



TRAMPLING HUMAN RIGHTS IN THE WAR ON TERROR: IMPLICATIONS TO THE SOCIOLOGY OF DENIAL

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Abstract. Critical criminology has greatly benefited from the concept of moral panic, which is a helpful framework for understanding immigration “reform” and the treatment of immigrants – especially in relation to concerns about terrorism. In response to the events of September 11, 2001, the United States government swiftly produced legislation intended to protect homeland security, culminating in the *USA Patriot Act*. While mainstream political leaders supported the new law, many legal experts expressed concerns about its expansive powers as serious dangers to immigrants’ rights and civil liberties. Among those concerns are controversial tactics involving ethnic profiling, detentions, and government secrecy. This article examines critically the nature of those forms of human rights violations while elaborating on the contradictions in the war on terror. Applying Cohen’s sociology of denial – how literal, interpretive, and implicatory denial perpetuate long-term social problems – developments are interpreted conceptually, contributing to a deeper understanding of growing threats to human rights.

Critical criminology has benefited from scholarship on moral panic, a concept that allows greater scrutiny into exaggerated and turbulent responses to crime. According to Cohen (1972: 9), moral panic has occurred when: “A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interest; its nature is presented in a stylized and stereotypical fashion by the mass media and politicians”. Cohen (1972) explored the roles of the public, media, and politicians in producing heightened concern over British youths in the 1960s when the Mods and Rockers were depicted as threats to public peace as well as to social order. Together, the media and members of the political establishment publicized putative dangers posed by the Mods and Rockers; in turn, such claims were used to justify enhanced police powers and greater investment in the traditional criminal justice apparatus. Since the 1960s, a growing number of critical criminologists have turned to the concept moral panic to comprehend pseudo-disasters, including controversies over crack cocaine (Chiricos 1996; Reinerman and Levine 1997), crack mothers (Humphries 1999); youth gangs (McCorkle and Miethe 1998; Welch, Price, and Yankey 2001), satanic ritual abuse in day care centers (Best 1990), and flag burning (Welch 2000a; also see Best 1999; Glassner 1999; Welch, Fenwick, and Roberts 1997).

The concept moral panic refines the understanding of adverse reactions to immigration, contributing to a disaster mentality in which there is a widespread view that immigrants endanger American society. Such perceptions of threat perpetuate stereotypes of immigrants as intellectually inferior, morally corrupt, and prone to crime – and worse, terrorism. As moral panic mounts, there is a sense of urgency to do something now or else society will suffer even graver consequences later, compelling social policy to undergo significant transformation in a rash attempt to diffuse the putative threat. Moral panic typically manifests in “strengthening the social control apparatus of the society – tougher or renewed rules, more intense public hostility and condemnation, more laws, longer sentences, more police, more arrests, and more prison cells” (Goode and Ben-Yehuda 1994: 31).

Previous research has addressed lessons about how moral panic reinforces demeaning stereotypes of immigrants. Hamm (1995) investigated moral panic over Mariel Cubans who arrived in the U.S. in 1980. Because many Mariels appeared to be different from other Cubans (i.e., darker and poorer), they were met with suspicion and eventually labeled deviants, predators, and criminals. In turn, many Mariels were placed under unusually close supervision by the INS and other criminal justice agencies. As a self-fulfilling prophecy, many young Mariel Cuban men – with few economic opportunities in the U.S. – resorted to committing minor offenses such as drug peddling. In due course, many of them were labeled habitual criminals and returned to prison where they currently are detained indefinitely – a kind of “Three Strikes You’re Out” Immigration and Naturalization (INS) policy specifically for that ethnic population. As of 2003, more than a thousand Mariel Cubans who have been convicted of deportable crimes – including minor offenses – remain indefinitely detained because the U.S. and Cuba do not have a deportation agreement (Catholic Legal Immigration Network [CLINIC] 2003).

This article further examines legislation about and reaction to immigrants, especially in the wake of the terrorist attacks of September 11, 2001. The first section reviews 1996 immigration and “effective death penalty” legislation, granting new and extended powers to both the INS and criminal justice officials. The second section examines sweeping changes in immigration policies following the Sept 11 attacks and the passage of the *USA Patriot Act*, which grants the federal government expansive powers in dealing with immigrants and those suspected of criminal activities, especially terrorism. However, recent measures to combat terrorism at home by focusing on immigrants worries civil libertarians and immigrants’ rights groups, particularly in light of ethnic profiling, detentions, and the government’s refusal to disclose information about those detained. The final section places these concerns in the

framework of Cohen's (1972) sociology of denial, which highlights the role of denial in perpetuating long term social problems, including human rights violations. Cohen categorizes denial into literal, interpretive, and implicative – all of which are present in the case of immigrants and the “war on terror.”

Moral Panic and the 1996 Immigration Laws

In the early 1990s, moral panic over immigrants emerged, pressuring the public and political institutions to re-evaluate immigration policies (Welch 1996, 2002a, 2003). Whereas recent immigration laws were formulated according to such concerns as skilled labor and family-reunification, legislation passed in 1996 was shaped by a tendency to criminalize immigrants. The *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* included increased criminal penalties for immigration-related offenses and measures designed to enhance INS presence and enforcement at the border. Under the new statute the INS instituted an expedited removal process that allows agents to deport immediately persons arriving to the U.S. without proper documents; moreover, the INS has the authority to bar illegal immigrants from re-entering the U.S. for as long as 10 years. Coinciding with President Clinton's campaign to “eliminate welfare as we know it,” the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, reinforced the derogatory view that immigrants are motivated by welfare rather than work. The law took away a range of federal benefits and services from both undocumented and legal immigrants (e.g., food stamps and Supplemental Security Income) and instituted new requirements on sponsors of alien relatives for immigration (ACLU 1997; INS 2000). Lumping together many social problems, former Congressman Jim Bunn remembers how lawmakers clamped down on immigrants: “We were saying, ‘Let's do something; let's get tough on crime, on welfare and on illegal immigrants’ ” (Sullivan and Walth 2000: EV1).

While anti-immigrant attitudes were gaining public prominence, manifested in regional social movements such as California's *Proposition 187* – a law intended to deny most basic services to anyone suspected of not being a citizen or legal resident, including education, health and social services – the problem of illegal immigration became a national obsession when organized terrorism came to U.S. soil. The 1993 bombing of the World Trade Center in New York City caused many Americans to shudder with the sudden recognition that they could be victims of terrorism. Two years later, when the Murrah Federal Building in Oklahoma City was bombed, “the immediate reaction of law enforcement officials and many citizens was to assume that it, too, was the act of foreign terrorists” (Tebo 2000: EV1). Although investigations led

authorities to U.S. born Timothy McVeigh, and not foreign terrorists, public hostility against immigrants persisted, especially toward Arabs and Muslims. As is typically the case with moral panic, politicians weighed into the controversy, and in 1996 Congress passed the *Anti-Terrorism and Effective Death Penalty Act*. Coupling concerns over terrorism with other crimes committed by illegal aliens, the anti-terrorism law complemented the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*. Increased funding for the fight against illegal immigration made the INS the largest federal law enforcement agency; more significantly, both Acts granted the agency unprecedented authority to seek out and deport immigrants deemed a threat to national security.

Moral panic and pseudo-disasters commonly precipitate new laws placing additional restrictions on existing freedoms, liberties, and due process (Cohen 1972; Goode and Ben-Yehuda 1994; Welch 2000a). The 1996 immigration and anti-terrorism laws did precisely that, especially considering that for many years the immigration review process was becoming progressively fairer. In fact, INS hearing judges had been attending to individual circumstances while the courts reviewed the officers' decisions, acting as final arbiters of whether particular cases met constitutional muster. The new statutes, however, gutted due process, giving the INS unparalleled powers and limiting judicial review of deportation and detention decisions made by immigration judges. The laws authorized the INS to use secret evidence to detain and deport suspected terrorists, and expanded the scope of crimes considered aggravated felonies, which are grounds for deportation.

Underscoring its coercive and punitive nature, the new law was made retroactive, meaning any person convicted of a crime now reclassified as an aggravated felony could be deported, regardless how old the conviction. The INS also had the newly created power to denaturalize nonnative-born U.S. citizens convicted of certain crimes and indefinitely detain deportable aliens even when there was virtually no chance their former countries would allow their return. Because the U.S. has no official diplomatic ties with Cambodia, Cuba, Iran, Iraq, Laos, and Vietnam, former satellites of the Soviet Union, and Gaza, much of which is technically not a part of any country, there are no means for repatriation. As a result, detainees from those countries, along with those persons who are not citizens of any country, having given up or been stripped of their birth citizenship when they emigrated to this country, remain in detention indefinitely (ACLU 2000a; CLINIC 2003). There remains ongoing debate over the fairness of the 1996 immigration laws, particularly many of its more controversial provisions, the use of secret evidence, and the new criteria for deportable crimes.

From the viewpoint of critical criminology, it is important to acknowledge the role of moral panic in the formulation of the 1996 immigration statutes since those laws that have contributed to the clampdown on non-white immigrants. As is often the case with moral panic, adverse reactions to immigrants are shaped by criminal justice imperatives more so than traditional immigration policies, furthering the criminalization, racialization and marginalization processes. Consequently, immigrants face greater forms of coercive social control and such exclusion undermines their assimilation.

Human Rights Abuses in the Wake of September 11th

The political responses to the September 11th attacks stressed greater law enforcement for immigration control. Within days of the attacks, the chairman of the House immigration subcommittee stated that illegal immigration had already been a major concern and predicted there would be more enforcement of the existing immigration laws, as well as tightening of the borders (Sheridan 2001). Regrettably, however, some lawmakers resorted to hyperbole in characterizing current immigration control. In calling for more legislation aimed at reforming immigration and visa rules, Senator Feinstein quipped that, "Our nation's borders have become a sieve" and Senator Dorgan pronounced: "The only thing keeping the bad guys out of the United States late at night in some remote areas are orange traffic cones" (Vlahos 2001: EV1).

With overwhelming bipartisan support, President Bush signed into law the *USA Patriot Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism)* of 2001. Civil liberties and immigrants' rights organizations worried that the new law would continue to have unfair consequences not only for immigrants but also for U.S. citizens (Cole and Dempsey 2002). As lawmakers and political leaders focus on tracking down terrorists in the U.S., numerous difficulties have complicated the early stages of that law enforcement campaign. Chief among those concerns are ethnic profiling, detention, and the government's entrenched reliance on secrecy.¹

Ethnic Profiling

Civil liberties and human rights organizations sharply criticized the government for its increased use of ethnic profiling in the war on terror. According to Human Rights Watch (2002: 12): "Using nationality, religion, and gender as a proxy for suspicion is not only unfair to the millions of law-abiding Muslim immigrants from Middle Eastern and South Asian countries, it may

also be an ineffective law enforcement technique.” Thus far, the government has yet to charge a single one that we know of the thousand-plus individuals detained after September 11 for a major crime directly related to terrorism. Compounding matters, such ethnic profiling antagonizes the very immigrant and religious communities whose cooperation with police could produce important leads for investigation. The prevailing pattern of investigation also suggests that a terrorist profile based on national origin is seriously flawed considering that in the most celebrated cases to date, the defendant was a citizen of a nation not listed as aiding terrorism. Zacarias Moussaoui, the so-called twentieth hijacker, is a French citizen; Richard Reid, caught with a shoe bomb he was trying to light on an airplane, is a British citizen; José Padilla, aka Abdullah Al Muhajir, accused of plotting to create a “dirty” or radiological bomb, is a U.S. citizen of Puerto Rican descent (Human Rights Watch 2002; Lawyers Committee for Human Rights 2003).

Adding to the controversy over ethnic profiling in the war on terror, the Justice Department recently issued an expansive Special Registration Program that applies to nonimmigrant male visitors (from certain countries where links to terrorism have been determined) who are over the age of 16 and entered the United States before Sept. 30, 2002. Overall, the program involves the fingerprinting, photographing, and interviewing of more than 46,000 students, tourists, and businessmen from such nations as Pakistan, Morocco, and Somalia.

Critics (Cole 2003) argue that the Special Registration Program is ineffective in the war on terror. Of the more than one thousand people detained on the suspicion of terrorist activity, only 15 are in custody for a criminal violation and none of the 15 has been charged with a terrorism-related crime. The program has also been plagued by poor administration, including the failure to notify properly those required to register in a timely manner. As a result, many foreign nationals did not know they had to appear and were subsequently arrested for showing up late. An Arabic rendering of the rules for the second group was mistranslated to say that individuals *under* the age of 16 who had entered the U.S. after September 30 were required to register (Gourevitch 2003).

Common sense dictates that terrorists certainly would not risk detection by enrolling in the Special Registration Program. The so-called fishing expedition gathers a lot of information, but not much in the way of intelligence. Government officials insist that the program has merit, with a Justice Department spokesman, arguing that it has led to the arrest of a wife beater, narcotics dealer and very serious violent offenders. But, according to Gourevitch (2003: EV6), “that isn’t exactly the same as catching terrorists. And if what we really want is to catch wife beaters, narcotics dealers and violent offenders, the

Justice Department should simply require everyone in America to show up and register”.

Other assessments demonstrate that the war on terror and its reliance on ethnic profiling have produced small-scale success. Recent evidence shows that a large proportion of so-called terrorist prosecutions involve minor charges (e.g., document fraud, identification theft, threats, and immigration violations) resulting in jail sentences of only a few months (Lichtblau 2003a). In the year after the attacks on the WTC and Pentagon, prosecution of crimes connected with terrorism increased tenfold to 1,208 cases from 115 the previous year. But the sentences dropped significantly, from a median of nearly two years in 2001 to just two months in 2002. Senator Leahy suggested: “It raises questions about whether too many resources are being tied up on minor cases that have nothing to do with terrorism” (Lichtblau 2003a: A16).

Contributing to growing skepticism, the General Accounting Office (2003) found that federal prosecutors inflated their success in terrorism-related convictions in 2002 by wrongly classifying almost half of them. Overall, 132 of the 288 convictions reported as international or domestic terrorism (or terrorism related hoaxes) were determined by investigators to have been wrongly classified (*New York Times* 2003). Similar problems have been discovered in New Jersey where prosecutors report handling 62 international terrorism indictments in 2002; however, all but two involved Middle Eastern students accused of hiring imposters to take standardized English exams for them. Nearly all of the accused students have been released on bail pending trial, while nine of them already have been convicted, fined between \$250 and \$1000, and deported (*Associated Press* 2003).

In addition to its lack of effectiveness in the war on terror, ethnic profiling often is administered with an astonishing degree of cultural insensitivity, particularly in light of numerous acts of unprofessional conduct by law enforcement officers, the National Guard and transportation security personnel. At the Minneapolis airport, an American Sikh and chairman of the department of preventative medicine at the University of Kansas School of Medicine was stopped by a member of the National Guard who ordered him to remove his turban. Ahluwalia, who had already passed through a metal detector and had been scanned by a hand-held wand, was stunned by the request: “It is such an inappropriate question. It’s like saying, Can I look under your bra?” Numerous Sikhs have reported that since the September 11th attacks, they had been targeted by Airport police and security workers. More than two dozen Sikhs have filed complaints with antidiscrimination groups, asserting they were forced to remove their turbans in public areas, a violation of their religious obligation never to reveal their hair in public.

Muslim women similarly have been ordered by airport security to remove their headscarves, also a violation of their faith. A legal advisor for the American-Arab committee remarked: "This isn't even profiling. This is just outright discrimination and bigotry" (Goodstein 2001: B6; also see Smothers 2003; Talvi 2003a).

Misuse of Detention and Abuse of Detainees

Although the *Patriot Act* expanded the powers of the Department of Justice and the INS, it limited the length of detention to seven days before the government must charge the detainee of a crime. Once charged under the new law, however, detainees found to be engaged in terrorist activities can be held for six months. But with immigration charges, it often is easy to demonstrate a violation of immigration law, allowing officials to deport or detain suspects (Bravin, Fields, Adams, and Wartzman 2001: EV1; see Talvi 2003b).

In less than two months following the September 11th attacks, the government had detained more than 1200 immigrants of Middle Eastern descent. Many citizens took notice, most notably those who previously suffered similar forms of detention. Many Japanese-Americans felt concern about what could happen to Afghan-Americans or Arab-Americans (Nieves 2001: EV1).

In addition to misusing immigration law to circumvent its obligations under the criminal justice system, the DOJ has also invented new immigration policies and procedures that compromise previously existing safeguards against arbitrary detention by the INS (currently known as the Bureau of Immigration and Customs Enforcement). In its comprehensive investigation on the mistreatment of post-September 11th detainees, Human Rights Watch (2002a) chronicles civil liberties and human rights infractions. Among the most serious problems are: denial of access to counsel, custodial interrogations without access to counsel, abusive interrogations, arbitrary detention, detaining non-citizens without charge, detainees denied release on bond or held on extraordinarily high bond, and continued detention despite a release order. Investigations also reveal detainees subjected to harsh conditions of confinement, compounded by verbal and physical abuse, denied adequate medical attention, and housed with suspected or convicted criminals (also see Lawyers Committee for Human Rights 2003; Serrano 2001a, b).

In one of the more tragic incidents amid the sweep for terrorists was the death of Muhammad Rafiq Butt, who was found dead in Hudson County Correctional Center in New Jersey. Butt, a native of Pakistan, had been arrested for being in the country illegally, one of hundreds who had been picked up on the basis of tips from an anxious public. An autopsy revealed that Butt, 55,

who had been in the United States for one year, had coronary disease and died of a heart attack. His death forced the INS to do something it had not had to do during the 33 days it had him in custody: talk about him publicly and explain the circumstances behind his arrest, detention, and death. It was revealed that he had been picked up after a tip to the Federal Bureau of Investigation from the pastor of a church near his home. His sole crime was overstaying his visitor visa. It took the FBI a day to determine it had no interest in him for its investigation into terrorism. He chose to appear at his deportation hearing without a lawyer, even though he spoke virtually no English and had little education. From jail, he made no calls to his relatives, nor to the Pakistani Consulate in New York. (Sengupta 2001a: EV1–2; also see 2001b).

Adding to the controversy over the mistreatment of detainees held in connection with the September 11th attacks is the prospect of torture. A FBI agent involved in the investigation, in discussing the use of torture, is quoted as saying, “It could get to that spot where we could go to pressure” (Priest and Gellman 2002: A1). Similarly, a former DOJ official, arguing that while torture ought not be authorized, perhaps it could be used in an “emergency,” as long as the person who tortures then presents himself to “take the consequences” (Williams 2001: 11). Those views appear to have some public support. A CNN poll revealed that 45 percent would not object to torturing someone if it would provide information about terrorism (Williams 2001). Journalists and human rights groups quickly responded. “We trust that the Bush administration is not seriously considering torture . . . [still] Ashcroft has been careless with the Constitution when it comes to the treatment of people arrested in the wake of September 11, raising fears he will be similarly careless when it comes to using the broad new investigative powers recently granted him by Congress” (*New York Times* 2001: A22).

Additionally, critics are skeptical of the effectiveness of torture in the war on terror. “As a tool for collecting information, moreover, torture is notoriously ineffective (since people in pain have the unfortunate habit of lying to make it stop) and has done little to solve long-term security threats” (Press 2003: 16). Amnesty International (2001) also condemns the use of torture and remains concerned over the well being of detainees, especially in light of reports that many of those arrested in the wake of the attacks were denied prompt access to lawyers or relatives.

Expanded Secrecy

Contributing to the problem of the misuse of detention, the government has maintained a policy of secrecy (Dow 2001). Months following the investigation on the attacks of the WTC and the Pentagon, Attorney General Ashcroft

repeatedly denied access to basic information about many of those in detention, including their names and current location. Such secrecy has been denounced by human rights and civil liberties advocates as well as by news organizations and even some political leaders, who have complained that the Attorney General has failed to explain adequately the need for those measures. The director of the Center for National Security Studies, stated: “The rounding up of hundreds of people secretly, secretly arresting them and putting them in jail where their families don’t know where they are and not telling the public is unprecedented and extraordinary in this country” (Donohue 2001a: EV1). Martin added: “This is frighteningly close to the practice of ‘disappearing’ people in Latin America” where secret detentions were carried out by totalitarian regimes (Williams 2001: 11). An attorney for three men held in detention likened their detention to the sweeps for communists and sympathizers during the Red Scare of the 1920s; he complained that he was not even told where his clients were being held and was not permitted to contact them (Fox 2001: EV2). A spokesman for the ACLU added: “There’s been nothing as massive as this since the day after Pearl Harbor, when they rounded up 700 Japanese immigrants and held them incommunicado and without charges for a protracted period” (*Chicago Tribune* 2001: EV2).

Reports that detainees have been subjected to solitary confinement without being criminally charged, as well as being denied access to telephones and attorneys, have raised questions about whether detainees are being deprived of due process. Moreover, those deprivations clearly contradict assurances by the DOJ that everyone arrested since September 11 has access to counsel. Key members of Congress have begun to challenge the sweeps of aliens in search of terrorists. Seven Democrats, most notably a co-author of Ashcroft’s antiterror legislation, Senate Judiciary Committee Chairman Leahy, and the only senator to vote against it, Feingold, requested from the Attorney General detailed information on the more than 1,200 people detained since the terror attacks. Specifically, the lawmakers asked for the identity of all those detained, the charges against them, the basis for holding those cleared of connection to terrorism, and a list of all government requests to seal legal proceedings, along with the rationale for doing so. The lawmakers stated that, while the officials “should aggressively investigate and prevent further attacks,” they stressed the Justice Department’s “responsibility to release sufficient information . . . to allow Congress and the American people to decide whether the department has acted appropriately and consistent with the Constitution” (Cohen, L.P. 2001: EV1). Unlike people charged criminally, INS detainees are not entitled to government-appointed counsel, thus many are not represented. Some civil-rights advocates complain that law-

enforcement officials are charging people with INS violations, holding them in solitary confinement, and then interrogating them before they can consult attorneys who might advise them not to talk at all (Cohen, L.P. 2001).

Implications for the Sociology of Denial

The violation of civil liberties and human rights in wake of September 11th offer enormous implications to the sociology of denial. Cohen (2001) examines critically the role of denial in perpetuating long-term social problems, including human rights violations (also see Kleinman 1997; Hamm 2003). More to the point of this analysis, Cohen's framework concentrates on the content of denial manifesting in three forms: literal, interpretive and implicatory. Literal denial is as blunt as it is blatant (e.g., officials insist "that atrocity did not occur"), serving as a blanket defense against acknowledging the undisputed facts.

Under interpretive denial, the facts are not refuted but are given a different spin, thus altering the meaning (e.g., officials argue "what happened is not what you think it is"). By its nature, reinterpretation is distinctly more intricate than literal denial, typically because it relies on euphemism and legalism. According to Cohen: "The function of euphemistic labels and jargon is to mask, sanitize, and confer respectability. Palliative terms deny or misrepresent cruelty or harm, giving them neutral or respectable status" (2001: 107). Political (and military) rhetoric is steeped in euphemisms, providing speakers and their audience insulation from the full meaning of harm, injury and death. Consider the following examples: "collateral damage" rather than the killing of civilians; "transfer of population" rather than forced expulsion; "moderate physical pressure" rather than torture. Legalism also facilitates interpretive denial by employing an infinite array of logical (or illogical) maneuvers.

In the third form of content denial, implicatory denial does not refute either the facts or their conventional meaning; rather, the psychological, political, or moral consequences are denied, minimized, or muted. By reducing the significance of the harm of human rights violations and other atrocities, officials evade their responsibility to intervene.

Whereas critical criminology is predicated on revealing truths about crime, especially in the social context of inequality and repression, Cohen's paradigm offers additional concepts in analyzing the content of official rhetoric. Applying the sociology of denial to problems facing immigrants and foreign nationals in the U.S. since September 11th reveals that literal, interpretive, and implicatory denial remain key facets of the domestic war on terror. More to the point, those forms of denial contribute to persistent human rights violations.

Literal Denial

As mass detentions mounted in the weeks and months following September 11th, civil liberties' groups called attention to the mistreatment of detainees, including well-documented incidents in which young men were kept from their attorneys, confined in jails without proper food and in some cases assaulted by guards and other prisoners (Human Rights Watch 2002; LCHR 2003). Still, even in the face of growing evidence, Attorney General Ashcroft resorted to literal denial by saying that there had not been any wholesale abuse of those being held. Taking a more nuanced view of the domestic war on terror in general, government secrecy represents a form of literal denial, since state officials refuse to acknowledge publicly the extent of civil liberties and human rights violations. Attorney General Ashcroft has repeatedly denied access to basic information concerning those in detention, including their names and where they are being held. Such secrecy has been denounced by human rights and civil liberties advocates as well as by news organizations. Even some political leaders have complained that the Attorney General has failed to explain adequately the need for those measures. The ACLU sharply criticized the government's approach to the domestic war on terror, stating: "We should not as a society tolerate a law enforcement apparatus that operates in virtual secrecy" (Goldstein and Eggen 2001: EV2; *New York Times* 2001).

Interpretive Denial

Defending the domestic war on terror, state officials also have engaged in interpretive denial, relying on both euphemism and legalism. Critics are convinced that interpretive denial masks human rights violations against detainees, including mistreatment, assault and torture. Recent disclosures in the press have added to those concerns. As one U.S. official who has supervised the capture and transfer of accused terrorists boasted: "If you don't violate someone's human rights some of the time, you probably aren't doing your job" (Priest, Dana, and Barton Gellman 2002). Other euphemisms continue to mask the gravity of law enforcement campaigns in the defense of homeland security, including the DOJ's use of the term interview rather than interrogation in reference to the more than 46,000 foreign nationals the government plans to question. Journalists and political commentators not only detected the euphemism embodied in the term interview, but ridiculed Ashcroft when he announced "We're being as kind and fair and gentle as we can" (Downes 2001: WK2; see ACLU 2001).

Adding to evidence that the government is relying on interpretive denial in the war on terror, the FBI recently ordered field supervisors to count the

number of mosques and Muslims in their areas. The measure was denounced swiftly by civil rights advocates and Arab-American leaders who accuse the government of further ethnic profiling. But FBI officials countered with their own form of interpretive denial saying the agency was focusing, “primarily on vulnerabilities, and mosques in the past that have been targets for violence,” (Lichtblau 2003b: EV1). Chandler’s remarks, however, do not square with those of other FBI officials who told Congressional officials “that the information would be used to help establish a yardstick for the number of terrorism investigations and intelligence warrants that a field office could reasonably be expected to produce” (Lichtblau 2003b: EV1). One Congressional aide, responded: “On its face, it certainly sounds like the FBI is pressuring agents to use a profile. It’s beyond eyebrow-raising. It seems like a bloody waste of law enforcement resources, and it’s pure profiling in its worst form” (Lichtblau 2003b: EV1; also see ACLU 2003).

Implicatory Denial

Implicatory denial is also present in the domestic war on terror, particularly under circumstances in which law enforcement officials deny the psychological, political, and moral implications of ethnic profiling and unnecessary detention. Consider the case of Sher J.B. Singh, an Indian Sikh and U.S. citizen who was removed from an Amtrak train in Providence (RI), handcuffed, and held for seven hours because, according to Singh, he wore a turban. Singh said the police and federal agents who questioned him knew nothing about the religion, the world’s fifth largest. After the police searched the train, the agents told Singh they could not leave without taking someone into detention. “They were telling me they would let me go by the next day” (Glaberson 2001: EV2). After some officers taunted him because of his turban, Singh said they asked him general questions about Sikhism and never appeared to think he had any connection to terrorism. Some of those who have been questioned say the law enforcement officials have acknowledged they were under pressure to hold people even if there was little reason to suspect them (Glaberson 2001). Considering ethnic profiling, detention and reliance on secrecy, Ashcroft and other government officials further engage in implicatory denial by arguing that such measures are necessary to ensure national security even though such repressive tactics have failed to produce clear links to terrorism (Marable 2003; Ratner 2003). In doing so, government officials diminish the universal values of immigrants’ rights, civil liberties and human rights.

Cultural Denial

Denial becomes official when it is public, collective and highly organized. Unlike totalitarian regimes that go to great lengths to rewrite history and block out the present, denial in democratic societies is subtle, often taking the form of spin-doctoring and public agenda setting. But similar to totalitarianism, democratic nations also build denial into the ideological facade of the state, placing greater emphasis on fraud rather than force (Cohen 2001; Welch 1999). Denial becomes even more ubiquitous when whole societies slip into collective modes of denial (Willis 1999). For citizens, cultural denial becomes a potent defense mechanism against acknowledging human rights abuses within their own nation. In the domestic war on terror, cultural denial is compounded further by official denial, producing threats to human rights. As discussed previously, the government has detained more than 1200 immigrants of Middle Eastern descent. Whereas some concerned citizens took notice, most notably those who had previously suffered similar forms of detention (i.e., Japanese-Americans), polls showed that Americans support such racial/ethnic profiling (Nieves 2001). Even more distressing is the degree of public support for torture. A CNN poll revealed that 45 percent of those surveyed would not object to having someone tortured if it would provide information about terrorism (Williams 2001). One of the *Washington Post* reporters who exposed the use of torture was asked why there's been so little follow-up in the rest of the media. "It's hard to keep a story going when there's no outrage, as in Congress – where there have been no calls for hearings" (Hentoff 2003: 33).

A further look into the media since September 11th offers an opportunity to understand how denial operates as the war on terror continues. The media possesses the ability to influence public opinion. As a result, it remains on the "front lines in the state's battle to formulate a sense of cohesive purpose and national identity, particularly during wartime" (Robin 2003: 54). Political and corporate elites often take great strides to ensure their agenda is supported by the mainline media (Welch 2000b). The case of Bill Maher, host of ABC's show *Political Incorrect*, demonstrates the thrust of such influence. Maher was forced to make a public apology for his remarks suggesting that American soldiers were not as brave as the terrorists who committed suicide in attacking the WTC and the Pentagon. Eventually, the network cancelled *Political Incorrect*, an irony that is not lost, given that the show was living up to its name.

Corporate media continues to follow the strictures of the state's war on terror. One month following the attacks, the National Security Advisor met with network chiefs from ABC, CBS, NBC, Fox and CNN, issuing them a protocol for airing videotaped statements of Osama bin Laden (FAIR 2001

October 12). CNN went further by requiring its staff to pair any scene of civilian casualties in Afghanistan caused by U.S. military with reminders of the victims of September 11th (FAIR 2001 November 1). Fairness and Accuracy in Reporting (FAIR) released an in-depth report verifying the pro-U.S. military bias in the nation's most prestigious newspapers (FAIR 2001 November 2). Robin (2003: 56) observed: "While some of this bias can be attributed to the media's horror over the attacks of 9/11 as well as heartfelt jingoism, some of it is a response from above which is then translated to staffers below". The president of MSNBC, who generally identifies with conservative ideologies in the war on terror, concedes that he and other executive are careful not to provoke public opinion: "Any misstep and you can get into trouble with these guys and have the Patriotism police hunt you down" (Stanley 2001: B4).

In sum, the domestic war on terror is fraught with multiple forms of denial, all of which perpetuate violations of immigrant's rights and civil liberties. Defending those rights, however, groups such as the ACLU, Amnesty International, and Human Rights Watch set out to confront official lying, deception, and disinformation (literal denial) along with official renaming (interpretive denial). Furthermore, advocates for human rights challenged cultural denial by engaging in public consciousness-raising, making it difficult for citizens to overlook the serious nature of human rights violations. It is the ultimate goal of human rights campaigns to mobilize citizens to take action against such injustices by confronting government officials who rely on denial as a political tactic.

Conclusion

Understandably, the events of September 11th have had a tremendous influence on American society. As political leaders strive to deal with problems facing national security, it is likely that civil liberties and immigrants' rights will remain in flux for the foreseeable future. Regrettably, however, the DOJ's initial response to the threat of terrorism has produced an array of human rights violations, especially in light of profiling and detentions concealed in secrecy. Finally, it is important to acknowledge briefly two other problems exacerbated by the government's campaign against terrorism: the adverse effects on refugees and asylum seekers and continued profiteering by the corrections industry that uses detainees as raw materials.

More than 20,000 refugees from around the world, cleared to enter to the U.S. so they can escape persecution in their homelands, have had their arrival delayed indefinitely in the aftermath of the September 11 terror attacks.² Concerns of national security compounded by the government's

weakening commitment to sponsor refugees have produced a temporary moratorium on refugee admissions. Refugee resettlement groups report that many of these people have been housed in disease-prone refugee camps for protracted periods of time. Those refugees are indirect casualties of the terrorist attacks on America. While it is understandable to expect the government to increase its vigilance of those coming to the U.S., refugee experts insist it is unlikely that a terrorist would pose as refugee to gain admittance. Refugees already undergo the most stringent background checks of any people seeking admission to the U.S. (Sengupta 2001c; see also Schuster 2003).

Human rights advocates also are concerned by a recent program initiated by the Department of Homeland dubbed Operation Liberty Shield. That program requires detention of asylum seekers from 33 countries where Al Qaeda has been known to operate. Critics point out that the policy leaves the most vulnerable people at risk. A representative of the Hebrew Immigrant Aid Society notes the DHS essentially lumps asylum seekers – people who are fleeing hostile regimes for countries of safe haven – in the same group as terrorists. He further criticizes the government for “inappropriately detaining people who may have been tortured or unjustly imprisoned and came here in search of safety and protection is wrong” (HIAS 2003:1). Amnesty International USA concurs, adding that Operation Liberty Shield denies liberty to the victims of human rights abuse who come to the U.S. in pursuit of protection. “To name an operation that denies liberty to asylum seekers ‘Liberty Shield’ is Orwellian” (Alonso-Zaldivar 2003: EV1).

The government’s campaign for homeland security also has fueled the corrections industry, especially given the more than one thousand foreigners who have been detained since the September 11th attacks. In anticipation of internment camps and new prisons, stocks of private companies that build and operate prisons for governments had recently risen as high as 300 percent. Shortly after the attacks, six publicly traded prison companies received financial news from the Federal Bureau of Prisons (BOP) announcing plans to expand its correctional capacity for BICE detainees. The BOP recently opened the bidding process for two prisons to hold criminal aliens in Georgia, and continues to seek bids for three additional prisons in the Southwest deserts holding more than 1,500 detainees along with another Northeastern facility with a capacity of 1000. Financial analysts noted that many security companies received huge and immediate profits from supplying guards and new security in the aftermath of the terror attack (James 2002; see Welch 2000, 2002b).

Altogether, the *Illegal Immigration Reform and Immigrant Responsibility Act* (1996), the *Antiterrorism and Effective Death Penalty Act* (1996), and the

Patriot Act (2001) continue to produce a violations against civil liberties and human rights. In light of those abuses, human rights organizations along with intellectuals and critical criminologists must repeatedly caution the public and political leaders not to overreact to the events of September 11th; and in doing so, draw critical attention to moral panic and various forms of denial. Fear of terrorism and anxiety over national security must be contained so as to not undermine fair and just treatment of immigrants, refugees and asylum seekers.

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Notes

1. In the war on terror abroad, President Bush resisted efforts by the international community to treat soldiers (captured in Afghanistan by U.S. armed forces and transferred to its military installation in Cuba) as prisoners of war. In a series of legalistic maneuvers, the Bush administration attempted to defy international law by arguing that those soldiers were terrorists and enemy combatants and not entitled to P.O.W. status. Similar legalistic disputes between the U.S. government and the international community persist over the tribunal of those captured.
2. The refugees in this passage refer to those who are assisted in coming to the U.S. through the U.S. Refugee Resettlement Program and not to detained asylum seekers who enter the U.S. on their own.

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*EV refers to electronic version of the publication

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