective response. *The world has been stuck in a vicious cycle of extremism breeding extremism and it must end.* We cannot confront these issues alone, none of us can. But the answer to them lies in a simple concept that is not bound by domestic borders, that isn't based on ethnicity, power base or even forms of governance. The answer lies in our humanity.[2]

Many welcomed Ardern's call and her solidarity in spite of her earlier hardline stance against immigration.[3] It was an important departure from the anti-Muslim rhetoric of many First World leaders across Europe and North America. However, appreciated as her sentiments were, this call obscures the long struggle against racism waged by Third World peoples. That struggle, starting with the brutal colonization of the "new world" and the inauguration of slavery, continued into the 20th century with anti-colonial struggles and more recently in the contexts of migration and the Global War on Terror. That the Global North needs to engage in a struggle against its own white supremacy is quite clear to most Third World and indigenous people. What is also evident is that the general and broad call for a war against racism needs to be contextualized and fleshed out if it is to be taken seriously.

In this reflection, I respond to Ardern's call for a global fight against racism by foregrounding the historical struggle of Third World peoples and their diasporas against white supremacy and I suggest that TWAILing Islamophobia and integrating religion into the TWAIL analysis can be fruitful. Finally, I suggest ways of moving forward in a truly global fight against racism and white supremacy.

A Global Struggle Rooted in Anti-Colonialism and Anti-Imperialism

To proclaim that it is time for a global war against racism—laudable as it may seem—erases centuries of resistance by Third World and indigenous peoples and their allies against an unrelenting program of violence and erasure that persisted even after the formal end of colonialism. Furthermore, the implication of Ardern's assertion that "The world has been stuck in a vicious cycle of extremism breeding extremism and it must end[4]" is that the violence has been equal and proportional between actors. This further obscures the genocidal violence of the Global North first in settling the "new world" and then in its colonial enterprises.

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[2] Zane Small, "The nation that discovers the cure': Jacinda Ardern's anti-racism speech sparks standing ovation' (March 2019) https://www.newshub.co.nz/home/politics/2019/03/the-nation-that-discovers-the-cure-jacinda-ardern-s-anti-racism-speech-sparks-standing-ovation.html (accessed 17 May 2019).

[3] Charlotte Greenfield & Ana Nicolaci da Costa, 'Hard Labour: NZ's Ardern takes tougher line on immigration' (August 2017) https://www.reuters.com/article/us-newzealand-politics/hard-labour-nzs-ardern-takes-tougher-line-on-immigration-idUSKCN1B12HP (emphasis added) (accessed 10 June 2019).

[4] Ibid.

One of TWAIL's central insights has been the historically racists roots of international law. As will be familiar to all TWAIL scholars, Antony Anghie traced the early history of international law in his seminal work, *Imperialism, Sovereignty, and the Making of International Law,* coining the term the "dynamic of difference.[5]" The dynamic of difference was articulated from the very start in racist and civilizational terms positing a linear development placing Europeans at the apogee and Africa at the nadir. As such, the decolonisation struggle was as much an anti-racist struggle in which Third World leaders had to counter the ideology of white racial superiority as it was about obtaining freedom for subject peoples.[6]

Given that the majority of the world's black and brown peoples were once subjects of European empires that stretched across the globe separating the world into center and periphery, citizen and subject without regard to preexisting differences, the issue of boundaries as it pertains to a global fight against racism is not as simplistic as Ardern makes it out to be. In Ardern's words: "If we want to make sure globally that we are a safe and tolerant and inclusive world we cannot think about this in terms of boundaries[7]." Ardern's well-meaning statement misses the vexed nature of boundaries and borders for the Third World. Her statement also whitewashes the Global North's role in maintaining structures of exclusion on unequal terms.

On the one hand, peoples of the Global South recognized a common cause regardless of borders and differences. Boundaries were artificially constructed in the colonial enterprise. And while the obstacles these boundaries presented could not be denied, they were also not insurmountable. Ideas and strategies moved across geographical divides. Martin Luther King, Jr. adopted the nonviolence of Mahatma Gandhi. Malcolm X developed an internationalism in his work from his trips to Ghana and the Middle East.[8] Latin American countries led the way in anticolonial struggles. And we often forget that it was Haiti that was first successful in gaining its independence from both slavery and colonial rule in 1804.[9]

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[5] Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (CUP, 2005) 4-5.

[6] Ibid; Frantz Fanon, *Wretched of the Earth* (Grove, 1968).

[7] Dalia Mortada, 'In the wake of mass shooting New Zealand's Ardern calls for global fight against racism' (March 2019) https://www.npr.org/2019/03/20/705062672/in-wake-of-mass-shooting-new-zealands-ardern-calls-for-global-fight-against-racism (accessed 10 June 2019); Ardern quickly pivoted from racism to social media as the focus of action which, of course, changes the meaning of her statements regarding boundaries. Jacinda Ardern, 'How to Stop the Next Christchurch Massacre' (May 2019) https://www.nytimes.com/2019/05/11/opinion/sunday/jacinda-ardern-social-media.html (accessed 10 June 2019).

[8] Cornel West (ed.), *The Radical King* (Beacon Press, 2015); Manning Marable, *Malcolm X: A Life of Reinvention* (Viking, 2011).

[9] This revolution presaged those that would follow in the 20th century. Haiti demonstrated that colonial authorities would exact a great price through continued economic exploitation of former colonies. In 1825, Haiti

On the other hand, the arbitrariness and porousness of boundaries remains a problem for Third World countries. First, decolonization and the departure of colonial powers left intransigent problems like that of Kashmir, Myanmar, and a number of states in which ethnic populations were bifurcated by arbitrary state borders.[10] In addition, in the post-World War II era, the Global South continued to resist the vestiges of colonialism and neocolonialism in the international system through attempts at creating a more even economic playing field and in trying to assert these borders and boundaries against the Global North. The push for the New International Economic Order advanced the radical notion that Third World countries ought to be able to control their natural resources and that the First World, having exploited ex-colonies for over a hundred years, ought to assist in the development of these states. The Bandung movement tried to assert boundaries by promoting non-alignment in the Cold War.[11]

More recently, the Global War on Terror (GWoT) and a number of refugee crises have opened new fronts in the anti-racism and anti-imperialism fight. These crises have made clear that the Global North may enforce its own borders by illegally detaining immigrants and denying asylum seekers refuge while also disregarding "boundaries" and legal borders in the Third World when it is expedient. With the tacit agreement or even without, the United States has used drone warfare to wreak devastation in Afghanistan, Pakistan, and Yemen. Borders and sovereignty are thin protections against a powerful state that has authorized itself to go to all corners of the earth to pursue terrorists. As the President George W. Bush made clear in the days after 9/11, this was a global threat and the United States did not mean to distinguish between terrorists and those that harbored terrorists, including in any determination to use military force. As we know, the result has been the devastation of several Muslim-majority countries including Iraq, Libya, and Yemen. The most recent example of the differential strength of borders can be seen in the recent travel bans enacted in the United States primarily against Muslim-majority countries. It is argued by the Trump administration that these countries in particular pose a threat to the United States. Indeed, the global war on terror is hard to understand without an account of the history of constructed conflict between "Islam and the West."

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was made to pay 150 million gold francs as ransom for its independence—a debt that has caused the impoverishment of the country until the present. CLR James, *The Black Jacobins: Toussaint L'Ouverture and the San Domingo Revolution* (Vintage, 1989). Jérôme Duval, 'Haiti: From Slavery to Debt' (Nov 2017) https://www.counterpunch.org/2017/11/10/haiti-from-slavery-to-debt/ (accessed June 24, 2019).

[10] Mohammad Shahabuddin, "Post-colonial Boundaries, International Law, and the Making of the Rohingya Crisis in Myanmar" (2019) 9:2 *Asian Journal of International Law* 334.

[11] Luis Eslava, Michael Fakhri & Vasuki Nesiah (eds.), *Bandung, Global History and International Law: Critical Pasts and Pending Futures* (CUP, 2017).

TWAIL and Islamophobia's Shared History: Connecting Christchurch to the Global War on Terror

TWAIL scholars have repeatedly trained our focus on a global system that continues to oppress former colonies (and existing occupied territories) and favor Europe and North America. Increasingly, TWAIL scholars are reaching across disciplines to incorporate more race and gender analyses. The GWoT has been analyzed through the lens of the traditional imperial drive for power and control over resources. However, in most TWAIL scholarship about both the history of international law and the present conflicts, the role of religion has been largely ignored. Yet it is no coincidence that the interventions in Muslim-majority countries are often accompanied by a rhetoric of religious bigotry. How can the increasingly global Islamophobia that has been unleashed by the GWoT be incorporated into TWAIL analysis? In this section, I want to connect the Christchurch shooting and the ongoing violence against Muslims in the West to a global racist/Islamophobic ideology.

Before that link can be made, I want to recognize the peril that such an endeavor holds. Simplistically globalizing Islamophobia runs the risk of overshadowing other political explanations for the War on Terror. In other words, by using it over-broadly, Islamophobia runs the risk of trying (and failing) to do too much. It would be problematic to chalk up *all* violence against Muslims and violent intervention in Muslim-majority states to Islamophobia alone as though these were modern day crusades (and undoubtedly even the crusades were not so easily explained). After all, such a totalizing explanation is one that is posited by jihadist groups arguing that there is a global war against Islam. Similarly, white nationalist groups argue that "Islam" is waging a war against the white West. These oversimplifications have no place in academic analyses and, therefore, I want to underscore that TWAIL's traditional perspectives regarding imperialism—particularly the desire to control resources—and the postcolonial/anti-racist and gender critiques remain central and indispensable. Nevertheless, linking up Islamophobia to these perspectives fleshes out an increasingly unavoidable reality that fascist movements worldwide, whether state-led or private, have explicitly developed their program *against* Muslims and Islam.[12] Religion, like race *and coupled with race*, cannot be ignored.

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[12] For instance, the recent meeting between Aung San Suu Kyi and Victor Orban included a discussion of both countries' concern over the growth of Muslim populations. Given that Myanmar has waged an unrelenting campaign of ethnic cleansing and that Hungary's Muslim population is miniscule, this obsession underscores the extent to which Muslims pose a fantastic threat in the minds of some leaders. Brendan Cole, 'Aung San Suu Kyi and Viktor Orban Meet, Agree Having Too Many Muslims is an 'Issue" (June 2019) https://www.newsweek.com/aung-san-suu-kyi-viktor-orban-meet-muslims-

Islamophobia is a term that has become commonplace in the post-9/11 era to mark the discrimination and violence directed at Islam and Muslims in the West.[13] While it is clear that not all those targeted are actually Muslim, this fact makes no difference because the misrecognition is based on a view that Muslims can be identified as Muslims. And that the practice of Islam or even a Muslim background makes one suspect, unassimilable, and therefore requiring of regulation and even expulsion. This taxonomy of belonging can be traced directly to colonial practices of sorting populations even as they are transported from one continent to another.[14] In other words, colonial powers sought to create groups of people, constructing identities, in ways that allowed them to separate and manage populations more easily. This construction of identities went hand in hand with colonial powers' own fabrications about native populations in general.[15]

Edward Said's work is foundational in postcolonial studies because he sought to explain how it is the West came to know itself and its Other—the East through what he termed "Orientalism.[16]" Because postcolonial theory is part of the foundation of TWAIL, Said is a shared ancestor, so to speak. Many of Said's critical insights have been important to TWAIL's own critiques of the international legal system and its epistemic bases.[17] TWAIL scholars' historical work converge with those studying the historical roots of Islamophobia in the 20th Century insofar as they both concern themselves with imperialism and a proliferation of racist "knowledge" about the Global South.[18] Incorporating Islamophobia as a strand in TWAIL, therefore, might involve thinking through how modern imperialist projects that have resulted in the devastation of the Middle East are not only undergirded by historical discourses of civilization, involve the ongoing struggle for control over natural resources, but also *revive* the religious bigotry against Islam now weaponized and amplified through the discourses (trans)national security. It would mean looking more concertedly at the connections and the traffic between local and global[19].

1442539?fbclid=IwAR3VTEXyuBPgxHbEmyBKjkZkLyXP504Efu3HLf25u7bWxNu-h2YfbesEXEA (accessed 10 June 2019).

[13] Cyra Akila Choudhury and Khaled A. Beydoun (eds.), *Islamophobia and the Law* (CUP, forthcoming 2020); "Introduction" https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3364431 (accessed 10 June 2019).

[14] Lisa Lowe, *The Intimacies of Four Continents* (Duke, 2015); Ann Laura Stoler, *Duress: Imperial Durabilities in Our Times* (Duke, 2016).

[15] Mahmood Mamdani, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda* (Princeton, 2002); Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam Since 1859* (Routledge, 2001).

[16] Edward Said, *Orientalism* (Vintage, 2014).

[17] Edward Said, *Covering Islam: How the Media and Experts Determine How We See the Rest of the World* (Vintage, 2015).

[18] Ibid; Makau Mutua, "What is TWAIL?" (2000) 94 *Proceedings of the ASIL Annual Meeting* 31.

[19] Cyra Akila Choudhury, 'Globalizing the Margins: Legal Exiles in the War on Terror and Liberal Feminism's War for Muslim Women' (2010) 9:2 *International Review of Constitutionalism* 241.

Islamophobia and the rhetoric of the Muslim threat is part and parcel of events such as the Christchurch massacre as is the global war on terror and the national security rhetoric and practices that it has spawned. Ardern is correct to point out that the shooter's journey demonstrates that white supremacists are not stopped by borders (even less so than the feared brown terrorist). However, the shooter's ideology gives us an opportunity to examine how white supremacy can be weaponized in the global war on terror. Many of these shooters have been explicit in their concern for national security. The threat they articulate and defend against is demographic (whites), civilizational (the West), political (democracy) and religious (Christianity). For people like Tarrant and Brevik, the visible, raced Muslim is the epitome of the Other carrying in himself the very negation of the West. To allow him in is to sow the seeds of white, Western, Christian, democracy's annihilation, to inaugurate the end of Western civilization.

Furthermore, in the United States, the protection of the state from external threats is explicitly Islamophobic. Border security concerns invariably raise the specter of the jihadist terrorists creeping across the Mexican border along with Latino criminals.[20] The Muslim travel ban targets several Muslim-majority countries devasted by Western intervention. The fact that Muslims are the targets of these interventions is important and cannot be reduced to race alone. Islam has re-emerged as an international bogeyman. TWAIL scholarship would benefit from incorporating Islamophobia in its analytic framework rather than ignoring religion which it, along with most international law scholarship, has tended to do in the past.

A Complicit Postcolonial State, Islamophobia, and the Problem of Minorities

Fascist leaders and white supremacists are not the only ones who have made use of the global war on terror and a religiously inflected national security rhetoric. TWAIL scholarship must pay greater attention to the problem of the Global South as an agent of its own repression in which religious bigotry has begun to play a larger role. Racism and imperialism alone are not enough to explain the repression of Uighur Muslims or the Rohingya in Myanmar. It cannot explain the ascendance of Modi in India whose regime has promoted violence with impunity against Muslims, lower caste and Indigenous peoples. At least for the Muslim minorities, Islamophobia must be considered a factor because Islam is integrally tied up in the global war on terror and current national security regimes. For instance, in refusing to accept Rohingya refugees, the Modi government claimed the decision was based on national security

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[20] Brian Klaas, 'A Short History of President Trump's Anti-Muslim Bigotry' (March 2019) https://www.washingtonpost.com/opinions/2019/03/15/short-history-president-trumps-anti-muslim-bigotry/?utm_term=.ec2fbd59af43 (accessed 10 June 2019).

even while throughout India, Muslim civil rights are being curtailed.[21] Muslims have been murdered on the mere suspicion of transporting beef because cows are considered sacred by many Hindus. And government officials have called for the mandatory sterilization of Muslims to curb their populations.[22] China's internment of hundreds of thousands of Uighurs is also a matter of national security, however, it is Islamic religious practice that has been targeted and not any political speech or action. Uighurs' dress, their observance of Ramadan, their ability to pray all have been brutally denied as thousands have been interned in camps.[23] It is impossible to understand these state actions without regard to the construction of Islam itself as a threat.

The point is this: TWAIL as a critique or as a mode of comprehending the operation of international law has mostly focused on North-South dynamics. It has produced a body of work aimed at underscoring connections to the historical uses of international law to regulate and manage third world states and populations. I have suggested before that TWAIL pays insufficient attention to South-South relations and scant attention to the increasing uses of international law transmuted into national law within postcolonial states [24]. Increasingly, the world cannot be understood through a theoretical stance in which international law recreates the power differentials of the past. While I am not sanguine about the emancipatory possibilities of international law, I do think that postcolonial states have learned to use it for purposes that do not align quite so easily with a narrative of North-South systemic oppression. The global war on terror and national security, for example, has been an easy *lingua franca* to adopt and to justify the increasing repression of minorities within Third World states even as it plays into the broader unequal North-South dynamic.

One aspect of the ongoing global fight against racism, then, is an understanding that the state is very often the enemy regardless of whether it is in the

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[21] Huizhong Wu, 'Indian Prime Minister blames Rohingya violence on extremists' (September 2017) https://www.cnn.com/2017/09/06/asia/modi-india-myanmar-rohingya/index.html (accessed 10 June 2019).

[22] Joanna Slater, '"Why do I fear to go out in my own country?" In Modi's India, rising unease among Muslims' (May 2019) https://www.washingtonpost.com/world/asia_pacific/in-modis-india-shrinking-space-for-muslims/2019/05/12/7e6e47e2-5bb1-11e9-98d4-844088d135f2_story.html?utm_term=.7b466c5d16e5 (accessed 10 June 2019).

[23] Sophie Yan, 'China's Uighur Muslims forced to eat and drink as Ramadan celebrations banned' (June 2019) https://www.telegraph.co.uk/news/2019/06/01/chinas-uighur-muslims-forced-eat-drink-ramadan-celebrations/ (accessed 10 June 2019).

[24] Cyra Akila Choudhury, 'From Bandung 1955 to Bangladesh 1971: Postcolonial Self- Determination and Third World Failures in South Asia' in Luis Eslava, Michael Fakhri & Vasuki Nesiah (eds.), *Bandung, Global History and International Law: Critical Pasts and Pending Futures* (CUP, 2017) 322; James T. Gathii, "TWAIL: A Brief History of Its Origins, Its Decentralized Network, and a Tentative Bibliography" (2011) 3:1 *Trade Law and Development* 28.

North or the South. For minorities, there is a shared experience of precarity within majority populations that transcends borders.

The Struggle Continues: Returning to Christchurch

The resistance to racism and imperialism continues to be waged by people throughout the Global South and indigenous and minority populations in the North, through popular movements, through daily acts of community and individual defiance. The Christchurch massacre cannot be understood in isolation from these global struggles. This was not just a local massacre or an isolated incident. It goes beyond the racism of white supremacists to a system of oppression that has been carried out through legal means: through immigration controls, the pursuit and regulation of brown bodies in the GWoT, the operations of white supremacy and racism in these laws. The problem of white supremacist violence, therefore, cannot be solved through a global war against racism that is undertaken against these individuals and groups while leaving the global war on terror intact and without addressing the issue of borders.

I have argued above that the violence against minorities and Muslims are linked to broader practices of control and violence in the global war on terror. States, including the postcolonial states, have participated in the construction of a global system of fear that has made every Muslim and every brown and black body suspect in the North and minorities suspect in the South. And these bodies are even more suspect when they cross borders. The migration of brown and black people and the regulation that is provoked implicate the failures and repressive practices of Global South countries as well those of the Global North.

The Christchurch massacre is as much a result of the use of national security and the global war on terror to render Muslims and immigrants suspect as it is ordinary racism against nonwhites. Any anti-racist approach that fails to include the dismantling of the global war on terror and its justificatory armature will also fall short of its goals. A truly global struggle must also centralize the role of Third World people against their own states which increasingly use national security measures to curb civil and political freedoms and to expel unwanted groups such as the Rohingya creating some of the refugee crises we have witnessed in recent times. And it will connect the ways in which the GWoT can exacerbate racism in the Global North by giving white supremacists a militarized language of invasion and threat by which they can articulate their hatred and issue calls for violence.

While it is beyond the scope of this short reflection to elaborate on all the possible ways (apart from those that Third World peoples have already articulated) in which a global struggle against racism could be waged, it is important to mark here

two other interconnected issues. With rapid climate change largely due to the Global North's unsustainable use of resources and its industrial pollution, it is expected that substantial numbers of Third World people will face ecological devastation. We are likely to see even more people attempting to cross borders into the Global North seeking safety.[25] The Global North's migration policies in general have been highly racist and are becoming more overtly justified by right-wing parties in xenophobic terms. If these countries, New Zealand included, are serious about countering racism, they should start by combating the climate crisis, dismantling their racist immigration policies and national security policies, and opening their borders.

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[25] Usha Natarajan, 'TWAIL and the Environment: The State of Nature, the Nature of the State, and the Arab Spring' (2012) 14 *Oregon Review of International Law* 177.