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The Project on Middle East Political Science

The Project on Middle East Political Science (POMEPS) is a collaborative network that aims to increase the impact of political scientists specializing in the study of the Middle East in the public sphere and in the academic community. POMEPS, directed by Marc Lynch, is based at the Institute for Middle East Studies at the George Washington University and is supported by Carnegie Corporation of New York and the Henry Luce Foundation. For more information, see http://www.pomeps.org.
Introduction:
New Challenges to Public and Policy Engagement

Marc Lynch, George Washington University and POMEPS

Engaging and influencing public policy debates on areas of their expertise is a core part of the mission of academics. The last decade has in many ways been the golden age of academic policy engagement. Social media, the proliferation of online publishing platforms, and a generational change in disciplinary norms and practices has unleashed an impressive wave of writing by academics aimed at an informed public sphere. The Project on Middle East Political Science has worked to promote such public and policy engagement, with hundreds of academics each year contributing their expertise on the Middle East on publishing platforms such as The Middle East Channel and The Monkey Cage and through direct policymaker engagement.

President Donald Trump’s administration poses a sharp challenge to this model of policy engagement on the Middle East. Trump himself has shown little interest in policy issues, and his White House is stocked with individuals whose careers and rhetoric speak to a fundamental disrespect for academic expertise. Cornerstone policies such as the executive orders restricting immigration from Muslim-majority countries demonstrate a profound disregard for academic arguments or data-driven analysis. The White House seems to prefer right wing media outlets as a source of information to America’s own professional intelligence agencies, to say nothing of outside academics.

Is it still possible to effectively engage with public policy debates in such an environment? The answer largely depends on the conception of the purpose and process of policy engagement. Some forms of policy outreach, particularly those involving direct interaction with the executive branch, have indeed become deeply problematic. Other forms of policy engagement have only become more important, however. There continue to be ample opportunities to support and engage with the residual bastions of professional policymakers within the federal bureaucracy. The need to provide rational, reasoned, fact-based analysis to the broader public sphere has taken on profound urgency. And rapidly evolving social movements and civil society initiatives offer ways for academics to engage well beyond traditional policy environments.

Some within Middle East Studies would likely object that little has actually changed. While Trump’s ideas may be to the extreme, they might argue, previous administrations (including Barack Obama’s) carried out deeply inimical policies in the Middle East. Many within the field view policy engagement in general as complicity in empire, especially given that academic engagement rarely leads to meaningful policy change. From their perspective, policy engagement is necessarily corrupting, leading to co-optation or self-censorship. My experience is that policy engagement can make a difference under certain conditions, if academics understand how the policy process really works and are realistic in their expectations. The ability of some academics
to influence the initial U.S. response to the Arab uprisings suggests both the potential and the limits of such engagement.

The Trump administration, to this point, appears to be qualitatively different from previous administrations in its hostility to outside expertise and its cavalier approach to the policy process. This may well change, as its policies fail and personnel change. The rapid dismissal of Lt. General Michael Flynn as national security adviser suggests that Trump may follow the example of the Bush administration, which made such a significant adjustment in early 2007. In the interim, however, there does not seem to be a great deal of value in attempting to influence foreign policy at the White House directly.

Other agencies are a different story, however. Within the State Department there continue to be a large number of dedicated, nonpartisan professionals who have never had greater need of external ideas and information. Those beleaguered desk officers and issue experts across the agencies offer an appropriate vehicle for academics to remain engaged with – and informed about – U.S. policy in the region.

The case for public engagement, by contrast, is even stronger. Our voices as political scientists have never been more important in the public sphere. This is a time for insisting on fact-based, empirical and rigorous analysis, offering reasoned argument and modeling academic norms for an anxious public. Offering a rational, rigorous alternative to partisan websites and social media is perhaps our most effective mode of engagement as political scientists. I continue to believe in the ideal of rational critical public discourse, despite all of the pathologies of the contemporary public sphere. Creating and sustaining forums for informed public discourse such as The Monkey Cage and POMEPS is, in my view, an important contribution in its own right. Protecting and nurturing spaces for reasoned discourse can help the public to avoid drowning in a sea of crap.

This public engagement includes working across diverse communities and engaging with the many new social movements and civil society initiatives working on issues relevant to Middle East Studies. The response to Trump’s January 27 executive order on immigration offers a powerful model for such effective action. Academic analysis played a critical role in supporting the social movements and judicial action that forced Trump to back away from the initial order. They worked within their universities to help administrations craft responses, within professional associations such as the Middle East Studies Association, and with civil society organizations coordinating the response. Academic public engagement at this social level should be sustained and expanded.

This will always have risks and costs. Public engagement, especially when effective, invites counterattacks. Scholars would expect persistent, egregious campaign of targeting academics who speak out in public. But they should not shy away. Remaining engaged with the public continues to be one of the most critical dimensions of the academic mission. We should continue to build on the palpable successes of the last decade and build resilient networks and platforms with which to engage broadly and inform deeply.
This POMEPS Studies collection brings together analysis of these new challenges facing Middle East political science. Lisa Anderson looks for the lessons of earlier politicized assaults on Middle East Studies, while Laurie Brand surveys efforts to defend academic freedom at home and abroad. I provide original empirical evidence on the response by universities and colleges to the first immigration executive order. Sarah E. Parkinson examines security challenges faced by those who research the Middle East. Asli Bali provides a close reading of new immigration policies, while Wendy Pearlman considers our ethical and professional obligations to refugees in a harsh new climate. Shibley Telhami presents new survey evidence on how Trump has changed public views of Muslims and Islam. The potential implications of the possible designation of the Muslim Brotherhood as a terrorist organization for research on Islamist movements is discussed in essays by Abdullah al-Arian, Nathan Brown and Michele Dunne, and Andrew March. Shervin Malakzadeh considers how the administration might affect research on Iran. Erica Chenoweth and Jeremy Pressman evaluate the significance of the post-inauguration women's march as a model for sustained mobilization. Finally, Nathan Brown offers a primer on “shari’a” as a model for how academics might more usefully engage and inform public audiences.

We hope that this special edition of POMEPS Studies helps to inform a new era of academic engagement in the public realm.

Marc Lynch
POMEPS Director
Academic Middle Eastern Studies in the Trump Administration

Lisa Anderson, Columbia University

For most US-based academics, the fifteen years since 9/11 have been disappointing but not noticeably uncomfortable. The erosion of rights at home and foreign policy blunders have had some impact on the Middle East studies community in shrinking access to research venues but the state of national emergency declared by President George W. Bush and regularly renewed by President Obama, which provides the legal basis for much of the war on terror, including the National Guard mobilizations and the detentions at Guantanamo, had little direct effect on universities. Right wing attacks on Middle East studies academics during the Bush Administration receded under Obama and many liberal and progressive academics grew complacent, inured to a creeping erosion of rights here in the US. Now, however, they view the Trump administration’s manifest disdain for the established order with trepidation.

Perhaps ironically, Trump’s attitude is more welcome in much of the Middle East. Arab autocratic leaders are pleased by the promise of a U.S. policy focused almost entirely on confronting terrorism. For them and for much of the public in the region, the self-righteous incoherence of US policy has been easy to discern: US lip service to human rights and the rule of law, for example, is daily belied by support for illiberal, if not tyrannical, governments and by violations of the US Constitution itself in the breach of habeas corpus represented by Guantanamo. For many in the Middle East, who have already faced more than a decade of onerous and discriminatory visa processes and deadly US military force, Trump’s plans for “extreme vetting” of prospective Muslim visitors, and as he put it in discussing “radical Islam” to “bomb the s**t out of ‘em…there would be nothing left,” simply remove a veil of self-delusion that fooled no-one so much as its authors.

There is an important difference in kind, however, between the chagrined attrition of the rule of law we have experienced and the open disdain we anticipate. Waiving responsibilities and suspending rights in a “state of emergency” reflects an assessment of urgent danger or necessity. If, however, as Trump has asserted, “the president can’t have a conflict of interest,” we are entering a “state of exception,” in which the sovereign transcends the rule of law, not under the duress of an emergency, but as a reflection of the public will—in this instance, the rule of an elected government. In other words, just as we prosecuted a war in Iraq not of necessity but of choice, we may now witness the suspension of rights not by necessity but by choice.

The consequences of such a voluntary state of emergency may not be subtle, even in the academy. The suspension of rights, for whatever reason, can have dramatic effects on universities. I was the dean of the School of International and Public Affairs (SIPA) at Columbia University on September 11, 2011. In the days after the attacks, all sorts of ordinary rights were lifted in New York: flights were halted, bridges and tunnels closed, traffic stopped, communication disrupted. As commerce resumed, we were told by the authorities to be wary of our neighbors (especially if they seemed “foreign,” as do many people

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4 The “state of exception” is concept conceived by political theorist Carl Schmitt and further developed by Giorgio Agamben; see his State of Exception (2005)
on the average New York city subway car—and most students at SIPA); even today, if we “see something” we judge untoward we are urged to “say something.” In many ways, the universities in the US resisted the securitization of their premises and the politicization of their missions admirably. Faced with efforts to monitor faculty, intimidate students, dictate course content in the years that followed these attacks and the subsequent US invasions of Afghanistan and Iraq, universities retained their autonomy and independence as sites of debate and dissent. But it required vigilance.

I was then the president of the American University in Cairo (AUC) on January 25, 2011, as revolutionary protests rocked the country. AUC was shaken by upheavals that mirrored those across the country as the campus debated vital issues of authority, equity and access. The 2011 uprising and its aftermath saw a period of lawlessness that was as astonishing for its civility (where else would tens of millions of poor people liberated from the police surveillance refrain from looting the conspicuous wealth of their neighbors and instead establish community patrols?) as it was for its demand for human rights and accountable government. Other universities in Egypt, having been much earlier politicized by government mandate, failed to resist being transformed from sites of revolutionary contestation into its subjects and as a result they were made complicit in restrictions of rights on and off their campuses as the uprisings faltered. Thanks to vigilance learned in the American experience, AUC, by contrast, while hardly perfect, retained a remarkable measure of autonomy and independence in the face of pressure to stifle dissent and prohibit protest.

My experience with SIPA and AUC suggests several lessons for universities facing a state of exception—particularly universities aspiring to sustain education and research on the Middle East.

Resist “truthful hyperbole.” This is, of course, Donald Trump’s expression. “People,” he tells us in The Art of the Deal “want to believe that something is the biggest and the greatest and the most spectacular. I call it truthful hyperbole. It’s an innocent form of exaggeration—and it’s a very effective form of promotion.” But in fact it is not innocent when people rely on it. The United States has not really been promoting democracy in the Middle East, for example—not is democracy even a particularly well-understood and important goal in much of the region—however much American scholars of the region might wish it had been, and a strong dose of self-critical candor—truth, one might call it—is overdue.

In that spirit academics also have a special responsibility to exercise the same critical thinking they expect of their students to defend and promote truth-telling everywhere, not only in the classroom but the public sphere as well.

Expect trolls. Having been a target of Campus Watch on and off for fifteen years, having had unflattering pictures pasted across campus and uncomplimentary memes posted on Facebook, I can attest that such unwelcome attention is painful and demoralizing. And these outlets are exemplars of propriety by the standards of contemporary trolling—indeed, even by the standards of the name-calling in the recent Republican party primaries. What is the appropriate, decent and moral response to inappropriate, indecent and immoral speech? I am not sure but it is certainly neither gagging speech nor responding in kind, tempting as they both may be.

Just as university faculty have special responsibility to discover and disseminate the truth, university leaders have a special responsibility to protect and promote those who endeavor to do so. This is not always easy—faculty are not always judicious, courteous or even correct—but the mission of the university to foster the search for truth and the spirit of inquiry demands that faculty be permitted, indeed rewarded, for undertaking that search and exhibiting that spirit.

Stay true to the mission. There are a lot of purposes to which universities can be put but they are first and

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foremost sites of inquiry and reflection. Through research and education, universities produce and disseminate knowledge. They can only do that if they are open; hence we reopened at Columbia two days after September 11th and we reopened at AUC two days after Mubarak stepped down—both well ahead of our peers. And they can only do it if they tolerate, indeed encourage free speech and open debate. To that end, SIPA students and faculty organized seminars, outreach programs, and conferences during the fall of 2001; during the spring of 2011, AUC students and faculty developed a new campus expression policy, instituted new courses on the events of the day, invited public figures and established a speaker’s corner on campus. The temptation to avoid controversy, whether in an effort to shelter the vulnerable or to placate the powerful, will ultimately serve only to deaden the spirit of creativity and invention that is the purpose and lifeblood of the university.

In contemplating the future, I am constrained to repeat what I said, I am sorry to report, more than thirteen years ago in my presidential address at the Middle East Studies Association:

...we must be absolutely uncompromising in upholding the rights that permit us to fulfill [our] responsibility: the rights to freedom of information, expression and association, in the United States and around the world, for ourselves and our colleagues. We as an institution must devise ways to support and defend our members both individually and as a scholarly community... If we abdicate our responsibilities as citizens, we undermine our standing as scholars and teachers. We must not only advocate for our rights but we must also exercise them.

Lisa Anderson is a Senior Lecturer and Dean Emerita of the School of International and Public Affairs at Columbia University and is Past-President of The American University in Cairo.

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6 No-one will miss the irony in the fact that the easiest place to find the text online is at Campus Watch: http://www.campus-watch.org/article/id/871
Emerging Challenges Facing Academic Advocacy

Laurie Brand, University of Southern California

Academics working in the field of Middle East Studies in the United States have long been attuned to the many problems faced by our MENA colleagues, most of whom live and work under authoritarian political systems. We understand that we have ethical responsibilities to them, and indeed, to all of those with whom we interact or who assist us when we conduct our research: to respect privacy or even anonymity of sources; to do no harm, either through acts of commission or omission; to present ourselves and the purposes of our research honestly; and to accurately report and assess with integrity the material we have gathered. Because of our position of relative privilege, many of us feel a need, indeed an obligation, to expand the realm of our ethical responsibilities by more actively supporting our MENA colleagues’ rights to academic freedom.

As we look to the potential impact of the Trump administration on the region and on our commitment to academic freedom, the emerging challenges to fulfilling these responsibilities seem clear, both at home and abroad. In the region, there has been a marked deterioration in status and freedoms of the academy in the past several years, yet Trump has signaled a preference for dealing with autocratic leaders and shown little interest in defending human rights or democracy in the region. At home, the Trump campaign mobilized fear of, among others, Middle Easterners and Muslims, in ways which potentially threaten academics and students. In such circumstances, we should all be willing to engage in advocacy work to defend vital academic freedoms: convening or participating in programs on or off campus that seek to counter misrepresentations of the MENA region and its peoples; standing up both within the university and in our communities when students or colleagues are harassed or threatened; and speaking out when policy initiatives at the local, state or national level seek to repress those who are exercising their right to freedom of expression.

The tools at our disposal for influencing developments in the MENA region have always been limited, as few autocratic governments are sensitive to the concerns of foreign academics. Yet the voices of academic associations, often in conjunction with other organizations concerned with human rights more broadly, can have an impact. Since 2006, I have chaired the Middle East Studies Association (MESA)’s Committee on Academic Freedom (CAF). CAF writes letters in support of members of the academy—faculty, students, and staff—who have been threatened, dismissed, arrested, or jailed for exercising their freedom of academic expression. In 2016 alone, it wrote 50 letters to government or university officials in eight MENA countries, and in the United States, Canada and Italy. It also makes an annual Academic Freedom award to a person or group whose work or case has been particularly important to the cause of academic freedom in the previous year.

While there are many abuses and violations of freedom in the educational sector in MENA countries, CAF has limited its purview to the university level. There are two wings of the committee—one, dealing with cases in the MENA region, and the other, which was established more recently, with those in North America (and occasionally Europe). In its early years, most of the cases CAF adopted were of individual scholars, generally someone who had been dismissed from his/her post or imprisoned for something spoken or published that was deemed offensive or threatening by the regime. However, as our access to information from the MENA region has increased dramatically thanks not only to the internet, but also to social media, more cases have come to our attention. In addition, there is no question that mass movements for political change in the region, whether the Green Movement in Iran or the more recent uprisings that were collectively called the Arab Spring—not to mention coups, invasions, and civil wars—have led to a dramatic increase in the numbers of cases we have seen.
As a result, many more of our letters today concern groups of people — whether tens to hundreds of Egyptian students and faculty dismissed for purported membership in the Muslim Brotherhood, or thousands of Turkish faculty, staff and students affected by dismissals and university closures for purported ties to the Gülen movement. Other letters address conflict situations, such as the impact on the educational sector of the spring 2011 crackdown on the opposition in Bahrain, the assaults by the U.S.-backed Saudi coalition in the destruction of Yemeni educational facilities, and the threats to Palestinian universities and student mobility posed by the Israeli occupation.

The recent deterioration of conditions in Turkey and Egypt led CAF in 2016 to further expand its activities. First, in the wake of the murder of Giulio Regeni, an Italian Ph.D. student who had been conducting research in Cairo, we urged the board of directors of MESA to issue a research advisory for Egypt, which remains in place. In the case of Turkey, the committee sent a record number of letters, triggered first by the government’s labelling as traitors those scholars who signed the January 2016 “Peace Petition,” a statement that criticized the Turkish government’s gross human rights violations in the Kurdish region and called for the restoration of the peace process through political negotiations. However, as the assaults against academics and other members of civil society have increased, particularly following the failed coup attempt in July 2016, CAF’s letters have developed into a critical archive of the breadth and depth of the authoritarian repression of the academy by the Turkish state.

In addition, for the first time CAF members drafted additional documents that we hope can be of use to our Turkish colleagues seeking work outside their homeland: a letter of explanation of the conditions surrounding the purge of the academy, so that Turks forced to leave would have a document from a scholarly association outlining conditions in Turkey for those unfamiliar with recent developments; advice on how to apply for posts in foreign academic institutions; and information for North America- and Europe-based scholars on how to work with Scholars at Risk or the Scholar Rescue Fund to help find temporary academic homes for MENA colleagues abroad. Unfortunately, the new administration’s promised tightening of controls on entry into the United States, combined with apparent affinities between the incoming US president and his counterparts in Egypt and Turkey, do not bode well for the United States to serve as a refuge for persecuted scholars, or for expecting pressure from a Trump administration on such leaderships to respect human rights, including academic freedom.

The second broad area of concern will be academic freedom for Middle East Studies academics in the United States. Violations at home are hardly new, but they seem likely to escalate in the coming years. Those working on various aspects of the Arab-Israeli conflict have long felt pressures both implicit and explicit regarding which kinds of research questions about it may be posed, how the parties to it may be portrayed, and what kinds of criticisms of Israel and its policies are deemed acceptable. At stake have been the things most basic to the practice of our profession: possibilities of being hired, obtaining grants, being published and securing tenure. The incoming president’s positions on Israel seem likely to contribute to a narrowing of the realm of what is viewed as legitimate discussion and debate on Israel/Palestine.

This threat is perhaps clearest in the current battles surrounding the boycott, divestment and sanctions (BDS) movement. As BDS has gained momentum in the past several years, efforts on various campuses and by a number of scholarly organizations to join the BDS movement have made the university a key field of contestation. Islamophobic voices and organizations already see the new administration as friendly to their discourse and programs, and the intersection of these groups with those already hostile to demands for Palestinian rights is likely to produce an even more sinister atmosphere. The website Canary Mission, which defines itself as a database “created to document the people and groups that are promoting hatred of the USA, Israel and Jews on college campuses in North America” has developed a reputation for online
harassment, primarily of members of Students for Justice in Palestine (SJP), a major organizational proponent of BDS, labelling them as terrorists or supporters of terror. In addition, while not focused on BDS, the new website Professor Watch is reminiscent of the various attempts at intimidation of the early to mid-2000s by such websites as Campus Watch and David Horowitz's 101 Most Dangerous Academics in America (2006), in the context of efforts by academics to speak out against US policy in the Middle East during the George W. Bush administration. Those initiatives were magnified by the administration’s own efforts to harass, intimidate and silence its critics inside the academy.

To date, several U.S. state legislatures have attempted to outlaw support for BDS in one form or another, usually as part of a bill aimed at what many academics and legal scholars find to be a disturbingly broad definition of anti-Semitism. A bill along these lines was introduced into the U.S. House of Representatives on December 1, 2016 (HR 6421), but it was referred to the House judiciary’s subcommittee on the Constitution and civil justice three weeks later, and its future in the 115th Congress is uncertain. Indeed, it remains to be seen how these issues will be dealt with by the administration of a president who, on the one hand has voiced strong support for extreme right wing Israeli positions, yet on the other counts among his closest advisors and most ardent supporters people who have used racist, including at times anti-Semitic, discourse.

Third, the broad threats posed by the new administration to non-Middle Easterners demand solidarity with other communities facing intimidation as well. The decisions already announced by some universities to declare themselves sanctuaries to protect undocumented students is one of the most prominent efforts to date, but one could imagine similar efforts if the new administration should move ahead with its threats to compile a registry of Muslims (see Bali essay in this volume).

The sources and nature of the harassment or intimidation faced by faculty and students have certainly evolved over time. What should not change is our insistence upon upholding academic freedom for all, and our willingness to defend, in whatever ways we can, those who are in the sights of a repressive MENA government or whose work may fall outside the boundaries of hegemonic discourses in the United States under the new administration. Indeed, it is a responsibility of those of us who have tenure, who are the least vulnerable, to take the lead in defending our junior and/or less secure colleagues. We need to think of academic freedom as indivisible. Compromising it in one place, whether in North America or the Middle East, by needs compromises it elsewhere. None of us can afford to be complacent, particularly given the challenges that lie ahead—certainly in the MENA region—but clearly at home as well.

Laurie Brand is the Robert Grandford Wright Professor of International Relations and Middle East Studies at the University of Southern California. She is also the Chair of the Middle East Studies Association’s Committee on Academic Freedom.
Universities Overwhelmingly Objected to the Trump Travel Ban. Here are the Values they Emphasized.*

Marc Lynch, George Washington University and POMEPS

Universities played an important role in the unexpectedly widespread mobilization against Donald Trump’s January 27, 2017 Executive Order suspending entry to the United States from seven Muslim-majority countries. The protests themselves came from many different directions, as civil liberties organizations played a key role, while lawyers and activists flocked to airports to provide free assistance to arriving international travelers. While implementation of the order ended following injunctions by multiple courts, the Trump administration has indicated that it plans to issue a new order as soon as this week.

Academic institutions took an unusually active role in speaking out against the order. Nearly every college and university in the country released a statement in response to the executive order. Seventeen universities joined an amicus brief against the order, while forty nine leaders of top universities signed a widely noted open letter. Many schools referred to statements issued by the Association of American Universities, the Association of Catholic Colleges and Universities, and the Association of Public and Land Grant Universities. A wide range of academic professional associations issued statements, ranging from brief statements of concern to lengthy briefs (full disclosure: I helped draft this Middle East Studies Association Task Force statement.)

These academic institutions certainly responded to a clear threat to their interests. The travel ban threatened the visa status and ability to travel of students and faculty from the affected countries, disrupted regular research exchanges and threatened international conferences. But almost every academic institution went well beyond such direct institutional interests. The Executive Order became a moment for academia collectively to assert a collective identity through a remarkably clear statement of the shared values which define American higher education.

What values, specifically, did the American higher education system believe were threatened by Trump’s Executive Order? To find out, I compiled a dataset of statements issued by the leaders of American universities and colleges in the week following Trump’s Executive Order. I began with a list compiled by David Comp for the International Higher Education Consulting blog, and supplemented it with targeted searches of other universities and colleges. The dataset includes statements by the leaders of 264 individual institutions of higher education, both public and private, and including at least one from every state. The data set included 125 institutions based in states which voted for Donald Trump (77 of them public institutions, 28 private) and 139 from states which voted for Hilary Clinton (52 of them public, 87 private). While it’s not comprehensive, it’s a pretty good cross-section of American higher education.

Not a single university or college in this dataset endorsed the immigration order. A very small number, especially public universities facing conservative legislatures and public opinion, limited themselves to assurances of support to students and faculty affected by the disruptive impact of the Executive Order. But all but a very small number of institutions went on to articulate the institutional mission and the core values which the immigration order violated.

This is not to say that these academic institutions took a political lead or adopted partisan views. Almost all universities, public or private, avoid any direct partisan commentary. The word “condemn” appears only 6 times and “resist” only 4 times. Public universities were generally more likely to release short, businesslike statements primarily focused on the services available to students facing disruption: 74% of the statements with fewer than

*This piece was originally published in the Monkey Cage Blog on the Washington Post and was republished here with permission. It can be accessed at: https://www.washingtonpost.com/news/monkey-cage/wp/2017/02/20/universities-overwhelmingly-objected-to-the-trump-travel-ban-here-are-the-values-they-emphasized/
200 words came from public universities. Elite private schools were more likely to wax eloquent. But virtually all statements included some reference, however curt, to deeply held values and institutional missions.

The Trump administration’s framing of the Order as an appropriate response to the threat of terrorism receives little traction with the nation’s higher educational institutions. While a number of schools acknowledged the demands of national security, virtually all went on to call for balancing those concerns with the needs of international students and with enduring values. of the logistical problems for students against a recognition of the demands of national security. The word “security” (used in this context) appears 46 times, while the words “terror” and “terrorism” appear only 23 times in the 264 statements. By contrast, “values” and “mission” appear 498 times. Not a single statement expressed the belief that the order aligned with their values.

Those values were not liberal in a partisan Democratic sense but in the tradition of the liberal arts. The statements collectively asserted the open exchange of ideas and the values of a diverse community as the core of their identity. The word “community” appears 960 times. That community is typically described as diverse (244 mentions), welcoming (204) and inclusive (139). There are frequent references to the free exchange of ideas (111). The safety of students is a recurrent theme, with variations of “safe” or “protect” appearing 299 times, but the assertively positive values articulated give very little sense of students as vulnerable snowflakes. In short, these statements present their universities as a distinctive type of community with powerful shared values violated by the immigration ban.

That community is also understood to be a global and internationalist one. “Global” appears 190 times. International students are presented as enriching the educational and research environment. These global connections offer a back door for some public institutions which otherwise shied away from explicit value statements which might be taken as political. A number of statements instead highlighted the number and diversity of international students on campus as a way of asserting nonpartisan values. That may be why the word “Muslim” appears 86 times, but “Islam” only 6 times. Institutions could focus on individual Muslim students as members of this diverse community rather than engaging the broader question of religion.

Was there a blue state/red state divide? Less than you would expect. 52 red state institutions issued statements of fewer than 300 words, compared with only 30 blue state institutions. 55 blue state institutions issued statements of more than 500 words, compared with only 20 red state institutions. But the values articulated in the statements were remarkably similar across the partisan divide. Red state institutions tended to emphasize the same kinds of diverse and inclusive communities, and to highlight the same contributions by international scholars, as those in blue states.

These results are striking in part because of what they say about the contemporary discourse on the academy. For many on the left, today’s universities are dominated by a soulless neoliberalism, bereft of values or conscience. For many on the right, they are the domain of postmodernist dogma and leftist indoctrination. The response to the Executive Order shows instead that, at least by the rhetoric of leaders, liberal values remain the essence of the modern academy. Most leaders of institutions of higher education seem willing to fight not only to protect their students and faculty, but to speak out in defense of inclusion, toleration, diversity and community.

Marc Lynch is a professor of political science at the George Washington University and is the director of the Project on Middle East Political Science.
Through the Looking Glass:
Information Security and Middle East Research

Sarah E. Parkinson, Johns Hopkins University

Scholars of and in the Middle East and North Africa (MENA) are often accustomed to living and working in settings shaped by state surveillance. Yet in recent years, new modes of observation and coercion have emerged both in the field and at home. As researchers began carrying more technology with them, they have necessarily learned to take extra care with data before crossing borders and checkpoints. And since maintaining an online presence has become nearly compulsory for academics, regimes and non-state actors have responded by following and, sometimes, intimidating those who voice critiques or challenges to official narratives, raising the concern of censorship.

The ever-changing legal, technological, and political environments where scholars operate require constant updating of information security practices for both practical and ethical reasons. Yet they also hold implications for how, where, and with whom scholars conduct and discuss their research, not to mention the ease and safety of doing so. The following essay addresses one evolving site of risk in particular – border crossings – while touching on two others – legal strategies employed to request confidential scholarly materials and online harassment. It uses these examples as a means to underscore growing threats to academic freedom, the energy it takes to manage them, and the burdens of doing so. It explores ways to think about these risks and provides resources for further reading in the footnotes. Finally, it assesses how changing security and legal practices may influence the free flow of ideas and people, stymieing academic debate.

The New No-Man's Land

In recent years, in the wake of incidents ranging from attempted hacking of scholars’ email accounts to high-profile theft of celebrities’ digital photos, there has been increasing attention to individual-level data security practices. Independently of locale, robust information security is critical in the event that one’s electronics are lost, stolen, compromised, or confiscated. Hacked or copied researcher data can endanger research subjects’ lives, compromise researchers’ own security, violate intellectual property protections, expose researchers to pre-publication politicized attacks, and make overseas communities hesitant to work with future U.S.-based scholars (to name only a few risks). Excellent guides by organizations such as the Electronic Frontier Foundation (EFF) can introduce scholars to the main tenets of threat assessment, data encryption, safe information storage, and security precautions such as two-factor authentication. These basic practices are essential, both for adoption by individual researchers to protect the security of their data and as a necessary subject matter for graduate training.

Borders often present special challenges for researchers, particularly those who study, visit, or live in the MENA.

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For years, scholars traveling to and around Israel and Palestine have faced long lines, exhaustive searches of luggage and electronics, and intensive questioning. Academics and journalists working in the field have been detained when exiting countries such as Lebanon. Still others have been banned from entering states such as Egypt. Scholars in the region face harsher circumstances. In the past year, thousands of Turkish academics have been fired, arrested, and/or barred from travel altogether. And, if one does have the resources and ability to travel, obtaining United States and European Union visas for MENA-based scholars can be extremely challenging.

Yet there are also emergent risks in the U.S. that merit scholars’ immediate attention. In 2015 and 2016, several journalists who work in the MENA were stopped at the U.S. border; at least one (a Canadian citizen) was denied entry when he refused to unlock his mobile phones for Customs and Border Protection (CBP) after they had photocopied his personal journals. More recently, Executive Order (EO) 13769, issued in February 2017, produced chaos when at least 60,000 non-citizens from seven predominantly Muslim countries had their immigrant or non-immigrant visas provisionally revoked; nearly a thousand people with previously valid travel permissions were denied boarding on U.S.-bound flights, while 746 were stopped by CBP upon landing.

Multiple U.S. court cases were filed to contest EO 13769. On February 3, 2017, Judge James L. Robart of the U.S. District Court of Western Washington issued a temporary restraining order (TRO) that functionally halted the EO’s enforcement at the national level. The 9th Circuit Court of Appeals denied the U.S. government’s request for a stay and the TRO blocking implementation of the EO remained in effect. However, CBP has continued to apply extra pressure to those traveling from the MENA (among others). Travelers have reported that CBP has demanded access to their electronics and requested that they log in to social media accounts. While some electronics searches are legal under what is commonly termed the “border search exception,” asking travelers to grant CBP access to their online accounts is a legally contested practice that threatens academic freedom and could endanger both scholars and their interlocutors. Some U.S. citizens, upon refusing to allow access, have had their mobile phones confiscated; noncitizens can face refusal of entry for the same decision. The Department of Homeland Security has recently suggested making social media password requests at borders standard for some travelers.

On the Home Front

This is to say nothing of what can happen when scholars of contested issues begin to publish or speak publicly about their research. In recent years, there has been an emerging pattern of researchers being targeted for ostensibly

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“controversial” or “politically biased” research.\textsuperscript{10} The goal is rarely to question the research itself; rather, it is to harass, distract, and threaten the researcher in order to dissuade inquiry on the topic or teaching of certain points of view. For instance, climate change researchers have been at the receiving end of state-level Freedom of Information Act requests and lawsuits, which are usually made possible at public universities by state-level “sunlight” laws.\textsuperscript{11} Intimidation tactics may also be used by non-state actors. In one case, a Canadian academic who agreed to testify on behalf of a community she had studied was informed she would have to release confidential interviews from her PhD research to the attorneys for the defense (a company building a wind farm in the community).\textsuperscript{12}

Internet platforms such as Twitter can both amplify scholars’ voices and expose them to harassment. At the end of 2016 and the beginning of 2017, several professors were condemned online after decontextualized writings or representations of their talks were featured on media outlets.\textsuperscript{13} The succession of events was similar in each case: A scholar says, writes, posts, or tweets something that is removed from context and labeled “controversial.” Online media outlets amplify the accusation. Then, anonymous actors mob the scholar’s social media, launching threats of reputational damage, physical confrontation, rape, and death. They repeat inaccuracies in other outlets, threaten the target’s defenders, contact university administrations, and demand that donors withdraw support. In at least one of these cases, colleagues who defended the academic were themselves doxxed (that is, had their home address and contact information publicly released on the internet) and subsequently received death threats. There are many variations of this behavior. During the siege of Aleppo, one colleague participated in an interview where she noted that the majority of civilian deaths in the city were the Syrian regime’s responsibility. She was immediately barraged with insults and sent a flood of graphic videos of children being murdered; she later traced the Twitter handles to Russian-speaking accounts. Other forms of such targeting have included unrelenting abuse related to researchers’ perceived race, ethnicity, sexual orientation, or simply their physical appearance.

**The Fallout for Academia**

These practices obviously imperil intellectual diversity, freedom of association, and the unrestricted exchange of ideas.\textsuperscript{14} The threat they pose to the continued excellence


of American academe and to the global exchange of knowledge is underscored in several petitions and in amicus briefs signed by seventeen U.S. universities. Even if individuals are never targeted themselves, the environment itself influences researchers’ behavior when they choose topics, field sites, and even university positions. The mere potential of encountering “enhanced” security measures at U.S. borders or facing the possibility of denied entry is clearly already enough to keep many bright minds away.

Less discussed is how targeting technology at the border also threatens academics’ ability to conduct robust, evidence-based research in the field and to travel for professional reasons. First, scholars often carry sensitive material on their electronics – from FERPA (the Family Educational Rights and Privacy Act) covered student information to HIPAA (the Health Insurance Portability and Accountability Act) protected patient information and IRB (institutional review board) safeguarded subject information. Of course, this material should already be encrypted and password protected. However, now arriving at the U.S. border and refusing to unlock a phone or grant access to email risks raising suspicions with a CBP agent unfamiliar with FERPA, HIPAA, or IRB, and could result in the researcher’s detention and the electronics’ confiscation; a non-citizen could be denied entry all together. The risk of having a phone or computer accessed and privileged information copied at the U.S. border is enough to dissuade many from traveling in the first place.

Second, the environment that surrounds this collage of policies and practices encourages a slide into academic self-censorship. The risk of compromised data, subpoena, enhanced screening, or detention makes conducting fieldwork in the MENA even more difficult, especially for noncitizens studying and working in the U.S. The subsequent chance of being targeted by baseless FOIA requests or violent Twitter mobs even if one conducts, publishes, and publicizes the research may further dissuade academics. The colleague who conducted the interview about Aleppo, for example, has not spoken to the press since she was targeted.

Third, self-censorship, fear, and intellectual isolation also take a toll both psychologically and in terms of productivity. In many cases, academics already experience extreme stress, exhaustion, and sometimes, trauma (first or second-hand) in the field. The sheer effort it takes to protect data can feel cumbersome and time consuming when one only wants to pull a two-line quote from field notes. Second-guessing every email to a co-investigator (because it may be subject to the Freedom of Information Act) or every Tweet comes at a mental and productivity cost. Initially careful scholars may also allow their precautions to lapse when they are not chosen for secondary screening. It can be easy to feel lulled into a false sense of security until one is personally affected. Coping with the aftermath of doxxing can take weeks, or even months, robbing academics of precious research and personal time. All of this can also have severe mental health consequences and monetary costs. The compound effect of these factors is that compelling, exciting, field-based research on the MENA may suffer a grievous blow if academics and administrators do not take steps to protect it.

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What can scholars do?

One of the most obvious implications of these realities is that scholars should request support from their departments, from their schools’ information technology departments, and from university legal offices. My university’s technology staff recommended specific hardware that was more secure for my overseas travel and helped train me on it. University administrations should work to ensure that faculty and graduate students have funding for or access to loaner technology specifically for travel so that they are not forced to bring their personal equipment through borders. Universities and professional associations such as the American Political Science Association (APSA), the International Studies Association (ISA), and the Middle East Studies Association (MESA) should continue to advocate for academic freedom by publishing amicus briefs, lobbying policymakers, providing legal support for non-citizen scholars, and pushing state legislatures to pass legislation such as researcher exemptions to sunlight laws.

Scholars should also be independently proactive. Consulting materials from non-governmental organizations such as the ACLU and EEF is a good start, especially when first acclimating to the foundational habits of information security. Speaking with journalists or those in the tech industry who have experienced harassment or reading their stories can also be helpful. For scholars who are active on Twitter – and may face related harassment – resources such as the Crash Override Network can be invaluable for those experiencing online abuse, harassment, or doxxing.19 Sharing information with other scholars if one is stopped at a border can help others modify their own threat assessment.

The response to these scenarios is not to withdraw or concede. Rather, it is to build the knowledge and support networks that allow academics to continue their scholarship.

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Understanding What a “Muslim Registry” Might Mean

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One of Donald Trump’s most troubling campaign promises was to establish a “Muslim registry.” What this Muslim registry idea actually means remains unclear. As a candidate, Trump made ambiguous comments suggesting that he would not rule out a Muslim registry (or database) that would extend to Muslim citizens and argued for “a total and complete shutdown on Muslims entering the United States until our country’s representatives can figure out what is going on.” In the aftermath of a truck attack on a Christmas market in Berlin, President-elect Trump suggested that his earlier proposals concerning Muslims had been vindicated.

Trump’s communications director for the transition, Jason Miller, clarified that President-elect Trump was referring to his plans to “suspend admission of those from countries with high terrorism rates and apply a strict vetting procedure for those seeking entry in order to protect American lives.” This “clarification” conflated two of Trump's earlier promises – a “ban” on Muslims entering the United States and a “Muslim registry.”

Once in office, President Trump issued an Executive Order banning individuals from seven Muslim-majority countries from entering the country. The Executive Order triggered protests at airports across the country and numerous challenges in federal district courts. One of those challenges resulted in a nationwide suspension of the Executive Order pending litigation to determine its constitutionality. Because the White House initially insisted that the order applied to lawful permanent residents (green card holders) and because it included an explicit directive to prioritize admission of some groups from these countries based on their religious identity, the Order may be vulnerable to reversal on due process and equal protection grounds, and religious discrimination.

While the elements of the Order limiting entry to the United States have received the lion’s share of attention, the Order also put in place a possible framework for moving forward with a Muslim registry. By ordering the adoption of new screening standards for visitors, requiring more extensive data concerning individuals’ beliefs and mandating the creation of new databases on all visitors to the United States, the January 27th Executive Order – if eventually implemented – could pave the way for a de facto Muslim registry. If limited to registering Muslim foreigners seeking to travel to the United States, such a framework would not be unprecedented. Indeed, the administration might be putting in place a revamped version of a recently discontinued Bush-era registration program by limiting its Muslim registry to visitors and certain categories of immigrants. That registry, the National Security Entry-Exit Registration System (NSEERS), failed conspicuously to achieve its avowed goals.

In November, then President-elect Trump met with Kansas Secretary of State Kris Kobach (a member of the Trump transition team) who was photographed holding a proposal entitled “Department of Homeland Security Kobach Strategic Plan For First 365 Days.” The visible portions of the first page of the proposal include a section entitled “Bar the Entry of Potential Terrorists” that calls for reintroducing and updating the National Security Entry-Exit Registration System (NSEERS), tracking visitors from “high risk areas” and adding “extreme vetting questions.”

Kobach was an author of the original NSEERS program while serving in the Justice Department under the Bush administration in 2002. NSEERS did effectively create a registry for some Muslims and did so in a way that remained under the radar for most Americans: male noncitizens over the age of 16 traveling to or present in the United States from 24 Arab or Muslim majority
countries (plus North Korea) were registered. Men from those countries were required to enter the U.S. at designated airports (rather than the airport closest to their destination) in order to be fingerprinted, photographed and interrogated. They were also required to check in with immigration officials at regular intervals and to depart only from designated airports.

For individuals already in the country when NSEERS was introduced, the consequences were severe. Men originally from the designated countries (except green card holders or U.S. citizens) were required to report for questioning before immigration officials. This aspect of NSEERS, known as “call-in registration” or “Special Registration,” sowed chaos amongst immigrant communities and proliferated new grounds for deporting those impacted. Because registration requirements did not exist at the time their original visas were issued, many were not on notice that the new registration rules applied to them. For example, a student who had obtained a visa to study in the U.S. prior to June 2002 would not have been informed of registration requirements, but might subsequently be deported for failure to comply when attempting to exit the country at the end of the academic year. As a result of the severity of the penalty for inadvertent noncompliance, there was a broad effort by civil liberties and immigrants’ rights organizations to spread the word about the new requirement.

The ensuing confusion, panic and trauma to long-standing immigrant communities was extensive. For example, when the first registration deadline approached in December 2002, over 400 individuals of Iranian origin in California who were rushing to comply with the new Special Registration rules were arrested. In New York, deportations hollowed out parts of the Pakistani immigrant community. Immigration offices were not staffed to effectively administer the program, creating massive delays, with huge lines of people trying to register by published deadlines and repeated cases of mistaken detentions and removal proceedings.

From 2002 to 2003, over 83,500 men were processed through Special Registration and more than 13,700 were placed into deportation proceedings as a direct consequence of voluntarily complying with the requirements. In this sense, NSEERS was not just a registry but also a program that multiplied the grounds for deporting men based on national origin. By contrast, NSEERS was highly ineffective at its intended goal of producing intelligence, yielding not a single terrorism-related prosecution during the decade it remained in place.

From the beginning, NSEERS was widely criticized for imposing serious immigration penalties on those already in the country and onerous and intrusive burdens on those seeking to visit. Moreover, law enforcement experts viewed the program as undermining effective counter-terrorism because profiling based on broad categories like national origin required vast resources and ran the risk of confusing signal and noise. As a result of sustained opposition and controversies concerning implementation, aspects of the program were suspended as early as December 2003 when “check in” requirements were dropped. But the requirement that travelers register at ports of entry and depart only from designated airports remained in place for eight more years, making travel from designated countries cumbersome and stressful.

Eventually, the introduction of other programs collecting biometric information from all visitors and at all airports rendered NSEERS registration requirements duplicative. On April 28, 2011, DHS announced that NSEERS had been suspended and the 25 designated countries had been delisted. In explaining the decision, the announcement terminating the program stated that the department would “seek to identify individuals and actions that pose specific threats, rather than focusing on more general designations of groups of individuals, such as country of origin.”

The 2011 DHS announcement ended the application of NSEERS but retained the regulatory framework for the

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1 The countries designated for NSEERS were announced in four groups: (1) Iran, Iraq, Libya, Sudan, and Syria; (2) Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, the UAE, and Yemen; (3) Pakistan and Saudi Arabia; and (4) Bangladesh, Egypt, Indonesia, Jordan and Kuwait.
program. As a consequence, Kobach’s proposal to update and reinstate NSEERS might have been a relatively simple step for the incoming Trump administration. Following the election, however, pressure mounted on the Obama administration to fully rescind the regulations. On November 21, a letter signed by 200 civil rights and interfaith organizations was published calling on the Obama administration to rescind the regulatory framework for NSEERS. Ten days later, over fifty Democratic members of the House sent a letter to President Obama calling for NSEERS regulations to be repealed. The Obama administration eventually announced that it would dismantle the dormant program. According to a statement by a DHS spokesman, the department would remove the “outdated regulations” because they had determined “that NSEERS is not only obsolete, but that its use would divert limited personnel and resources from more effective measures.”

Repealing the regulatory framework for NSEERS may well have slowed the Trump administration’s ability to instantly recreate a targeted registry for immigrants traveling from Muslim majority countries, but it cannot prevent the creation of a similar program. While NSEERS was widely deemed counter-productive in preventing terrorism, it was never found unconstitutional. Indeed, attempts to constitutionally challenge the program failed with federal district courts across the country. In 2008, when a challenge reached the Second Circuit, that federal appellate court also ruled in favor of the program. Under current constitutional jurisprudence, the federal government’s authority over immigration allows for certain kinds of national-origin based discrimination at our borders. We do not yet know whether a categorical bar on entry for classes of aliens based exclusively on national origin will withstand scrutiny; the litigation in the Ninth Circuit may soon answer that question. But the creation of a de facto Muslim registry based on national origin, along the lines of NSEERS, has survived earlier challenges.

That said, the Trump administration may face novel constitutional hurdles regarding its preferred Muslim registry that did not arise in the case of NSEERS. The “extreme vetting questions” listed by Kobach on his proposal were clearly related to religious belief (including questions about Sharia, jihad and gender equality). A thinly veiled version of the same questions appeared in the January 27th Executive Order. For instance, a leaked draft of the Executive Order referenced “violent religious edicts” rather than Sharia and jihad. The language in the version of the Order that was eventually promulgated references screening for individuals “who would place violent ideologies over American law.” Though the administration’s vetting questions are designed, on their face, to create a registry by targeting groups based not on religion as such but on national origin, the embrace of religious profiling by Mr. Trump and his advisors may well have undermined the perceived constitutionality of that effort. A federal database registering all Muslims in the United States – including green card holders and citizens – would almost certainly constitute unconstitutional discrimination. Numerous prominent technology companies have vowed not to cooperate with federal efforts to build such a database. Indeed, the uproar following Trump advisor Carl Higbie’s comments concerning the internment of Japanese-Americans as a legal precedent for a Muslim registry shows that such an effort would meet with strong resistance.

Whereas the Bush administration disavowed religious profiling in its post-9/11 policies, Mr. Trump repeatedly stated his intention to specifically target the Muslim community both during the campaign and in the transition following the election. The ruling in the Ninth Circuit that upheld the temporary injunction on the January 27th Executive Order suggests that the same federal courts that found the NSEERS program constitutional might reach a different conclusion if the new registration system were determined to be based on religious animus. Further, because the U.S. now has an entry-exit system for all foreign visitors, the rationale for introducing an additional registry targeting a subset of visitors from Muslim-majority countries might be deemed less plausible. Because the announcement from DHS that repealed the regulations for the earlier registry explicitly states the department’s view that NSEERS is redundant, obsolete and an unjustified diversion of resources, the Trump administration might
face a challenge persuading a court of the need for another comparable program.

Although there may be precedent for a version of Trump’s “Muslim registry,” the new administration’s explicit framing of its proposal as religious profiling may well undermine its ability to rely on that precedent.

Mr. Trump has also suggested that he would pursue broad surveillance of American mosques and Muslim American communities. On December 15, Republican Congressman Peter King met with the President-elect and told reporters afterwards that they discussed a proposal to create a federal Muslim surveillance program, modeled on a New York Police Department program that was ultimately terminated following a series of constitutional challenges. Such a program targeting Muslim citizens would likely face significant constitutional challenges for violating the right to equal protection guaranteed by the Fifth and Fourteenth Amendments as well as the First Amendment prohibition on interference with the free exercise of religion. To the extent that the surveillance and data-mining contemplated by Trump might require assistance from the tech industry, an additional obstacle may be the public pledge by a number of companies and individual computer engineers that they would refuse to cooperate with religious profiling.

Still, the NYPD’s intelligence division, with the assistance of the CIA, operated such a mosque surveillance program from 2002 until 2014 before it was disbanded, which suggests just how long illegal and discriminatory actions can endure before constitutional challenges and other forms of resistance prevail. In the end, much like NSEERS, the NYPD counter-terrorism surveillance policies based on religious profiling resulted in “not one actionable piece of intelligence,” according to New York Police Commissioner William J. Bratton. But the damage to American Muslim communities in New York had been done leaving a legacy of deep distrust in law enforcement agencies and a pervasive climate of fear. If President Trump decides to adopt a similar surveillance strategy nationwide, the damage would be much more extensive even if the program were ultimately deemed unconstitutional.

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Vetting Trump’s Vetting of Refugees

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On January 27, President Trump signed an Executive Order banning citizens from Iran, Iraq, Libya, Sudan, Yemen, Somalia, and Syria for 90 days, stopping all refugee resettlement for four months, and barring all Syrian refugees indefinitely.

Though the policy is being severely challenged in the courts, the White House’s elevation of a politicized, securitized discourse on refugee questions should remain an issue of deep concern for those of us who study the Middle East. Our work brings us into contact with refugees – defined as persons who have been forced to flee their countries due to war, violence, or persecution for reasons of race, religion, nationality, political opinion or membership in a social group – in many ways. We document and analyze the conditions that produce refugees and trace the effects of population flows on the political, economic, and social geography of the countries we study. We also investigate refugees as subjects in their own right: interviewing and surveying them, mapping their dispersion, and measuring their behavior, organization, attitudes, and identities. When conditions make it difficult for us to get to particular areas, we often turn to refugees, as well as migrants and exiles, as vital sources of information and insight about conditions there.

Given the extent to which refugees figure into our work directly or indirectly, the Middle East studies community should take hostility to Middle East refugees as a challenge its own mission to promote understanding of the region and its peoples. In what follows, I sketch four ways in which we can meet this challenge by contesting some of the key ideas justifying the new policy.

1. Extreme what, exactly?

As a candidate, Trump repeatedly said that the U.S. government had little information about the Syrian refugees it accepted and, on that basis, proposed a new program of “extreme vetting.” He made this point forcefully in the wake of the June 2016 Orlando shooting, drawing a link between refugees and a mass murder perpetrated by an American killer. “We don’t know who they are,” Trump said about Syrian refugees. “They have no documentation, and we don’t know what they’re planning.”

Middle East scholars can add our voices to the chorus of those contesting such statements. The United States only considers Syrians for asylum after the United Nations High Commissioner for Refugee (UNHCR) registers them, interviews them, grants them refugee status, and chooses to refer them to the U.S. – a decision typically reserved for only the most vulnerable one percent of refugees across the globe. Refugee applicants are then reviewed by the State Department, which conducts two to three background checks and matches their photos and fingerprints to biometric security databases. Syrians then undergo one or two layers of review by the United States Citizenship and Immigration Services, a thorough interview with the Department of Homeland Security, a medical screening, and a cultural orientation class. Only then are they matched with an American resettlement agency, after which they undergo other security checks before leaving for the U.S. and upon arriving in the U.S. The entire process usually takes up to years.

Refugee experts point out that this screening process is already one of the most exhaustive in the world. It is difficult to imagine how it could be made more effective in catching potential security threats. We must be vigilant in pressing the question: is this really what the proposed new vetting even seeks to do? Or is it instead a guise for religious profiling, ideological testing, or other forms of discrimination?

2. Don’t blame the victim

Apart from misrepresenting the vetting process, then
President-elect Trump accused Syrian refugees of links to terrorism, declaring that they are “definitely in many cases, ISIS-aligned.” We have a role to play in making sure such unjust accusations do not crystalize as an acceptable narrative and can do so by hammering home, at every opportunity, two points. First, Syrian refugees are fleeing the terror of state violence, war, persecution, and extremists like ISIS. Who will oppose terror more than those who have suffered from it? Second, the historical record shows that no refugee has ever carried out a terrorist attack on U.S. soil.

Rather, acts of terrorism in this country are far more likely to be committed by native-born citizens than newcomers. Data collected by the New America Foundation counted only 12 refugees among the 546 extremists in the United States charged with terrorism since 9/11. This rendered refugees just two percent of the total, as opposed to the 63 percent who were U.S.-born. The Migration Policy Institute examined the cases of 784,000 refugees resettled in the United States since 9/11. Only three were arrested for plotting terrorist activities, all of which concerned sending money and weapons overseas. The only connection to potential terror here at home came from one Uzbek refugee, who made unsubstantiated boasts about such attacks.

3. Keep perspective

As a candidate, Trump called “to stop the tremendous flow of Syrian refugees into the United States,” citing their numbers as reaching the “tens of thousands.” Here, we also must set the record straight. From the start of the Syrian conflict in 2011 through the end of 2016, the United States resettled 18,007 Syrian refugees (nearly 90 percent of them since October 2015). This amounts to about 0.3 percent of the 5,747,239 Syrian refugees that the UNHCR reports are currently being hosted by states in the Middle East and Europe. As of this writing, there are 2,814,631 million registered Syrian refugees in Turkey, 1,017,433 in Lebanon, 655,399 in Jordan, 230,836 in Iraq, 115,204 in Egypt, and 29,275 elsewhere in North Africa, in addition to 884,461 seeking asylum in Europe, most in Germany and Sweden. These tallies include neither the unknown numbers of refugees who are unregistered, nor the 7.6 million Syrians believed to be internally displaced.

No conversation about America’s admission of Syrian refugees should pass without attention to the staggering burden being born by far less wealthy countries, and how light the U.S. share is in comparison. Those of us who know Turkey, Lebanon, and Jordan can also communicate the magnitude of the crisis for these host states, given their own domestic political fissures, economic troubles, deficient public infrastructure, or scarcity of basic resources such as water. We can describe how Syrians in these countries languish in legal limbo, vulnerable to exploitation and impoverishment, and how half of the 1.5 million Syrian children are not in school. Of course, many Middle Eastern refugees who risk their lives to smuggle themselves to Europe also continue to suffer, as the asylum seekers who froze to death in early January remind us.

We can work to make these facts, figures, and stories a part of any discussion about admission of Syrian refugees to the United States. And then we can pose the question: can and should this country do more?

4. Amplify refugee’s voices

Nothing can create empathy for refugees’ plights and basic humanity, more than listening to them tell their own stories. Most Americans have never met a refugee from the Middle East. As people who know the region, speak its languages, or maintain connections to its diasporic communities, we can play a role in bridging this gap. We can invite – into our classrooms, civic groups, or congregations – people from the Middle East, be they those who have fled persecution or those who can testify why others are forced to do so. We can recommend and share any of the stunning plethora of phenomenal written, audio, and visual works in which individuals from the region bring to life the circumstances that force people from their homes and the soul-gutting challenge of starting life anew. We can incorporate these voices into our own writing, teaching, and public speaking, passing
them along to the audiences that our work tries to reach. My forthcoming book, for example, undertakes to tell the story of Syria’s uprising and war exclusively through the words of the displaced persons I have interviewed during the past four years. In these and many other ways, we can take advantage of our unique positioning to make sure that conversations about refugees actually include refugees.

Public discourse and policy-making that maligns the most vulnerable individuals and families of the Middle East is a challenge to our work generating both knowledge about and empathy for the region. Yet as vital as is our duty to advocate for and protect refugees, these remain humanitarian bandages on fundamentally political wounds. We who study those wounds can also continue to make publicly accessible what we know about the causes of war, authoritarianism, human rights abuse, and state failure in the region, including the role of the United States in creating these conditions. Promoting a deeper understanding of the region is necessary to make the refugee crisis comprehensible to ordinary Americans. And this is necessary to lay bare our moral responsibility to ordinary Middle Easterners who seek the freedom and dignity that we are lucky enough to take for granted.

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Supporters of President Donald Trump, and many empowered by his electoral success and message, had been mobilized even before he won the general election, to put forth counter-narratives to those prevailing in the American mainstream. The anti-establishment mood, common to majorities of Americans, right and left, was seen as an opportunity to push alternate—sometimes extreme, even racist—views. Regardless of where Trump or his official advisors fall, those empowered by them will launch an assault on many of the prevalent mainstream ideas. We already see hints that this will include how they frame Islam and Muslims, and Israel’s occupation of the West Bank.

At some level, this is merely a function of a deep partisan divide on these issues that has been captured by polls over the past few years; in the primary debates, Democratic and Republican candidates expressed vastly different world views on the relationship between Islam and terrorism, suspicion of Muslims and support or opposition to Israeli settlements in the West Bank. The Trump factor and extremist positions—such as banning all Muslims from entering the United States, coupled with the deep anti-establishment mood, further empowered extremist positions.

Focus on “Islamic terrorism” or even drawing links between the nature of the Islamic faith and terrorism is likely to become more common. So too will the assault on the need for a Palestinian state, whether Israel’s control of the West Bank is an occupation, and whether Israel has the right to annex parts of the West Bank into Israel.

The question is whether these efforts are likely to succeed in shifting American public attitudes during the presidency of Donald Trump.

To analyze the expected impact of Trump’s presidency on public attitudes of Islam and Muslims, and aspects of the Israeli-Palestinian conflict, it’s important to understand the dynamics that significantly impacted public attitudes during the 2016 election year. I designed a poll that probed American attitudes on two specific aspects: favorable/unfavorable views of Islam and Muslims; and support for punitive measures against Israeli settlements in the West Bank.

Four polls during the election year revealed extraordinary, progressive and unexpected shifts that cannot be explained by events during that year. Attitudes toward “Muslim people” became progressively more favorable from 53 percent in November 2015 to 70 percent in October 2016. Even attitudes toward Islam itself (generally more unfavorable than attitudes toward Muslims) showed significant improvement: favorable attitudes went from 37 percent in November 2015 to 49 percent in October 2016, reaching the highest favorable level since 9/11.

On Israel-Palestine, there was a large shift in the number of people favoring imposition of sanctions on Israel over its settlement policy. Support for sanctions or more serious action went up from 38 percent in November 2014 to 46 percent in November 2016.
This kind of large shift does not normally take place in one year unless there are some extraordinary events taking place. In fact, there were some consequential events that would have led one to expect the opposite shift: terrorism in the name of Islam in San Bernardino and Orlando, as well as a heated campaign year during which the Republican candidates, and many of their supporters, voiced much anti-Muslim rhetoric. On the Israeli-Palestinian conflict, throughout the election year, Republican candidates competed as to who was the strongest supporter of Israel and its Prime Minister, Benjamin Netanyahu, and Democrats lowered the profile of this issue during the campaign. So, how are these kind of shifts possible in a single year?

One hint comes from the partisan divide on these issues. Almost all the shifts came from Democrats and Independents, not Republicans. Among Democrats, the shift was significant enough to impact overall results. Favorable attitudes toward Muslims improved from 67 percent to 81 percent. Favorable attitudes toward Islam went from 51 percent to 66 percent. And support for sanctions/more serious action against Israeli settlements among Democrats went up from 48 percent to 60 percent. The gap between Democrats and Republicans grew from 16 percent to 29 percent.


As on almost all issues, partisan divisions intensified during a highly divisive election year—including on Islam and Muslims, and the Palestinian-Israeli conflict. And the more one side emphasized the issue (as happened with Trump on Islam and Muslims) the more the other side took the opposite position. This was also true on the Palestinian-Israeli conflict, where Republican candidates invoked Israel and its Prime Minister more than any other country or leader during their primary debates; all the while, even as the Palestinian-Israeli conflict was not a priority, Democrats remembered the role Netanyahu played against Obama’s signature foreign policy issue, the Iran nuclear deal. So, sharp partisanship during a particularly divisive election year provides some of the explanation for the shift.

But there was another related aspect that intensified reaction. Because Middle East-related issues touched on Americans’ top priority issue (fighting ISIS, which ranked first across the political spectrum throughout the year), the stakes for politicians and opinion leaders were especially high. For Democratic politicians, ceding the narrative to Republicans on these issues meant losing the election battle. Everyone had a greater incentive to put forth a counter-narrative, from the leading candidates, Hillary Clinton and Bernie Sanders, to President Barack Obama. This counter narrative, reinforced by sympathetic opinion leaders, added more weight to the sharp divide and may have had impact not only on Democrats but also on Independents.

Sure, there are demographic trends favoring the Democrats on these issues: expanding segments of the American public, such as millennials and Hispanic, Asian, and African Americans, tend to have more favorable views on Islam and Muslims and tend to be somewhat less supportive of Israel. But the impact of these trends cannot be felt in one year, which suggests that the dynamics articulated above are the principle causes.

So what does this suggest about the impact of Trump’s presidency on public attitudes?

As suggested earlier, there will almost inevitably be an assault on dominant narratives on both the Palestinian-Israeli issue and on Islam and Muslims. The question is: how will this play out? What’s the chance it will succeed in changing public attitudes? What could be learned from the past year?

At some level, despite the uniqueness of Donald Trump, there are some similarities with the time when the administration of George W. Bush took over after two terms of Bill Clinton. In the months prior to 9/11, Bush pursued a policy that pushed against many of his predecessor’s policies. He gave more license to Israel in its confrontation
with the Palestinians, lowered that issue in American priorities, and many of his supporters advocated a view of Islam and Muslims that’s more compatible with notions of civilizational clash. But, even though Democrats were on the defensive, it’s unlikely that the effort would have succeeded without the 9/11 disaster that enabled reshuffling of the political deck, and mobilized almost all Americans behind the White House in its immediate aftermath.

The success of a narrative campaign, led by groups and individuals empowered by the atmosphere created by the Trump presidency, (even if not directly sponsored or supported by his administration), is dependent on Trump’s own popularity and policy success and on the groups and leaders who have incentive to counter that narrative. What is already clear from the presidential transition and the first few days of the Trump administration is this: partisanship did not die, or even diminish immediately after the election. And polls show the president starts his term with unprecedented unpopularity.

Evidence suggests that during the election year, attitudes of most Americans toward Islam and Muslims improved overall precisely because Trump the candidate was seen to have the opposite view. Trump the president should have more sway. But he is starting at place where partisanship is not diminishing, and where his presidential rhetoric mirrors his words as a partisan candidate.

The incentive to counter Trump’s views could not be missed in the historic Women’s March the day after the inauguration. And Trump has managed to alienate not only the media, but also many members of Congress, by attacking the Washington establishment in his inaugural speech. In this environment, the impact of narratives pushed by groups that draw empowerment directly from Trump’s success could be limited—or even generate the opposite results.

But we are at the beginning of the administration, and things could change quickly. Government actions and policies are likely to set the agenda of the conversation in the coming weeks. Republicans control both the White House and Congress; while many congressional leaders are frustrated with Trump, they want to push their central issues, especially on Supreme Court appointments and Obamacare. Democrats are lacking a clear leader and, more importantly, the pulpit of the presidency. Crises are inevitable, and those could reshape public priorities and the national conversations, and presidents usually have advantages in their ability to exploit crises in their favor. Much depends not only on what America does, but also on what others do.

If only two months ago I had to predict the likely trends in American public attitudes after the election toward Islam and Muslims I would have expected some reversal of the favorable change that took place during the election year, while still expecting a deep partisan divide—regardless of who had won the election. A few days into the Trump administration, I now think the reversal could be limited. The partisanship is not diminishing and seems unlikely to be overturned without an extraordinary crisis; and the incentive for leaders and groups to advance counter-narratives to those of Trump’s supporters remains high.

On the Israeli-Palestinian conflict, the counter-narrative could be harder to come by. Much of the counter-Republican narrative on the Israeli-Palestinian conflict came from Obama’s White House, strongly supported by rank and file Democrats. But congressional Democrats (now narrative leaders for the party) have been less in harmony with the rank and file on this issue, as demonstrated by the majority criticizing the anti-Israeli-settlement United Nations Security Council Resolution 2334 that Obama allowed to pass. Here too, much also depends on what happens on the ground and whether it will raise the Israeli-Palestinian conflict in Americans’ priorities.

The Trump era is like no other, in part because the president himself is like no other. But the very fact that he started his administration sounding more like a candidate than a president means that his ability to empower major paradigmatic shifts in American public attitudes will be limited, at least in the short term.

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Studying Islamic Movements in the Age of Trump

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Scholarly specialists on political Islam are set to face considerable obstacles in their contributions to scholarly and public debates during the Trump administration. The White House has shifted the focus of its national security policy towards fighting “radical Islam,” appears to support the designation of the Muslim Brotherhood as a Foreign Terrorist Organization, and has generally moved to blur the lines between different strands of Islamic activism. These policy shifts will pose sharp challenges to those scholars who have specialized in studying such movements.

Islamist movements have been a central and growing element of political science research on the Middle East. The emergence of political movements espousing Islamic values as an organizing principle has been part and parcel of the decolonization and nation-building processes across the Arab world and beyond since the early twentieth century. Movements such as the Muslim Brotherhood, founded in interwar Egypt by Hasan al-Banna, a schoolteacher who argued that colonialism and nationalism had disempowered Muslim societies, have contributed to the cultural landscapes of these societies even as they have existed largely on the margins of the reigning political order.

Although Western scholars examined this phenomenon from its earliest days, yielding such seminal works as Richard Mitchell’s 1969 book, *The Society of the Muslim Brothers*, research into Islamic movements accelerated rapidly in the 1980s, in the wake of major events like the Islamic revolution in Iran, the Afghan jihad against the Soviet invasion, the assassination of Egyptian president Anwar al-Sadat by Islamic militants, and the successful move into electoral politics by Islamist movements in countries such as Algeria, Egypt and Jordan.

As American policymakers faced the challenge of contending with the rise of both violent extremist groups and nonviolent religious opposition movements within Middle Eastern societies, scholars provided much needed nuance and contextualization in the form of deeply researched studies based on years of fieldwork. These works quite often explained the emergence of Islamic movements as the product of historical processes and recent socioeconomic and political developments. They also offered a typology that distinguishes between movements that call for gradual political change through education, charity, legal reform, and democratic participation, like the Muslim Brotherhood, and groups that challenge the status quo through militant violence, such as al-Qaeda.

However, by offering their scholarly assessments, academic experts frequently found themselves subject to accusations that they were advocating for these movements or excusing their worst excesses. This appraisal became even more pronounced after 9/11, when the entire field of Middle East studies confronted the serious charge of having downplayed the threat of Islamic extremism. For interpreting the grievances and motivations behind the militant insurgency that emerged from pockets of disaffected Arab youth, some critics charged that such analyses verged on justifying the attacks, even as many in the policy community agreed that it is necessary to understand the root causes behind these events in order to address them more effectively.

The wave of uprisings that swept across the Arab world beginning in late 2010 again pushed scholars to address the role that Islamic movements were poised to play in the post-authoritarian transitions. Many argued that it was in the interest of the U.S. to abandon its longstanding support for dictators and get on the right side of history. This entailed supporting popular calls for democracy and respecting the electoral choices of Arab societies, even if that meant accepting the rise to power of Islamist parties who have been historically critical of American policy toward their nations. In interpreting the electoral success of Islamists and warning of the consequences of restoring repressive regimes, scholars were not necessarily advocating on behalf of a particular group or party. Rather, in the same way that critics of the 1953 U.S.-led coup in Iran foresaw the long-term damage it would do to U.S.-Iranian relations, so too did scholars who voiced concerns over the 2013 coup in Egypt believe that American support
for the Sisi regime’s human rights abuses was bound to backfire.

Based on the signs so far, scholars offering similar critiques are unlikely to find much of a reception in the new administration. President Donald Trump appears to have empowered ideologically driven pundits with a history of hostility toward Middle East specialists. Many of these same forces have previously lobbied Congress to designate the Muslim Brotherhood a terrorist organization. During his confirmation hearing for secretary of state, Rex Tillerson suggested that the Trump administration would combat the Muslim Brotherhood alongside its battle against al-Qaeda. Having previously echoed the sentiments of the region’s most repressive rulers, it came as no surprise when Sisi became the first foreign leader to congratulate Trump on his election or when Bashar al-Assad labeled the new American president a “natural ally.”

Not only would the Muslim Brotherhood’s designation signal a significant shift in U.S. policy, but the move would also likely impact scholars hoping to contribute their knowledge to the formulation of that policy. To be sure, there have always been challenges in the study of social movements in the Middle East. Access to relevant archival material in authoritarian regimes is sparse to non-existent. Scholars frequently risk brushes with state security officials, as in the tragic case of Giulio Regeni, the Italian graduate student brutally murdered last year, likely by intelligence agents, while conducting fieldwork on Egyptian labor movements. However, along with the hazards of doing research on a contentious topic abroad, American scholars now have an added layer of concern awaiting them at home. It is too soon to tell what legal ramifications there may be for researchers of a movement that has been designated a terrorist organization by the U.S. government. But in practical terms, the move can be expected to have a major chilling effect on American scholars attempting to do research on the Muslim Brotherhood as well as on public and private institutions that provide resources to that endeavor.

The highly politicized and hastily devised measure has implications far beyond the study of the original Muslim Brotherhood movement in Egypt, which currently finds itself outlawed and on the run from the Sisi regime and its regional allies. The Ennahda Party was the initial victor in the post-authoritarian transition in Tunisia and continues to play a prominent role in a democratically elected government that maintains strong ties with the U.S. The Jordanian monarchy, another American ally, just oversaw elections in which members of the Muslim Brotherhood won the largest single share in parliament. The Syrian Muslim Brotherhood plays a prominent role in the American-backed Syrian National Council that aims to displace the Assad regime. Political parties with roots in the Muslim Brotherhood have played roles of varying significance in the governments of Kuwait, Bahrain, and Morocco. There is little to be gained from the decision to give a blanket terrorist label to the Muslim Brotherhood, beyond cutting off the U.S. government from crucial knowledge of key developments in the region.

Specialists who have devoted their careers to providing valuable insights about a frequently misunderstood subject now find themselves in a precarious position with little precedent, even in the aftermath of 9/11. Despite the antipathy that the Bush-era neocons expressed toward political Islam, their commitment to democratization (however superficial it may have proven to be) meant that on some level they had to account for the possibility that Islamist parties would be the primary beneficiaries of elections (as in Egypt in 2005 and Palestine in 2006). With Trump and his team committing themselves fully to supporting secular authoritarians and generalizing their enmity from Islamic militancy to Islam writ large, that is no longer the case.

But if the incoming administration has determined that it has no need for scholarly expertise on matters that are sure to impact U.S. policy in the years ahead, that is no reason for researchers to sit idly by awaiting the election of a more receptive president. Rather, they should seize the opportunity to engage more directly with Americans who would benefit from obtaining a deeper understanding of the ways in which our elected leaders’ policies have shaped political outcomes in other parts of the world, and in turn, the consequences that developments in those societies have had on us at home.

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Designating the Muslim Brotherhood a Foreign Terrorist Organization May Actually Backfire*

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Since 1997, U.S. law has empowered the secretary of state to designate specific groups as “foreign terrorist organizations,” bringing down on them—and those who support them—an imposing range of penalties and sanctions.

Such designations have come through a complex bureaucratic process. Several times in recent years, members of Congress have introduced legislation asking the secretary of state to designate the Muslim Brotherhood as a foreign terrorist organization, but those efforts have not made it as far as floor votes, and would not have been greeted with enthusiasm by the Obama administration in any case.

Now there are new efforts from the Trump administration, as well as the Congress, to take up the question of designating the Brotherhood anew. President Donald Trump reportedly is considering an executive order to instruct the secretary of state (who has not even taken up his duties yet) to undertake the process; national security advisor Mike Flynn and secretary of state nominee Rex Tillerson have already suggested they are similarly inclined. In addition, recently-introduced bills by Senator Ted Cruz and Congressman Mario Diaz-Balart call on the secretary of state to report back to Congress within 60 days on the designation question. Members of Congress and key parts of the executive branch are being called upon to ask: Is there something called the Muslim Brotherhood that fits the definition in U.S. law of a foreign terrorist organization? And would designating it as such be an effective way of fighting terrorism in the United States and abroad?

Reversing the Burden of Proof

Cruz’s bill is very brief and seems quite clear in its intent and most of its inclinations. It expresses the sense of Congress that the Muslim Brotherhood is a foreign terrorist organization and calls on the administration to agree or to prove otherwise. In that respect it reverses the typical burden of proof. According to established procedures, a variety of U.S. government agencies consider whether to apply the foreign terrorist organization designation and then allow Congress the opportunity to object. Under the bill, Congress would speak first and force the administration either to agree or, if it did not, to argue the Muslim Brotherhood’s case in public—something the Trump administration is unlikely to wish to do. While the bureaucratic agencies would still be involved, the process would be far more political in nature than past designations.

But for all its clarity on what should be done, the bill is completely silent on one question, and that silence is portentous, as it would lead to the most pernicious effects of the legislation: The bill starkly declares the Muslim Brotherhood to be a terrorist organization, but it does not define what the Brotherhood is.

Nor is a definition easy. There is no single thing called the Muslim Brotherhood, but instead a number of organizations, movements, parties, associations, and informal groups that take some inspiration, sometimes direct and sometimes remote, from the original movement founded in Egypt in 1928 and the core texts its founder produced. Brotherhood-inspired movements long ago concluded that their circumstances were so distinct that each would follow the path it saw as appropriate in its own society (a point made by Marc Lynch in a recent paper for Carnegie). And there are many organizations that have

*This piece originally appeared in the Carnegie Middle East Center’s blog, Diwan, and is republished here with permission. It can be accessed at http://carnegie-mec.org/diwan/67771
been formed with varying degrees of participation from Brotherhood members, but their ties to any Brotherhood organization are often informal and vary in scope. Nor is their use or espousal of violence, a key aspect of the terrorism designation, a given, even if one branch of the Muslim Brotherhood that has unarguably used violence in recent years is the Palestinian organization Hamas, which the United States declared to be a foreign terrorist organization in 1997.

But far beyond Hamas, there are legal political parties in Indonesia, Pakistan, Morocco, Tunisia, Jordan, Iraq, Kuwait, Yemen, and even Israel that have roots in Muslim Brotherhood organizations. Many of these parties have cooperated with the United States in various ways. In Kuwait, a Muslim Brotherhood-affiliated party has supported the country’s alliance with the United States; in Iraq, a Brotherhood-inspired party cooperated with the U.S. occupation of the country. Morocco and Tunisia have Brotherhood-type parties participating in cabinets that work with the United States closely—and that strenuously defend their decision to pursue their agendas through electoral politics. Libya’s Justice and Construction Party has supported the UN-sponsored unity government, also endorsed by the United States. There are rebel groups in Syria that Washington has supported that have Muslim Brotherhood origins as well. Which of these should now be considered foreign terrorist organizations?

In addition, there are U.S. allies, such as Turkey and the United Kingdom, that have received refugees belonging to the Muslim Brotherhood. Qatar hosts not only the forward headquarters of the U.S. Central Command but also some Muslim Brotherhood leaders, notably from Egypt. Particularly significant is the fact that leaders of Turkey’s ruling party, the AKP, to which many of the new Trump administration officials are close, have long considered their movement an ideological kin to the Brotherhood and have treated Brotherhood-affiliated parties accordingly for at least the past decade. Should these allies now be considered state sponsors of terrorism?

Pushing Egypt’s Brotherhood Over the Edge?

There remains the question of Egypt, whose President Abdel-Fattah al-Sisi has been pushing allies to designate the Muslim Brotherhood a terrorist organization since he overthrew his predecessor Mohammed Morsi—who hailed from the Brotherhood—in 2013. As we write, a struggle continues within the Egyptian Muslim Brotherhood over how to deal with its predicament, which includes inter alia the imprisonment of thousands of its members including nearly all of its senior leaders, the death of more than a thousand people during the forceful breakup of sit-ins that followed the 2013 coup, the confiscation of assets and businesses owned by its leaders, the dissolution of more than 500 affiliated nongovernmental organizations, and the outlawing of the group’s political party and media organs. There is indeed a debate, particularly among younger members, about whether these circumstances call for abandoning the non-violent approach the group has taken since the early 1960s. The language coming from those associated with the Muslim Brotherhood has been steadily escalating for some time, and in recent weeks, some have pushed to abandon the leadership’s commitment to nonviolence. And there are reports that some of the small groups that have carried out attacks on Egyptian police stations and infrastructure may have young Brotherhood members among them.

What there is not, at least so far, is evidence that senior Muslim Brotherhood leaders have ordered or condoned such violence, or that the Brotherhood has carried out any of the major terrorist attacks that have wracked the country, such as the December 2016 church bombing in Cairo, the October 2015 downing of a Russian jet, and the many military-style assaults on Egyptian soldiers in the Sinai. Those attacks have been claimed by a group originally known as Ansar Beit al-Maqdis, which affiliated itself to the Islamic State and considers itself the Brotherhood’s ideological enemy (the United States declared it a foreign terrorist organization in 2014). Taking all of this into consideration, would it be wise to declare the Egyptian Muslim Brotherhood to be a terrorist organization, effectively forcing its leaders in that direction because all other political and legal avenues will be closed to them?
Thus the sweeping measure to declare the Brotherhood a foreign terrorist organization now being contemplated not only does not accord with the facts, but is also more likely to undermine than achieve its ostensible purpose and could result in collateral damage affecting other U.S. policy goals. The greatest damage might be in the realm of public diplomacy, as using a broad brush to paint all Muslim Brotherhood organizations as terrorists would be understood by many Muslims around the world as a declaration of war against non-violent political Islamists—and indeed against Islam itself.

The move could also have underappreciated domestic repercussions. Those pursuing the foreign terrorist organization designation have made clear that they regard major American Muslim organizations as Brotherhood-inspired. Several groups were named by the Department of Justice as unindicted co-conspirators in the criminal case launched against the Holy Land Foundation in Texas for allegedly supporting Hamas. It is clear that for some American Muslim leaders, and for some of their vociferous critics, the view that they are terrorist supporters hangs over them and their activities. Many American Muslims fear that the real targets of the effort to designate the Muslim Brotherhood are their communal organizations and that the step has as much or more to do with shutting down nettlesome domestic opposition as with protecting U.S. citizens from violence.

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‘Material Support for Terrorism’ Laws and Threats to Middle East Studies

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There is a hidden danger for academics and journalists lurking within Congressional legislation introduced by Senator Ted Cruz to designate the Muslim Brotherhood as a terrorist organization. Most discussion to date has focused on whether it is correct about the Muslim Brotherhood’s relationship with terrorism and the potential impact on Muslim-American organizations. There is another threat more specific to academic researchers and analysts: those who conduct research on the organization could find themselves at risk of prosecution for “material support” of terrorism.

Whatever else it might be, the Muslim Brotherhood is an organization that has been studied, contacted—and in some cases advised by a large percentage of academic researchers, journalists and analysts working on the Middle East. This raises a multitude of questions: what would it mean legally if the Brotherhood were officially designated a Foreign Terrorist Organization (FTO)? Could their files now be subpoenaed? Could the publishing of interviews with Brotherhood members now be designated as material support? Could speech activities related to defending the ideology and worldview of the Brotherhood, perhaps by contrasting it with more radical forms of jihadist ideology, be subject to prosecution?

The reason for concern lies in a recent dramatic expansion of the scope of “material support for terrorism” statues. Those statutes have, over the past decade, been a valuable and frequently used tool for prosecuting persons suspected of aiding or abetting terrorism. They have typically been interpreted to include financial, organizational or other types of material support.

The statute also criminalizes “expert advice or assistance.” On first glance, this is also not necessarily troubling. If one agrees is reasonable to prevent an American citizen from advising al-Qaeda or the Islamic State on how to hide money or build weapons, then the argument follows that there is an unqualified right to provide “expert advice or assistance” to a terrorist organization resulting from the right to speech or association.

However, the government—with the support of the Supreme Court in Holder v. Humanitarian Law Project (2010)—has defined “expert advice or assistance” more broadly than teaching a designated foreign terrorist organization on how to more effectively advance its violent goals. According to present interpretations of the law, it is also illegal to provide any organization on the State Department’s list of terrorist organizations (or even just “terrorists” not on the official list) with “expert advice or assistance” even if it aims at peaceful, or even peace-making, aims. It is conceivably already a federal crime for Jimmy Carter to advise Hezbollah or Hamas on negotiation tactics in the pursuit of a negotiated peace or some limited human rights aims.

It recently got even worse than that. The Supreme Court upheld the material support statute in Holder v. Humanitarian Law Project on the grounds that it only criminalizes actual expert advice or assistance “directed to, coordinated with, or controlled by foreign terrorist groups” and not mere association with persons who may also be members of such groups or “independent advocacy” of viewpoints or causes that may also be shared by terrorist groups. The problem is that in practice the law serves to help criminalize independent speech or mere association with groups on the FTO list.

The implications of this became clear in an important 2011 criminal trial in Boston, U.S. vs. Tarek Mehanna, a trial on which I served as an expert witness for the defense. In this case, a Boston-area pharmacology student was prosecuted on the basis of the material support statute for two broad sets of activities: (1) traveling to Yemen for less than a
week purportedly in search of a training camp in order to later participate in the anti-occupation insurgency in Iraq.
And (2) translating various Islamic legal texts and videos associated with jihad and discussing these issues with local American Muslims. According to the law as defended in *Holder v. Humanitarian Law Project*, Mehanna’s various speech activities could only be criminal if translation does, indeed, amount to a kind of “expert assistance” and if it was done in a manner “directed to, coordinated with, or controlled by foreign terrorist groups.”

The case reveals three more expansive possibilities for prosecuting speech. First, much of what Mehanna translated was not “crime-facilitating” material, i.e., material that provides technical knowledge of how to commit a crime. Rather, it was either propaganda or Islamic legal and theological discussions.

Secondly, the law of conspiracy allows the government to prosecute speech that is not “directed to, coordinated with, or controlled by foreign terrorist groups.” The government argued that “providing translation services and distributing material *intended* to inspire others to participate in violent jihad,” expressing “support for successes of the terrorists and setback for the American and other westerners, and *rejection of moderation, and desire* to leave the U.S. and not live amongst the ‘kuffars,’” and “efforts to convince and radicalize others” could all be construed as overt acts in pursuit of a *conspiracy* to provide support for terrorism even if there were no actual contact whatsoever between the individual and actual terrorist groups.

Third, the government is permitted to bring into a criminal trial virtually unlimited amounts of private speech about religious and political matters on the grounds that they go to the “state of mind” of a defendant in engaging in other kinds of speech in defense of the cause of “jihad.”

What does this have to do with academics and the scholarly study of the Middle East? Suppose that a university or trade press publishes a translation of a text written or published by or on behalf of an organization connected with terrorism, or by a writer connected with such an organization. If the press has to contact a publisher for rights, or downloads the text from a website associated with an FTO in some way, has it coordinated with an FTO and thus provided it with material support? Suppose the editor or translator of the text has elsewhere expressed political or religious opinions that are critical of the United States or favorable to the politics of organizations that engage in terrorism or are on the FTO list. Can these opinions be used as evidence that his or her *intent* in producing an academic or trade translation was to conspire to provide material support for a terrorist organization?

Suppose a scholar creates a public website devoted to the study of jihad, political violence and terrorism and posts translations and discussions of material downloaded from the original source websites. Has this person, and their organization, made herself liable to prosecution? Suppose the researcher has to acquire access to a closed website associated with an FTO by getting a username and password (perhaps by lying about their identity and motivation), and thus enters into some kind of cooperation or coordination with that group. Has this person, and his or her organization, now made herself liable to prosecution? Can these opinions be used as evidence that his or her *intent* in producing the translations and the website was to conspire to provide material support for a terrorist organization?

Such scenarios are very common. It would be a mistake to focus on the narrow question of whether the government “got the wrong guys” in this or that case, or prosecuted people entirely engaged in innocent activities. If the evidence pertaining to speech is used narrowly to demonstrate state of mind and intent behind very specific crimes— like attempting to travel to a terrorist group’s location or to plan attacks at home— there do not appear to be novel uses of political and religious speech at stake. What is crucial is the development of prosecutorial standards by which declarations of ideological affiliation or affinity are taken as evidence for the state of mind in which persons engage in other (not always violent) acts and at most evidence for a conspiracy to provide *speech itself* as material support.
Now, some may be willing to pay these costs to free speech and association when we are talking about supporters of actual terrorist groups of the likes of al-Qaeda and the Islamic State. But what happens when a group like the Muslim Brotherhood is added to the FTO list? Any distinction between genuinely violent and all other Islamist organizations is eradicated.

To designate the Muslim Brotherhood a terrorist organization is to potentially designate any NGO, think-tank or charity organization with any link whatsoever to the broad Islamist movement as illegal. Not only does this put at risk of prosecution all such non-violent associations, but it also risks potentially any independent scholars or journalists who provide them even with the assistance of defending or propagating their views.

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Days after America had inaugurated its first African American president, I found myself back in Iran and in an electronics shop near Aryashahr Square in western Tehran, sent there by my grandmother to buy light bulbs for our apartment. With Barack Obama’s Cairo speech still weeks away, and the Green Movement many months more, I listened to the owner of the small family-run store explain to one his regulars just how bad the coming years were going to be.

“Things are awful enough around here,” he intoned. “Now that the Americans have elected a Muslim to the presidency, all of us, the whole world, we’re all screwed.” Ever the native informant, it fell to me to correct this bit of unexpected fake news. Barack Obama was not a Muslim, I told them. I left the rest of it, the question of whether or not Muslims were up to the task of running a government, alone.

Iran can be this way, full of surprises that double up as revelations. Obama’s popularity with ordinary Iranians had done little to diminish their pessimism about their own prospects or the ability of their government to change (some, as we just saw, were already finding ways to make the new president complicit). His election would have even less effect on my ability to carry out fieldwork, my reason for being in Iran.

I had returned to wrap up my doctoral research, certain that after eight years of escalating hostility between the United States and Iran, things were sure to get better in terms of gaining official access to sources, of getting the work done. They did not. One might reasonably expect with Donald Trump as president and an incoming administration openly hostile to Iran and contemptuous of the nuclear agreement signed just over a year ago that things are certain to get worse for folks out in the field, that the prospects for carrying out research as a foreigner or dual-national in Iran will become treacherous, if not suicidal. They likely will not.

Years of travel back and forth between Iran and the US, dozens if not hundreds of hours of interviews and observation, have led me to hold the somewhat contrarian view that the politics of fieldwork in the Islamic Republic, as in most places, is almost always local. The truth is for researchers toiling away in the field in Iran it matters less who is in the White House than which group is in charge in Tehran.

I carried out the bulk of my fieldwork under what seemed at the time to be the worst possible circumstances. Mahmoud Ahmadinejad was in power during the entirety of my stay, the head of a government that took perverse pleasure in antagonizing the rest of the world, above all, the Americans. He was met more than halfway by the fecklessness of the Bush White House, an administration with a demonstrated willingness to engage in reckless behavior of its own. With two major wars on either side of Iran and the threat of American-led bombing constant, at times imminent, it became a running joke among our merry band of in-country researchers that we were the last of our kind, latter-day Sovietologists out in the wild. We were budding experts on a regime on its way out, and like the dodo before us, slated for extinction.

Less funny were the prospects of what might happen while travelling across borders between the United States and the Iran. If we weren’t taken in for questioning at Imam Khomeini Airport, there was always the possibility that we would be sent to the back room at our point of entry to the US. A sealed envelope from my department chair declaring my status as an American citizen with an IRB-approved research design was on my person at all times, my get out of TSA-jail free card.

No such recourse was available to me in Iran, a country that has a steadfast policy of not recognizing dualnationals as anything other than Iranian. Even with the necessary approvals squared away, we faced the constant prospect of being detained arbitrarily, kept away from our families for months if not years, as had happened to the Woodrow
Wilson scholar Haleh Esfandiari or more recently, Washington Post reporter Jason Rezaian. The benefits of the possible contributions that our research might make to “the literature” hardly seemed worth the cost.

And yet, the work gets done. In practice, research in Iran, like most places, comes down to the day-to-day encounters of the researcher with the people she meets on the ground: The librarian, the archivist, the high school principal who makes the determination that he can trust you. Iran, as the saying goes, continues to be a place where (most) everything is prohibited but (almost) anything is possible. It sounds trite, and it hardly eliminates the very real personal risks that exist for the scholar and above all, for her subjects, but access to sources and to new knowledge almost always comes down to the trust earned in the moment. It is my experience that Iranians, inside and outside of the government, are able to distinguish between the early-morning bluster of a president and the earnestness of the researcher whose work is dedicated to the comity between countries.

The work goes on because it does so for the Iranians already on the ground. Iranian academics in the social sciences constitute a vibrant and indigenous research community that spans the entire ideological spectrum. In that world, rules of hospitality to the foreign visitor and a genuine desire for knowledge, elm va farhang, science and culture, reign paramount. Our travails, challenges, and possible dangers as foreign researchers pale in comparison to those daily faced by the many colleagues and gatekeepers who enable our work. That they have taken so many of us in over the years speaks to their unwavering belief in the scientific method, in many instances taken as a component and expression of their Islamic faith. Trump’s latest saber rattling is unlikely to change that.

That is not to say that the work is necessarily safer. A healthy dose of paranoia can go a long way in helping to finish the research and to return safely home, a point that I explain at length in a recent article. It is important to keep in mind that moderate administrations like those under Rouhani and Khatami set into motion reactions from revanchist forces, rogue elements within the government eager to embarrass and undermine their rivals for their own political gain. It is also true that progressive leaders feel compelled to shore up their right flanks as they maneuver towards more moderate positions. One doesn’t need to read Machiavelli to know that reforming governments are frequently guilty of introducing some of the most cruel and retrograde policies as part of the cost of doing business.

Four years after my corner-store encounter, with Obama’s outreach to Iran and the Muslim world diminished by increased tensions over the international sanctions regime being leveed against the IRI over its nuclear program, the authorities put up a wall sized mural of the president near Vali Asr Square, in the heart of downtown Tehran. The image featured Obama, his hand outstretched, framed against Shemr, reviled by Shiites for his role in the death of Hussein, the Prophet’s grandson, killed in the battle at Karbala. Below this unlikely juxtaposition a caption made clever sport of a popular pun made on the president’s name, Obama in Farsi sounding like Oo ba ma’st (“Here’s with us”): “Be with us, be safe.” Iranians, long accustomed to such displays, have a sense of humor about these sorts of things. Later that same year, with its paint already fading beneath the summer light and city pollution, the mural served as a charming background to the dancing thousands who had poured into the square and surrounding streets, in celebration of Rouhani’s victory and the end of the Ahmadinejad era.

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This is What we Learned by Counting the Women’s Marches

Erica Chenoweth, University of Denver, and Jeremy Pressman, University of Connecticut

The Women’s March on Washington was likely the largest single-day demonstration in recorded U.S. history. The only potential competitors were the Vietnam War Moratorium days in 1969 and 1970, which boasted millions of participants worldwide (and up to 1 million in the United States). The first Earth Day in 1970, which some claim had between 10 million and 20 million participants, did involve some demonstrations, but much of the activity involved local educational workshops and science fairs held at schools. And in February 2003, an estimated 10 million people demonstrated worldwide in opposition to the U.S. invasion of Iraq, with around 1 million of those marching in the United States.

Here's how we counted

We arrived at these figures by relying on publicly reported estimates of march locations and the number of participants involved in each. We started a spreadsheet and called for crowdsourced information about the location and number of participants in marches. Before long, we had received thousands of reports, allowing us to derive low and high estimates for each event. We carefully validated each estimate by consulting local news sources, law enforcement statements, event pages on social media, and, in some cases, photos of the marchers. When reports were imprecise, we aimed for conservative counts; for example, if observers reported “hundreds” of participants, we reported a value of 200 (“thousands” was 2,000, “tens of thousands” was 20,000, etc).

From this, we counted at least 653 reported marches in the United States. These involved huge gatherings of well over 100,000 marchers in Washington; Los Angeles; Oakland, Calif.; San Francisco; New York; Chicago; Denver; Seattle and Boston.

But there were some places with surprisingly high turnout. For instance, in Wyoming, eight marches brought out between 3,800 and 5,000 people statewide. And in Alaska, 25 marches mobilized nearly 9,000 people statewide.

In total, the women’s march involved between 3,267,134 and 5,246,670 people in the United States (our best guess is 4,157,894). That translates into 1 percent to 1.6 percent of the U.S. population of 318,900,000 people (our best guess is 1.3 percent).

To put this in perspective, the combined armed forces of the U.S. military — including the Air Force, Army, Navy, Marine Corps reserves, National Guard, and Coast Guard — comprise just over 2 million people.

How strongly were people motivated to protest?

After a story came out with the headline that 1 in 100 Americans had marched, some critics noted that the other 99 did not.

True, during an election for president or Congress, winning one of 100 votes would be a poor performance. But this misses the meaning of protest numbers. Marching requires a much higher level of commitment than voting. It takes more time, is not anonymous, often involves financial costs and could put the marcher in harm’s way or at risk of arrest or retaliation — particularly in areas where the marchers are expressing a minority sentiment.

In some instances, marchers had to overcome serious limits on mobility to join, suggesting highly intense motivation. For example, five people marched in the cancer ward at a Los Angeles-area hospital. Fifty women marched in a retirement community in Encinitas, Calif. And 415 women’s mobility was so limited that they participated in the women’s march online.

Braving harsh weather was another test of intense motivation. In Alaska, 2,000 people marched in Fairbanks with a high temperature of 19 below zero; in Unalakleet,
38 or 40 people marched despite a wind chill of 40 below. One woman in a Western mountain state was snowed in and couldn’t get to the nearby town where she intended to march. Instead of giving up, she held a march of one in her own town.

There were marches everywhere in the U.S.

Our count revealed that the women’s march took place in areas that were urban and rural, red and blue. About 68 percent of the marches had 1,000 or fewer participants. Overall, there were 297 marches in states Trump carried in the election, with between 721,000 and 1,005,000 total marchers. In red states such as Montana and Alaska, many people marched — if you use “many” to mean more than 1 percent of the state’s population using low estimates. Among the thousands of submissions received as people sought to fill in the spreadsheet, we could feel a palpable sense of pride among Montanans for the 10,000-strong attendance at the Helena march.

If you look at the marches’ size and locations as a map, it contrasts sharply with the news media’s usual electoral map that makes the country look starkly divided.

Sister marches took place around the world, as well.

The Women’s March on Washington had sister marches in international locales ranging from Antarctica to Zimbabwe. We found at least 261 marches abroad, with attendance totaling between 266,532 and 357,071 people (our best guess is 307,275 people).

Observers should take these marches seriously, too. Transnational solidarity often gives a movement more leverage than a purely domestic movement might otherwise have. Moreover, it can be powerful and emboldening when activism is witnessed by others at home and abroad.

What did the marches mean?

We don’t want to overestimate the power of a single march, however large. A march won’t have much effect unless it’s translated into continuing organized and disciplined mobilization, pressure on the government, collaborative problem-solving and electoral action. But if a march inspires, convenes and energizes, it can catalyze a great deal of change. Very large movements are more likely to translate their goals into real political, social and political change, particularly as they expand their networks into leverage.

These marches reveal momentum or insight from earlier movements, such as Black Lives Matter, Standing Rock, climate action, immigrant rights, the tea party, trans rights, and Occupy Wall Street. As others have argued here recently, U.S. conditions are ripe for more women’s — and other — protests in the coming months and years.

We will keep counting.

Documenting the women’s march in real time, we learned how important it was for people to be seen, witnessed and counted. Because accurate information on popular participation helps gauge their progress and latent power, we are launching a Crowd Counting Consortium (CCC) that will aim to continually keep track of how many people are protesting. We already have live spreadsheets underway cataloging the periods Jan. 22 — Feb. 5, and Feb. 6 — Feb. 19, 2017.

The CCC is not a research project. It’s a public service. To see more about the CCC, check out the website.

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A Dozen Questions about the Islamic Sharia
Some Things You Wanted to Know about Islamic Law
but Were Too Embarrassed to Ask

Nathan J. Brown, George Washington University

In 1993, I received a call from a producer at WCBS Radio in New York. The all-news station had just received reports that some followers of `Umar `Abd al-Rahman had been arrested by the Federal Bureau of Investigation for plotting to set off bombs in New York, including in two Hudson River tunnels. The producer needed someone to go on the air immediately. I said I was unlikely the right person to ask – for the local New York audience the most likely question was “Are the subways and tunnels safe?” and I simply could not say anything useful. I could say something about who `Umar `Abd al-Rahman was, something about the ideology of his supporters, and something about the political environment in Egypt and the Middle East which had produced them. I could say nothing about the safety of the subways, the plausibility of the FBI evidence, or any of the most immediate questions New Yorkers would likely wish be focused on. The desperate producer paid careful attention and assured me that if I went on air, the presenter would not ask if the subways are safe but only pose those questions I said I could speak to. Thirty seconds later, I was on the air and heard the first question: “Professor Brown, New Yorkers want to know: are the subways safe?”

Sometimes we cannot control the questions we are asked. WCBS asked me a question I should not have answered (and did not). But sometimes we should not avoid answering questions when we do have expertise that can contribute to understanding.

In this guide, I have assembled twelve questions about the Islamic sharia. Most are not ones I would immediately address if I could choose. But even if these questions are not where I would choose to start, they remain good questions and are better addressed directly than avoided. And unlike the one about the New York subway, I can give answers to all of them.

This is, I hope, a work in progress. Its intended audience consists of interested non-specialists. I am making it available now with the hope that I will receive constructive feedback on how to improve it. I am also beginning to compile a list of helpful links so that the guide can provide some guidance on what sort of sources to consult and what they are likely to provide.

Comments and suggestions from potential users and from other specialists are very much welcome.

1. What is the sharia?

It sort of means “Islamic law.” That is not a bad translation. But it can be misleading, sometimes leading people to expect a very clear set of rules. The sharia is more of a dialogue among religious experts about what Muslims should do in particular situations.

Those who follow Islam look to divine guidance for instructions on how to live their lives. The sharia is that guidance. In most of this guide, we will focus on sharia as law, but let us consider the broader sense of sharia, which I might translate as “the Islamic way of doing things.”

The Qur’an itself – a text all Muslims regard as divine – contains some direct instructions to believers. Muhammad, the human being that Muslims believe God chose to be the messenger and bring the Qur’an to humanity, is also believed to have given guidance to Muslims for all time. He did this partly by example and partly by addressing practical questions as they arose. Accounts of his words and actions, and sometimes the actions of those closest to him, were collected and assessed for their accuracy. In the first few centuries of Islam, Muslim scholars probed these texts for their instructional content.
These instructions covered all sorts of areas—how to pray, how to make business arrangements, what obligations husbands and wives have to each other, what constitutes a crime, what evidence is needed to convict someone of a crime, what punishments should be inflicted, and many other human activities. The instructions cover not simply what is forbidden and what is required but also what is discouraged but not quite banned or what is desirable but not quite required.

Almost every aspect of Islamic law is the subject of nonstop discussion and debate among Muslim scholars. Even something very basic— forbidding alcohol—is the subject of widespread but not universal agreement. All authorities agree that wine is off limits as is drunkenness. The texts are completely clear on those points. But what about a sip— not enough to get drunk? Most authorities would say that there is no loophole there. But one longstanding minority view is that such consumption is deeply frowned upon but not strictly forbidden.

Many of these categories do not involve law in the sense of rules enforced by the state. Some are meant to be instructions for individual practices; others are designed to be used by judges to adjudicate cases before them.

It may be possible to find a Muslim who says, “I am a Muslim, but I do not believe in the sharia,” but such a statement would not make much sense to most other Muslims; it would almost be tantamount to saying “I am a Christian but do not believe in Jesus.” In policy terms, as I explore below, barring Muslims who believe in sharia from entering the United States—as one political leader proposed in 2016—would effectively exclude almost all of them.

2. If the sharia consists of God’s instructions, does that mean it can never change?

In theory, yes; in practice, no.

The sharia may not change, but nobody doubts that human understanding of it always has and always will change. Sometimes Muslims make this point by explaining the distinction between sharia—which is of divine origin—and fiqh (generally translated as “jurisprudence”)—which is a human undertaking.

Fiqh was developed within the schools of law that arose in the religion’s early years. The early scholars of fiqh set down some basic rulings and methods. Their students, their students’ students, and subsequent generations were expected to color within those lines, leading some to come to claim that Islamic law is “frozen.” But, of course, all kinds of new interpretations were developed within those schools over time. Rulings sometimes evolved without scholars explicitly saying so, and ways of applying those rulings could fundamentally change their meaning. So there was actually much more evolution and dynamism among the schools than the picture of a frozen sharia implies. And scholars often drew on, or deferred to, local practice or traditions, making the application of sharia more flexible in practice than it might have appeared from scholarly tomes.

In the modern period, however, the pace of change has picked up considerably for three reasons. First, there are many more actors, some quite new (muftis, universities, parliaments, secular courts, lay people) working to interpret Islamic law, bringing a wider range of debates about what the sharia instructs Muslims to do.

Second, the older schools of law are less isolated from each other than they used to be. Traditionally, jurists tended to operate within their own schools, but over the past century, scholars have come to dip more heavily across school boundaries to devise appropriate rulings.

Third, two traditionally valid tools of interpretation have become far more freewheeling in the hands of some. “Public interest” (*maslaha mursala*) was used by some of the traditional schools (to varying degrees) to select an interpretation that aligned with the broader goals of the sharia and the needs of the community. Similarly, some scholars have used the “goals” (*maqasid*) of the sharia. In earlier periods, scholars would use such goals (such as the preservation of life, religion, or property) to guide
their interpretations of the sources. Traditional schools used these tools conservatively and only by trained experts; however, players less constrained by a traditional school could use them to justify a wide range of new interpretations.

3. So anybody can interpret the sharia?

In practice, yes; in theory, only those trained to do so.

But as we have just seen, the number of those claiming the training (and what constitutes training) has rapidly expanded in recent decades. Recently, Sunni traditional schools have lost some ground to unconventional religious leaders, while Shi’a religious authority has increased in hierarchy.

It is rare to find anyone within Sunni Islam who says his or her interpretation of sharia is final or binding on all Muslims. However, most Sunnis believe that they should at least attempt to comply with sharia, and some consult experts to answer their questions about what is required. Those answers are called fatwas. The term has entered English and is sometimes used with menacing overtones, but most fatwas are technical answers to abstract questions (if a merchant sold some goods to a buyer and immediately after the transaction changed his mind, can he cancel the sale?) In most forms of Sunni Islam, only scholars trained in one of the various classical schools have issued fatwas. But there is little way of regulating who can issue a fatwa, although many states have tried.

In the most common form of Shi’i Islam, recent centuries have seen a bit more hierarchy develop. In Iran, Iraq, and for most Shia of the Gulf (such as in Bahrain), senior religious authorities are held to serve as “sources of imitation” – that is, their followers are supposed to treat their teachings as authoritative guidance (these authorities carry the title “Grand Ayatollah”). A fatwa from a Grand Ayatollah is to be accepted as the final word by his followers, at least for the life of the Ayatollah, since only living scholars can be sources of imitation.

In both Sunni and Shia Islam, a fatwa generally carries no legal force; it is simply a scholarly opinion. But this can be precisely the source of its moral weight. Because a fatwa is not issued in order to determine the outcome of a particular case, it can be answered based on scholarship alone. Such at least is its aura and perhaps why ordinary Muslims so often seek religious guidance from those who have no formal state authority. This also helps explain why the Islamic sharia is taught and transmitted across generations not in terms of state law codes (as civil law systems, like those in most of Europe, are taught) or in terms of actual court cases and precedents (as common law systems in the Anglo-American world are taught), but in terms of scholarly writings.

There are a few exceptions where fatwas do hold legal force, for instance, Egyptian courts are required to consult the country’s grand mufti when they mete out a death sentence.

4. It sounds like sharia could be anything anybody wants it to be. How can that be law?

Because someone in a position of political authority might say it is.

As we have portrayed it, the Islamic sharia does not sound so much like a legal system but instead like an intellectual tradition. That it is. But is it ever law in the sense of rules enforced by the state?

Yes. Sometimes states appoint officials or legislative bodies to rule or write laws in accordance with their understanding of the sharia. That is, when they write laws, they claim that they are following the shari’a. In such cases, Muslims are free to believe whatever they like, but when it comes to enforcement, officials enforce the law that has been written down.

5. Where is sharia implemented?

Everywhere, but hardly anywhere.
Most majority Muslim states today would claim to adhere to the Islamic legal tradition, but most laws on the books today do not come from Islamic legal sources. How did this happen? And what does it mean for the sharia?

Until the twentieth century, it was fairly common for Muslim rulers to appoint judges and then allow them to rule in accordance with their own understanding of the sharia. Sometimes rulers would submit their own edicts to the sharia courts for consideration, adjudicate cases themselves, or form specialized courts for disputes between specific groups (like merchants). Non-Muslims and foreign citizens might have their own courts for their own communities.

Only a few countries have the first category of courts today, in which those with Islamic legal training adjudicate cases based on their understanding of the sharia. The “sharia courts” that do exist often restrict their jurisdiction to specific issues (generally family law).

In most Muslim countries today, the laws enforced are those written by states. Many have comprehensive codes of law, based sometimes on European civil codes. Some states formerly ruled by Great Britain have been influenced by common law.

In all such cases, rulers or legislators often explain that they are operating within the bounds of the Islamic sharia; their goal is to allow Muslims to live the Islamic way. That means avoiding any law that clearly violates the sharia, drawing from the sharia in a few areas such as family law, observing the clearest sharia provisions, and taking whatever steps they see as necessary without violating the sharia to maintain order and the public good.

In one other area of law – finance – some states have endeavored to adopt laws that provide a framework for “Islamic finance,” to allow individuals and companies the legal basis to practice business according to the sharia without imposing it on everyone. Islamic finance is based on some distinct principles, such as requiring that those who provide funds cannot expect to be repaid with fixed interest; instead, they must participate in some of the risk of the enterprise they are funding. In practice, many Islamic financial practices and instruments have developed in ways that closely resemble those of non-Islamic finance.

The Islamic sharia often has general influence in three other areas. First, it is often mentioned in constitutional texts, with real symbolic value but uncertain legal meaning.

Second, it often influences the way that rights are understood. Freedom of religion, for instance, generally does not protect public blasphemy. And since religion often informs family law, religious freedom often means the right to pick which officially recognized religion one subscribes to rather than a fully individual freedom of conscience.

Finally, Islamic law still has strong symbolic appeal among some constituencies so that politicians might call for the application of criminal penalties in a manner consistent with classically derived punishments (emphasizing corporal punishment) rather than modern civil codes (emphasizing incarceration), though such steps are more frequently discussed than actually taken.

6. Do Muslims want to bring sharia to America?

Most Muslims want to live within the bounds of the sharia but very few want to substitute it for the U.S. legal system.

Most Muslims in America are satisfied practicing their religion under the current legal system. A few very religious Muslims in America have sought to find ways to make sharia legally binding in their private lives by asking that U.S. courts enforce private agreements that Muslim family law be followed. In this sense, they are acting perfectly in accordance with the legal order. Such tools require the consent of the parties and can only be enforced by the regular courts if they are consistent with U.S. law and public policy.

In short, there is no effort to supplant the legal system with a fully sharia-based one. Nevertheless, some American
political leaders have suggested some kind of sharia-based screening in which Muslims would be required to renounce any attempt to supplant the U.S. constitution with the sharia. Not only would such a requirement based on a misunderstanding of what American Muslims want, it would be difficult to avoid affecting all kinds of mainstream groups that place great value on their understanding of God’s instructions. For instance, the Republican party’s 2016 platform stated: “man-made law must be consistent with God-given, natural rights, and if God-given natural, inalienable right come in conflict with government, court, or human-granted rights, God-given natural, inalienable rights always prevail.”

7. Is sharia unfair to women?

The sharia treats men and women differently in family relations. And that can certainly be unfair at times if fairness is seen as requiring equality (as it often does in liberal societies). Actual practice varies quite considerably, however, because it does not depend only on the legal rules derived from the sharia but also how they are applied and interpreted. Generally, social, legal, and political factors have a very great impact on how favorably husbands, wives, and other family members are treated.

The provisions of Islamic law have been developed by those who betray the attitude that men and women are different (“complementary” according to the Qur’an) and have different rights and duties. Men should provide and protect; women should obey. In general, husbands can divorce their wives at will; they can also be married to more than one woman at the same time. Wives have far more restricted rights of divorce. Daughters’ shares of inheritance is less.

These arrangements are certainly not equal, but they do provide women with the ability to make some claims and demand some protections. Husbands who abuse them or fail to provide are violating their rights. Women are allowed to earn income and own their own property but are not expected to contribute financially to the household. Determining the actual balance in practice depends on three factors.

First, what social customs prevail? In some societies (or in some families) women’s ownership of property is a legal fiction because males insist on exercising control. In others, that ownership is real and places them in a potentially powerful position. In some societies (or in some marriages), the groom promises a significant sum of money to be paid in the event of divorce or death. The effect is to make it financially difficult for a husband to divorce his wife; it also means that if he provides his wife with grounds for seeking a court-ordered divorce by abusing or abandoning her, he incurs significant financial loss. Divorce in some such instances can be more threatening to the husband than to the wife. Without accounting for what customs prevail and what the arrangements of a specific marriage are, it is difficult to say in the abstract who holds how much power.

Second, what law is on the books? Since Islamic jurisprudence offers a large body of possible rules to adopt and enforce, there is actually wide latitude for states to adopt practices with very different implications.

Third, how do those in charge of enforcing the law (courts and police) behave? Does a divorced woman have a realistic chance of obtaining an amount a husband pledged? How do police and judges treat allegations of abuse?

Because such practical questions have such enormous implications, most of those who criticize existing practices as unfair to women seek not to abandon the sharia basis of family law but instead to adopt interpretations and encourage practices to address the claimed imbalance.

8. Does sharia require that apostates be killed?

Muslim political authorities almost never have executed apostates. But apostasy is still seen as a grave, if rarely punished, offense.
Why is it so offensive? And why, if it is deemed so offensive, is little done about it? The dominant classical position might be summed up as: “In theory, apostates should be killed, but precisely because the punishment is so severe, the procedural requirements to prove apostasy should be extremely difficult to meet.” The official answer in most Muslim majority states is simpler “No” because apostasy is not against the law.

But apostasy is not taken lightly.

What explains these attitudes? According to their accounts, the early Muslim community was often the target of attacks by non-Muslim enemies. In that context, apostasy was more than a matter of personal belief but treated as an embrace of the enemy. The basic sources of Islamic law suggest that such betrayal be punished with execution. But precisely because it is so serious – and because tossing around charges of apostasy can be so disruptive – scholars held that it could only be proven in front of legitimate political authorities. In practice, issuing a death sentence requires that an apostate publicly and explicitly repudiate Islam before an authorized judge. Unsurprisingly, this has been very rare.

A minority position (though one increasingly voiced in the modern world in which individual freedom of conscience is often seen as a core value) interprets the texts to allow Muslims to renounce Islam privately. As long as they do not actively endanger the community, any punishment will come in the next world.

Muslim majority states rarely criminalize apostasy. Instead, they create obstacles: they may refuse to recognize Muslim conversion; continue to judge those who might consider themselves former Muslims according to Islamic personal status law; and criminalize attempts to convert Muslims away from Islam.

It may seem that the (almost impossibly) high standards of proof and the more lenient interpretations are devices for evading the letter of the law. But historically most scholars have insisted the precise opposite: that there are clear sharia based instructions to be stringent with evidence in cases where the punishment is severe and that they are acting consistently with both the spirit and the letter of God’s guidance.

Yet there are some who interpret the strictures on apostasy with considerably more enthusiasm. The practice of declaring someone an apostate (takfir) has become more common on the radical fringes even as many mainstream scholars denounce it. The Islamic State, as we will see in more detail, considers itself a legitimate government, able and very willing to adjudicate such cases and enforce capital punishment.

9. Does sharia mean that thieves get their hands chopped off?

It can, though it very rarely does.

The sharia includes a category of law that might be considered the rough equivalent of criminal law – offenses against the society, rather than a specific person. Someone who kills another person, for instance, is not only expected to pay restitution but also suffer penalties imposed by the ruler who acts to defend the interests of society.

The traditional schools worked out penalties for such cases and were aided in doing so by some fairly clear texts. For many criminal matters, the room for interpretation is much less than it is for financial or family law. And many penalties are corporal in nature. Thus thieves should lose their hands.

But few do. Most states actually find other criminal penalties. As we just saw with apostasy, sharia courts generally used very high evidentiary standards and searched for extenuating circumstances as ways of avoiding levying the prescribed penalties in many cases. An accused thief might claim ownership and thus throw enough doubt on the case to escape the most severe punishment. Some scholars have found guidance in a tradition in which an early (and exemplary) Caliph suspended corporal punishment for theft during a time of famine. This has allowed them to construct a gaping loophole allowing
rulers to avoid harsh corporal punishment on the grounds that times are hard.

But most of all, governments in most Muslim-majority countries have simply written laws that use imprisonment and fines for criminal offenses rather than corporal punishment. Since sharia-based penalties are to be imposed by political authorities, not by vigilantes, most traditional authorities have accepted that there is no recourse in such a case except to offer advice to the authorities to follow the sharia. A few radicals have seized on the failure to implement such rules as evidence that current regimes are not ruling in an Islamic fashion, but most authorities denounce these radical ideas as dangerous takfir (accusation of apostasy, as explored above).

10. Does sharia require military jihad?

In principle, it does provide for it. But for most authorities, sharia-based jurisprudence about jihad in the military sense has atrophied.

Early Muslim communities’ engagement in warfare created the context for a fairly robust set of legal rules about war. However, existing political authorities look not so much to the Islamic legal tradition, but to contemporary understandings of international relations to make decisions about war and peace. And even internally, some provisions of Islamic jurisprudence – such as excluding non-Muslims from military service but instead requiring a tax payment – have been forgotten for centuries by most states.

The term “jihad” can refer to any pious struggle (and thus has positive connotations) or more narrowly to military action to defend the faith. It is common for some political and military leaders to use the general vocabulary of jihad to give any martial sentiments a religious ring. But the extensive law of militaristic jihad has been relegated to the bookshelf by all but the radicals.

These radicals have revived the doctrine of jihad in two ways. First, they claim that jihad is a duty on each Muslim when his or her homeland is threatened, and since they claim that existing regimes are not Islamic, they see the entire Islamic world as so threatened. Every Muslim should therefore dust off the law books on jihad.

And second, the Islamic State, by proclaiming that it is a state (unlike al-Qaeda, which never did), also asserts it has the duty to organize jihad on a communal and international level.

11. If the actions of radicals are outside the mainstream of interpretations of the sharia, do more mainstream figures denounce the radical interpretations and actions, like beheadings of prisoners?

Yes. Ad nauseam.

12. So how do you explain ISIS, al-Qaeda, and all that?

Radical interpretations have gained some traction in the past few years. They have done so by reviving aspects of the Islamic legal tradition that had seemed anachronistic to many and insisting on literal applications of some provisions that had been interpreted in softer ways by mainstream authorities. In sum, they present themselves as uncompromising advocates of God’s true message and dismiss others as coopted, overly bookish, or corrupted armchair scholars.

Such arguments have always been available. Why does anybody listen today? Of course, most Muslims do not, but some do.

One reason such groups have found an audience is that many more traditionally-minded scholars are seen as too close to existing regimes. In most Muslim-majority countries, large religious institutions are state financed and administered. Most include religious education as part of their mandatory curriculum for Muslim students and make some effort to oversee mosques, sermons, and religious charity. The official religious establishment still holds enormous sway, but it is left open to the charge that its scholars favor interpretations based on the source of their paychecks.
A second reason is that education has spread and allowed many individual Muslims the ability to read original sources themselves, hear a wider variety of voices, and rely less on their local scholars. Some have found their way to radical ideas that would shock traditional scholars.

A third reason has to do with the growing popularity of a trend to read the Qur’an and other core texts as literally as possible. A variety of modern approaches have popularized the idea that the original meaning of clear sharia-based rules must be recovered from the literal meaning of the texts, cutting down the scope for human interpretation. The brand of Islam sponsored by the Saudi government (often termed “Wahhabi”) prides itself on its devotion to the text. Such literalism does not always lead in a radical direction, but even if it does may not be consistent in its application. While, most of the Saudi religious establishment can be very restrictive, it is still anything but radical toward the rulers.

And a final reason is a deep political alienation among many citizens of some Muslim-majority societies. Such alienation has many roots – domestically, a sense that political authority is corrupt and unaccountable and that public policy performance has been poor; internationally, a sense of an unjust global order – and seems to produce an audience for extremists who promote their way as authentic, moral, proven, and true to God’s teaching.

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The Project on Middle East Political Science

The Project on Middle East Political Science (POMEPS) is a collaborative network that aims to increase the impact of political scientists specializing in the study of the Middle East in the public sphere and in the academic community. POMEPS, directed by Marc Lynch, is based at the Institute for Middle East Studies at the George Washington University and is supported by Carnegie Corporation of New York and the Henry Luce Foundation. For more information, see http://www.pomeps.org.