

## Discussion

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### Counter-(T)error – The Role of Immigration in the Fight against Terrorism

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#### Abstract

Traditionally immigrants have been made responsible for a rise in a country's crime rate, a state's employment market or a nation's cultural identity. However, since the events of 9/11 immigrants have evolved into a new kind of security concern. As a result of the terrorist attacks in 2001 by nineteen foreigners, the issue of immigration has become a central aspect in counter-terrorism as nations around the world scrambled to implement policies in reaction to the unprecedented situation. However, one has to question the validity and effectiveness of using immigration measures in the fight against terrorism. Is there an error in current counter-terror policies? The paper will critically discuss whether immigration policies are a useful means of addressing the global threat of terrorism.

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#### Introduction

The importance governments and politicians assign to immigration differs and fluctuates depending on the economic, social and political situation. Similarly, the number of migrants has fluctuated over the past century, and the countries of origin and those re-

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ceiving migrants have changed. Since 1970 the number of international migrants has more than doubled, from 82 million to around 175 million in 2000. This figure represents around 2.9 percent of the world's population, which means that one in every 35 persons was an international immigrant in 2000. Between 1990 and 2000 the number of migrants in the world increased by fourteen percent. This signifies a rise of 21 million in ten years. In 2000, 63 percent of the world's migrants lived in developed countries, with most migrants residing in Europe and making up 7.7 percent (56.1 million) of the European population (United Nations 2002). Out of the total number of migrants worldwide refugees made up around 9.5 percent or 16.6 million in 2000 (United Nations 2003). According to the International Organization for Migration (2005) there were an estimated 185 to 192 million migrants around the world in 2005.

Terrorism is not a new phenomenon either. One of the earliest groups cited are the Sicarii, who were a Zealot religious sect fighting against the Roman rule in Palestine between AD 66-73. During the Middle Ages a religious sect of Ismailis and Nizari called 'Assassins' struggled against the empire of Saladin and in the sixteenth century small 'terrorist' groups in Albania and other regions resisted the armies of the Ottoman Empire. The term 'terror' was first used in 1795 as a policy to protect the fragile government of the French Republic from counter-revolutionaries and from around the mid-nineteenth century to the First World War revolutionaries and anarchists used bombings and assassinations as frequent weapons in their struggle against autocracy (see Sinclair 2003; Carr 2002; Anderson/Sloan 2003). After the Second World War terrorism became an important part of the anti-colonial struggles, and many scholars have argued that the period between the late 1960s and the late 1980s is marked by traditional or so called 'old terrorism', which can be roughly divided into different types such as left and right-wing as well as ethno-national separatist terrorism (Guelke 1998, Waldmann 1998). Since the mid 1990s and the bombing of the World Trade Center in New York in 1993 as well as the sarin gas attack in the Tokyo underground by the Aum Shinrikyo cult in 1995, some authors argue that we are facing a "new terrorism" with new characteristics (Simon/Benjamin 2000). Although the new qualities of today's terrorism can be questioned (Copeland 2001; Spencer 2006a), we are being told by many of the policy makers and leading terrorism experts that the 'new terrorism' we are facing today also requires totally new counter-terrorism measures to deal with it effectively (Laqueur 1999;

Lesser et al. 1999; Aubrey 2004). “Nothing less than a sea-change in our thinking about terrorism and the policies required to counter it will be required” (Hoffman 1998: 212).

Traditionally, security concerns around migration have revolved around social or economic security. This has involved the threat of higher crime rates, the threat to the native language and culture as well as the threat of citizens losing their employment due to cheaper immigrant labor, rather than actual physical security. However, this paper hopes to examine the specific links drawn between immigration and terrorism after the terrorist attacks of September 11<sup>th</sup> (hereafter 9/11). In response to the attacks by 19 foreign terrorists governments have introduced tighter immigration controls and restrictions as part of their counter-terrorism offensive. It has become widely accepted by politicians to view immigration policy as an important tool in the ‘war on terrorism’. They have articulated a link between immigration and international terrorism which has found its way into government policies. Is this linkage between immigration and terrorism a valid assessment of the current situation? Are counter-terrorist measures involving anti-immigration policies a good or effective way of fighting international terrorism? This paper will critically examine the validity and usefulness of linking ‘terrorism’ with ‘immigration’.

The paper will firstly establish some of the instances when governments used immigration policies as a tool in the ‘war on terrorism’. Following this, section two will highlight some of the literature behind the idea of linking terrorism to immigration, followed by a brief look at other instances in history when immigrants were targeted in response to a national security threat. The fourth section will assess the validity of this nexus and put forward the argument that there are clear empirical reasons for questioning the link drawn between ‘immigration’ and ‘terrorism’. The final part will summarize the main findings, draw tentative conclusions as well as briefly reflect on the problem of evaluating the effectiveness of counter-terrorism policies in general.

### **Linking Immigration to Terrorism: Government Responses**

9/11 was a big shock. Around the world governments scrambled to implement a vast range of different counter-terrorist policies to prevent such an attack on their own country and to reassure their population that they were safe. As part of this wave of counter-terrorism measures the idea that restricting immigration enhances national security has

been used by different governments over the last couple of years to justify a vast range of immigration control policies (Martin/Martin 2004).

Although the immigration policies mentioned below do not allow a generalization as such and only represent a sample of the immigration policies implemented, they do indicate and illustrate a certain trend among some of the western states of connecting the issue of immigration with the threat of terrorism. Leading this move to include immigration policies as part of the 'war on terrorism' is the United States. Soon after 9/11, in October 2001, President Bush issued the Homeland Security Presidential Directive 2 entitled "Combating Terrorism Through Immigration Policies", which explicitly links immigration and terrorism and outlines the plan to fight terrorism with immigration measures (Bush 2001). In March 2003, the U.S. Immigration and Naturalization Service (INS) was incorporated into the massive new Department of Homeland Security (DHS), formally making immigration a national security concern and bureaucratically linking the two matters (Kerwin 2005).

As a direct response to the 9/11 attacks, although no exact numbers are available, the INS arrested and detained more than one thousand mostly Arab and Muslim foreigners for immigration law violations in an effort to uncover possible terrorists among them (Musarrat et al. 2002). They were rounded up following an administrative order by Attorney General John Ashcroft and kept detained for a period ranging from a couple of days to several months. They were not allowed to communicate with the outside world, had no direct access to lawyers and their relatives were not given information about their situation. Many have since been deported on immigration violation charges (Carey 2002).

Apart from this immediate backlash against immigrants and foreigners the U.S. implemented a number of immigration related measures. For example, they have increased the security facilities and personnel on all its borders, revised measures for better vetting of immigrants and other individuals applying for entry visas, particularly students and entrants under the U.S. refugee program. In order to track people coming to the U.S. certain foreigners are required to register with authorities upon entering and leaving the country. For example the National Security Entry-Exit Registration System (NSEERS) requires foreign nationals in certain age groups and genders from 25 predominantly Muslim states such as Iran, Morocco, Pakistan and Indonesia to register with the INS. They have also introduced further personal interviews at an INS office and notification to INS of any

change of address, employment, or school for certain immigrants and foreigners. The non-immigrant who must follow these special procedures also have to use specially designated ports when they leave the country and report personally to an INS officer at the border on the day of their departure (Lebowitz/Podheiser 2002).

Apart from these policies and the immediate targeting of immigrants in a massive preventive detention campaign following 9/11, the U.S. Congress has passed new legislations that subjects non-citizens to a number of other wide-ranging discriminatory measures. The most comprehensive set of new laws against terrorism targeting immigrants can be found in the USA PATRIOT Act<sup>1</sup> in Section 411 to 418 entitled “Enhanced Immigration Provisions”. The USA PATRIOT Act gives the Attorney General exceptional power to detain non-citizens without a hearing and without having to clearly show that they pose a threat to national security or that there exists a flight risk. He only needs to declare that he has “reasonable grounds to believe” that the non-citizen or foreigner is involved in any form with terrorism to justify the potentially indefinite “mandatory detention”. Furthermore, the Act allows foreigners to be deported for associational activity with an organization deemed to have any links to terrorism, whether or not there is any connection between the individual’s actions and any kind or threat of violence let alone terrorism. Part of the U.S. policy has also involved law enforcement officials using ethnic profiling in the hunt for terrorists, treating immigrants as suspicious on the basis of little more than their national origin or Arab ethnicity (Cole 2002a).

The United States is not alone in the move of linking immigration to terrorism. Tightening immigration regulations, asylum and border controls has been a central aspect of British counter-terrorism since 9/11. Politicians in both the Labour and Conservative Party have continuously talked about terrorism in connection to immigration. A study by Jef Huysmans (2005) has examined parliamentary debates in the UK since 9/11 which have explicitly made the connection between terrorism and immigration, asylum or refuge. His findings show “that asylum especially and migration more generally was an important element in the framing of the fight against terrorism” (Huysmans 2005: 2). Most dominantly this connection was made with the introduction of the Anti-terrorism, Crime and Security Act 2001 (ATCSA) in December 2001, which enhances and partly substi-

<sup>1</sup> Full title: ‘Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001’.

tutes the Terrorism Act 2000. The ATCSA explicitly deals with immigration matters and links them to terrorism in part IV of the act, fittingly entitled 'Immigration and Asylum'. There are three main issues in this section. For one it deals with the retention of fingerprint data in asylum and immigration cases as well as "an attempt to short-circuit any claim to asylum by making the tribunal focus upon the Secretary of State's reasons for denying the claim" (Walker 2003: 24). Although this measure has been dropped, one of the most controversial measures, was the provision of ATCSA which enables the UK Home Secretary to order the detention without trial of foreign individuals suspected of planning or intending terrorist attacks in the UK or internationally (Payne 2002). These provisions led to accusations that the UK government was holding individuals unlawfully on the ground of nationality and therefore breaking Article 5 of the European Convention of Human Rights on the grounds of national security (Cornish 2005).

Although a detailed investigation of the nexus terrorism – immigration in national political debates in EU member states is cannot be provided here, a quick scan of the member reports to the United Nations Counter-Terrorism Committee shows that many states in Europe have also reacted to terrorism with immigration related counter-measures.<sup>2</sup> For example, France has established joint border patrols with Italy, the UK and Belgium to prevent migrants with a valid visa in one country to move to another (Gregory 2003; Shapiro/Bénédicte 2003). They have also increased the budget for the border police to control illegal immigration. Germany has also increased the resources available for its border guards and focused its measures on preventing entry to illegal immigrants. In addition more information will be collected from visa applicants falling into certain categories including biometric data (Hirschmann/Leggemann 2003; Glaessner 2003). Spain, too, has implemented a number of immigration measures in the name of fighting terrorism. It has increased its border-security and surveillance along its south coast and has tightened already strict domestic immigration law (Alonso/Reinares 2005; Brotóns/Espósito 2002).

<sup>2</sup> Individual Reports from member states to the United Nations Counter-Terrorism Committee are available at: [http://www.un.org/Docs/sc/committees/1373/submitted\\_reports.html](http://www.un.org/Docs/sc/committees/1373/submitted_reports.html) (Accessed on March 5, 2006).

### Linking Immigration to Terrorism: Scholars and Think Tanks

Apart from governments some scholars and think tanks, especially in the United States, have argued that immigration and terrorism are linked and that immigration policies are essential in the 'war on terror'. "[T]here is probably no more important defensive weapon in our arsenal than a well-functioning immigration system" (Krikorian 2002) One leading terrorism expert on al-Qa'ida, Rohan Gunaratna, has highlighted that "[a]ll major terrorist attacks conducted in the last decade in North America and Western Europe, with the exception of Oklahoma City, have utilized migrants" (cited in Leiken 2004: 6).

The fact that the nineteen 9/11 hijackers were of Arab origin and nationals of countries outside the western cultural hemisphere has created a link between foreignness and threat. It is possible to argue that it is totally rational to treat Arab and Muslim foreigners differently now, in light of the fact that al-Qa'ida, the group presumably behind the attacks of 9/11, is made up almost entirely of Muslims of Arab origin and has threatened to continue attacks against western civilians. The western world was attacked by foreigners and therefore it makes sense and is justified that it focuses its efforts on combating terrorism with immigration policies which can stop threatening foreigners from entering it (Margulies 2002).

Public opinion polls seems to support this interpretation. Opinion polls in the United States show a strong support for the use of immigration policies in the fight against terrorism and shortly after 9/11, 89 percent of those questioned thought that it was justified to detain immigrants in consequence of the attacks. A further 72 percent support the use of ethnic profiling and interviews of men from the Middle East.<sup>3</sup> In addition, 92 percent supported imposing stricter immigration and border crossing policies as a way of dealing with terrorism.<sup>4</sup> Similar to the United States, public opinion polls published in the UK on the subject also show strong support for the use of immigration policies in the fight against terrorism. An ICM Research poll carry out for the BBC in April 2004 showed strong sup-

<sup>3</sup> Survey conducted for ABC News and the Washington Post by TNS Intersearch on 27 November 2001, at: <http://www.pollingreport.com/terror7.htm> (Accessed on March 14, 2006).

<sup>4</sup> Survey conducted for FOX News and Opinion Dynamics Poll on 19-20 September 2001, available at: <http://www.pollingreport.com/terror9.htm> (Accessed on March 14, 2006).

port (62 percent) for detaining foreign terrorist suspects indefinitely.<sup>5</sup> A different study in 2003 illustrated that 82 percent of those questioned thought that it was certain or likely that “terrorists linked to Al Qaeda are entering Britain as asylum seekers” and 74 percent supported the suggestion of detaining “all immigrants and asylum seekers until they can be assessed as potential terror threats.”<sup>6</sup> In a Populus survey conducted after the London bombings in July 2005 showed that 88 percent agreed with using “tighter controls on who comes into the country” as a “measure that could be taken to try and reduce the threat of further terrorist attack.”<sup>7</sup>

There are a number of studies and books which stress this link between immigration and terrorism and argue that immigration restrictions are essential in the fight against terrorism. For example, Steven Camarota (2002) emphasizes the link between immigration and terrorism by examining the immigrant background of 48 foreign-born terrorists who committed crimes in the United States between 1993 and 2001. He examines how these terrorists entered the U.S. and concludes that they used a large number of different ways of entering the country including temporary tourist, student or business visas, crossing the border illegally and filing asylum applications. Furthermore, he notes that thirty-six percent of the examined foreign-born terrorists were found to be legal permanent residents or naturalized U.S. citizens. As a result he calls for tighter controls and the reduction of all kinds of immigration and points out that a countries immigration system is one of the most important tools in the ‘war on terrorism’ “because the current terrorist threat comes almost exclusively from individuals who arrive from abroad” (Camaroty 2002: 5).

Similar to Camarota, Janice L. Kephart (2005) wants to show how “[t]errorists have used just about every means possible to enter the United States, from acquiring legitimate passports and visas for entry to stowing away illegally on an Algerian gas tanker” (Kaphart 2005: 7). The study examines 94 individuals considered to be linked to terrorist organizations. In this case, only terrorists linked to immigration violation are included to make the

<sup>5</sup> ICM Research, “*Terrorism Survey*”, (23-24 April 2004), at: <http://www.icmresearch.co.uk/reviews/polls-archive.asp> (Accessed on September 7, 2006).

<sup>6</sup> ICM Research, “*Terrorism Poll*”, (5-6 February 2003), at: <http://www.icmresearch.co.uk/reviews/polls-archive.asp> (Accessed on September 7, 2006).

<sup>7</sup> Populus, “*Terrorist Bombings & The Olympics Survey*”, (July 8-10, 2005), at: [http://www.populuslimited.com/pdf/2005\\_07\\_08\\_times.pdf](http://www.populuslimited.com/pdf/2005_07_08_times.pdf) (Accessed on September 6, 2006).

link between immigration and terrorism even more visible. This goes as far as only including six of the nineteen 9/11 hijackers who actually seem to have violated any immigration rules. Apart from linking immigration to terrorism she also focuses specifically on political asylum and refugees as potential terrorists. Kephart argues that claims for political asylum are a good way for terrorists to enter a country, by pointing out that it keeps them from being deported quickly and gives them the opportunity to move around the country. Furthermore, the fact that many asylum decisions are not based on hard evidence but are made on the basis of the word of the applicant, makes fraudulent claims easier for terrorists (Kephart 2005: 26).

In a more detailed study of 212 known terrorists arrested or killed in the North America and Europe, Robert S. Leiken (2004) highlights that all were visitors or first- or second generation immigrants. He believes that terrorists exploit generous Western immigration policies to infiltrate the country in order to recruit new members, create facilities to aid their cause and form sleeper cells ready for new terrorist attacks. He concludes that global terrorism and immigration are clearly entwined or linked as nearly all terrorists in the West have been immigrants (Leiken 2004: 24). More recently Robert Leiken and Steven Brooke (2006) have reinforced this claim in one of the leading terrorism research journals by examining 373 terrorists and emphasizing “a close link between immigration and terrorism”.

Along similar lines Michelle Malkin (2002) makes weak immigration policies responsible for the terrorist attacks in the United States. In her bestseller book *Invasion* she claims to highlight the inadequacies and failures of the U.S. immigration service in letting terrorists and other menaces into the country. In a very aggressive, sensationalist and extremely nationalist style she argues that the U.S. government should not allow any travelers or immigrants into the United States from regions where al-Qa'ida has a foothold and introduce visa-requirements for all countries in world. Furthermore, she calls for a crack down on all illegal immigrants and suggests that they should be placed in detention facilities and deported as quickly as possible. To name but a few of the extreme measures proposed, Malkin suggests that the United States should secure its ports of entry and militarize the U.S. borders with Mexico and Canada as well as not accept any new asylum seekers (Malkin 2002: 229-238).

### **The History of Immigrants as National Security Risks**

The nineteen foreign terrorists involved in the 9/11 attacks seem to have succeeded in turning immigration into a national security issue. Nevertheless, most governments have had moments where they have feared immigrants and blamed specific groups who were seen as a threat to the country's physical security. For example, the immigrant German population in the United States and the UK during the First World War faced a number of discriminatory measures. Thousands of German and Austrian immigrants were suspected of subversion and arrested and German Americans stood a chance of losing their jobs and businesses as well as being assaulted in the street in a wave of anti-German hysteria (Gerstle 2004). Another example is the internment of Japanese Americans and immigrants during the Second World War. The shock of Pearl Harbor, in some aspects very similar to the shock of 9/11, led to the incarceration of thousands of Japanese immigrants in guarded camps surrounded by barbed wire as it was feared that they could sabotage military installations and infrastructure and prepare the Japanese invasion (Cole 2003).

The example, which offers the best historical comparison with which to understand the current use of immigration policies in the 'war on terrorism', is the prosecution and deportation of anarchist and radical communist immigrants after the First World War. The focus on immigrants, like today, was triggered by terrorist attacks in the United States. In April 1919 a total of 36 mail bombs were sent to leading capitalists and government officials and on the 2<sup>nd</sup> of June bombs exploded within hours at the homes of manufacturers and government officials including the Attorney General A. Mitchell Palmer's. The fact that one of the terrorists, who was killed in the attack, turned out to be an Italian immigrant anarchist, together with the general perception that immigrants from Southern and Eastern Europe were susceptible to such ideology generated suspicion in the general public. As a measure to prevent further attacks government authorities arrested 750 immigrant members of these communities in November 1919 and deported around 250. This was followed by a second wave of arrests in January 1920 involving the apprehension of more than 4000 suspected, mostly immigrant radicals and the deportation of just under 600 (Murray 1955:79-82).

### Questioning the Link between Terrorism and Immigration

The brief historical excursion into the plight of immigrants in situations of national security highlights the fact that immigrants are easily targeted. As David Cole (2002b) points out “[s]acrificing foreign citizens’ liberties is always tempting as a political matter. It allows those of us who are citizens to trade someone else’s liberties for our security.” The supporters of the use of immigration policies in fighting terrorism argue that it makes sense to target immigrants and foreigners as all hijackers and terrorists were of Arab origin. It is, they say, therefore a rational way of reducing the terrorist threat (Carey 2002). However, by securitizing the subject of immigration and making it an issue of national security it becomes extremely difficult to make any objection to the new immigration policies as doing so, as some may argue, would threaten the safety of the country and its people (Freitas 2002). Regardless of whether there are hidden agendas or alternative ulterior motives for arguing in favour of immigration restriction by instrumentalising the currently hot topic of terrorism there are also a number of arguments why immigration policies are rationally a bad way of fighting international terrorism.

For example Donald Kerwin (2005) points out that introducing restrictive immigration policies in the fight against terrorism is contrary to the economic liberal idea of the open and free market. The prosperity and power of the West relies on easy and fast access to the global economic market and labor and therefore “[i]t is self defeating to embrace security measures that end up isolating it from those networks” (Kerwin 2005: 750). As a result of tighter immigration policies and especially visa restrictions, the U.S. will probably witness slower economic growth in a couple of years. Kenneth Rogoff (2004) highlights the extent to which foreign scientists, engineers and businessmen contribute to the growth of the U.S. economy and emphasizes that over 2.5 million highly qualified foreigners, holding leading positions in science and industry, work in the United States. More than 30 percent of all PhDs awarded in science and mathematics and half of all graduates in engineering have come to the U.S. on foreign and student visas. Not only do these students contribute \$ 12.3 billion to the U.S. economy (Treyster 2003), but traditionally many of those who complete their studies remain in the country and work, thereby continuously contribute to the economic growth of the U.S. “The U.S. economy grows in no

small part by skimming the cream off the rest of the world's workforce" (Rogoff 2004: 71). However, with increased visa restrictions being a major part of the immigration policies used in the 'war on terrorism', many of these workers, who "serve as key transnational links for the increasingly globalized U.S. economy" (Rogoff 2004: 71), will not be able to come and stay in the U.S. anymore. This trend is clearly visible in the statistics. The number of foreign students enrolled in U.S. education facilities declined from 586,323 in 2002-03 to 572,509 in 2003-04 and 565,039 in 2004-05. There has been a significant drop of students from Muslim countries such as Pakistan (- 9,8% between 02/03-03/04 and - 14% between 03/04-04/05) and Indonesia (- 14,9% between 02/03-03/04 and - 12,6% between 03/04-04/05) (Institute of International Education 2005).

Others focus on particular anti-terror immigration policies such as deportation. Authors such as Joan Fitzpatrick (2002: 2) believe that "[d]eporting international terrorists is a remarkably short sighted and self-defeating policy." It seems questionable to want to deport people who authorities suspect of having connections to terrorism rather than charge them criminally and put them in prison. If people are deported for having connections to terrorism, does this not give them the possibility of pursuing further terrorist activity abroad where the government authorities do not have the same ability to keep an eye on them? If they are truly terrorists, does deportation not give them the possibility of attacking Western targets abroad? Surely it would make more sense to let them stay in the country and keep them under surveillance (Romero 2003: 103).

Again different scholars question the utility of tightening border controls and argue that it is impossible to make borders utterly impervious to terrorists. Didier Bigo (2002: 3) believes that "[t]he idea of a Maginot line against clandestine actions, requiring total security of air space and of sea and land borders, is not only illusory; it is also prohibitively expensive in both human and monetary terms, and these resources would be better spent on more flexible and pre-emptive approaches." Specifically, in the case of the UK, Elspeth Guild (2003) questions the reasoning behind the government maintaining its border controls with the rest of continental Europe on the grounds of national security while not having systematic identity checks on the Irish-UK border. We are told that 'new terrorists' have strong independent financial means and a well organized network support system in place around the world. If this is the case they will surely be able to enter the country somehow. At the same time making entry hard for legal immigrants will undoubt-

edly lead to an increase in immigrants attempting to enter the country illegally. As these ways of entry become more appealing and in some cases the only way of getting into the country, illegal smuggling will subsequently increase which in turn also gives terrorists the chance to enter. Susan Martin and Philip Martin (2004: 336) argue that there is little reason to believe that “the smuggling and trafficking operations, which themselves show little if any regard for human life or dignity, would not move terrorists along with economic migrants if the price was right.”

Apart from these specific arguments against some immigration policies as tools in the ‘war on terrorism’, there is a larger more general argument to be made. Not one of the 9/11 hijackers was an immigrant and all had entered the United States on temporary visas. Yet, in the post 9/11 era, the argument that lax immigration controls make a country more vulnerable to terrorism has been made by governments, scholars and groups like the Federation for American Immigration Reform (FAIR) and the Center for Immigration Studies (CIS). These long-time skeptics of immigration have attempted turn those concerns about security into a general argument against openness to immigration.

The term immigration refers to two very distinct issues. On the one hand it refers to “the action of coming to live permanently in a foreign country”, on the other it can also be used to describe “the place at an airport or country’s border where government officials check the documents of people entering that country” (Oxford Dictionary of English 2005: 866) Permanent immigrants make up only a very small percentage of the total number of the hundreds of millions of foreigners who enter Western states every year. While concern for public safety is generally a positive thing many of the measures implemented cast an unacceptably wide uneven net. “The ‘terrorist’ has become the post-modern substitute for the ‘vicious class’ that nineteenth-century immigration laws constructed as a tool of immigration control” (Aiken 2000: 55) The distinction between foreigner and immigrant has become blurred in government policies and the dual meaning of the term ‘immigration’ has been exploited.

For one, this is evident in some of the scholarly writing on the subject mentioned above. All of the studies use an extremely broad and in some cases inadequate definition of the term ‘immigration’. Most include all kinds of movements by foreigners, thereby failing to distinguish between permanent and non-permanent stay in a country. They seem to equate immigrant with foreigner. However, the central characteristic of the concept of

immigration is the *permanent* settlement in a foreign country. Many of the studies count people as immigrant who have entered the country on temporary tourist, business or student visas. The use of the term 'immigration' in this way is too all-embracing to be used as the basis for any policy recommendations. The focus has to be more specific. If all terrorists can be classed broadly as 'immigrants', then we can also class them as foreign, Middle Eastern, Muslim, young, male, dark skinned, dark haired, two arms, two legs, one nose and human. All of these classifications are true but not very useful information for stopping terrorism (Taylor 2002).

This extremely wide definition of 'immigrant' is also reflected in the policies employed by many western governments. However, focusing on certain specific immigrant or ethnic groups is both under and over-inclusive at the same time. For one it is under-inclusive because there are white U.S. or European nationals who may also be terrorist threats. Treating such a large group as suspicious means that government authorities will miss genuine terrorists who do not fit the profile (Romero 2003: 106). At the same time it is over-inclusive because the vast majority of Arab and Muslim immigrants and visitors have no involvement in terrorism what so ever. Arab and Muslim appearance is dangerously inaccurate with probably 99,9 percent being totally innocent.

In addition to this international perspective one has to consider that many of the harsh immigration related measures such as registration, preventive arrests, detention and deportation have reverberated strongly within the entire immigrant community and have reduced the willingness of the Arab or Muslim community to cooperate with authorities in the fight against terrorism. As these measures have antagonized parts of the immigrant population and inspired fear of law enforcement they have clearly impeded on the investigation of terrorist activity in some ethnic communities. These measures have increased the mistrust of government and risk of alienating large parts of the immigrant community who would otherwise be very willing to cooperate. Counter-terrorism which enforces or tightens immigration laws will prevent immigrants from coming forward and reporting suspicious potentially terrorist activity in their community if they themselves face arrest, detention and deportation. As David Cole (2002a) points out, law enforcement is more effective when it works with rather than against communities. If there is reason to believe that there are individuals potentially planning terrorist acts in the Arab or Muslim immigrant community, authorities would surely benefit more from working together with the

large majority of law-abiding and innocent members of the community in order to get their help in identifying possible threats, rather than alienating the whole community by treating many of its members as suspicious due to their nation of origin, religion or skin color.

There are examples where immigrant communities have played an important role in dealing with terrorist groups. Immigrants with an Arab background helped the French authorities dismantle the Algerian Armed Islamic Group in 1995 and Turkish immigrants in Germany assisted in tackling elements of the Kurdish PKK (Faist 2004). However, the perception in the Muslim communities, even the most westernized, of racist and unfair measures targeting them in the 'war on terror' is wide spread. "The prosecutions of the charities, the surveillance, and the visa discrimination – all of these actions deprive Muslims of their social place and constrict their access to mainstream ... society" (Tirman, 2004). The feeling in these communities of being treated unfairly will undermine the legitimacy of the western world with its claim of standing for democracy, political freedom, due process, and equal protection and make the fight for the hearts and minds of the people more difficult. Furthermore, studies have shown that where laws and policies are perceived to be unfair and illegitimate, members of the community affected by them are more likely to be involved in crime, because people obey laws not because they worry about being caught, but because they consider these laws or rules to be fair and legitimate (Cole 2002a).

The focus on Arab or Muslim immigrants and foreigners not only risks isolating and alienating this community but it also reinforces racial, religious and gender stereotypical presumptions in the general population. If Muslim immigrants are increasingly segregated, stereotypes based on ignorance will become the norm, further isolating immigrants which in turn can encourage the growth of genuinely harmful attitudes in the immigrant communities and in western governments and populations (Lohrmann 2000).

Among immigrants refugees deserve a separate mention in order to underline the questionability of linking immigration and terrorism. Although refugees only represent a very small proportion of all international migrants the nexus still seems to have been made by governments introducing new stricter asylum policies as part of the 'war on terrorism'. These restrictions are reflected in the numbers of refugees taken in by Western governments. Especially the United States has reduced the numbers of admitted refugees

dramatically. In 1999 it admitted 85 006, 72 515 in 2000, 68 426 in 2001 while only 26,622 were let into the country in 2002 and 28 306 in 2003 (Refugee Council USA 2003).

Although no refugees were among the 19 9/11 terrorists, the attacks have created the public perception of refugees as potential terrorists and undesirable elements in society. Government reactions in many western countries, particularly the US and UK, have reinforced this perception and even international organisations such as the United Nations have declared that that states must ensure “that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts” (United Nations 2001a).

Again there are arguments against this linkage of ‘refugee’ and ‘terrorist’. For one international refugee law explicitly excludes those people from protection who have committed serious crimes against humanity or have violated human rights (Zard 2002: 32). Others argue that infiltration of a Western country via its refugee program is unlikely as terrorist groups prefer to use operatives who will not have immigration problems. As Howard Adelman (2002) points out, there are far easier ways of entering a country than through the refugee channels. Upon entry a refugee is exposed to government authorities and has to pass a security clearance, give personal information and fill out forms. “Any sophisticated terrorist would reasonably be expected to avoid such an exposure” (Adelman 2002: 11). Helton points out that targeting refugees is wrong and poses risks as indifference to refugees compromises safety around the world. Refugees can become dangerously radicalized and join terrorist organizations out of resentment of the West for denying them a better life or out of lack of alternatives and the necessity of supporting their families (Helton 2002: 1-2). Theresa Sidebothom (2004) argues that it would make more sense to encourage people to speak out against their governments and support their democratic activities or their moderate Islamic view by giving them a safety net or somewhere to flee if it is needed. She highlights that this used to be the case during the Cold War with the support of pro-democracy groups within communist countries, when the US granted asylum and a safe haven to activist and opponents of the regime.

The obvious irony of linking refugees to terrorism is that many refugees flee their home countries because they are classed as terrorists there or are fleeing the same extremist

Islamist regimes or groups who sponsor, harbor or tolerate terrorism.<sup>8</sup> So while trying to protect western people from terror these anti-asylum measures impact heavily on victims of violence and terror in other parts of the world. As the United Nations High Commissioner for Refugees Ruud Lubbers (cited in United Nations 2001b) stated shortly after 9/11: refugees are the victims of terrorism not its perpetrators.

As we have seen the literature provides good arguments against the idea of using immigration policies as a counter-terrorism tool. They highlight the fact that the arrests of immigrants and foreigners and their deportation following 9/11 have yielded very little in terms of prosecuting terrorists. As Nora Demleitner (2004: 572) points out “many of the terrorism prevention mechanisms instituted in the wake of 9/11 proved fruitful in detecting undocumented aliens, but not terrorists.” Taking into consideration that thousands were arrested in the United States and Europe, the number of prosecutions of foreign terrorists in the West is extremely low. According to a list issued by the U.S. government, which outlined the charges brought against those arrested, fewer than five of these charges related to terrorism while the majority appear to be immigration violation related (Martin 2002: 26). Adding to this is also the fact that many of those arrested were apprehended using traditional law enforcement techniques not the immigration system (Kerwin 2005: 762).

If it is possible to make rational arguments against as well as question the effectiveness of these immigration measures one has to ask why their implementation was so uncontroversial in the first place and why they are still considered to be an essential part in the struggle against terrorism? Rather than actually protecting the population from terrorism, have these measures maybe only been implemented “to reassure certain segments of the electorate longing for evidence of concrete measures taken to ensure safety?” (Bigo 2002: 3).

## **Conclusion**

The nineteen hijackers who carried out the attacks in September 2001 substantially altered the public idea of immigrants, morphing them into a direct threat of national secu-

<sup>8</sup> One has to also note that it is difficult to differentiate between a state harbouring terrorists and a states granting asylum to people fleeing political persecution.

rity. Guild (2003: 336) believes that “[t]he 9/11 attacks transformed the face of the foreigner into a prima facie face of terrorism.” Following this, the immigration policies introduced as part of the ‘war on terror’ as well as the arrests, detentions and deportations of immigrants reinforced this idea. As Demleitner (2004) points out that detention and deportation create the impression within the larger public that immigrants, at least from Muslim countries are criminals and potential terrorists. Not only will immigration policies in the ‘war of terrorism’ alienate the community but such immigration measures will reinforce the public’s perception or idea of immigrants as potential terrorist threats, which in turn again increases the alienation of the community in a kind of vicious circle. Both the feeling of being alienated and the perception of that community as alien can lead to increased segregation and possibly radicalization, stoke anti-western sentiments and provide for a more acute security threat (Ashar 2002). The discourse on terrorism has become intertwined with the discourse on immigration. Discourse constructs what we consider to be problems, in our case immigrants and their potential to be terrorist. The construction of the border as the front line in the fight against terrorism has lead people to perceive of things crossing this line as potential threats (Pickering 2004).

Governments have consistently argued that these sweeping measures are necessary to prevent further attacks. However, focusing on certain ethnic groups or religions will undermine the all-important legitimacy of western governments in the fight against terror. It is in al-Qa’ida’s interest to characterize the conflict as the West against Islam or the United States and its allies against Arabs. The more we act in ways that support the picture West vs. Islam, the more likely it will be that al-Qa’ida and other groups are able to attract support for their terrorist cause. International terrorism requires an international response and it is therefore essential to maintain as broad a coalition of different governments as possible. However, when counter-terrorism policies target a certain ethnic group due to their nationality or religion this can antagonize their home government or their fellow nationals back home whose cooperation is essential in the ‘war on terrorism’. Countries could react to measures targeting its citizens by reducing or even withdrawing their support for international counter-terrorism initiatives (Cole 2003b: 183-210).

As the article has shown, academic literature on the issue provides ample arguments against the use of immigration policies in the war on terrorism. So is there an error in the current counter-terror policies? Theoretical arguments may give us an insight into some of

the strengths and weaknesses of certain policies but they tell us very little about the actual effectiveness of counter-terrorism. What standards could be used to assess the success or failure of existing counter-terrorism measures and what are the problems of evaluating counter-terrorism?<sup>9</sup>

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<sup>9</sup> For the problems of measuring the effectiveness of counter-terrorism see Spencer (2006b).

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