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The politics of shifting counterterrorism targets

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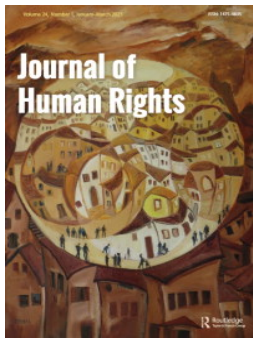
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# From ‘evil doers’ to ‘very fine people’: The politics of shifting counterterrorism targets

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## ABSTRACT

Over two decades ago, the United States launched the “global war on terror” to vanquish Al Qaeda and associated foes. This counterterrorism campaign was characterized by abusive interrogations, indefinite detentions, targeted killing, and mass surveillance. Today, US counterterrorist doctrine must contend with cascading forms of far-right political violence. The rapid ascendancy of far-right extremism motivated by White supremacism and nationalism, neo-Nazism, and various conspiracy theories raises questions about how the contemporary national security state will adapt. To what extent have US authorities used the legal framework of post-9/11 counterterrorism and related social and political discourses to counter far-right extremism? Evidence from government reactions to the 2017 Charlottesville hate rally to the 2021 January 6 attack on the Capitol to uneven approaches to preempting and prosecuting domestic terrorism point to significant inconsistencies. This article examines differences between state responses to domestic and international threats, analyzing how political violence is framed, whether far-right violence is classified as terrorism, and how legal and political dynamics limit the extension of global counterterrorism methods to the domestic sphere.

In recent years, domestic terrorism has been recognized by the US government as one of the most significant threats to national security. Massacres by White supremacists and neo-Nazis in Charleston, South Carolina (2015), Pittsburgh, Pennsylvania (2018), El Paso, Texas (2019), Buffalo, New York (2022), and Allen, Texas (2023), among many others, highlight the danger. Yet, whereas the 9/11 attacks led to the so-called “global war on terror,” with vast amounts of resources allocated to counter threats from Islamist terrorism, no such concerted action has been forthcoming in response to the rise of violence committed by far-right extremists in the United States. This article identifies disparities between US approaches post-9/11 to countering “international” or Islamist terrorism and far-right “domestic” terrorism. It aims to disrupt the frequent assumption that the two are fundamentally distinct issues, and that these differences explain divergent state responses. Instead, both forms of extremism bear substantive similarities in the material level of threat posed and violence committed that do not account for uneven counterterrorism policies. Rather, politically and legally constructed distinctions animate different understandings of what terrorism is and how it should be addressed.

Whereas international terrorism has been countered by US authorities using the permissive rules and destructive powers of war, abusive extra-legal interrogation and detention methods, and aggressive investigation and prosecution tactics, domestic terrorism is dealt with as a

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criminal justice or law enforcement matter that emphasizes legal protections and civil liberties. When it comes to domestic terrorism, authorities are often reluctant to recognize the organized, political networks that fuel far-right radicalization as terrorist threats and do not vigorously seek to preempt extremist acts in the same way they target international terrorism.

The article starts by outlining successive presidential administrations' approaches to international counterterrorism after 9/11, tracing how the US waged preventative war against an amorphous target, resulting in systematic and serious infringements of human rights and civil liberties, mainly of Muslims and non-White minorities. The subsequent sections outline growing threats emanating from the far right as well as government responses, including divergent definitions, conceptualizations, and attitudes toward international and domestic terrorism. We note American political commitments to free speech and gun rights, along with far-right political sympathies among politicians and law enforcement, further curtail domestic counterterrorism. These dynamics of differentiation play out in inconsistent prevention, investigation, and prosecution patterns. We analyze "lone wolf" assumptions about far-right extremism, which frame attacks as isolated crimes by self-radicalized individuals, thus missing crucial aspects of organized right-wing extremism necessary to systematically identify and effectively disrupt threats. We further explore divergent patterns of entrapment, and legal incongruities in labeling and punishing terrorism, noting that even though legal mechanisms are available to counter domestic terrorism, authorities do not always make use of them. If they do, these tools are notably deployed against far-left activists. This suggests that political priorities and related threat perceptions drive uneven efforts to counter violence. The article concludes by assessing the January 6, 2021, attack on the US Capitol and its aftermath. Far-right extremists were charged with and convicted of seditious conspiracy, recognizing the political nature of this organized assault on the government's authority. Nonetheless, incongruities between international and domestic counterterrorism remain salient, and impending shifts in presidential administrations portend a reversion to deepening distinctions between international Islamist and domestic far-right violence<sup>1</sup>.

## International terrorism and the global war on terror

After the September 11, 2001, terrorist attacks on New York and Washington DC, the US government focused on waging war against Islamist terrorism. "We will rid the world of the evil-doers" explained President Bush (The White House, 2001). Rather than using criminal justice or law enforcement tools, the global war on terror was primarily built on war rhetoric and practices, using widespread lethal force to counter and suppress terrorist threats. For many years, US counterterrorism doctrine repeatedly invoked the laws of war and advanced policies that weakened, suspended, and violated fundamental civil liberties and human rights standards.

The Bush administration advocated American exceptionalism, which asserted US leadership of the international community and the right to unilaterally police "rogue" regimes that threatened global order. It invaded Afghanistan and Iraq, justifying these wars as preventive self-defense in line with Article 51 of the UN Charter. Beyond these battlefield theaters, it relied on the 2001 Congressional Authorization for Military Force (AUMF) and invocations of presidential war powers to hunt down Al Qaeda across borders, killing and capturing thousands of suspected terrorists and sympathizers in multiple countries. According to the Bush administration, emergency measures were necessary to deal with the threat of terrorism. It thus sought to legally rationalize otherwise proscribed practices such as torture (euphemistically dubbed "enhanced interrogation techniques"), indefinite detention, targeted killing, and warrantless surveillance, soliciting legal memoranda from the Office of Legal Counsel (OLC) and other lawyers to preemptively immunize intelligence agents and US forces from accusations of illegality (Sanders, 2018b). Within the United States, national security officials attempted to identify and thwart attacks, often religiously and racially profiling Muslim, Arab, and South and Central Asians. Even when investigating American citizens in the United States, Islamist terrorism was always,

in theory and practice, considered an “international” threat. This foreignness was emphasized to justify and necessitate harsh measures to protect the homeland.

President Obama took office in 2009 with hopes for a different approach to counterterrorism, based on increased transparency and accountability and greater compliance with international and US domestic law. He vowed to end global-war-on-terror rhetoric, prohibit torture, and close the Guantanamo Bay prison. In doing so, he claimed to “restore the standards of due process and the core constitutional values that have made this country great even in the midst of war, even in dealing with terrorism” (Obama, 2009). Yet, despite this rhetorical shift and measures to retract OLC memoranda, Obama continued to pursue a militarized global counterterrorism strategy. As the 2011 Counterterrorism Strategy set out: “The United States deliberately uses the word ‘war’ to describe our relentless campaign against al-Qa’ida. However, this Administration has made it clear that we are not at war with the tactic of terrorism or the religion of Islam. We are at war with a specific organization—al-Qa’ida” (The White House, 2011, p. 2). When the administration did try to enact more substantive change by transferring Guantanamo detainees to US prisons and the federal court system, political backlash and Congressional restrictions undermined these efforts.

Like his predecessor, Obama used international law to justify his policy decisions, but in a different way. The Bush administration had invoked emergency necessity and related logics to deny detainees legal rights, and permissively redefined practices such as torture. The Obama administration, in contrast, framed policies as compliant with existing legal obligations but argued laws must be reinterpreted in light of novel threats from terrorist tactics, nonstate actors, and irregular noninternational conflicts. In this way, Obama sought to revise normative understandings of relevant legal provisions, changing them in the process (Birdsall, 2018). Both the Bush and Obama administrations actively engaged with international law in their counterterrorism efforts, particularly the laws of war. This is not to say that they always complied, but they used it to further their policy agendas, justifying their actions as necessary and appropriate in the war effort.

When President Trump first took office in 2017, he was clear that the fight against terrorism continued to constitute a “war.” Trump’s 2018 National Strategy for Counterterrorism (The White House, 2018, p. II) resumed a number of counterterrorism policies that had been established by Obama, although with rhetorical differences such as an emphasis on “America first” and a resolve to defeat ISIS, not just “degrade” it (as had been emphasized in Obama’s approach). Radical Islamist terrorists continued to be framed as the primary threat: “Our principal terrorist enemies are radical Islamist terrorist groups that seek to conduct attacks globally, violate our borders, and radicalize and recruit potential extremists within the United States and abroad” (The White House, 2018, p. I). Trump evinced a distinctive rejection of international law, which also extended to his (lack of) respect for human rights standards in the context of countering international terrorism. He frequently displayed hostility or indifference to the law and at times even openly advocated actions, such as the explicit endorsement of torture, that were contrary to international and domestic US law (Birdsall & Sanders, 2020).

Trump’s counterterrorism strategy called for ongoing use of wartime tools to counter international terrorism, including indefinite detention of alleged enemy combatants, ostensibly ignoring the considerable human rights criticisms directed at denial of *habeas corpus* rights over the previous decades (The White House, 2018, p. 14). Counterterrorism measures continued to affect Muslims disproportionately, exemplified by his widely criticized “Muslim travel ban” that was officially framed as a security measure to prevent *jihadi* terrorists from entering the United States.

Despite a marked rise in right-wing and White nationalist violence during his first term, Trump’s policies focused mainly on Islamist extremism, with little mention of domestic terrorism. The 2018 Counterterrorism Strategy recognized “an increasing number of fatalities and violent nonlethal acts committed by domestic terrorists against people and property in the United States” (The White House, 2018, p. 10). Yet there was no further mention on how this threat was to be addressed.

President Biden extended many counterterrorism measures he inherited from his predecessors with a few notable differences. Most importantly, he reduced the use of US military assets to fight international terrorism, starting with a withdrawal of US troops from Afghanistan in 2021, ending the war that had started just after 9/11. Biden's 2022 National Security Strategy focused on working with allies and enabling partners to counter threats themselves. It promised to counter terrorism with greater transparency and accountability and in a manner "consistent with domestic and international law," planning to work with "Congress to replace outdated authorizations for the use of military force with a narrow and specific framework appropriate to ensure that we can continue to protect Americans from terrorist threats" (The White House, 2022, p. 31).

In sum, since 9/11 successive US administrations have pursued international counterterrorism primarily through a war paradigm, waging a preventative battle against a tactic with ever-expanding and changing understandings as to who the enemy is and how it can be lawfully targeted. Global-war-on-terror rhetoric has been used to justify policies against international terrorism that fall outside more traditional conceptualizations of war and has led to numerous actions that infringe upon human rights and civil liberties, mainly of Muslims and non-White minorities. The Biden Administration moved away from this predominant reliance on the war model to counter terrorism and introduced a broader understanding of the terrorist threat, acknowledging that it is "more ideologically diverse and geographically diffuse than that of two decades ago" (The White House, 2022, p. 30) and that a range of domestic violent extremists pose an increasing danger.

### The domestic far-right terrorism threat

A variety of data sources highlights the growing threat of far-right violence. Globally, the UN Security Council's Counter-Terrorism Committee Executive Directorate (CTED) noted a 320% increase in terrorist attacks associated with far-right extremism between 2015 and 2020 (CTED, 2020). In the United States, right-wing radicals have committed the majority of contemporary terrorist acts. Of 893 attacks and plots between 1994 and 2020 compiled by the Center for Strategic and International Studies, 57% emanated from actors espousing racial or ethnic supremacy, opposition to government authority, anger at women, or hostility to policies such as abortion (Jones et al., 2020). Although there is nothing new about hate-motivated violence in the United States, where the Ku Klux Klan committed terrorism with impunity for a century after the Civil War and neo-Nazis have long been active, the rapid reemergence and escalation of far-right violence motivated by racism, antisemitism, Islamophobia, xenophobia, misogyny, and homo- and transphobia over the past two decades has been remarkable (Wilson, 2022). Attacks have also become more lethal. From 2014 to 2021, there were 31 fatalities per year on average, many more than from 1994 to 2013, when there were more than eight deaths in only three years: 1995 (the Oklahoma City bombing), 2001 (9/11), and 2009 (the Fort Hood shooting; see Doxsee et al., 2022).

Dozens of mass shootings have targeted Americans in churches, synagogues, bars, grocery stores, and shopping malls over the past two decades. Data compiled by New America show that attacks in the post-9/11 era come from across the political spectrum, but are primarily committed by right-wing and Islamist inspired actors. Far-right attacks by White supremacists and neo-Nazis espousing hatred of various minorities and related conspiracy theories killed 134 people; *jihadi* attacks killed 107 people; misogyny/incel ideology motivated attacks killed 17 people; Black nationalists/separatists/supremacists killed 13 people; and a far-left attack killed one person (Bergen & Sterman, 2023). Although left-wing extremists do commit crimes, they barely register in the data when it comes to lethal violence.

In addition to mass casualty massacres, from the Charlottesville hate rally in 2017 to the 2021 January 6 insurrection at the Capitol, the violent far right has also sought to use organized physical force to achieve political goals. Street violence and car ramming at protests are increasingly common (Doxsee et al., 2022). Moreover, beyond attacks counted in the terrorism data



there are thousands of reported and unreported hate crimes each year, involving violent criminal acts with an element of bias, most often directed at minorities such as Black, Jewish, Muslim, Asian, and LGBTQ people (US Department of Justice, 2024).

As outlined above, US national security policy since 9/11 has primarily focused on international Islamist terrorism, with little heed paid to other forms of extremism. Trump even announced in 2017 that he would cut funds to organizations that were fighting far-right violence, demonstrating that he did not take such threats particularly seriously. The US Department of Homeland Security in its 2020 Homeland Threat Assessment, however, paid more attention to far-right groups, stating that “racially and ethnically motivated violent extremists—specifically white supremacist extremists (WSEs)—will remain the most persistent and lethal threat in the Homeland” (Department of Homeland Security, 2020). Arguably, this was “in many ways a turning point in the US government’s acknowledgement of the problem of violent domestic extremism” (Miller-Idriss, 2021; The Soufan Center, 2019). Notwithstanding growing recognition that domestic far-right terrorism poses a significant problem, efforts to address it have been uneven and notably less aggressive than international counterterrorism measures.

### **Divergent definitions, conceptualizations, and political attitudes**

Despite converging levels of violence over the past two decades, US definitions of domestic terrorism reify a distinction between international and domestic threats, with implications for counterterrorism policy. Moreover, features of American political culture such as free speech and gun rights ideology, along with far-right political sympathies among politicians and law enforcement, serve to draw further distinctions.

#### ***Defining domestic terrorism: Ideology vs. geography***

US law and policy constructs distinctions between international and domestic terrorism, although what differentiates them in practice is not always obvious. Indeed, what constitutes a foreign versus American threat often has more to do with perpetrator ideology than perpetrator location. Islamist-inspired terrorism is predominantly coded as international, even when committed by Americans, whereas far-right violence is coded as domestic, even when transcending national borders.

International terrorism is defined in 18 U.S.C. §2331(1) as, “[activities that] involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State [that] appear to be intended—(1) to intimidate or coerce a civilian population; (2) to influence the policy of a government by intimidation or coercion; or (3) to affect the conduct of a government by mass destruction, assassination, or kidnapping [and that] occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.” Domestic terrorism is defined in similar terms, but it is confined to activities that “occur primarily within the territorial jurisdiction of the United States” (18 U.S.C. § 2331(5)). In 2021, Biden issued a National Strategy for Countering Domestic Terrorism that defined domestic terrorism with almost identical language (The White House, 2021, p. 8). It went on to identify different types of terrorist threats, such as racially or ethnically motivated violent extremism and antigovernment or anti-authority extremism, in addition to violence motivated by single issues such as anti-abortion or animal rights. Even though the strategy recognizes that domestic threats also cross borders, there is no suggestion that they need to be addressed within the context of the *international* counterterrorism framework. The document does not clearly set out what the main substantive differences between domestic and international terrorism are beyond issues of territory.

In fact, there are many parallels between the two, such as having worldwide connections and using similar strategies to advance their goals. As the UN CTED (2020) noted, far-right terrorists are “pursuing transnational aims in a national context, drawing on international networks, ideas and personalities and seeking to mobilize others, often using the Internet [and] financial and operational support for their collaboration is provided across national boundaries.” American extremists draw inspiration and material support from European, Australian, and Russian individuals and organizations, and *vice versa*. For example, mass terror attacks by Anders Breivik in Norway (2011) and Brenton Tarrant in New Zealand (2019) have been cited in manifestos by American killers to justify their crimes, such as the 2022 Buffalo, New York, supermarket massacre (Anti-Defamation League [ADL], 2022a).

Furthermore, far-right extremists often have direct organizational ties to international groups. For instance, leaders of the violent, racist Russian Imperial Movement (RIM) coordinated with US far-right figures such as Matthew Heimbach around the 2017 Charlottesville hate rally. American neo-Nazi Jared Taylor spoke at the International Russian Conservative Forum in St. Petersburg, an event heavily populated by violent Russian and European neo-Nazis (The Soufan Center, 2020). The far-right love affair with Russia continues through numerous channels (Southern Poverty Law Center, 2018). Accordingly, White nationalist groups share characteristics with the State Department’s criteria for Foreign Terrorist Organizations (FTOs), discussed later in the article, but are not classified as such (Committee on Foreign Affairs, 2019).

US policy additionally distinguishes between radical Islamist terrorists, who are classified as “homegrown violent extremists” (HVE) and “domestic violent extremists” (DVE). HVEs are individuals of any citizenship who have primarily lived in the United States; are influenced by “foreign” ideologies, most prominently Islamism; and engage in terrorist activities to further an FTO’s objectives. DVEs, in contrast, are influenced by “domestic” causes such as White supremacism, but not by FTOs. Again, this distinction is not based on whether alleged terrorists have foreign linkages, but is purely determined by ideology, which is further distorted by the fact that no foreign right-wing terrorist group has been proscribed as an FTO. This means that radical Islamist extremists who are US citizens, have never left the country, and engage in terrorist acts on US soil are classified not as domestic terrorists but as HVEs. They are treated as external threats or “others,” making them “perpetual foreigners, no matter how American” (Sinnar, 2021). White supremacists and right-wing extremists, on the other hand, remain authentically American, with attendant constitutional protections.

Despite similarities in material threat levels, as well as transnational ties, these definitional and conceptual distinctions contribute to highly uneven state approaches to counterterrorism. As the 2021 National Strategy set out, domestic terrorism is the prerogative of law enforcement powers rather than a matter of national security. Domestic terrorism is not expressly targeted by a federal criminal provision, but charges can be brought under other federal statutes that prohibit violent conduct that are consistent with its definition (Berris et al., 2021). This approach to countering domestic terrorism respects constitutional and civil rights, particularly protections under the First Amendment (The White House, 2021, p. 12). In contrast, international counterterrorism that is built on notions of ‘exceptional necessity’ tolerates infringements of basic human rights in the name of national security.

### **Free speech and gun rights ideology**

Distinctions between international and domestic terrorism and attendant counterterrorism strategies are also linked to elements of American political culture. Notably, both genuine and cynical civil libertarian commitments to free speech and gun rights in US law and politics curtail both the recognition and repression of domestic extremism.

Due to First Amendment jurisprudence, there is no hate speech legislation in the United States that can be used, in and of itself, to preemptively target extremists before they engage in violence or other criminal offenses. The FBI is reluctant to investigate individuals and groups



based on far-right speech alone (Dilanian, 2021). When it comes to domestic terrorism, “The mere advocacy of political or social positions, political activism, use of strong rhetoric, or generalized philosophic embrace of violent tactics may not constitute extremism and may be constitutionally protected” (National Counter-Terrorism Center (NCTC) et al., 2021, p. 3).

In addition to limits on government power, many Republican politicians have pushed against online content moderation, citing political censorship, even on private social media platforms with no First Amendment obligations (Oremus, 2022). Moreover, policymakers themselves have engaged in reckless online behavior that glorifies political violence. For example, Republican Representative Paul Gosar was censured by Congress in a nearly party-line vote for posting “a manipulated video on his social media accounts depicting himself killing Representative Alexandria Ocasio-Cortez and attacking President Joseph Biden” on his official Instagram account (House Resolution 789, 2021). Such actions not only point to disinterest in addressing domestic extremism, they risk stoking “stochastic terrorism” whereby repetitive hate speech sparks real-world violence (Amman and Meloy, 2022).

American gun rights also shape approaches to domestic counterterrorism. Many far-right terrorists commit crimes with guns, which are readily available with little few restrictions throughout the United States. A report by the Anti-Defamation League (ADL, 2022b) found that shootings accounted for 75% of killings by far-right extremists between 2012 and 2021. Many far-right extremist groups center the Second Amendment right to bear arms in pursuit of their objectives, such as preparing for a “race war” or providing vigilante law enforcement functions to “protect” communities. Simply put, this presents an overwhelming challenge to effectively countering domestic terrorism, with few easy solutions (Seldin, 2022).

### ***Far-right political sympathies***

There is ample evidence that many American politicians sympathize with far-right extremism, particularly during the latter years of the first Trump administration, which points toward another possible explanation for why US authorities have been less aggressive in countering domestic far-right violence. In 2017 at the Unite the Right Rally in Charlottesville, Virginia, hundreds of neo-Nazis, neo-Confederates, and fellow travelers in the emergent “alt-right” converged on the small college town to protest the removal of a statue of Confederate General Robert E. Lee. Racist groups marched through town carrying flaming torches intentionally evocative of Nazi and KKK rallies, chanting “Jews will not replace us.” The next day, far-right thugs assaulted counterprotesters, and James Alex Fields drove his car at a high speed into antiracist demonstrators, killing a local woman, Heather Heyer, and seriously injuring others. Later, Trump stated that there “were very fine people on both sides” and that Robert E. Lee was “a great general” (ABC News, 2019).

Especially under the first Trump administration, but also under the Biden administration, in many state jurisdictions, ideological political bias shapes responses to far-right and far-left political violence. For instance, during 2020 Black Lives Matter protests in Washington DC, Trump demanded military intervention and proposed prosecuting “antifa” as domestic terrorists. At one point, a military helicopter buzzed protesters (Ecarma, 2020). No such response was forthcoming in reaction to contemporaneous far-right protests against COVID-19 pandemic lockdowns. Most notably, Trump’s sympathy for extremists came to fruition around the 2020 presidential election. During a presidential debate, Trump instructed the violent, far-right street gang, the Proud Boys, to “stand back and stand by.” On January 6, 2021, Trump incited his followers to reject election results. The mob subsequently attacked the US Capitol in a last-ditch attempt to prevent the Congressional certification of Joe Biden’s victory. Rioters erected gallows and openly sought to hang Vice President Mike Pence and Speaker of the House Nancy Pelosi (and, at a later date, a man attempted to murder Pelosi’s husband in their home). Right-wing militias such as the Oath Keepers and gangs such as the Proud Boys played a key role in the insurrection. Police were vastly outnumbered, and the National Guard was not on scene until the damage was done.

Other Republican politicians have voiced similar sympathies. On January 6, Senator Josh Hawley raised a fist in solidarity with far-right protesters, before running away once they breached the Capitol. With the exceptions of former Representatives Liz Cheney and Adam Kinzinger, most elected Republicans derided and undermined Congressional investigations into January 6. Congresswoman Marjorie Taylor Green declared in reference to the insurrection that, “if Steve Bannon and I had organized that, we would have won. Not to mention, we would’ve been armed” (Scott, 2022). In 2022, she spoke at the America First Political Action Conference (AFPAC) run by neo-Nazi agitator Nick Fuentes. The Anti-Defamation League (ADL, 2022c) reported that more than 100 right-wing extremists ran for office in the 2022 primaries. In sum, there is significant evidence that politicians either agree with the political agenda of right-wing extremists or at least see this population as a necessary part of their constituency.

Political sympathy for far-right extremists also extends to law enforcement itself (German, 2020; Johnson, 2019; Southern Poverty Law Center, 2021). Militia groups such as the Oath Keepers and Three Percenters recruit heavily from police forces and veterans. Indeed, recruiting disgruntled veterans who feel betrayed by liberal “elites” has been a core right-wing extremist practice for decades (Belew, 2018). In 2006, the FBI warned of “white supremacist infiltration of law enforcement” (Federal Bureau of Investigation, 2006), yet not much action has been taken to address this problem systematically. In 2022, a study of US police instructors revealed that a significant number of active and retired trainers had ties to right-wing militias and White supremacist hate groups (Harte & Ulmer, 2022). Even though the majority reject extremism, even a small number of police officers involved is concerning (Byman, 2023).

In Portland, Oregon, where fascist- and anarchist-oriented antifascist militants engaged in street battles throughout 2020–2021, police were, not surprisingly, accused of siding with the former. When a supporter of the far-right group Patriot Prayer was murdered, the sole act of domestic homicide associated with “antifa” in recent years, the murder suspect was quickly hunted down and shot dead by police (Hill et al., 2020). In contrast, police allowed heavily armed right-wing vigilantes to roam the streets of Kenosha, Wisconsin, during urban rioting. This permissive and cooperative posture toward the far-right led to 17-year-old Kyle Rittenhouse shooting three people, killing two (Bauer, 2023).

Ironically, Trump and his followers have claimed the Justice Department, FBI, and other agents of what they term the “deep state” are biased against their movement and have promised to take over and purge these institutions of adversaries. This would likely further encourage existing far-right sympathies among law enforcement.

## **Divergent prevention, investigation, and prosecution patterns**

Divergent definitions, conceptualizations, and political attitudes toward international and domestic terrorism are reflected in differential approaches to prevention, investigation, and prosecution. Domestic terrorists, if they are considered terrorists at all, are often understood as “lone wolves,” rather than part of organized networks. Although entrapment is a common international counterterrorism investigative strategy, concerns about the rights of domestic extremists limit the use of such tactics against them. Moreover, US law creates differential proscriptions and punishments for international and domestic terrorism and related activity. Even where legal tools are available to pursue domestic terrorists, authorities may not make use of them or apply them in ideological ways. Notably, alleged left-wing domestic terrorists have been subject to aggressive prosecution, despite posing an objectively lower violent threat level than right-wing groups.

### ***‘Lone wolf’ assumptions***

The US government’s domestic counterterrorism strategy calls attention to so-called lone wolf terrorism: “domestic terrorists have particularly in recent years—often been lone actors or small groups of informally aligned individuals who mobilize to violence with little or no clear

organizational structure or direction” (The White House, 2021, p. 9). In 2022, the FBI Director testified before Congress that, “The greatest terrorism threat to our Homeland is posed by lone actors or small cells of individuals who typically radicalize to violence online, and who primarily use easily accessible weapons to attack soft targets” (Wray, 2022).

Many acts of far-right domestic terrorism, such as numerous mass shootings directed at minorities, have been carried out by actors who have no formal organizational affiliation and self-radicalize on the internet (Southern Poverty Law Center, 2015). Although the concept of the lone wolf draws attention to the real-world dangers posed by online spaces—particularly in the United States, where radicalized individuals can easily access heavy weapons without organizational support—it neglects the coordinated and organized nature of far-right groups and networks.

In contrast, the global war on terror identified radical Islamist ideology, framing links between individuals perpetuating this ideology as potentially threatening. It thus sought not only to prevent individuals from committing terrorist acts but also to prevent networks from propagandizing, recruiting, and training followers. Moreover, it framed radical Islamism as a political enemy. If this posture led to overly aggressive counterterrorism that ensnared innocent Muslims, contemporary US authorities seem to have taken an opposite, and arguably underwhelming approach to policing far-right networks. The lone wolf framework compounds this problem by suggesting that individual acts of violence can and should be distinguished from the political movements that inspire them. Crimes committed by far-right extremists are often labeled hate crimes and ascribed to mental illness, whereas violence committed by Muslims is considered part of an organized campaign. A general presumption exists that White terrorists are not driven by ideology, that their actions are mainly due to personal trauma (Corbin, 2017, pp. 468–469).

The 2015 massacre of Black parishioners at the Emanuel AME Church in Charleston, South Carolina, for instance, had all the hallmarks of terrorism, with the shooter, Dylann Roof, proclaiming he wanted to start a “race war.” Yet he was not considered a terrorist. Republican Senator Lindsey Graham opined that Roof was “just ‘a whacked-out kid,’” further warning that “there are real people who are organized out there to kill people in religion and based on race; this guy’s just whacked out” (Atkins, 2015). He subsequently argued that shooting people in a church was evocative of “Mideast hate,” instinctively othering terrorism as foreign. Similarly, Republican Senator Sean Duffy claimed that there was a difference between acts of terror committed by White people and those by Muslims, with the former being an anomaly: “You don’t have a group like ISIS or al Qaeda that is inspiring people around the world to take up arms and kill innocents. ... That was a one off” (CNN, 2017). When authorities succeed in identifying individuals sympathetic to Islamist terrorism, including Americans radicalized online, they are rarely considered lone wolves but, rather, agents of international terrorist organizations. This narrow focus on Muslims risks missing opportunities to prevent violence committed by other groups (Yin, 2013, p. 63).

Given these trends, it is not surprising that the Congressional January 6 committee found that FBI reliance on the lone wolf assumption limited their capacity to predict the organized assault on the Capitol. Because they understood the threat of far-right violence emanating from individuals or small cells, they did not anticipate that thousands of Trump supporters were sufficiently radicalized and organized to turn to coordinated political violence (Goldman & Feuer, 2023). The January 6 Report found that, despite ample intelligence pointing to a coordinated attack on the Capitol, multiple government agencies failed to prevent it. The FBI, for instance, was aware of increased online interest in the Capitol’s tunnels, but argued that there was nothing illegal about discussing tunnels as such and that conversations were protected by First Amendment rights in any case (Select Committee, 2022, p. 695).

### ***FBI sting operations and entrapment tactics***

FBI sting operations are part of the agency’s counterterrorism agenda since 9/11 that aim to prevent terrorism. In sting operations, FBI informants are tasked with infiltrating communities and identifying suspects who may engage in terrorist acts. FBI agents enable the suspected

individual to follow through with the planned plot to gather evidence of “predisposition” of the suspect to commit a terror offense. Human Rights Watch found in its 2014 report that many high-profile homegrown Islamist terrorism plots were actually sting operations—that is, plots with direct involvement of law enforcement agents (Human Rights Watch, 2014, p. 21). In 2016, *The New York Times* reported that two out of three prosecutions involving suspected ISIS supporters used evidence from undercover operations (Lichtblau, 2016).

Sting operations often lead to claims of entrapment, because many individuals who are targeted may not have committed crimes had it not been for FBI agents coaxing them into behaving in ways they would not otherwise (Lichtblau, 2016). Even though entrapment has been raised as a defense in a number of trials, so far no international terrorism case has been thrown out on grounds of entrapment (Norris, 2020). Judges have voiced concerns in some cases, such as the Newburgh Four, who were convicted of terrorism in 2009 after plotting to bomb synagogues and bring down military planes. In that case, the judge expressed skepticism about the FBI’s conduct, believing “beyond a shadow of a doubt that there would have been no crime here, except the government instigated it, planned it and brought it to fruition” (*United States v. Cromitie*, 2013). The same judge released three of the men 13 years later, arguing they were “hapless, easily manipulated and penurious petty criminals caught up more than a decade ago in a scheme driven by overzealous FBI agents and a dodgy informant” (Associated Press, 2023).

Critics argue that sting operations manufacture HVEs because individuals are religiously profiled as national security threats. Law enforcement disproportionately targets Islamist rather than right-wing terrorism (Norris & Grol-Prokopczyk, 2015), and Muslims are lured into fake terrorist plots that are, in fact, led and executed by the informant (Aziz, 2023, p. 388). Whereas juries are often unsympathetic to Muslim suspects they believe have a predisposition to violence, far-right DVE perpetrators have succeeded in claiming entrapment. For instance, the men accused of plotting to kidnap, torture, and murder Michigan Governor Gretchen Whitmer pleaded entrapment, leading to acquittals and retrials. The jury accepted claims that the FBI took a lead role in the kidnapping plot and encouraged the defendants to take part. Rights to free speech were prioritized, and the majority of defendants were found not guilty (Burns & Miller, 2023).

### **Legal incongruities**

In addition to divergent prevention and investigation practices, US law and policy create different remedies for international and domestic terrorism. Some analysts have suggested that lack of legislation punishing domestic terrorism as a stand-alone federal crime contributes to relative inaction (Blazakis, 2021). Like international terrorism, domestic terrorism is defined in US law, but in contrast to international terrorism it is not a stand-alone chargeable offense under any federal criminal statute (Sacco, 2021, p. 2). Rather, charges must be brought under federal statutes for offenses such as murder, kidnapping, or other violent crimes. However, a number of states have adopted their own antiterrorism laws that can be used against domestic terrorists (Williams & Aaronson, 2019).

Even when state-specific laws that criminalize domestic terrorism exist, they are rarely used against far-right groups but are instead directed against leftist and environmental activists. For instance, in January 2023, six individuals who were part of a larger environmental protest against the construction of so-called “Cop City”—a proposed police and firefighter training center in a forest near Atlanta—were charged with domestic terrorism. A further 36 were charged after subsequent protests in February and March of the same year (Rios, 2023). The relevant statute, passed in Georgia in 2017 (GA Code § 16-11-220 2021) following the Charleston massacre, adopts a broad definition of domestic terrorism as any felony intended to intimidate civilians or coerce the government, facilitating selective and politicized application of the law. In the Cop City case, prosecutors are threatening protestors who would normally be accused of more minor offenses with up to 35 years in prison. Critics have argued that, “The use of this statute, rather than less confrontational tactics or even lesser charges, brings the full force of the state’s power

to bear in service of suppression of a message the government dislikes” (PEN America, 2023). It is interesting to note that of the altogether 42 individuals charged with domestic terrorism in this case, only two were from the state of Georgia (Lennard, 2023). Assistant Atlanta Police Chief Carven Tyus said at the time, “None of these people live here. ... Why is an individual from Los Angeles, California, concerned about a training facility being built in the state of Georgia? And that is why we consider that domestic terrorism” (Cheney-Rice, 2024). Even when considering domestic terrorism charges, the “outsider” status of perpetrators holds salience.

Further inconsistencies are apparent when it comes to terrorist financing. In the post-9/11 period, the US government vigorously applied material support laws to thwart international terrorist funding. This charge has primarily been linked to support for designated FTOs. Section 219 of the Immigration and Nationality Act authorizes the Secretary of State to proscribe groups as FTOs if they meet the following criteria: They are (1) foreign, (2) engage in terrorist activity or have the capacity to do so, and (3) such activity threatens US national security. Under 18 U.S.C. § 2339B, people can be prosecuted for providing material support to FTOs (with a wide-reaching definition of what that entails); assets can be frozen; and the government can impose travel bans or other restrictions. This charge appeared in 50% of international terrorism prosecutions from 2014 to 2019 (START, 2023). Even though Trump tweeted in 2020 that “The United States of America will be designating ANTIFA as a Terrorist Organization” (Trump, 2020), he was unable to do so, as the US code does not provide for listing of domestic terrorist organizations (nor is antifa an organization). 18 U.S.C. § 2339A requires support for a predicate terrorist offense rather than an FTO, but was only used in 9.5% of international terrorism prosecutions and .05% domestic terrorism prosecutions from 2014 to 2019 (START, 2023).

In 2020, the Trump administration designated the Russian Imperial Movement (RIM) as Specially Designated Global Terrorists (SDGT), which was the first time a White supremacist organization was labeled as such, opening up new investigative and prosecutorial tools, albeit fewer than are available to counter FTOs (The Soufan Center, 2020)<sup>2</sup>. It meant the government could apply financial sanctions to the group, but not prosecute any RIM members or impose travel restrictions based on RIM membership (Committee on Homeland Security, 2021). Even though proscribing a right-wing group as a terrorist organization sent an important signal that the US government was beginning to take the threat from the far right seriously, this move was less significant than it may appear. As critics noted, “By choosing a little-known organization with no activity on U.S. soil, the Trump administration was able to declare its dedication to fighting white supremacist terrorism without calling attention to the role of U.S. actors in global white supremacist networks” (Meier, 2020). For instance, the Atomwaffen Division, a US-based neo-Nazi accelerationist organization with similar transnational ties, was not listed, despite calls to do so (The Cipher Brief, 2020). Americans have been arrested for seeking to train with the extremist Azov Battalion, before it was integrated into the Ukrainian armed forces (National Public Radio (NPR), 2019). The Proud Boys has chapters across multiple countries and the group has been designated by states such as Canada and New Zealand as a terrorist organization. This mixed record of identifying far-right groups as terrorist organizations suggests that, even though legal tools to combat terrorism originating from all sides of the political spectrum exist, there is a difference in response and willingness to act. We argue that the challenge is therefore primarily political rather than legal or procedural; it is about the way existing provisions are interpreted and enacted in the context of right-wing extremism.

### ***Imbalanced responses***

In the years after 9/11, more people in the United States have been killed by far-right attacks than by Islamist extremists, which counters the narrative that disproportionate action is naturally justified (Dugan & Fisher, 2023). As we have shown, domestic terrorism is primarily addressed via reactive law enforcement once a crime has taken place, which contrasts with the more preventative approaches



applied to international terrorism that are based on assumptions of what might happen at some point in the future. This leads to an imbalance in the government's response to international and domestic terrorism, with the former being dealt with more harshly—even though the latter is increasingly recognized as the “main” threat.

When crimes are committed on behalf of an FTO, such as Al-Qaeda or the Islamic State, they are charged as acts of international terrorism, because they are considered to “transcend national boundaries” regardless of whether the crimes take place within the United States (McCord, 2018). At the same time, the Department of Justice often declines to bring domestic terrorism-related charges against perpetrators of far-right violence, even in cases that fall within the legal definition of domestic terrorism. Journalists found that between 2001 and 2019, 268 cases of crimes committed by right-wing extremists met the legal definition of domestic terrorism, but the Justice Department only applied corresponding counterterrorism law against 34 of them. This is in stark contrast to more than 500 criminal charges brought against international terrorists (Aaronson, 2019).

Whether an act is described as “terrorism” matters because it determines how political violence is framed and understood by the targeted society. If violent acts for political ends are characterized as criminal activity, the perpetrators are seen as social misfits and bad apples. However, if political violence is labeled “terrorism,” perpetrators are perceived as threats to the social and political fabric. There have been calls for a new federal statute to make domestic terrorism a stand-alone chargeable offense. Mary McCord, a proponent of this approach, has argued it “signals to Americans that the threat of extremism is just as significant when it is based on domestic political, economic, religious or social ideologies as it is when based on Islamist extremist ideologies. .... There are no good terrorists, domestic or international” (McCord, 2018).

In contrast, civil libertarians fear that—given the already politicized nature of counterterrorism and the government's track record of abusing expansive powers—any new domestic counterterrorism powers would likely be directed at Black Lives Matter, environmental, antifascist, and other left-wing activists rather than far-right extremists (German, 2018). They have argued that there are ample federal and state statutes available to prosecute all manner of domestic terrorism and the problem is one of political will, not legislation. The crackdown on “Cop City” protestors seems to be proof in point.

Counterterrorism is a legal and political construct that includes different approaches with vastly different outcomes for individual rights: International terrorism is countered as an exceptional threat that renders some human rights restrictions necessary, whereas domestic terrorism is a criminal activity that is countered with greater respect for civil liberties protections. To redress this imbalance, it falls upon the government to label right-wing extremist acts that fit the description of terrorism as such. This would lead not only to more equitable allocation of counterterrorism resources but to a political acknowledgement of White supremacist violence as terrorism and therefore a national security issue (Norris, 2017, pp. 525–526).

### **Toward a domestic ‘war on terror’?**

By identifying and critiquing disparities between US approaches to post-9/11 “international” Islamist terrorism and emergent and growing far-right “domestic” terrorism, we do not mean to suggest that the methods used against the former should be deployed against the latter. As is well documented, the global war on terror was a human rights fiasco (Sanders, 2018a). It also failed to prevent terrorism, and even helped deepen radicalization around the world. Accordingly, we do not advocate waterboarding Oath Keepers, or assassinating Proud Boys with drones, or racially profiling White male Trump supporters. Not only would such measures be patently illegal, they would also do little to address the burning problem of far-right political violence in the United States.

Rather, this article suggests that international and domestic terrorism are not fundamentally distinct problems that require vastly different approaches to counter them. Authorities are often



reluctant to recognize the organized, political networks that are fueling far-right radicalization, and to vigorously apply the law to prevent extremist acts. Whether political violence is framed as terrorism, and whether that threat is conceptualized as foreign or domestic, matters not only for the way it is perceived by the targeted society but also for how it is addressed. Existing patterns indicate that when authorities do want to pursue domestic terrorism charges, they can find legal means to do so. In fact, it appears that federal district court prosecutions and charges have increased, including a sharp increase in FY 2021, according to the US Government Accountability Office (2023), which also found that prosecutors charged 1,584 defendants in 1,255 cases in federal district court with crimes that were related to domestic terrorism from October 2010 through July 2021.

Legal interpretation and implementation are a political as well as a legal matter. In this regard, the events that unfolded on January 6, 2021, and their aftermath marked a turning point—albeit a likely short-lived one, given Trump’s impending second term—in the US government’s approach to far-right violence. Biden called the rioters “domestic terrorists” (Thomas & Siddiqui, 2021) and, by 2023, 1,292 criminal cases had been initiated against perpetrators, most of whom committed illegal acts on film, with charges ranging from relatively minor crimes such as unlawful entry, disorderly conduct, or obstructing an official proceeding to more serious charges of assault and weapons offenses (The Prosecution Project, 2023). More than 650 defendants pleaded guilty or were convicted (US Attorney’s Office District of Columbia, 2024). Even more significantly, 18 suspects affiliated with the Oath Keepers and Proud Boys were charged with seditious conspiracy, with many convicted, including Oath Keepers leader Stewart Rhodes and Proud Boys leader Enrique Tarrio. According to statute:

If two or more persons in any State or Territory, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined under this title or imprisoned not more than 20 years, or both. (18 U.S. Code § 2384)

Some have argued that seditious conspiracy covers acts of domestic terrorism and that the two “overlap where the conduct is a conspiracy, is dangerous to human life, and is intended to change government policy or conduct” (Rozenshtein, 2022). Yet charges of seditious conspiracy are rare because they are difficult to prove: Prosecutors must establish a particular “intent” as well as an agreement amongst conspirators to take action. The United States has a poor record when it comes to seditious conspiracy in the context of far-right violence (McCord, 2022). Over the years, convictions were more likely when defendants were connected to a foreign ideology, rather than domestic movements. In 2010, charges against a Christian militia group (the “Hutaree”) were thrown out, and in 1988 members of the KKK and the Aryan Nation were acquitted of seditious conspiracy charges, as were members of the “Christian Front” in 1940.

On the other hand, charges did lead to the 1995 conviction of 10 Al Qaeda supporters who plotted to bomb the World Trade Center, the Lincoln and Holland Tunnels, the George Washington Bridge; and there were several 2003 and 2005 convictions against *jihadi* sympathizers for conspiracies to levy war against US troops in Afghanistan (Parloff, 2023). These patterns again suggest that international terrorism has been treated more harshly than domestic terrorism.

However, the fact that far-right extremists have been charged with and convicted of seditious conspiracy for their involvement in the January 6 siege is evidence of a new approach that recognizes the political nature of such violence organized by domestic groups. In this way, juries have acknowledged that the attack on the Capitol was not a legitimate political protest, interspersed by lone acts of disconnected criminality, but an organized assault on the US government’s authority underpinned by far-right ideology, which should be addressed as a serious national security threat. Although domestic terrorism cannot be charged as such on a federal level, Section 3A1.4 of the US Federal Sentencing Guidelines gives some flexibility to prosecutors to ask for

an enhanced sentence in cases of terrorism. This has not only the potential to lead to harsher punishments but also symbolic value, as the judge must make a legal determination of whether a criminal act can be classified as domestic terrorism. For example, Stewart Rhodes received a terrorism enhancement for his seditious conspiracy conviction, and he was sentenced to 18 years in prison (US Attorney's Office District of Columbia, 2023). The fact that this provision was used in a case of right-wing violence points to an important evolution, at least in regard to high-profile cases.

Yet these advances are likely to be temporary. When Donald Trump takes office for a second time, it is doubtful that right-wing extremism will be prioritized. Project 2025, an influential blueprint for transfer of power from the Biden to the Trump administration, sets out plans for an overhaul of the FBI to enable the president to purge disloyal officials, thereby undermining the agency's independence. Given Trump's inflammatory rhetoric against immigrants and other minority groups as well as references to "great replacement theory," extremist views are increasingly normalized. During the campaign, Trump pledged to release the January 6 rioters, whom he dubbed "hostages," not "prisoners" (Trump, 2024). With the appointment of Sebastian Gorka as counterterrorism advisor, it is likely that the Trump administration will focus primarily on Islamist extremism.

## Conclusion

This article has shown that the US government has distinct approaches to countering domestic and international terrorism, despite the similarities between different forms of violent extremism. The post-9/11 global war on terror was based on prevention and preemption strategies, and sought to kill, interrogate, and detain terrorist suspects, often with minimal concern for international human rights law. In contrast, domestic terrorism is countered in a reactive manner through law enforcement mechanisms that emphasize respect for civil rights and the rule of law. Assumptions about lone wolves who act independently reduces recognition of coherent ideology and coordination. The fact that far-right extremists are framed as domestic threats, no matter how well connected they are internationally, leads to double standards and inconsistencies in how political violence is addressed. It entrenches the view that one form of political violence can be treated more harshly than the other, and it diminishes the capacity to address threats. The January 6 seditious conspiracy trials may present an important pivot in this respect because they recognized that the Capitol siege was not a political protest but, in fact, an organized attack on the US government's authority. Yet even with several prominent convictions, the scale of far-right extremist mobilization and attacks is outpacing US government response. Paradoxically, the country that so notoriously rejected constraints against foreign enemies remains highly vulnerable to threats from within.

## Notes

1. Shortly after taking office in January 2025, President Trump by executive order issued full commutations and pardons to those indicted or sentenced in relation to the January 6, 2021 attacks on the US Capitol. (The White House, 2025) Along with other emergent policy and personnel changes, this marks a radical reversal of efforts to increase accountability for far-right political violence.
2. The Biden Administration similarly listed the Nordic Resistance Movement and Terrorgram as Specially Designated Global Terrorists in June 2024 and January 2025, respectively (Psaedakis, 2024; U.S. Department of State, 2025).

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