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**Where The Border Ends: How Reactive Policies to Terrorism Became Conduits for Drone Technology and the Enclosure of Wealthy Nations**

*Abstract: The Antiterrorism and Effective Death Penalty Act (1996) and the USA PATRIOT Act (2001) are two key examples of reactive policies enacted in response to terrorist attacks on American soil. Expedited passage of both pieces of legislation were reliant on the public's support for government action in wake of recent atrocities. These acts gave particular attention to securing the nation's borders, directing an increase in funding for Border Patrol in order to prevent future terrorist attacks. This essay will connect the increased funding for border security directed by Congress with the defense industry's pursuit of funding and outlets for drone technology, to the export of the national security state model and the expansion of borders via drone technology. The arms race that ensues as a result of this restructuring of the global order directly connects to a new form of imperialism, expanding borders without the necessity of troops on the ground through the utilization of drone technology. Expansion and blurring of borders occurs when wealthier nations utilize a poorer nation's airspace for terrorism deterrence missions using drone technology. This essay finds that this new form of imperialism creates a de facto open-air prison out of much of the impoverished world; one that is under constant unmanned aerial surveillance by wealthy nations as they simultaneously enclose themselves under the doctrine of national security.*

## Introduction

*And finally, let me again mention the fact that control of our borders is an absolute key if we are going to provide adequate protection against terrorism.*

– Former Attorney General

Edwin Meese III, 107th Congress House Hearings, 2002

Since the 1993 World Trade Center bombing, legislative policies that have been enacted quickly into law have capitalized on the traumatic effect of terrorism on the American population. These reactionary policies place enormous focus on border security as a foundation of the new national security model even when the perpetrators of terrorist attacks have been U.S citizens. As a result of these policies and the rhetoric that surrounds them, the wildly different acts of immigrating and being involved in terrorist actions or organizations have become socially and politically interchangeable. This essay chronologically details how this interchangeability of immigration and terrorism came to be prevalent in the United States, resulting in a militarized buildup along the nation's borders, coinciding with a public that overwhelmingly supports strict immigration policies to secure the immediate border and far-reaching deterrence measures in order to protect the homeland from afar.<sup>1</sup>

This essay will primarily address reactive policies to the 1995 Oklahoma City bombing and the September 11th, 2001 attacks to demonstrate that strict immigration policies and far-reaching deterrence measures create isolationism within wealthy nations and harsh exclusion of poorer nations. As directed by these policies, border security budgets were increased significantly, becoming targets for defense contractors who were eager to both fund their drone technology programs and facilitate exporting the technology to other wealthy nations. Drone

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<sup>1</sup> Peter Moore, "Bipartisan Consensus for Domestic Drone Use," YouGov, June 25, 2013, <https://today.yougov.com/topics/politics/articles-reports/2013/06/25/public-backs-domestic-drone-use>.

technology will be presented as a means of a new form of imperialism, in which borders are artificially expanded through the use of drones in defense of the homeland via a strategy of optimum deterrence. This new form of imperialism relies on justification from the policies enacted in reaction to terrorist attacks and the public support for these policies, which are enforced by drone strikes far beyond the wealthy nation's borders.

Once the wars in Iraq and Afghanistan came to an end, defense contractors turned their attention to the US-Mexico border in order to fill the financial gap left by the ending of contracts related to the war on terror. The historical significance of this strategic pivot by both defense contractors and the US government towards border security will be addressed as a conduit for the exportation of the national security model to other wealthy nations, which is reinforced by drone technology and the surveillance capabilities they possess. As the national security model became more widespread, so did the desire for drone technology to increase border security and monitor domestic activities. The legal jurisdiction of the US Border Patrol will be addressed, as regulations allow for large-scale surveillance operations of a significant amount of the US population. This wide-reaching jurisdiction and reliance on border security will also be shown to be the US government's justification for the eventual deployment of drones into foreign airspace.

This essay details a sample of the drone technology arms race that has occurred within the last decade and its direct correlation to the rise in isolationist sentiment and exclusionary policies of wealthy nations. Due to strict US export regulations, the global drone technology market has experienced a power vacuum that has seen wealthy nations like China, Israel, and Turkey fight for supremacy. The advancement of drone technology has also allowed poorer nations such as Iran to become an exporter of small-scale drones, namely to Russia in its invasion of Ukraine in 2022. Due to limited international regulations, drones are being utilized

by aggressive nations to expand their borders, evidence of the rapid expansion of drone use disrupting the well-established global order. The current global situation remains tense as drones remain airborne every hour of the day, all around the world, continuously monitoring the activities of individuals and entire nations. Drone technology has aided in the current battle for the restructuring of the global order.

### **Reactionary Politics: Terrorism, Immigration, and National Security**

At 9:02 am on April 19, 1995 the Alfred P. Murrah Federal Building in Oklahoma City was torn in half by a truck bomb, killing 168 people, of which 19 were children. The death toll was the largest of any terrorist attack on American soil until the September 11th attacks.<sup>2</sup> Rumors spread quickly of a natural gas leak, but leaned more heavily into the possibility, backed by murmurs of the same idea coming from Washington D.C., that foreign-based terrorists had attacked on American soil. At the site of the explosion, the fact-finding mission was at work trying to determine the cause: “Arriving investigators noted the odor of ammonium nitrate in the smoke. They surveyed the area and saw the crater and the type and extent of the damage. It was evident to them that the damage was the result of a bombing rather than a crash or natural gas explosion.”<sup>3</sup>

The general public, still in shock, began to exude feelings of anger and fear. Americans questioned: What kind of person would be capable of bombing an office building that also housed a daycare? A rash of harassment against those of Middle Eastern descent began in Oklahoma City shortly after the bombing. An Islamic center was vandalized, along with people

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<sup>2</sup> Andrew Cohen, “Two of the Oklahoma City Bombing’s Lasting Legacies,” Brennan Center for Justice, April 2015, <https://www.brennancenter.org/our-work/policy-solutions/two-oklahoma-city-bombings-lasting-legacies>.

<sup>3</sup> Stephen Sloan, “Placing Terrorism in an Academic and Personal Context: A Case Study of the Oklahoma City Bombing\*,” *Social Science Quarterly* 97, no. 1 (2016): pp. 65-74, <https://doi.org/10.1111/ssqu.12253>, 69.

displaying “anti-Arab slogans” on their personal vehicles.<sup>4</sup> Not until Timothy McVeigh, an American by birth and former US Army soldier, was arrested and connected to the bombing of the Murrah building did the public anti-Muslim sentiment slightly begin to wane. Though those who planned and executed the bombing in Oklahoma City were US citizens by birth, the prevalent societal view was that terrorism originates beyond the nation’s borders.

In February 1995, two months before the bombing of the Murrah building in Oklahoma City, President Bill Clinton introduced anti-terrorism legislation to Congress in response to the 1993 World Trade Center bombing in New York City. The Omnibus Counterterrorism Act of 1995 was quickly expanded upon and reintroduced to the US Senate one week after the bombing in Oklahoma City. Senators Bob Dole (R-KS) and Orin Hatch (R-UT) introduced similar anti-terrorism legislation to overwhelming bipartisan support in the Senate the next day.<sup>5</sup> The Comprehensive Terrorism Prevention Act of 1995 passed the Senate within four days, with an amended version passing the House in March of 1996. The final bill, the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), with its stated purpose being a means to “deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes,” was signed into law by President Clinton on the one-year anniversary of the Oklahoma City Bombing.<sup>6</sup>

President Clinton also signed into law the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) during this time. The act corresponds directly with anti-immigrant political rhetoric and public sentiment in the aftermath of the Oklahoma City bombing

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<sup>4</sup> Stephen Sloan, “Placing Terrorism in an Academic and Personal Context: A Case Study of the Oklahoma City Bombing\*,” *Social Science Quarterly* 97, no. 1 (2016): pp. 65-74, <https://doi.org/10.1111/ssqu.12253>, 69.

<sup>5</sup> JA Beall, “Are We Only Burning Witches? The Antiterrorism and Effective Death Penalty Act of 1996’s Answer to Terrorism,” *Indiana Law Journal (Bloomington)* 73, no. 2 (1998): pp. 693-710, 695.

<sup>6</sup> Beall, *Are We Only Burning Witches?*, 695.

centering on “a supposed link between immigrants and crime in the United States to gain public support and capitalize on public misconceptions,” with border security becoming completely synonymous with immigration reform.<sup>7</sup> The enactment of IIRIRA “blurred the line between penal reform and immigration law,” working to exclude immigrants and non-citizens from attaining legal, permanent residency in the United States.<sup>8</sup> Crimes such as petty larceny and assault were now labeled aggravated felonies with statutes now being enforceable retroactively; the desired result being an increase in deportations.<sup>9</sup> Additionally, IIRIRA created a “framework for linking local law enforcement with federal immigration enforcement,” which embellished the budding national security state.<sup>10</sup> Crackdowns on immigration directed by and as a result of the provisions within the IIRIRA and AEDPA directly influence the rise of undocumented immigrants inside the United States as “undocumented aliens have an incentive to remain here covertly for as long as possible rather than try to legalize their status” due to the fact that “if they are discovered as having illegal status in the process of trying to legalize it, they will be removed, with a bar to reentry of up to ten years,” thus providing a constantly recurring justification for increasingly more security at the border.<sup>11</sup> This slew of legislation effectively set the stage for the future passage of reactive policies that would focus on border and national security in order to protect the homeland.

While the AEDPA initially targeted terrorist activity, the act also dramatically reformed immigration policy. Border security had become the focal point of the AEDPA and the

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<sup>7</sup> Diana R Podgorny, “Rethinking the Increased Focus on Penal Measures in Immigration Law as Reflected in the Expansion of the Aggravated Felony Concept,” *Journal of Criminal Law and Criminology* 99, no. 1 (2008): pp. 287-315, 300.

<sup>8</sup> Podgorny, *Rethinking the Increased Focus on Penal Measures In Immigration Law*, 288.

<sup>9</sup> Podgorny, *Rethinking the Increased Focus on Penal Measures In Immigration Law*, 296

<sup>10</sup> Jessica Bolter and Muzaffar Chishti, “Two Decades after 9/11, National Security Focus Still Dominates U.S. Immigration System,” migrationpolicy.org, November 29, 2021, <https://www.migrationpolicy.org/article/two-decades-after-sept-11-immigration-national-security>.

<sup>11</sup> Podgorny, *Rethinking the Increased Focus on Penal Measures In Immigration Law*, 308.

increasing political rhetoric manufacturing the interchangeability of crime and immigration by the late 1990s aided in justifying the focus. In accordance with the AEDPA, the Immigration and Naturalization Service (INS) would label any immigrant with permanent legal resident status who was convicted of a crime as a “criminal alien,” guaranteeing deportation but also adding to the public perception of the intertwining of immigration and criminality.<sup>12</sup> Public support for the AEDPA, and the border security and immigration measures contained within, stemmed from the belief that “aliens who cannot follow the law” have no right to remain in the United States.<sup>13</sup> Here it is demonstrated how restrictive and reactive policy can create its own public support by capitalizing on the public’s anger and fear, redirected to an incredibly malleable and politically contentious subject such as immigration. The state could now utilize secret evidence against undocumented immigrants, new courts were created to streamline the deportation process, and the list of crimes that mandated deportation was expanded to ramp up the removal of “aliens” by the INS.<sup>14</sup> Judicial review in the cases of deportation was removed, with an increase in resources towards identifying and deporting undocumented immigrants, which exponentially increased the numbers of those held in INS detention centers. The act also created a “Criminal Alien Identification System” which law enforcement utilized to locate immigrants convicted of crimes for deportation.<sup>15</sup> In effect, the AEDPA had “grouped criminal aliens with terrorists and death row inmates by making the revisions to immigration law under the same Act.”<sup>16</sup>

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<sup>12</sup> Paige Krasker, “Crimes of the Past Revisited: Legal Aliens Deported for Past Crimes under the Retroactive Application of the Antiterrorism and Effective Death Penalty Act,” *Suffolk Transnational Law Review* 22, no. 1 (1998): pp. 109-132, 116.

<sup>13</sup> Krasker, *Crimes of the Past Revisited*, 121.

<sup>14</sup> JA Beall, “Are We Only Burning Witches? The Antiterrorism and Effective Death Penalty Act of 1996's Answer to Terrorism,” *Indiana Law Journal (Bloomington)* 73, no. 2 (1998): pp. 693-710, 706.

<sup>15</sup> Krasker, *Crimes of the Past Revisited*, 120.

<sup>16</sup> Krasker, *Crimes of the Past Revisited*, 128.

Terrorism is a “premeditated use or threat to use violence by individuals or subnational groups against noncombatants in order to obtain a political or social objective through the intimidation of a large audience beyond that of the immediate victims.”<sup>17</sup> In no way does the act of terrorism reflect the act of immigration in either action or premise, but the sociopolitical association of terrorism and immigration is key to understanding the given public support for restrictive, reactive policies enacted in response to acts of terror. Studies have shown that terrorist attacks cause citizens to act more hostile towards certain immigrants as “stronger feelings of uncertainty and loss of control” become more prevalent, resulting in higher approval rates for restrictive policies that would otherwise not receive such levels of support.<sup>18</sup> Feelings of security and safety demanded by citizens begin to outweigh the needs of perceived outsiders to the state, with closed-border policies viewed as more favorable risk-avoidance measures.<sup>19</sup>

At 8:46 am on September 11, 2001, American Airlines Flight 11 was deliberately flown into the North Tower of the World Trade Center in New York City. Roughly twenty minutes later, United Airlines Flight 175 was deliberately flown into the South Tower of the World Trade Center. Thirty minutes later, American Airlines Flight 77 crashed into the Pentagon in Washington DC. Nearly two hours into the attacks, United Airlines Flight 93 crashed into a field in rural Pennsylvania. The forty-four passengers and crew onboard overpowered the hijackers after hearing of the attacks in New York City and DC, plunging the aircraft into the earth as to avoid any more casualties. The United States vowed to “never forget” the terrorist attacks of that day, laying the foundation for any justification required to protect and secure the homeland.

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<sup>17</sup> Marc Helbling, Daniel Meierrieks, and Sergi Pardos-Prado, “Terrorism and Immigration Policy Preferences,” *Defence and Peace Economics*, 2022, pp. 1-14, <https://doi.org/10.1080/10242694.2022.2061837>, 3.

<sup>18</sup> Helbling, Meierrieks, and Pardos-Prado, *Terrorism and Immigration Policy Preferences*, 3.

<sup>19</sup> Helbling, Meierrieks, and Pardos-Prado, *Terrorism and Immigration Policy Preferences*, 3.

Within two weeks, the FBI released a statement containing the names of nineteen hijackers.<sup>20</sup> The information stemmed from passenger manifests pulled by US intelligence just hours after the attacks. Customs and Border Patrol (CBP) Commissioner Robert Bonner, who had just in recent days been confirmed by the Senate, immediately recognized two names on the list as known operatives of al-Qaeda: Khalid al-Mihdhar and Nawar al-Hazmi.<sup>21</sup> All of the men included on the list had names of Middle Eastern origin, signaling to the public that the ideology that fueled the terrorist attacks had originated from far beyond American borders. Anti-Muslim sentiment saw an immediate and dramatic rise in the United States, and especially in New York City. Evidence of the lasting impression of the rise of anti-Muslim sentiment and the societal interchangeability of immigration, crime, and terrorism was presented when in 2011, ten years after the attacks, the planned opening of an Islamic center in close proximity to the location where the Twin Towers once stood was met by a fierce public response, dubbing the Islamic center “a shrine to terrorism,” and an online petition demanding a stop to the opening of the center gathering 300,000 signatures.<sup>22</sup> In October 2001, a statement was released by al-Qaeda spokesman Sulaiman Abu Ghaith, not claiming responsibility for the September 11th attacks but declaring: “The Americans should know that the storm of plane attacks will not abate, with God's permission. There are thousands of the Islamic nations' youths who are eager to die just as the Americans are eager to live.”<sup>23</sup> Prior to this statement, no group had claimed responsibility for the attacks as the United States and European intelligence agencies in the UK and Germany

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<sup>20</sup> “FBI Announces List of 19 Hijackers,” Federal Bureau of Investigation, September 13, 2001, <https://archives.fbi.gov/archives/news/pressrel/press-releases/fbi-announces-list-of-19-hijackers>.

<sup>21</sup> Edward H. Alden, *The Closing of the American Border: Terrorism, Immigration, and Security since 9/11* (New York, NY: Harper, 2009), 31.

<sup>22</sup> Reece Jones, “Border Security, 9/11 and the Enclosure of Civilisation,” *The Geographical Journal* 177, no. 3 (2011): pp. 213-217, <https://doi.org/10.1111/j.1475-4959.2011.00416.x>, 213.

<sup>23</sup> “Middle East | in Full: Al-Qaeda Statement,” BBC News (BBC, October 10, 2001), [http://news.bbc.co.uk/2/hi/middle\\_east/1590350.stm](http://news.bbc.co.uk/2/hi/middle_east/1590350.stm).

worked in tandem to uncover the details of the planning, execution, and terrorist organization responsible for the attacks.<sup>2425</sup>

The hijackers that carried out attacks on that day had found their way into the country through the immigration system, which promptly became the target of reform. As the INS was “chronically underfunded and under-resourced” and in need of serious overhaul, President Bush and his administration sought to find the proper place for the agency in the newly established DHS, splitting the agency’s responsibilities between the Border Patrol, Immigration and Customs Enforcement, and the Citizenship and Immigration Services.<sup>26</sup> “This massive overhaul of the executive branch provided the Bush administration with another solution to fix the chronic lack of funding and support that had plagued INS for far too long – problems that were blamed in large part for the 9/11 attacks.”<sup>27</sup> The Department of Justice retained control over the immigration court system, but handed over all other immigration functions to DHS, setting “the country on a path that made immigration enforcement a matter of national security and justified treating migrants as dangers to the homeland.”<sup>28</sup>

This massive restructuring of the federal government was a result of the USA PATRIOT Act of 2001, enacted one month after the September 11th attacks, and the Homeland Security Act of 2002. The USA PATRIOT Act broadened the definitions of “terrorist activity” and

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<sup>24</sup> John Tagliabue and Raymond Bonner, “A NATION CHALLENGED: GERMAN INTELLIGENCE; German Data Led U.S. to Search For More Suicide Hijacker Teams,” February 14, 2009, <https://web.archive.org/web/20090214063253/http://query.nytimes.com/gst/fullpage.html?res=9A0DE5DA173DF93AA1575AC0A9679C8B63>.

<sup>25</sup> “Facts and Figures 2003,” Federal Bureau of Investigation - Facts and Figures 2003, accessed March 5, 2023, <https://web.archive.org/web/20161223182153/https://www2.fbi.gov/libref/factsfigure/counterterrorism.htm>.

<sup>26</sup> Camille J. Mackler, “Immigration Policy before and after 9/11: From the INS to DHS – Where Did We Go Wrong?,” Just Security, September 9, 2021, <https://www.justsecurity.org/78132/immigration-policy-before-and-after-9-11-from-the-ins-to-dhs-where-did-we-go-wrong/>.

<sup>27</sup> Mackler, *Immigration Policy before and after 9/11*.

<sup>28</sup> Mackler, *Immigration Policy before and after 9/11*.

“terrorist organization,” gave discretionary power to the Attorney General to detain non-citizens if there is “reasonable grounds to believe” that their actions endanger national security, and enables the removal of non-citizens for “wholly innocent associational activity, excludable for pure speech, and detainable at the Attorney General’s discretion, without a hearing and without a finding that they pose a danger or flight risk.”<sup>29</sup>

The Homeland Security Act of 2002 established the Department of Homeland Security, combining twenty-two agencies, namely: the Immigration and Naturalization Service, the Secret Service, the Customs Service, the Federal Emergency Management Administration, and the Border Patrol.<sup>30</sup> The act also established the office of Directorate for Border and Transportation Security, which required the appointment of an Under Secretary of Border and Transportation Security that would be primarily responsible for securing the nation’s borders by “preventing the entry of terrorists and the instrument of terrorism into the United States” and “establishing national immigration enforcement policies and priorities.”<sup>31</sup> Also contained within the act were new directives for the Border Patrol to “serve as the law enforcement office of U.S. Customs and Border Protection with primary responsibility for interdicting persons attempting to illegally enter or exit the United States...” and “deter and prevent the illegal entry of terrorists, terrorist weapons, persons, and contraband,” placing immigration law enforcement and anti-terrorism law enforcement into the same hands.<sup>32</sup>

### **Border Patrol: A Means for Rapid Expansion of State Surveillance and Social Control**

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<sup>29</sup> Diana R Podgorny, “Rethinking the Increased Focus on Penal Measures in Immigration Law as Reflected in the Expansion of the Aggravated Felony Concept,” *Journal of Criminal Law and Criminology* 99, no. 1 (2008): pp. 287-315, 298.

<sup>30</sup> Kirkpatrick & Lockhart LLP, “The Homeland Security Act of 2002,” n.d, 1.

<sup>31</sup> Kirkpatrick & Lockhart LLP, *The Homeland Security Act of 2002*, 5.

<sup>32</sup> “Compilation of the Homeland Security Act of 2002, Committee Print 116-B, September 2019, 116-1,” *Compilation of the homeland security act of 2002, Committee Print 116-B, September 2019, 116-1 §* (2019), pp. 1-377, 89.

During the Clinton administration, the INS began Operation Gatekeeper, which adopted a new strategy of “Prevention Through Deterrence,” placing Border Patrol agents and resources “directly on the border in order to deter the entry of illegal aliens, rather than attempting to arrest aliens after they have already entered the country.”<sup>33</sup><sup>34</sup> The stated goal of the new strategy was not to apprehend more unauthorized migrants, but to achieve “optimum deterrence” by increasing the presence of the INS along the nation’s borders, focusing especially on the southern border<sup>35</sup>. This shifting in strategy to one of deterrence is historically significant as it provides the official justification necessary for the eventual expansion of border security and anti-terrorism operations beyond the physical borders of the United States. With the full support and direction of Congress, new INS agents were hired along with shifting Border Patrol agents to the physical northern and southern borders beginning in 1994. Phase I of operations by the INS began with fencing, stadium lighting, and surveillance technology being implemented at the El Paso, TX and San Diego, CA border crossings. Physical security budgets along the border saw a dramatic increase as funding for fencing increased from \$92 million in 2005 to \$270 million in 2006.<sup>36</sup> Phase II of these operations expanded Phase I to more border crossings throughout the southwest and to the northern border.<sup>37</sup> The growing need for expansive resources along the nation’s borders required more funding from Washington, with requested budgets significantly

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<sup>33</sup> “Operation Gatekeeper: An Investigation Into Allegations of Fraud and Misconduct ,” USDOJ/OIG Special Report, July 1998, <https://oig.justice.gov/sites/default/files/archive/special/9807/exec.htm>.

<sup>34</sup> Chad C. Haddal, “Border Security: The Role of the U.S. Border Patrol,” *Border security: The role of the U.S. border patrol* § (n.d.), pp. 1-36, 4.

<sup>35</sup> Haddal, *Border Security*, 4.

<sup>36</sup> Jessica Bolter and Muzaffar Chishti, “Two Decades after 9/11, National Security Focus Still Dominates U.S. Immigration System,” [migrationpolicy.org](https://www.migrationpolicy.org), November 29, 2021, <https://www.migrationpolicy.org/article/two-decades-after-sept-11-immigration-national-security>.

<sup>37</sup> Bolter and Chishti, *Two Decades after 9/11*.

increasing year-by-year beginning in 1994. By 2001, the budget for the INS had swelled to \$4.27 billion from 1994's \$1.58 billion, growing by 160.1%.<sup>38</sup>

In reaction to the September 11th attacks, Congress called for even more increases in border security budgets. There were additional directions by Congress in 2001 to quickly expand the number of Border Patrol agents to 10,000 and by 2016, the number of agents employed by the agency had reached 21,000.<sup>39</sup> This rapid expansion of the Border Patrol did not go without intra-agency protest. The agency's new commissioner W. Ralph Basham "expressed serious reservations about the push for such rapid growth," which was disruptive to effective planning and proficient hiring practices, as the Bush administration took the opposing position that any agents in the field were better than no agents in the field.<sup>40</sup> As "defense against terrorism provided a reason to dramatically increase resources for immigration agencies identified as protecting homeland security," precedence set by the AEDPA and IIRIRA, the necessary support for these budget increases and rapid hirings within the US government, as well as the public, was already well established.<sup>41</sup> By 2006, the immigration enforcement portion of the DHS budget was \$12.5 billion, up over \$10 billion compared to the INS budget of 1994, and by 2020 the budget had increased to \$25.1 billion, more than six times the budget of 2000.<sup>42</sup>

The jurisdiction of the Border Patrol was set by federal regulations in 1953, in which the previously ambiguous "reasonable distance" language which stemmed from the 1952 Immigration and Naturalization Act was clarified and defined as "100 air miles from any

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<sup>38</sup> DOJ: JMD: BS: Budget Trend Data, Immigration and Naturalization Service, accessed March 3, 2023, [https://www.justice.gov/archive/jmd/1975\\_2002/2002/html/page104-108.htm](https://www.justice.gov/archive/jmd/1975_2002/2002/html/page104-108.htm), 106.

<sup>39</sup> Deborah Anthony, "The U.S. Border Patrol's Constitutional Erosion in the '100-Mile Zone,'" *Penn State Law Review* 124, no. 2 (April 2020): pp. 391-432, 394.

<sup>40</sup> Anthony, *The U.S. Border Patrol's Constitutional Erosion*, 394.

<sup>41</sup> Jessica Bolter and Muzaffar Chishti, "Two Decades after 9/11, National Security Focus Still Dominates U.S. Immigration System," [migrationpolicy.org](https://www.migrationpolicy.org), November 29, 2021, <https://www.migrationpolicy.org/article/two-decades-after-sept-11-immigration-national-security>.

<sup>42</sup> Bolter and Chishti, *Two Decades after 9/11*.

external boundary, including all coasts and waterways,” establishing the 100-mile rule.<sup>43</sup> This rule declares that bodies of water such as Lake Michigan are external boundaries due to the shared northern border with Canada, which then places the city of Chicago under Border Patrol jurisdiction. The same application of the 100-mile rule in the states of Washington, Oregon, and California places the most populated cities of those states – Seattle, Portland, San Francisco and Los Angeles – also under the jurisdiction of Border Patrol. An estimated 200 million residents, over 65% of the entire population of the United States, are placed under the legal authority of the Border Patrol by the 100-mile rule.<sup>44</sup> While the legal jurisdiction of the Border Patrol is limited to the 100-mile rule, in practice there are numerous examples of the agency’s tendency to operate well beyond their legal limits. One instance in 2010 resulted in a man in Texas being pulled over 167 miles from the southern border, just north of San Antonio by Border Patrol agents for “body posture” and “never acknowledging the agents” while driving alongside the agents’ vehicle.<sup>45</sup>

Expansive use of the Border Patrol accelerated, particularly the domestic deployment of agents in efforts of social control, during the Trump administration. The agency received orders in early 2020 to deploy the specialized Border Patrol Tactical Unit (BORTAC) in coordination with Operation Palladium, sending 500 agents who were often operating in plainclothes to various immigration sanctuary cities across the United States. The operation’s mission was to “flood the streets” in support of the “enhanced arrest campaign” targeting undocumented immigrants, declared a national security issue by President Trump.<sup>46</sup> In June of 2020, the BORTAC unit was again deployed to American city streets, given orders to maintain control of

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<sup>43</sup>Anthony, *The U.S. Border Patrol’s Constitutional Erosion*, 398.

<sup>44</sup> Deborah Anthony, “The U.S. Border Patrol’s Constitutional Erosion in the ‘100-Mile Zone,’” *Penn State Law Review* 124, no. 2 (April 2020): pp. 391-432, 399.

<sup>45</sup>Anthony, *The U.S. Border Patrol’s Constitutional Erosion*, 408.

<sup>46</sup> Naureen Shah, “Trump Is Sending Special Forces-Style Agents into pro-Immigrant Cities: ACLU,” American Civil Liberties Union, February 27, 2023.

the crowds, and possible protestors, at the funeral of George Floyd taking place in Pearland, TX.<sup>47</sup> Due to the 100-mile rule, the Houston suburb falls under the jurisdiction of the Border Patrol. Documents obtained by the ACLU show that BORTAC was authorized to escalate the situation up to the use of deadly force if deemed necessary under Chapter 9 of the Texas Penal Code, along with the sniper teams and National Guard members who had been deployed to the funeral, as DHS and the FBI provided unmanned and manned aerial surveillance to monitor the crowd and potential protestors.<sup>48</sup> The Trump administration's use of federal law enforcement to deport and expel Latin Americans from the United States while at the same time restricting the presence of those from Latin American nations within the United States is an example of how the homeland security model uses drone technology to enclose wealthy nations while also excluding the world beyond the nation's borders.

### **Drone Technology: The Evolution of Global Air Superiority**

In August 1849, the first use of an Unmanned Aerial Vehicle (UAV) for military purposes occurred when Austrian Army Lieutenant Franz von Uchtaius ordered 200 hot air balloons, laden with thirty-three pounds of explosives each, to be set upon the Italian city of Venice. The Austrians had been repelled by Italian forces from the region just the year before. Thirteen years later, and thousands of miles away, Luther C. Crowell of West Dennis, Massachusetts applied to patent a "flying machine" which could carry an explosive payload.<sup>49</sup> The next year, in 1863, Charles Perley of New York applied to patent his version of a UAV in

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<sup>47</sup> "Documents Obtained by ACLU Reveal Border Patrol Agents Were Authorized to Use Deadly Force at George Floyd's Burial," American Civil Liberties Union, September 30, 2020, <https://www.aclu.org/press-releases/documents-obtained-aclu-reveal-border-patrol-agents-were-authorized-use-deadly-force>.

<sup>48</sup> "Documents Obtained by ACLU Reveal Border Patrol Agents Were Authorized to Use Deadly Force at George Floyd's Burial," American Civil Liberties Union, September 30, 2020, <https://www.aclu.org/press-releases/documents-obtained-aclu-reveal-border-patrol-agents-were-authorized-use-deadly-force>.

<sup>49</sup> Hugh McDaid et al., "Remote Piloted Aerial Vehicles : An Anthology," Monash University, February 2003, [https://www.ctie.monash.edu/hargrave/rpav\\_home.html](https://www.ctie.monash.edu/hargrave/rpav_home.html).

the form of a hot air balloon outfitted with timed explosives. UAVs are far from new, but drone technology is a rather recent development. The US military began developing and focusing on the technology in the 1960s, codenamed “Red Wagon,” as tensions with the Soviet Union reached a boiling point during the Vietnam War.<sup>50</sup>

For over forty years, evolving drone technology found its testing ground in various combat situations around the globe. The US Department of Defense (DOD) began heavily investing in drone technology in the 1980s and 1990s, awarding contracts to the US-based AAI Corp and an Israeli company, Malat, to produce more cost-efficient UAVs. This investment kickstarted the well-known Predator drone program.<sup>51</sup> Officially, CBP began their Predator drone program in 2005 under the newly-established Office of Air and Marine (OAM), which linked agency assets from Border Patrol with Immigration and Customs Enforcement.<sup>52</sup> In the early 2000s, the DOD was deploying armed Reaper and Predator drones in Iraq as unarmed versions of the drones were being acquired by the Department of Homeland Security (DHS) in a shift away from “lightweight and comparatively inexpensive UAVs” towards the larger military versions.<sup>53</sup> The CBP fleet of Predator UAVs had grown to seven by 2013, after declaring in 2012 that General Atomics, an energy and defense contractor specializing in drone and nuclear energy technology, was the only “responsible source” for drone technology. According to CBP, General Atomics’ specialized “knowledge of the production, operation, and maintenance of the MQ-9 [Predator] is so unique that a transition of OAM UAS equipment to a UAS other than the MQ-9

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<sup>50</sup> Wagner, William. Introduction. In *Lightning Bugs and Other Reconnaissance Drones*, XI-XII. Washington, DC: Armed Forces Journal International, 1982.

<sup>51</sup> Jackie Alkobi, “The Evolution of Drones: From Military to Hobby & Commercial,” Percepto, February 22, 2022, <https://percepto.co/the-evolution-of-drones-from-military-to-hobby-commercial/>.

<sup>52</sup> Tom Barry, “Drones Over Homeland: Expansion of Scope and Lag in Governance.,” *The Brown Journal of World Affairs* 19, no. 2 (2013): pp. 65-80, 66.

<sup>53</sup> Barry, *Drones Over Homeland*, 66.

or support services to a company other than GA-ASI would notably impact the CBP UAS program."<sup>54</sup> A market analysis conducted by an IT firm stated that the drone sector of the aviation industry was worth roughly \$6 billion in 2012, with that amount estimated to double by 2022.<sup>55</sup> In 2018, the DOD budget requested \$9.39 billion “for unmanned systems and associated technologies” for the 2019 fiscal year (FY), a nearly \$2 billion increase from the previous fiscal year’s budget.<sup>56</sup> The exponential rate at which the drone sector increases in value and receives funding is indicative of the technology’s worth to wealthy nations.

The first publicly-acknowledged use by the United States of a UAV to strike within another nation’s borders was in 2002. Members of al-Qaeda were targeted in Yemen by the US Central Intelligence Agency (CIA), killing six operatives, one of whom was a dual-citizen of the United States and an unspecified Middle Eastern country. The primary target was an operative who was a senior leader in al-Qaeda, Abu Ali al-Harithi, who was concluded to be behind a October 2000 terrorist attack on the USS Cole which was refueling in a Yemeni harbor.<sup>57</sup>

In 2004, the Border Patrol tested the use of drone technology on the southern border of the United States for the first time with an Elbit Hermes 450 medium altitude long endurance surveillance drone. The next year, the agency deployed its first unarmed Predator drone manufactured by General Atomics along the southern border. Predator drones operate in three capacities when deployed by Border Patrol: searching for people transporting illegal goods

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<sup>54</sup> Barry, *Drones Over Homeland*, 67.

<sup>55</sup> Owen Bowcott and Nick Hopkins, “Future Is Assured for Death-Dealing, Life-Saving Drones,” *The Guardian* (Guardian News and Media, August 4, 2012), <https://www.theguardian.com/world/2012/aug/04/future-drones>.

<sup>56</sup> Dan Gettinger, “Drones in the FY 2019 Defense Budget,” *The Center for the Study of the Drone* (Bard University, September 16, 2019), <https://dronecenter.bard.edu/projects/defense-spending-on-drones/drones-in-the-fy-2019-defense-budget/>.

<sup>57</sup> Dana Priest, “U.S. Citizen among Those Killed in Yemen Predator Missile Strike,” *The Tech - Online Edition* (Massachusetts Institute of Technology, November 8, 2002), <http://tech.mit.edu/V122/N54/long4-54.54w.html>.

across the border, aerial support for on-the-ground law enforcement, and supporting missions during emergency disaster responses.<sup>58</sup> Predator drones are used “to conduct missions in areas that are remote, too rugged for ground access, or otherwise considered too high-risk for manned aircraft or personnel on the ground,” with a capability of staying in the air for 30 hours at a time.<sup>59</sup> These drones are equipped with Wide Area Persistent Surveillance camera technology, capable of providing constant surveillance of a 3.7 mile-wide area, which is utilized to “maintain a continuous record of events within a given area of coverage, allowing people, vehicles, and objects to be identified” as targets and establish a prior timeline of events including origin, destination, contacts, and patterns.<sup>60</sup> According to a 2015 report from the Department of Homeland Security’s Office of Inspector General, the cost of Border Patrol operating drones along the southern border in FY 2013 was \$12,255 per hour, with the agency’s drone program having a total budget of \$62.5 million, but only aided in less than 2% of apprehensions.<sup>61</sup>

In 2012, General Atomics received a contract for drone technology from the Department of Homeland Security worth \$216.6 million.<sup>62</sup> The following year the company received a \$443 million contract in an effort to double the Border Patrol’s fleet of surveillance drones as defense contractors were “turning their sights to the Mexican border in the hopes of collecting some of the billions of dollars expected to be spent on tighter security if immigration legislation becomes

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<sup>58</sup> Peter Burt and Jo Frew, “Crossing a Line: The Use of Drones to Control Borders” (Oxford, UK: Drone Wars UK, 2020), pp. 1-53, 7.

<sup>59</sup> Peter Burt and Jo Frew, “Crossing a Line: The Use of Drones to Control Borders” (Oxford, UK: Drone Wars UK, 2020), pp. 1-53, 8.

<sup>60</sup> Burt and Frew, *Crossing a Line*, 8.

<sup>61</sup> “Drone Patrols on U.S. Border Ineffective, Report Finds,” The Wall Street Journal (Dow Jones & Company, January 6, 2015), <https://www.wsj.com/articles/inspector-general-criticizes-u-s-border-drone-program-1420576272>.

<sup>62</sup> “CONTRACT to GENERAL ATOMICS AERONAUTICAL SYSTEMS, INC. from the Department of Homeland Security,” USAspending.gov, October 2012, [https://www.usaspending.gov/award/CONT\\_AWD\\_HSBP1013C00006\\_7014\\_-NONE--NONE-](https://www.usaspending.gov/award/CONT_AWD_HSBP1013C00006_7014_-NONE--NONE-).

law.”<sup>63</sup> These contracts were awarded despite “critical reports by the Congressional Research Service, General Accountability Office, and the DHS Office of Inspector General (OIG), as well as continuing technical failures and poor results.”<sup>64</sup> Militarization of the southern border that had been escalating steadily during the Bush administration became the mandate during the Obama administration: contracts were awarded and budgets expanded as the norm. In 2013, Head of Acquisitions for Customs and Border Protection Mark S. Borkowski told an audience at a conference on border security that “the main gap in our ability to provide a more secure border at this point is technology,” as lobbyists such as former Senator Alfonse D’Amato (R-NY) and Democratic aide Benjamin Abrams brought millions in campaign dollars from defense contractors to Washington in order to push for more restrictive immigration legislation.<sup>65</sup> Technology gaps such as video monitoring terminal failures, fuel shortages for helicopters, and the limited viewing capability of ground-mounted cameras were reported as jeopardizing the mission by Border Patrol and cited as justification for requesting new forms of surveillance technology.<sup>66</sup> In 2022, General Atomics was awarded a \$585 million contract from CBP, noting in a “justification and approval document that it made the award to sustain a strategy that underpins its procurement of General Atomics-built MQ-9B Predator B and Guardian UAS along with associated services.”<sup>67</sup>

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<sup>63</sup> Eric Lipton, “As Wars End, a Rush to Grab Dollars Spent on the Border,” *The New York Times* (The New York Times, June 7, 2013), <https://www.nytimes.com/2013/06/07/us/us-military-firms-eye-border-security-contracts.html>.

<sup>64</sup> Tom Barry, “Drones Over Homeland: Expansion of Scope and Lag in Governance.,” *The Brown Journal of World Affairs* 19, no. 2 (2013): pp. 65-80, 67.

<sup>65</sup> Eric Lipton, “As Wars End, a Rush to Grab Dollars Spent on the Border,” *The New York Times* (The New York Times, June 7, 2013), <https://www.nytimes.com/2013/06/07/us/us-military-firms-eye-border-security-contracts.html>.

<sup>66</sup> Lipton, *As Wars End*.

<sup>67</sup> Angeline Leishman, “CBP Awards Potential \$585M UAS Support Contract to General Atomics Unit,” *GovCon Wire*, March 30, 2022, <https://www.govconwire.com/2022/03/cbp-awards-potential-585m-uas-support-contract-to-general-atomics-unit/>.

CBP officially maintains that the agency's drone program "strategically focuses on counterterrorism and securing the border," but the agency often publicly and privately promotes the "non border missions" of the Predator drone, such as international air shows and use in foreign deployments.<sup>68</sup> Former Assistant Commissioner of the Office of Air and Marine Michael C. Kostelnik testified at a congressional hearing in 2011 that a Predator drone had been put on display at the Paris Air Show for the first time, proclaiming the display was an effort that generated a "good deal of interest with our partnership nations," and that one of the OAM's missions was to create interest among other nations in purchasing the Predator drone from General Atomics.<sup>69</sup> While still serving on active duty in the US Air Force, Kostelnik "played a key role in fostering the collaboration between the Air Force and General Atomics in weaponizing the Predator," as prior to 2001 the UAV had been used only for Intelligence, Surveillance, and Reconnaissance missions.<sup>70</sup> Kostelnik also commented to the Washington Post in a 2011 article that he had "never been challenged in Congress about the appropriate use of domestic drones."<sup>71</sup> The role of Kostelnik is not the only key to the export of drone technology from the United States, but rather exemplary of the types of relationships fostered between the US government, defense contractors, and the engorged budget of CBP that enabled the exportation of drone technology to other wealthy nations.

The primary position of those that favor drone technology argues that drones are "highly effective at killing terrorist operatives in inaccessible regions," diminishing the possibility of

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<sup>68</sup> Tom Barry, "Drones Over Homeland: Expansion of Scope and Lag in Governance.," *The Brown Journal of World Affairs* 19, no. 2 (2013): pp. 65-80, 69.

<sup>69</sup> Tom Barry, "Drones Over Homeland: Expansion of Scope and Lag in Governance.," *The Brown Journal of World Affairs* 19, no. 2 (2013): pp. 65-80, 69.

<sup>70</sup> Barry, *Drones Over Homeland*, 66.

<sup>71</sup> Barry, *Drones Over Homeland*, 76.

civilian casualties.<sup>72</sup> Former Secretary of Defense Leon Panetta argued in 2009 that drones were “the only game in town in terms of trying to disrupt al Qaeda leadership,” while former Director of the CIA Michael Hayden boasted that drone technology made Federally Administered Tribal Areas of Pakistan unsafe for the terrorist organization.<sup>73</sup> Former counterterrorism advisors to both President Bush and President Obama promoted the use of drone technology, arguing that the ability to eliminate top operatives with targeted strikes that were “wise, ethical, and necessary” far outweighed any other approach.<sup>74</sup>

Members of Congress who are considered “border security hawks” have also voiced their emphatic support for the use of drones. In 2009, a limited group of mainly Republican members of the House of Representatives created the House Unmanned Aerial Vehicle Caucus. Within four years it had grown to sixty members and had changed names to the Unmanned Systems Caucus in order to include all forms of unmanned systems. One of the chairing members of the caucus, Howard McKeon (R-CA), represented a district that was home to prominent drone manufacturers including General Atomics.<sup>75</sup> The stated goal of the Unmanned Systems Caucus is to “educate members of Congress and the public on the strategic, tactical, and scientific value of unmanned systems” and has “played a key role in increasing budgets for UAVs” as well as pushing the FAA to open the nation’s airspace to UAVs.<sup>76</sup> Rep. Henry Cuellar (D-TX), who was a ranking member of the House Subcommittee on Border and Maritime Security, described UAVs as “one more tool for us to stay steps ahead and leaps above the threats that we face,

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<sup>72</sup> Michael J. Boyle, “The Costs and Consequences of Drone Warfare,” *International Affairs* 89, no. 1 (January 2013): pp. 1-29, <https://doi.org/10.1111/1468-2346.12002>, 3.

<sup>73</sup> Boyle, *The Costs and Consequences of Drone Warfare*, 4.

<sup>74</sup> Michael J. Boyle, “The Costs and Consequences of Drone Warfare,” *International Affairs* 89, no. 1 (January 2013): pp. 1-29, <https://doi.org/10.1111/1468-2346.12002>, 4.

<sup>75</sup> Tom Barry, “Drones Over Homeland: Expansion of Scope and Lag in Governance.,” *The Brown Journal of World Affairs* 19, no. 2 (2013): pp. 65-80, 75.

<sup>76</sup> Barry, *Drones Over Homeland*, 75.

and ... help deter and prevent illegal activity and threats to terrorism against the United States” in 2011.<sup>77</sup> Rep. Candice Miller (R-MI) argued that militarized equipment should be used domestically as the equipment has been “so incredibly successful in theater” and would protect Border Patrol agents from harm while on duty as she recommended the Pentagon create an office to transfer military equipment to DHS for use along the border.<sup>78</sup>

During the Obama administration, there was an aggressive shift in strategy regulating drone strikes. This shift in strategy is responsible for a high number of civilian casualties and a consequential rise in anti-American sentiment. As of 2013, drone strikes had been responsible for the deaths of 176 children in Pakistan as a result of the Obama administration's “guilt by association” strategy that targeted suspected terrorists’ residences.<sup>79</sup> This strategy resulted in a loosening of standards for drone strike targets, with civilian casualties occurring during strikes on mosques and funeral processions, and the expansion of “double tap” strikes that targeted those attempting to rescue the victims of a primary strike with a second drone strike.<sup>80</sup> “Signature Strikes” were also introduced at this time, targeting “not the combatant status of an individual but rather their ‘pattern of behavior’ in relation to terrorist activities and without confirming the target’s identity.”<sup>81</sup>

The ability to effectively eliminate High Value Targets is another prominent argument that is used to justify the expansive use of drone technology. Though as of 2013 only 2% of drone strikes had eliminated High Value Targets, President Obama ordered an increase in drone strikes. As the strikes increasingly targeted low-ranking foot soldiers of various terrorist

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<sup>77</sup> Barry, *Drones Over Homeland*, 72.

<sup>78</sup> Barry, *Drones Over Homeland*, 73.

<sup>79</sup> Michael J. Boyle, “The Costs and Consequences of Drone Warfare,” *International Affairs* 89, no. 1 (January 2013): pp. 1-29, <https://doi.org/10.1111/1468-2346.12002>, 7.

<sup>80</sup> Boyle, *The Costs and Consequences of Drone Warfare*, 8.

<sup>81</sup> Boyle, *The Costs and Consequences of Drone Warfare*, 8.

networks, a member of the Haqqani terrorist network understood this to be a strategic decision that reflects Washington's motivation in the region, stating that "they really want to kill everyone, not just the leaders."<sup>82</sup> The leeway given by these policies to strike civilian and unidentified targets is directly connected with the rise in anti-American sentiment in the region, fueled by radicalization of those connected to eliminated militants and civilians killed in drone strikes, which in effect requires the United States to further heighten its security measures in the region and at home. This was exemplified in the 2010 Times Square bombing in New York City by Faisal Shahzad, a militant trained by the terrorist group Tehrik-e Taliban Pakistan (TTP).<sup>83</sup> Asked by the judge how he had the capability to attempt an attack on innocent lives, Shahzad responded that "the drone hits in Afghanistan and Iraq, they don't see children, they don't see anybody. They kill women, children, they kill everybody. It's a war and in war, they kill people. They're killing all Muslims."<sup>84</sup> A Pew Research poll in June 2012 found that 74% of Pakistanis now viewed the United States as an enemy.<sup>85</sup>

### **A New Imperialism : Homeland Security, Border Expansion, New Enemies**

Drone strikes have also been successful in scattering terrorists from their operating areas, but this disruption tends to push militants into more localized groups, deepening further the type of extended conflicts like those seen in Afghanistan and Iraq during the US occupation of both nations. The widespread area in which terrorist organizations can operate directly influences the United States and its partner nations sharing of airspace, and in effect, the borders that delineate that nation's sovereignty. Drone technology allows for the direct control of these national

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<sup>82</sup> Boyle, *The Costs and Consequences of Drone Warfare*, 9.

<sup>83</sup> Michael J. Boyle, "The Costs and Consequences of Drone Warfare," *International Affairs* 89, no. 1 (January 2013): pp. 1-29, <https://doi.org/10.1111/1468-2346.12002>, 12.

<sup>84</sup> Boyle, *The Costs and Consequences of Drone Warfare*, 1.

<sup>85</sup> Boyle, *The Costs and Consequences of Drone Warfare*, 16.

borders by the wealthier, more dominant society under the justification of national security, which is directly tied to immigration and terrorism.

A strategy of optimum deterrence has resulted in an ideological and geographical expansion of the 1823 Monroe Doctrine, in which the United States declared its jurisdiction over the western hemisphere's nations and their affairs.<sup>86</sup> In 2001, President Bush declared that "The US government has no more important mission than protecting the homeland from future attacks."<sup>87</sup> This expansion of the Monroe Doctrine is directly correlated to the Homeland Security Era, in itself a new form of imperialism, grounded upon the idea that "the primary emphasis of this new era will be citizen safety and anti-terrorism methods aimed at the mitigation of future attacks."<sup>88</sup> In this new era, borders around the world are viewed in a hierarchical manner by wealthy nations, with the sovereignty of poorer nations being decided by the national security needs of those wealthy nations. This is exemplified by the Pentagon's admission in 2011 that unarmed Predator drones had been deployed well into Mexican territory on intelligence-gathering missions. Officials at DHS also confirmed that one of the agency's drones had been used to take part in the search for and capture of multiple suspects in the killing of Immigration and Customs Enforcement agent Jaime Zapata.<sup>89</sup> US President Obama and Mexican President Calderón formally agreed to continue the surveillance drone deployments during a meeting at the White House in 2011, along with an agreement to open a second

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<sup>86</sup> "Monroe Doctrine, 1823," Milestones: 1801-1829 - Office of the Historian (U.S. Department of State), accessed March 8, 2023, <https://history.state.gov/milestones/1801-1829/monroe>.

<sup>87</sup> Thomas L. LaCrosse, "Homeland Security and Homeland Defense: America's New Paradigm," *Connections: The Quarterly Journal* 04, no. 3 (2005): pp. 3-16, <https://doi.org/10.11610/connections.04.3.02>, 3.

<sup>88</sup> Willard M. Oliver, "The Fourth Era of Policing: Homeland Security," *International Review of Law, Computers & Technology* 20, no. 1-2 (July 2006): pp. 49-62, <https://doi.org/10.1080/13600860600579696>, 54.

<sup>89</sup> Ginger Thompson and Mark Mazzetti, "U.S. Drones Fight Mexican Drug Trade," U.S. Sends Drones to Fight Mexican Drug Trade (The New York Times, March 16, 2011), <https://www.nytimes.com/2011/03/16/world/americas/16drug.html>.

counternarcotics center in which intelligence and law enforcement agencies from both nations would work cooperatively, as officials commented that prior drone deployments had “been kept secret because of legal restrictions in Mexico and the heated political sensitivities there about sovereignty.”<sup>90</sup> Using this established model of policing beyond its own borders, the United States has expanded the jurisdiction of homeland security to the world, well-beyond the limitations of the Monroe Doctrine.

In response to the September 11th attacks, the DOD adopted a strategy of “defense-in-depth” which prioritizes “addressing threats at the earliest possible opportunity and as far away from our domestic shores as possible” and gives modern justification for this worldwide expansion of authority.<sup>91</sup> This strategy requires the use of foreign airspace for intelligence gathering missions and drone strikes to achieve geopolitical and military goals of the United States, while at the same time diminishing the sovereignty and governmental legitimacy of those foreign nations. Without declaring war or having the legal authority to strike on foreign soil, the United States is capable of fulfilling these missions due to the pressures placed upon foreign governments. In an effort to suppress the terrorist capabilities, especially those of al-Qaeda in Yemen and terrorist networks in Pakistan, the Obama administration adopted a strategy of seeking to “leverage the capacity of foreign partners to confront terrorist threats within their borders and assist them by building a durable capacity to do so on their own.”<sup>92</sup> This exportation of the homeland security model delegitimizes the importing nation’s governing body and at the same time exacerbates the radicalization of those who are locally influenced by terrorist

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<sup>90</sup> Thompson and Mazzetti, *U.S. Drones Fight Mexican Drug Trade*.

<sup>91</sup> Thomas L. LaCrosse, “Homeland Security and Homeland Defense: America’s New Paradigm,” *Connections: The Quarterly Journal* 04, no. 3 (2005): pp. 3-16, <https://doi.org/10.11610/connections.04.3.02>, 3.

<sup>92</sup> Michael J. Boyle, “The Costs and Consequences of Drone Warfare,” *International Affairs* 89, no. 1 (January 2013): pp. 1-29, <https://doi.org/10.1111/1468-2346.12002>, 14.

organizations and networks, inherently providing militants with means to propagandize and recruit.

In Yemen, the terrorist network al-Qaeda in the Arabian Peninsula (AQAP) became the primary target of the Obama administration's use of drone strikes even though AQAP "have no ability to strike, or interest in striking the United States."<sup>93</sup> By striking groups that have no intent on attacking or have no ability to attack the United States, the Obama administration pulled the United States into regional conflicts and civil wars that otherwise would have remained localized. In creating new enemies, the US creates for itself the need to further heighten threat levels, further increase border security, and further close itself off from the world. This effect spills over into regions such as Yemen due to US efforts to expand its borders through the use of deterrence, which results in "building up a government that it marginalizes with drone strikes, strengthening its capacity while also undermining its legitimacy."<sup>94</sup> Through this strategy, the United States creates artificial borders for itself, making transparent the sovereignty of poorer nations under the doctrine of homeland security.

While drone strikes in Yemen attempted to thwart the activities of AQAP, efforts were being made in Pakistan by the United States to beat back the growing TTP terrorist organization by utilizing the nation's airspace. One result of this use of Pakistani airspace for US drone strikes has been an increase in sympathizers and in the group's membership ranks due to the delegitimization of the Pakistani government and the scattering of al-Qaeda operatives.<sup>95</sup> Prior to his election as Prime Minister of Pakistan, Imran Khan led an anti-drone march in October 2012, attracting supporters in the thousands. Khan's rhetoric revolved around the use of Pakistan's

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<sup>93</sup> Boyle, *The Cost and Consequences of Drone Warfare*, 19.

<sup>94</sup> Michael J. Boyle, "The Costs and Consequences of Drone Warfare," *International Affairs* 89, no. 1 (January 2013): pp. 1-29, <https://doi.org/10.1111/1468-2346.12002>, 20.

<sup>95</sup> Boyle, *The Cost and Consequences of Drone Warfare*, 11.

airspace for US drone strikes within the nation's borders, emphasizing the government's "complicity and powerlessness" in subordination to US security goals.<sup>96</sup> To enhance Khan's argument, it was uncovered that the Pakistani government had been allowing the United States to launch drones from one of Pakistan's own air bases for deployments within the nation's borders.<sup>97</sup> The Pakistani people's view on their own sovereignty effectively shifted to one of being under the constant eye and jurisdiction of the United States.

### **Cold and Hot Wars: A New Arms Race**

Drone technology has become a primary export for many nations as the usage of the technology has grown exponentially since its introduction. In an attempt to regain its position as a world power, Turkey has become a primary exporter of drone technology. The Bayraktar TB2 drone, developed and manufactured by the company Baykar, has been used in conflicts such as the Ethiopian civil war that spanned from 2000-2022, the 2020 conflict in Nagorno-Karabakh between Azerbaijan and Armenia, and now by Ukraine while defending against the invasion of Russian forces. Russian President Vladimir Putin publicly criticized Turkey's exporting of the Bayraktar TB2 drone to Ukraine prior to the invasion, with Turkish officials declaring that any weapon sold to another nation is no longer Turkish.<sup>98</sup> In retrospect, the decision by Turkey to "supercharge its own efforts" to produce drone technology came "after the United States declined to sell the country armed drones."<sup>99</sup> The decision to not sell drones to Turkey by the United States can be seen as a result of the type of enclosure that homeland security and drone

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<sup>96</sup> Boyle, *The Cost and Consequences of Drone Warfare*, 16.

<sup>97</sup> Boyle, *The Cost and Consequences of Drone Warfare*, 15.

<sup>98</sup> Maya Carlin, "How the Turkish-Made TB2 Drone Gave Ukraine an Edge against Russia" (Business Insider, September 2022), <https://www.businessinsider.com/how-turkish-baykar-tb2-drone-gave-ukraine-edge-against-russia-2022-9>.

<sup>99</sup> Carlin, *How the Turkish-Made TB2 Drone Gave Ukraine an Edge against Russia*.

technology breeds, but results in destabilization of poorer nations and spurs a race for arms among wealthy nations.

While the US leads the world in drone technology, there are strict regulations in place that dictate which countries are allowed to purchase American drones. These regulations have created open space in the global market for other wealthy nations to supply both smaller yet still wealthy and poorer nations with armed and unarmed drones. General Atomics went to the lengths of partnering in 2011 with a local company in the United Arab Emirates (UAE) to manufacture a modified version of the Predator drone, military technology that the UAE had been seeking since 2005, in order to circumvent US regulations.<sup>100</sup> The decision by General Atomics to manufacture modified versions of existing US drones in the UAE would not have been made without the approval of the US government, therefore this circumventing of regulations should be viewed as exporting military equipment that could easily integrate with American forces should the need ever arise as well as artificial expansion of US borders through surveillance technology. China has also heavily invested in the drone technology market, exporting UAVs to countries who are refused sales by western nations. Iraq, Saudi Arabia, and the UAE have all purchased Chinese-made drones for use in strikes on Yemen, Libya, and the Islamic State terrorist organization. In 2017, the Chinese company China Aerospace Science & Technology Corporation signed a deal to manufacture drones within Saudi Arabia, followed in 2018 by an order for 300 additional drones from a separate Chinese manufacturer – a significant statement in regards to international allegiances and the global power structure.<sup>101</sup>

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<sup>100</sup> Chris Pocock, "Predator UAV Cleared for Wider Export," Aviation International News, March 4, 2011, <https://ainonline.com/aviation-news/defense/2011-03-04/predator-uav-cleared-wider-export>.

<sup>101</sup> Dominic Dudley, "How China Is Fueling the Arms Race in Drones in the Middle East," Forbes (Forbes Magazine, December 17, 2018), <https://www.forbes.com/sites/dominicdudley/2018/12/17/china-fueling-drones-arms-race-middle-east/?sh=239732854bb4>.

The advancement of drone technology and the scaling-down of drone aircraft size has also allowed poorer nations to join in the burgeoning arms race. Iran has begun to mass-produce its own drone technology centered on the ‘kamikaze’ strategy in which the UAVs are armed with loitering munitions that explode upon the vehicle's physical impact into a target. According to a report from January 2023, Russia had attacked Ukraine with 660 Iranian-made Shahed-136 drones, destroying significant infrastructure and killing numerous civilians.<sup>102</sup> The Russian military has continued to regularly attack Ukrainian targets and civilians with Iranian drones, creating a strategic alliance between the two states. In return for the Shahed-136 drones, Russia has agreed to send SU-35 Flanker-E fighter jets to Iran, further destabilizing the Middle East and relative global order.<sup>103</sup>

This new arms race relies on a global lack of regulation for the use of drone technology and its ability to directly challenge well-established rules of sovereignty and jurisdiction. The United States has made calls upon the United Nations Security Council to address Russia’s use of drones to attack Ukraine in its efforts to expand the Russian Federation’s borders. Drone technology can “encourage predatory behavior” which is disruptive to the global order as managed by wealthy nations, while those wealthy nations utilize drone technology to reinforce their own borders, or in the case of Ukraine: borders that nations such as the US view as artificially their own.<sup>104</sup>

## Conclusion

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<sup>102</sup> Howard Altman, “Ukraine Situation Report: More Iranian Kamikaze Drones Headed to Russia Says Kyiv,” The Drive, January 5, 2023, <https://www.thedrive.com/the-war-zone/ukraine-situation-report-more-iranian-kamikaze-drones-headed-to-russia-says-kyiv>.

<sup>103</sup> Howard Altman, “Ukraine Situation Report: More Iranian Kamikaze Drones Headed to Russia Says Kyiv,” The Drive, January 5, 2023, <https://www.thedrive.com/the-war-zone/ukraine-situation-report-more-iranian-kamikaze-drones-headed-to-russia-says-kyiv>.

<sup>104</sup> Staff, “Drones ‘Arms Race’ Renews Debate on Global Governance,” Drones 'arms race' renews debate on global governance | Cornell Chronicle (Media Relations Office, October 20, 2022), <https://government.cornell.edu/news/drones-arms-race-renews-debate-global-governance>.

The established timeline that began with the 1993 World Trade Center bombing and the 1995 Oklahoma City bombing travels along a very complex legislative, military, social, and geopolitical trackline to the present. National security for wealthy nations has become justification for a new form of imperialism in which the sovereignty of poorer nations is violated and their borders made transparent by the use of drone technology. While these poorer nations are not occupied in a traditional sense, their airspaces are routinely utilized in order to deter immigration and terrorism, two topics which have become interchangeable in social and legal circles within the United States.

Policies enacted in the direct aftermath of tragic, mass-casualty terrorist attacks like September 11th that restrict immigration and emphasize border security capitalize on the public fear and anger generated by these attacks. The language of and rhetoric surrounding policies such as the AEDPA, IIRIRA, and the USA PATRIOT Act directly influences public support for the policies and lends justification to future actions deemed necessary by either society or the government in order to protect the homeland.

In practice, this symbiotic relationship between policy and public support contributes to the continued, gradual isolation and enclosure experienced by wealthy nations. Heightened levels of national security, harsher immigration laws, increased border security, and the persistent geographical expansion of deterrence measures are all symptomatic of this enclosure. As national security interests are prioritized above all else, domestic issues are primarily viewed as directly harmful to the state instead of being reflective of social problems or remnants of past imperialist endeavors resulting in mass migration to the United States. The reactive nature of such policies directly correlates to harsher immigration laws, in turn increasing the population of undocumented immigrants within US borders and pushing those who are undocumented further

into hiding, providing social and governmental justification for an increase in immigration law enforcement. In order to enforce newer, harsher immigration laws there must be a corresponding increase in border security, namely in agents physically stationed along US borders and in surveillance technology advancement. As a measure to support and alleviate pressure on border security, a strategy of deterrence is implemented as means of pushing back immigrants who may be affiliated with terrorist networks as far away from US borders as possible. The interchangeability of immigration and terrorism allows for this strategy of deterrence to find public support at home and with allies abroad.

The advancement of drone technology now allows for further expansion of the strategy of deterrence which in return further isolates wealthy nations such as the United States. As those who are labeled threats are engaged well beyond US borders there is an increasing disconnect between American society and the rest of the world. The aftermath of the use of drone technology abroad and its destabilizing effects are promoted as new threats to homeland security. These new threats also create public support and justification for continued increases in national and border security measures. The shifting in the societal view of borders from simple lines of demarcation to one of areas that resemble national weaknesses in need of vast security measures to protect against an influx of immigrants and terrorists enables such deterrence policies overseas and isolationist policies domestically to prevail.

The result of this combination of modern imperialism through surveillance and deterrence is one of exclusion and isolation. Wealthy nations favor national security above all else, using drone technology that was spurred on by defense contractors with engorged border security budgets and a fearful public to exclude outsiders and protect the homeland through isolation. Relatively total exclusion via militarized border security, with razor wire-topped fences

being viewed as a form of prison walls meant to keep those from poorer nations held firmly in place on the outside, rather than as creating a fortress-like defense that allows outsiders to approach the gate and then attempts to repel them. Heavy reliance on surveillance technology in effect turns poorer and susceptible nations into an imprisoned state under the constant watch of the modern panopticon. Rather than a tower surrounded by cells, drones fly unnoticed 60,000 feet overhead, continuously surveilling those below and monitoring for any behavior deemed a risk to homeland security, no matter the distance from the wealthy nation's borders. There must remain ample and constant research, documentation, and analysis of this technology, especially in the realm of open-source intelligence gathering, in order to properly provide support in future operational, technical and political decision making.

### **List of Abbreviations**

<b>AEDPA</b>	<b>Antiterrorism and Effective Death Penalty Act</b>
<b>AQAP</b>	<b>al-Qaeda in the Arabian Peninsula</b>
<b>BORTAC</b>	<b>Border Patrol Tactical Unit</b>
<b>CBP</b>	<b>Customs and Border Protection</b>
<b>CIA</b>	<b>Central Intelligence Agency</b>
<b>DHS</b>	<b>Department of Homeland Security</b>
<b>DOD</b>	<b>Department of Defense</b>
<b>FY</b>	<b>Fiscal Year</b>

<b>IIRIRA</b>	<b>Illegal Immigration Reform and Immigrant Responsibility Act</b>
<b>INS</b>	<b>Immigration and Naturalization Service</b>
<b>OAM</b>	<b>Office of Air and Marine</b>
<b>OIG</b>	<b>Office of Inspector General</b>
<b>TTP</b>	<b>Tehrik-e Taliban Pakistan</b>
<b>UAE</b>	<b>United Arab Emirates</b>
<b>UAS</b>	<b>Unmanned Aircraft Systems</b>
<b>UAV</b>	<b>Unmanned Aerial Vehicle</b>

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