

“Fuck Your Breath”:  
Black Men and Youth, State Violence, and Human  
Rights in the 21st Century: Corrected Version

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*During bad circumstances, which is the human inheritance,  
you must decide not to be reduced. You have your humanity,  
and you must not allow anything to reduce that. We are  
obliged to know we are global citizens. Disasters remind us we  
are world citizens, whether we like it or not.*

—Maya Angelou<sup>1</sup>

I cherish my breath;<sup>2</sup> it is an invaluable gift that I will die to protect! “I Am a Man,”<sup>3</sup> a Black man, a proud Black man.<sup>4</sup> I am a member of the Black race, a blessed race, a race endowed with divine purpose. We, Black folk, are born free and equal in dignity and rights despite how we may be treated by other “Americans” and state actors, such as police officers, police organizations and the judiciary.

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1. *Maya Angelou: In Disaster, Humanity Shines*, CNN (May 27, 2011, 10:55 AM), <http://www.cnn.com/2011/OPINION/05/25/angelou.interview.joplin/>.

2. I abhor unintelligent and misguided profanity. The title of this article, “Fuck Your Breath”, is not my own; rather it derives from the callous and wicked final words spoken by Tulsa deputy police officer Joseph Byars to Eric Harris, an unarmed Black man, after the former was alleged to have been accidentally but fatally shot and gasping for breath. See *infra* note 44 and accompanying text.

3. “I Am A Man” became a power mantra of the Civil Rights Movement. It was popularized by Black men and youth at the 1968 Memphis Sanitation Workers Strike. See NAT’L C.R. MUSEUM, <http://civilrightsmuseum.org/project/i-am-a-man/> (last visited Oct. 22, 2015).

4. I use the terms Black and African American interchangeably.

We are not the wretched of the earth;<sup>5</sup> we are originators, innovators, and cultivators of human civilization.<sup>6</sup> We built America with our “blood, toil, tears and sweat.”<sup>7</sup> We were made with intention and purpose—whatever our Pan-African identity or related ethnicity, color, gender, place of residence, religion, or other status.<sup>8</sup> We are a spiritual people—whether Christian, Muslim, Jew, atheist or other—faith in God or a higher power has always been and remains an essential part of our collective conscious and existence. It is this unwavering conviction in the might of our “breath” that has and continues to propel us into the role of America’s moral compass. We did not ask for the assignment, but it is incumbent upon us to embrace and understand it. It is through this understanding that our works, our deeds, and our sacrifices illuminate darkness.

I rarely find it difficult to articulate my thoughts, concerns, or ideas on any subject, but I admittedly struggled to write this essay. The scourge of killings of unarmed Black men and youth pains and outrages me; the veiled racialized violence arguably amounting to genocide must stop.<sup>9</sup> Violent white supremacist ideology, terrorism,

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5. FRANTZ FANON, *THE WRETCHED OF THE EARTH* (Constance Farrington trans., Grove Press 1963) (1961), available at <http://thebaluch.com/documents/0802150837%20-%20FRANTZ%20FANON%20-%20The%20Wretched%20of%20the%20Earth.pdf>.

6. See generally CHEIKH ANTA DIOP, *THE AFRICAN ORIGIN OF CIVILIZATION: MYTH OR REALITY* (1989). See also CHEIKH ANTA DIOP, *PRECOLONIAL BLACK AFRICA: A COMPARATIVE STUDY OF THE POLITICAL AND SOCIAL SYSTEMS OF EUROPE AND BLACK AFRICA, FROM ANTIQUITY TO THE FORMATION OF MODERN STATES* (1987). See generally KWAME ANTHONY APPIAH & HENRY LOUIS GATES, *AFRICANA: THE ENCYCLOPEDIA OF THE AFRICAN AND AFRICAN AMERICAN EXPERIENCE* (2005) (highlighting the rich contribution of African peoples to ancient and modern human civilization).

7. WINSTON CHURCHILL, *BLOOD, TOIL, TEARS AND SWEAT* (May 13, 1940).

8. These categories are derived from the 1948 United Nations Universal Declaration of Human Rights. Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc A/RES/217(III) (Dec. 10, 1948), available at <http://www.refworld.org/docid/3ae6b3712c.html>. For an introduction to Pan-Africanism, see Jeremy I. Levitte, *Pan-Africanism*, in 3 *ENCYCLOPEDIA OF GLOBALIZATION* 931 (Roland Robertson & Jan Aart Scholte eds., 2007).

9. According to the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide, genocide means:

[A]ny of the following acts committed with intent to destroy, in whole or in part, a national, *ethnic*, *racial* or religious group, such as: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; and (e) Forcibly transferring children of the group to another group.

and massacres—whether operationalized by police officers or monsters like Dylan Roof—have oppressed and ravaged African American communities for centuries.<sup>10</sup> As a Black man with Jewish ancestry I do not employ the terms massacre and genocide lightly. What also makes this topic difficult to address is the sobering realization that a significant number of Americans are indifferent or in denial of such ideology and violence against us.

Black Americans must illuminate America’s pathology of multidimensional violence against Black men. The consequent “pathophysiology of race-based stress” too often perpetrated by the state through law enforcement agencies and the criminal justice system must be exposed and stopped.<sup>11</sup> My struggle or block, a preverbal *nequeo cum animo* (I can’t think), was triggered by spiritual pain and injury caused by the remorseless and systematic killings of unarmed Black Americans by police throughout the US, and amplified by the June 17, 2015, white supremacist terrorist massacre at Emanuel AME Church in Charleston, South Carolina, and subsequent burning of Black churches in South Carolina, North Carolina, Georgia, Florida, Ohio, and Tennessee.<sup>12</sup> This harm, which is felt most deeply by African Americans, produces psychosocial responses from non-violent to violent resistance. In this context such responses are typically expressed by fighting or fleeing police abuse

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Convention on the Prevention and Punishment of the Crime of Genocide, G.A. Res. 260 (III) A, U.N. Doc. A/RES/260 (Dec. 9, 1948), <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3ae6b3ac0&skip> (last visited Sept. 4, 2015) (emphasis added).

10. Matt Apuzzo, *Dylann Roof, Charleston Shooting Suspect, Is Indicted on Federal Hate Crime Charges*, N.Y. TIMES (July 22, 2015), <http://www.nytimes.com/2015/07/23/us/dylann-roof-charleston-shooting-suspect-is-expected-to-face-federal-hate-crime-charges.html>.

11. Billi Gordon, *The Silent Genocide in Black America: Race-Based Stress and Negative Health Outcomes in U.S. Blacks*, PSYCHOL. TODAY (Jan. 20, 2014), <https://www.psychologytoday.com/blog/obesely-speaking/201401/the-silent-genocide-in-black-america>. See also MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2012) (cutting-edge analysis on the role that institutional and structural racism plays in mass incarceration of African Americans.). For provocative reading see Thomasasen, *Black Genocide*, DAILY KOS (July 22, 2013), <http://www.dailykos.com/story/2013/07/22/1225606/-Black-Genocide#>; Robert Johnson & Paul S. Leighton, *Black Genocide? Preliminary Thoughts on the Plight of America’s Poor Black Men*, 1.1 J. AFR. AM. MEN, 3–21 (1995).

12. Emma Green, *Black Churches are Burning Again in America*, THE ATLANTIC (July 1, 2015), <http://www.theatlantic.com/national/archive/2015/07/arson-churches-north-carolina-georgia/396881/>.

to preserve one's life and the lives of others similarly situated. I refer to this condition as 'Neo-Drapetomania'.<sup>13</sup> Nearly every Black man that I know is experiencing some form of it.

This polemical essay was written at the behest of Black men and youth, and it is dedicated to African American women who relentlessly fight to safeguard the rights and well-being of Black men, even when in the process their maltreatment and welfare are grossly overlooked and forgotten.<sup>14</sup> Bree Newsome's courageous and necessary removal of the confederate flag in the South Carolina State House is a prime example of such fearless activism.<sup>15</sup> Joanne Deborah Chesimard aka Assata Shakur's—a former leader of the revolutionary organization known as the Black Liberation Army—ascendency to the FBI's Most Wanted Terrorist list is another tragically intoxicating example.<sup>16</sup> This commentary is a politically incorrect, unapologetic and passionate harangue from the soul; a painful scream, indictment and warning shot over the bow of our socio-cultural condition and national consciousness. I have tried to make it accessible to readers from Main Street to Wall Street. It is an expression of progressive Black fury and likewise dedicated to Black victims—dead and alive—of police brutality; those spirits and souls broken by an unrelenting pathology of white supremacist ideology, coercion, and deadly police force. My thoughts are underwritten by the imitable question articulated by W.E.B. Dubois in his landmark

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13. Drapetomania was a widely accepted category of mental illness that supposedly caused enslaved blacks to seek freedom. It was coined by famed physician Samuel A. Cartwright in 1851 and is today considered an example of pseudoscience and scientific racism. For a recent study on the subject, see Bob Myers, *Drapetomania: Rebellion, Defiance and Free Black Insanity in the Antebellum United States* (2014) (unpublished Ph.D. dissertation, University of California, Los Angeles), available at <http://escholarship.org/uc/item/9dc055h5>.

14. For a comprehensive review of the problem of state violence against Black women, see AFRICAN AMERICAN POLICY FORUM & CTR. FOR INTERSECTIONALITY AND SOC. POLICY STUDIES, *SAY HER NAME: RESISTING POLICE BRUTALITY AGAINST BLACK WOMEN* (2015), available at <https://static1.squarespace.com/static/53f20d90e4b0b80451158d8c/t/555e2412e4b0bd5f4da5d3a4/1432232978932/SAYHERNAME+Social+Media+Guide.compressed.pdf>.

15. Breanna Edwards, *Bree Newsome Opens Up About Taking Down Confederate Flag on SC Statehouse Grounds*, THE ROOT (June 30, 2015), [http://www.theroot.com/articles/news/2015/06/bree\\_newsome\\_opens\\_up\\_about\\_taking\\_down\\_confederate\\_flag\\_on\\_sc\\_state\\_capitol.html](http://www.theroot.com/articles/news/2015/06/bree_newsome_opens_up_about_taking_down_confederate_flag_on_sc_state_capitol.html).

16. *Most Wanted Terrorists*, FEDERAL BUREAU OF INVESTIGATION [https://www.fbi.gov/wanted/wanted\\_terrorists](https://www.fbi.gov/wanted/wanted_terrorists) (last visited Jan. 6, 2015).

work, *The Souls of Black Folk*, “To the real question, How does it feel to be a problem? I answer seldom a word.”<sup>17</sup> This essay is also devoted to the souls of Black parent folk, who are silent victims of police criminality and violent white extremism. The purpose of this essay is to confront the remorseless and pathological killing of Black people, particularly men and youth, by police agencies across the United States. In doing so, it assesses the human rights implications and global responses to anti-Black violence, highlights probable implications of state violence and offers tentative proposals.

Some of my best friends are blue, authentically good cops. This essay indicts the bad cops, those racist cops; those hateful and corrupt blue executioners of Black people; those corrupt ‘peace officers’ and their sympathizers that operate with impunity under the cloak of state authority.<sup>18</sup> It condemns the apologists: those quiet subscribers to white supremacist ideology and violent white extremism, those beneficiaries of racial caste and privilege—the heirs of indifference that acquiesce to, justify and/or celebrate the abuse, incarceration, and extrajudicial killing of Black men and youth by law enforcement.

The thoughts, opinions, judgments, ideas, explanations, eruptions and suggestions advanced in this essay are mine alone. They derive from an amalgam of personal experiences, observations and kindred voices from Los Angeles to Lagos, and Ferguson to Fés. I have tried to rely on easily accessible electronic sources for easy use and reference.

## I. WE MUST BECOME STAKEHOLDERS

We must become intentional stakeholders—subjects rather than objects—in confronting the Black Man’s Burden to fight against our underdevelopment and destruction.<sup>19</sup> To be free, genuinely free, we

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17. W. E. B. DU BOIS, *THE SOULS OF BLACK FOLK* (1903).

18. While the focus of this essay is on bad and racist cops, it is not aimed at the good ones for which there are many. I know from personal experience that the significant majority of law enforcement officers are professional public servants that risk life and limb daily to safeguard society.

19. The following works examine the impact of the colonial encounter and other global white supremacist enterprises and movements against black people from fifteenth through the twentieth centuries. See generally BASIL DAVIDSON, *THE BLACK MAN’S BURDEN: AFRICA AND THE CURSE OF THE NATION-STATE* (Three Rivers Press 1993) (1992); and WALTER RODNEY,

must concertedly reject and reconstruct the nesting dualities that govern Black lives: white atop Black, exclusion atop inclusion, victimizer atop victim, impunity atop justice, and police brutality atop human rights. We must unabashedly confront our Mis-education,<sup>20</sup> disenfranchisement and self-loathing, and wholeheartedly invest in reeducating and empowering our youth, because “[t]hose who cannot remember the past are condemned to repeat it.”<sup>21</sup> And, those who repeat the past are eternal slaves to its inventors.

Millennials—those on the front lines of the ‘Black Lives Matter’ and ‘I Can’t Breathe’ anti-Black police brutality movements cannot be expected to remember a past or history that they have not been taught. They generally do not know or understand the history behind anti-Black racism and violence in the United States and consequent abolitionist, Pan-Africanist,<sup>22</sup> civil rights, and Black power movements.<sup>23</sup> They do not have any frame of reference to understand the underlying reasons why 32 percent of African Americans killed by law enforcement in 2015 were unarmed compared with 15 percent of whites. Stated differently, Black Americans are more than twice as likely as white people to be unarmed when killed during encounters with police.<sup>24</sup> What are the long-term societal costs of

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HOW EUROPE UNDERDEVELOPED AFRICA (Howard Univ. Press 1974) (1972); *See also* CHANCELLOR WILLIAMS, *THE DESTRUCTION OF BLACK CIVILIZATION: FROM GREAT ISSUES OF A RACE 4500 B.C. TO 2000 A.D.* (1974).

20. CARTER GODWIN WOODSON, *THE MIS-EDUCATION OF THE NEGRO* (1990).

21. 1 GEORGE SANTAYANA, *THE LIFE OF REASON: OR, THE PHASES OF HUMAN PROGRESS* 284 (1920). *See* CARTER G. WOODSON, *THE EDUCATION OF THE NEGRO PRIOR TO 1861: BEGINNING A HISTORY OF THE EDUCATION OF THE COLORED PEOPLE OF THE UNITED STATES FROM THE BEGINNING OF SLAVERY TO THE CIVIL WAR* (1915).

22. For background information on the history of black transnational liberations movements, see RON WALTERS, *PAN AFRICANISM IN THE AFRICAN DIASPORA: AN ANALYSIS OF MODERN AFROCENTRIC POLITICAL MOVEMENTS* (Toni C. Bambara et al. eds., 1997).

23. *See generally* JOE R. FEAGIN, *RACIST AMERICA: ROOTS, CURRENT REALITIES, AND FUTURE REPARATIONS* (3d ed. 2014); ERIC WILLIAMS, *CAPITALISM AND SLAVERY* (1994); DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* (1992); STOKELY CARMICHAEL & CHARLES V. HAMILTON, *BLACK POWER: THE POLITICS OF LIBERATION* (1967); and ASSATA SHAKUR, *ASSATA: AN AUTOBIOGRAPHY* (1999).

24. Jon Swaine et al., *Black Americans Killed by Police Twice as Likely to Be Unarmed as White People*, *THE GUARDIAN* (June 1, 2015), <http://www.theguardian.com/us-news/2015/jun/01/black-americans-killed-by-police-analysis>.

multigenerational ignorance about the historical factors underwriting anti-Black violence and police brutality?

To make matters worse, according to the FBI, 67 percent of race-based hate crime is committed against Blacks and 53 percent of offenders are white; hence, whites commit hate crimes at more than twice the rate of any other group.<sup>25</sup> In an era in which an African American man is President of the United States, most Millennials find it difficult to understand why Black people are three times more likely than white people to be killed by police considering that, for example, Black men between the ages of eighteen and twenty-four only account for about 4.7 percent of the US population. Early deaths and incarceration have resulted in the fact that “[m]ore than one out of every six black men who today should be between 25 and 54 years old have disappeared from daily life.”<sup>26</sup> Police killings, brutality, corruption, disparate sentencing and high incarceration rates are viewed as principal causes of this disappearance. White supremacist ideology pervades the criminal justice system and serves as the linchpin or glue that connect or bond, respectively, these structural conditions.

## II. WHY DO THEY HATE US?

Increasingly, Black men are asking the question; why do they hate us? It’s a simple but riveting question that was similarly captured in a recent BBC story titled, *Why Do US Police Keep Killing Unarmed Black Men?*<sup>27</sup> In this context, the term “they” is used to identify people, governments, and institutions that have a well-documented history of violence towards persons of African descent, namely African Americans. The term “hate” means to intensely dislike,

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25. 2013 HATE CRIME STATISTICS, FED. BUREAU OF INVESTIGATION (Fall 2014), [https://www.fbi.gov/about-us/cjis/ucr/hate-crime/2013/topic-pages/offenders/offenders\\_final.pdf](https://www.fbi.gov/about-us/cjis/ucr/hate-crime/2013/topic-pages/offenders/offenders_final.pdf).

26. Justin Wolfers et al., *1.5 Million Missing Black Men, the Upshot*, N.Y. TIMES (Apr. 20, 2015), [http://www.nytimes.com/interactive/2015/04/20/upshot/missing-black-men.html?\\_r=0&abt=0002&abg=0](http://www.nytimes.com/interactive/2015/04/20/upshot/missing-black-men.html?_r=0&abt=0002&abg=0).

27. *Why Do US Police Keep Killing Unarmed Black Men?*, BBC.COM (May 26, 2015), <http://www.bbc.com/news/world-us-canada-32740523>.

harbor extreme hostility, or antipathy toward “usually deriving from fear, anger, or sense of injury.”<sup>28</sup>

Why do they hate us? Why have white Americans been brutally and industrially violent towards Black Americans since 1619 AD? We did not kidnap, kill, enslave, sell, breed, brutalize, and rape them or design a racial hierarchy and order intended to permanently exploit and disenfranchise them in every sphere of existence—from healthcare, housing, and education to business, politics, and the justice system. We did not lynch them.<sup>29</sup> We did not bomb, shoot-up or burn their churches (e.g. 16th Street Baptist Church or Emanuel AME Church), nor did we violently massacre and destroy their communities (e.g. Rosewood and Ocoee, Florida and Tulsa, Oklahoma).<sup>30</sup> It is a reasonable question in light of our historical experiences in the United States and the ongoing murderous assault on Black male sovereignty and life by law enforcement agencies and members of civil society. Maybe the pertinent question is, “why don’t we hate *them*?”

Black Americans have fought against violent tyranny with prayer, hope, and an assortment of non-violent strategies while simultaneously achieving excellence in every sector (including the military, sports, entertainment, politics, law, business, medicine, and science) where there has been any semblance of equal opportunity. We are by far the most popular and imitated racial/ethnic group in the world.<sup>31</sup> Black innovation, invention, music, style, and “swag” have

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28. See the definition of the word “hate” at MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/hate>.

29. RALPH GINZBURG, *ONE HUNDRED YEARS OF LYNCHING* (1988).

30. REPORT TO THE LEGISLATURE: A DOCUMENTED HISTORY OF THE INCIDENT WHICH OCCURRED AT ROSEWOOD, FLORIDA IN JANUARY, 1923 (1993); *See generally* Thomas R. Dye, *Rosewood, Florida: The Destruction of an African American Community*, 58 HISTORIAN: J. HIST. 605 (1996); LESTER DABBS, A REPORT OF THE CIRCUMSTANCES AND EVENTS OF THE RACE RIOT ON NOVEMBER 2, 1920 IN OCOEE, FLORIDA (1969); PAUL ORTIZ, EMANCIPATION BETRAYED: THE HIDDEN HISTORY OF BLACK ORGANIZING AND WHITE VIOLENCE IN FLORIDA FROM RECONSTRUCTION TO THE BLOODY ELECTION OF 1920 (2005); and TIM MADIGAN, THE BURNING: MASSACRE, DESTRUCTION, AND THE TULSA RACE RIOT OF 1921 (2013).

31. *See* Dontaira Terrell, *The Untold Impact of African Culture on American Culture*, ATLANTIC BLACK STAR (June 3, 2015), <https://atlantablackstar.com/2015/06/03/cultural-influences-africans-american-culture/>; and Howard Dodson, *America’s Cultural Roots Traced to Enslaved African Ancestors*, NAT’L GEOGRAPHIC NEWS (Feb. 5, 2003), [http://news.nationalgeographic.com/news/2003/02/0205\\_030205\\_jubilee4.html](http://news.nationalgeographic.com/news/2003/02/0205_030205_jubilee4.html).

influenced generations of people throughout the globe. And, white Americans are among the largest consumers of African American culture.<sup>32</sup> We live, work, and socialize together, yet anti-Black racism thrives. Why?

It is politically incorrect to pose the question above, which typically engenders denial and indifference, but it must be asked. I do not pretend to know the answer, but I believe that envy and fear form a part of the reason that anti-black racism thrives today. Perhaps Paul Mooney’s comedic reflection on the Dave Chappelle show that “Everybody wanna be a Nigga, but nobody wants to be a nigga” best captures the social dichotomy of Black male life and existence.<sup>33</sup> We are envied because we are the most imitated people in the world and among the most accomplished despite generations of enslavement, segregation, and maltreatment. We pray for our enemies when they brutalize and murder us and non-violently shatter and strew the hardened yolks of racial cast and inequality. The beneficiaries of privilege and generational wealth fear us because of their inability to reconcile and repair the evil legacy of their slave master and segregationist forbearers. This vile, dichotomous, and neurotic dynamic continues to delineate, befuddle, and reinforce racial tension, division, and inequality that keep Americans alienated from one another. Police killing, abuse, and corruption are simply antecedents of this nascent reality.

### III. UNSAVORY ENCOUNTERS

I am a husband, father, son, brother, uncle, friend, mentor, teacher, and patriot who approaches the unsavory subject of police brutality with experience and insight. I was born and raised in Los Angeles. I lived, worked, attended school, and socialized throughout the city from South Central to Pacific Palisades; however, unlike my white family members and friends, my youth was marred by

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32. Consequently, white youth and others are increasingly taking firm stances against overt racial discrimination and becoming formidable anti-racist advocates. They are on the front lines of organizing and protesting against police brutality and the killings of Black men throughout the country.

33. Paul Mooney, *Ask a Black Dude Outtakes*, YOUTUBE (Mar. 17, 2014), [https://www.youtube.com/watch?v=-\\_2iBE-QVqk](https://www.youtube.com/watch?v=-_2iBE-QVqk).

antagonistic relations with the police. My associates and I were routinely intimidated, harassed, physically abused and detained by, among others, the notoriously corrupt, violent, and deadly Los Angeles Police Department's (LAPD) Rampart Division's Community Resources Against Street Hoodlums (CRASH) anti-gang unit.<sup>34</sup> As youth, we were stopped, frisked, and bullied so often by police that we developed a dangerous combination of fearlessness and disdain for them. And like many Black men and youth my daily regimen—demeanor, appearance, socialization, and driving routes—were largely shaped, informed, and even controlled by probable confrontation with police. This made life extremely stressful; sadly, my experience reveals that many Black men are more concerned with unprovoked and hostile police encounters than with violent criminal elements.

Rampart CRASH unit abuses represent the most pervasive instances of documented police abuse in the U.S. to date.<sup>35</sup> CRASH officers intimidated, assaulted, killed and thus turned successive generations of Black people against law enforcement agencies. The recent killings of Black men and youth in, among other places, Baltimore, Bridgeton, Brooklyn, Charleston, Cleveland, Dayton, Ferguson, Florence, Madison, New York City, North Charleston, Tulsa, and Victorville confirm what I and millions of African Americans know: we are in the midst of a national crisis with global ramifications. The scars of decades of police abuse cannot be removed from the minds and collective consciousness of millions of African Americans. Any hope at helping to fade such scars will take a national plan of action and a fundamental shift in the way law enforcement agencies view, assess, and engage Black youth. This requires moving from offender to citizen-patron approaches focused on building community trust, confidence and cooperation. Any

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34. See Erwin Chemerinsky, *An Independent Analysis of the Los Angeles Police Department's Board of Inquiry Report on the Rampart Scandal*, 34 LOY. L.A. L. REV. 545 (2001), available at <http://digitalcommons.lmu.edu/lr/vol34/iss2/4>.

35. *Id.* See also RAMPART INDEPENDENT REVIEW PANEL, REPORT OF THE RAMPART INDEPENDENT REVIEW PANEL: A REPORT TO THE LOS ANGELES BOARD OF POLICE COMMISSIONERS CONCERNING THE OPERATIONS, POLICIES, AND PROCEDURES OF THE LOS ANGELES POLICE DEPARTMENT IN THE WAKE OF THE RAMPART SCANDAL (2000).

national action plan will also need to seriously confront the nexus between violent white extremist ideology and police brutality.

This will necessitate confronting the “good people” and the apologists. Dr. King said that “[h]istory will have to record that the greatest tragedy of this period of social transition was not the strident clamor of the bad people, but the appalling silence of the good people.”<sup>36</sup> Like the good people, apologists seek to avoid or divert attention away from law enforcement’s maltreatment and killing of Black men and youth by, for example, focusing on black-on-black crime. I submit that black-on-black crime is as irrelevant to police brutality and corruption against African Americans as white-on-white crime. There is a major difference between deadly crime conducted by criminal elements and the merciless killing of Black men and youth by police officers sworn to protect and serve them. And, it is this murderous behavior together with unapologetic indifference that is generating a myriad of socio-political problems including disenchantment and sowing the fertile seeds of radicalization with the potential of threatening our national security.<sup>37</sup>

#### IV. I AM A MAN!

“I Am a Man,” “We are Men” “and [We] have always been men.” Even when our captors treated us like animals, property, and disposable pleasures our elders reminded us that we were men—descendants of African kings, queens, priests, lawyers, doctors, warriors, architects, artisans, scribes, poets, farmers, and fisherman.<sup>38</sup> We are the descendants of free and enslaved people, abolitionists, agriculturalists, blacksmiths, boatman, carpenters, clerics, coopers, cooks, doctors, freedom fighters, musicians, navigators, seamstresses,

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36. ALEX AYRES, *THE WISDOM OF MARTIN LUTHER KING, JR.* 14 (1993).

37. Jeremy I. Levitt, *Black Youth: Let Them Be Recognized, Not Radicalized*, ORLANDO SENTINEL (May 6, 2015), <http://www.orlandosentinel.com/opinion/os-ed-jeremy-levitt-black-youth-20150505-story.html>.

38. For more information about ancient black leadership, see generally SYLVIANE ANNA DIOUF, *KINGS AND QUEENS OF WEST AFRICA* (2000); SYLVIANE ANNA DIOUF, *KINGS AND QUEENS OF EAST AFRICA* (2000); and SYLVIANE ANNA DIOUF, *KINGS AND QUEENS OF SOUTHERN AFRICA* (2000). See also G. Thorpe, *10 African Kings and Queens Whose Stories Must Be Told on Film*, Atlanta Black Star (Dec. 7, 2013), <http://atlantablackstar.com/2013/12/07/10-african-kings-and-queens-whose-stories-must-be-told-on-film/>.

shoemakers, tanners, spinners, and weavers that literally built this country centuries before most “Americans” emigrated to it from Europe.<sup>39</sup> In fact, the first “African American” was free and arrived in America a century before William Bradford and the *Mayflower* landed on Plymouth Rock in 1620. In 1513, a West African named Juan Garrido participated in the discovery of Florida alongside Spanish explorer and conquistador Juan Ponce de Leon, 263 years before the founding of the United States.<sup>40</sup> Black American history did not begin with the slave trade and enslavement; it began with freedom and discovery.<sup>41</sup> Only arrogant fools would demand that African-Americans “go back to Africa” given that we were among the country’s earliest migrants and ethnic groups; Blacks arrived in North America long before massive waves of white immigration besieged the country in the late 19th and early 20th centuries.

The noted intellectual James Baldwin said that “[p]eople are trapped in history and history is trapped in them.”<sup>42</sup> This irreconcilable contradiction makes it very difficult for Black youth to value the importance of history, especially when their sovereign existence is under attack in manifold ways; where Cicero’s “*salus*

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39. This assertion in no way ignores the fact that Native Americans established highly sophisticated civilizations in the America’s centuries before Europeans colonized and destroyed them. For scholarship on Native American history prior to European colonization, see PHILIP KOPPER, *THE SMITHSONIAN BOOK OF NORTH AMERICAN INDIANS BEFORE THE COMING OF THE EUROPEANS* (1986); and CHARLES G. MANN, *1491: NEW REVELATIONS OF THE AMERICAS BEFORE COLUMBUS* (2005). For a controversial analysis of the pre-European presence of Africans in the Americas, see generally IVAN VAN SERTIMA, *THEY CAME BEFORE COLUMBUS: THE AFRICAN PRESENCE IN ANCIENT AMERICA* (1976).

40. Paul Gerhard, *Garrido, Juan: A Black Conquistador in Mexico*, in *AFRICANA: THE ENCYCLOPEDIA OF THE AFRICAN AND AFRICAN-AMERICAN EXPERIENCE* 815–17 (Kwame Anthony Appiah & Henry Louis Gates Jr. eds., 1999). See also *Civil Rights Movement*, HISTORY.COM, <http://www.history.com/topics/black-history/civil-rights-movement> (last accessed Oct. 24, 2015). See generally Matthew Restall, *Black Conquistadors: Armed Africans in Early Spanish America*, 57:2 *THE AM.* 171–205 (2000). See also *Juan Garrido*, NAT’L PARK SERV., [http://www.nps.gov/ethnography/aah/aaheritage/SpanishAm\\_furthRdg4.htm](http://www.nps.gov/ethnography/aah/aaheritage/SpanishAm_furthRdg4.htm) (last accessed Oct. 24, 2015); Erica Taylor, *Little Known Black History Fact: Juan Garrido*, BLACK AMERICA WEB (Nov. 5, 2013), <http://blackamericaweb.com/2013/11/05/little-known-black-history-fact-juan-garrido/>.

41. See generally VAN SERTIMA, *supra* note 39.

42. JAMES BALDWIN, *NOTES OF A NATIVE SON* 163 (1955).

*populi suprema lex esto*,” remains an abject dream.<sup>43</sup> For many Black men and youth, the rule of law is seen as a tool employed against them: a self-perpetuating and repugnant force that feeds off and fortifies societal ills and historic inequality. Many African Americans unwillingly endure low intensity police violence—physical bullying, insulting, profiling—and accompanying societal indifference because it is all that they know, but the recent spout of killing has awoken a new Black consciousness and exposed an old brand of white supremacy.

One example of this brand of racist apathy is best illustrated in the killing of Eric Harris. After being mercilessly shot in the chest with a .357 magnum at close range by Robert Bates, a 73-year old reserve deputy for Tulsa County on an apparent “safari,” Harris excruciatingly cried out to God and Tulsa sheriffs that he could not breathe. In response, while crushing Harris’ bare head into the concrete pavement with his knee, deputy Joseph Byars screamed “[y]ou fucking ran. Shut the fuck up,” and in a final act of inhumanity, shouted, “[f]uck your breath” (hence the title of this article).<sup>44</sup> To us, these cold-blooded and hateful statements are akin to mantra at a lynching party. They were likely the last words Harris heard before dying. What is unsurprisingly sad about Harris’ killing is that many Americans seem to empathize with deputy Bates, not Harris. Why?

Why do some Americans financially reward white killers of Black men—whether it is Darren Wilson (Mike Brown’s assassin) or George Zimmerman (Trayvon Martin’s killer)—with donations raised through, for example, GoFundMe and Facebook campaigns?<sup>45</sup>

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43. “[T]he safety of the people shall be their highest law.” CICERO, ON THE REPUBLIC. ON THE LAWS bk. III, pt. III, sub. VIII at 466–67 (Clinton W. Keyes trans., Harvard Univ. Press 1928) (c. 43 B.C.E.).

44. Steven W. Thrasher, Editorial, *The Inhumanity of ‘Fuck Your Breath’ Should Stop All of Us Cold*, THE GUARDIAN, Apr. 13, 2015, <http://www.theguardian.com/commentisfree/2015/apr/13/white-supremacy-takes-the-breath-away-from-black-Americans>.

45. See, e.g., Jon Swaine, *GoFundMe Defends Darren Wilson Fundraising Page Despite Racist Postings*, THE GUARDIAN (Aug. 21, 2014, 3:53 PM), <http://www.theguardian.com/world/2014/aug/22/gofundme-defends-ferguson-officer-fundraising-page-racist-postings>; Hayley Tsukayama, *George Zimmerman Raised Just Over \$200K Online, Lawyer Says*, WASH. POST (Apr. 27, 2012), [https://www.washingtonpost.com/business/technology/george-zimmerman-raised-200k-online-lawyer-says/2012/04/27/gIQApX4hIT\\_story.html](https://www.washingtonpost.com/business/technology/george-zimmerman-raised-200k-online-lawyer-says/2012/04/27/gIQApX4hIT_story.html).

Most of them generated more compensation after killing Black men and youth than they earned protecting and serving the public; sending the signal that killing Black men and youth literally pays. This perverse reality gives the impression that it is not only profitable to slay African Americans but that doing so provides a pathway or “initiation” into prestige, wealth, and prosperity. For some, such as Wilson and Mark Furhman of O.J. Simpson fame, racism and violence against blacks has become a conduit to success. Mike Brown and Walter Scott were treated worse than runaway slaves because it was legal to violently dispose of one’s property during enslavement; there was no need to lie, rationalize, plant evidence, or conspire to shirk responsibility. Scott’s murderer, Patrolman Michael Slager, laughed about the adrenaline rush he felt after killing Scott as if he were a slave hunter.<sup>46</sup> Rabid dogs are euthanized with greater care and compassion than were Brown and Scott. Why are some police officers indifferent about killing Black men? Why do they hate us? These unanswered questions and the circumstances surrounding them raise serious concerns about America’s racist neurosis, global moral standing, and inability to safeguard the international human rights of African Americans, namely the right to life.

#### V. BLACK LIVES MATTER UNDER INTERNATIONAL HUMAN RIGHTS LAW

The lives and rights of African Americans, both individually and collectively, are protected not just by the U.S. Bill of Rights, but also by international human rights law, for example, the International Bill of Human Rights.<sup>47</sup> All people are born with inalienable human rights. Among many others, these rights include the right to equality; freedom from discrimination, life, liberty, personal security; freedom from slavery, torture and degrading treatment; to be recognized as a person before the law; equality before the law; remedy by competent tribunal; freedom from arbitrary arrest; fair and public hearing; to be

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46. Jon Swaine, *Walter Scott Shooting: Officer Laughs About Adrenaline Rush in Recording*, THE GUARDIAN (Apr. 13, 2015, 7:44 AM), <http://www.theguardian.com/us-news/2015/apr/12/walter-scott-shooting-officer-michael-slager-audio-recording>.

47. See *infra* note 51.

considered innocent until proven guilty; and freedom from interference with privacy, family, home and correspondence.<sup>48</sup> United States federal and state agencies, including police organizations and the judiciary, cannot lawfully trample on or ignore these core human rights because they “are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.”<sup>49</sup> Like our own Bill of Rights,<sup>50</sup> the International Bill of Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights along with its two Optional Protocols.<sup>51</sup> These treaties are comprised of universal human rights that mandate and regulate how governments are supposed to treat their citizens—how they “act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups” such as African Americans.<sup>52</sup> Racial equality or non-discrimination is an essential human rights principle that cross-cuts and intersects with all major human rights treaties and norms embodied in customary international law.<sup>53</sup>

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48. Universal Declaration of Human Rights, *supra* note 8.

49. *What Are Human Rights?*, OFF. HIGH COMMISSIONER FOR HUM. RTS., <http://www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx> (last accessed Oct. 24, 2015).

50. U.S. CONST. AMNDS. I-X.

51. The International Bill of Human Rights is comprised of the Universal Declaration on Human Rights (1948) and subsequent human rights treaties including the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Optional Protocol to the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. FACT SHEET NO. 2 (REV.1), THE INTERNATIONAL BILL OF HUMAN RIGHTS, OFFICE OF THE HIGH COMM’R FOR HUMAN RIGHTS, *available at* <http://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf>.

52. *What Are Human Rights?*, *supra* note 49.

53. Customary international law may be defined as the general and consistent practice of states taken by them out of a sense of legal obligation (e.g., the prohibition on all forms of racial discrimination in treaty law and customary international law). Customary international law norms derive from custom and exist independent from treaty law. *See* Jean Marie Henckaerts & Louise Doswald-Beck, *Rules, in* CUSTOMARY INTERNATIONAL HUMANITARIAN LAW 1 (2005).

At Malcolm X's speech on the founding of the Organization of Afro-American Unity he prophetically said:

We feel that the problem of the black man in this country is beyond the ability of Uncle Sam to solve it. It's beyond the ability of the United States government to solve it. The government itself isn't capable of even hearing our problem, much less solving it. It's not morally equipped to solve it. So we must take it out of the hands of the United States government. And the only way we can do this is by internationalizing it and taking advantage of the United Nations Declaration of Human Rights, the United Nations Charter on Human Rights, and on that ground bring it into the UN before a world body wherein we can indict Uncle Sam for the continued criminal injustices that our people experience in this government.<sup>54</sup>

For the first time people, institutions and governments across the globe are expressing concerns about the plight of African Americans, particularly Black men and youth. The barbarous acts that have led to international outcry have "outraged the conscious of mankind"<sup>55</sup> and led to massive movements in the US and throughout the world by youth of every hue and background.<sup>56</sup> Social media has played a significant role in mobilizing and tracking global outrage.<sup>57</sup> For example, between November 24, 2014 (the date a Ferguson grand jury failed to indict Ferguson police officer Darren Wilson, Mike Brown's killer) and December 3, 2014 (the date a Staten Island grand jury failed to indict NYPD officer Daniel Pantaleo, Eric Garner's

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54. Malcolm X, Speech at the Founding Rally of the Organization of Afro-American Unity (June 28, 1964).

55. Universal Declaration of Human Rights, *supra* note 8, at Preamble.

56. See generally #BLACKLIVESMATTER, <http://blacklivesmatter.com> (last accessed Oct. 25, 2015); Paula Mejia, *Ferguson, Eric Garner Protests Spread Worldwide*, NEWSWEEK, (Dec. 12, 2014), <http://www.newsweek.com/ferguson-eric-garner-protests-sprawl-worldwide-289867>; Adam Taylor, *How the rest of the World Reacted to the Ferguson Verdict*, WASH. POST (Nov. 25, 2014), <https://www.washingtonpost.com/news/worldviews/wp/2014/11/25/how-the-rest-of-the-world-reacted-to-the-ferguson-verdict/>; and Matt Pearce, *Why the Term 'Black Lives Matter' Can Be So Confusing*, L.A. TIMES (Oct. 20, 2015), <http://www.latimes.com/nation/la-na-black-lives-matter-explainer-20151020-story.html>.

57. See #BLACKLIVESMATTER, *supra* note 56.

killer), Twitter released an animated geotagged map of tweets expressing global outrage using the hashtags #ICantBreathe, #BlackLivesMatter and #HandsUpDontShoot based on the most prominent protest slogans.<sup>58</sup> The map vividly illustrates that people from every continent were unified in their shock, dismay, and outrage over the killing of Mike Brown and Eric Garner and the failed indictments of Darren Wilson and Daniel Pantaleo. This marks the first time that the international community formally and openly condemned America’s cruel and inhumane treatment of African American men.

The United Nations International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is the most important anti-racist discrimination treaty in the world. The United States ratified ICERD in 1994 and is therefore obligated to condemn and refrain from racial discrimination, pursue all appropriate means to eliminate it, and ensure that all public authorities at all levels (local, state and federal) in the United States act in conformity with it, including all police agencies.<sup>59</sup> Specifically, the United States government is obligated to protect Black lives and prevent “public authorities or public institutions, national or local, from promoting or inciting racial discrimination” through racialized violence, profiling, targeting and other discriminatory policing practices used against African Americans.<sup>60</sup> This includes prohibiting and eliminating of all forms of racial discrimination and guaranteeing everyone, including African Americans, the right to (1) equal treatment before the courts and all bodies administering justice; (2) security of person and protection by the state against violence or bodily harm by government officials, police agencies or other individual group or institution; and (3) civil rights, including the right to freedom of movement,<sup>61</sup> thought,<sup>62</sup> opinion and expression,<sup>63</sup> and peaceful

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58. Kerry Flynn, *This Map Shows How Outrage Over the Eric Garner and Mike Brown Decisions Went Global*, THE HUFFINGTON POST (Dec. 11, 2014), [http://www.huffingtonpost.com/2014/12/11/eric-garner-map-twitter-world\\_n\\_6301352.html?ir=Black+Voices&ncid=fbklnkushpimg00000047](http://www.huffingtonpost.com/2014/12/11/eric-garner-map-twitter-world_n_6301352.html?ir=Black+Voices&ncid=fbklnkushpimg00000047).

59. G.A. Res. 2106 (XX), art. 2, U.N. Doc. A/2106 (Dec. 21, 1965).

60. *Id.* art. 4(c).

61. *Id.* art. 5(d)(i).

62. *Id.* art. 5(d)(vii).

assembly and association.<sup>64</sup> These rights intersect with other fundamental rights such as the inherent right to life that demands that “no one be arbitrarily deprived of his life”<sup>65</sup> or the absolute prohibitions on torture, cruel, inhuman or degrading treatment or punishment,<sup>66</sup> along with arbitrary arrest and detention,<sup>67</sup> and the right to liberty and security of person.<sup>68</sup> The United Nations International Convention of Civil and Political Rights (ICCPR) also demands that all persons, including African Americans, deprived of their liberty by arrest or detention—such as Freddie Gray and Walter Scott—are treated humanely and with dignity.<sup>69</sup> When the state clearly demonstrates that it is unwilling or unable to safeguard Black lives—something that it cannot do when it is the referent object of oppression—the responsibility to protect Black lives falls on the international community.

The extrajudicial killing of Black Americans, especially Black men and youth, has become an issue of concern for the United Nations, foreign governments, and inter-governmental organizations.<sup>70</sup> For example, in its review of the United States’ compliance with ICERD in September 2014, the Committee on the Elimination of Racial Discrimination (CERD), the United Nations’ racism watchdog that monitors the implementation of the ICERD, reiterated its concern about the “brutality and excessive use of force by law enforcement officials against members of racial and ethnic minorities” and “unarmed individuals . . . which has a disparate

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63. *Id.* art. 5(d)(viii).

64. *Id.* art. 5(d)(ix).

65. G.A. Res. 2200A (XXI), art. 6(1), U.N. Doc. A/2200A (Dec. 16, 1966).

66. *Id.* art. 7.

67. *Id.* art. 9(1).

68. *Id.*

69. *Id.* art. 10(1).

70. While Black men and youth are disproportionately victimized by police, Black women have also been ruthlessly targeted. See Kate Abbey-Lambertz, *These 15 Black Women Were Killed During Police Encounters. Their Lives Matter, Too*, THE HUFFINGTON POST BLACKVOICES (Feb. 13, 2015), [http://www.huffingtonpost.com/2015/02/13/black-womens-lives-matter-police-shootings\\_n\\_6644276.html](http://www.huffingtonpost.com/2015/02/13/black-womens-lives-matter-police-shootings_n_6644276.html); and Michelle Dean, *‘Black Women Unnamed’: How Tanisha Anderson’s Bad Day Turned into Her Last*, THE GUARDIAN (June 5, 2015), <http://www.theguardian.com/us-news/2015/jun/05/black-women-police-killing-tanisha-anderson>.

impact on African Americans.”<sup>71</sup> It sternly urged the United States to “combat and end” racial profiling by all law enforcement officials as well as racially-motivated surveillance, monitoring and intelligence gathering.<sup>72</sup> The CERD Committee called on the United States to promptly investigate, prosecute and punish perpetrators, re-open and investigate cases when new evidence is presented and adequately compensate victims as well as “intensify its efforts to prevent the excessive use of force by law enforcement officials.”<sup>73</sup> In addition, the Committee has consistently called upon the United States to “eliminate racial disparities at all stages of the criminal justice system” including amending laws and policies leading to racially disparate impacts “at the federal, state, and local levels,”<sup>74</sup> especially among juveniles.<sup>75</sup> The CERD Committee’s concerns were echoed by other United Nations Committees overseeing the Convention Against Torture and the ICCPR. Additionally, the United Nations High Commissioner for Human Rights, Zeid Ra’ad Al Hussien, commented, “I am deeply concerned at the disproportionate number of young African Americans who die in encounters with police officers, as well as the disproportionate number of African Americans in US prisons and the disproportionate number of African Americans on Death Row.”<sup>76</sup> Commenting on police responses to protest in Ferguson, former United Nations High Commissioner for Human Rights Navi Pillay, stated, “I condemn the excessive use of force by the police [in Ferguson] and call for the right of protest to be respected. These scenes are familiar to me and privately I was thinking that there are many parts of the United States where

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71. United Nations, *Int’l Convention on the Elimination of All Forms of Racial Discrimination*, CERD, Concluding Observations on the Combined Seventh to Ninth Periodic Reports of the United States of Am., U.N. Doc. CERD/C/USA/CO/7-9 (Sept. 25, 2014) [hereinafter *Int’l Convention on the Elimination of All Forms of Racial Discrimination*].

72. *Id.* ¶¶ 8(a)-(c).

73. *Id.* ¶¶ 17(a)-(b).

74. *Id.* ¶¶ 20 (a)-(b).

75. *Id.* ¶ 21.

76. *UN Rights Chief Concerned Over ‘Disproportionate’ Killings of African-Americans by US Police*, UN NEWS CENTRE (Nov. 25, 2014), <http://www.un.org/apps/news/story.asp?NewsID=49444#.Vi60g-orKCU>.

apartheid is flourishing.”<sup>77</sup> Never before has the maltreatment of Black men and youth so shocked the conscious of the international community.

This unprecedented critique of the United States by the CERD and High Commissioners was endorsed by a more scathing pronouncement of five United Nations experts on minority issues, racism, people of African descent, the right to peaceful assembly, and extrajudicial executions. They expressed “‘legitimate concerns’ over the decision not to bring to trial the cases of Michael Brown and Eric Garner in the United States.”<sup>78</sup> The United Nations Special Rapporteur on minority issues, Rita Izsák (Hungary), said, “I am concerned by the grand juries’ decisions and the apparent conflicting evidence that exists relating to both incidents.” She further noted that “a trial process would ensure that all the evidence is considered in detail and that justice can take its proper course,” and that the “decisions leave many with legitimate concerns relating to a pattern of impunity when the victims of excessive use of force come from African American or other minority communities.”<sup>79</sup> The United Nations Special Rapporteur on contemporary forms of racism, Mutuma Ruteere (Kenya), called for urgent action to end discriminatory practices, including racial profiling by police officers targeting African Americans.<sup>80</sup> Chairperson of the United Nations Working Group of Experts on People of African Descent, Mireille Fanon Mendes (France), stated that “Michael Brown and Eric Garner’s cases have added to our existing concerns over the longstanding prevalence of racial discrimination faced by African Americans, particularly in relation to access to justice and

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77. Press Release, Office of the High Commissioner for Human Rights, Committee on the Elimination of Racial Discrimination Considers Report of the United States, U.N. Press Release (Aug. 14, 2014), *available at* <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14945&LangID=E>.

78. Press Release, Office of the High Commissioner for Human Rights, U.N. Human Rights, “Legitimate Concerns” over Outcome of Michael Brown and Eric Gardner case—UN Rights Experts, U.N. Press Release (Dec. 5, 2014), *available at* <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15384&LangID=E> [hereinafter “Legitimate Concerns”].

79. *Id.*

80. *Id.*

discriminatory police practices.”<sup>81</sup> Mendes also condemned the June 2015 Charleston Massacre issue the following statement:

We utterly condemn the appalling attack on the Emanuel African Methodist Church in Charleston, South Carolina this week and the killing of nine African Americans.

We welcome the prompt action by the authorities to investigate this hate crime. Every effort must be made to ensure the person guilty of this act is prosecuted and punished accordingly. Urgent measures must be taken to prevent gun violence and racist crimes motivated by prejudice that affect the security of African-Americans, their communities and society as a whole.

We offer our heartfelt condolences to the people of the United States of America, especially the families and friends of those who were murdered while in worship at Church.<sup>82</sup>

Finally, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, commented:

The laws of many of the States in the US are much more permissive, creating an atmosphere where there are not enough constraints on the use of force. A comprehensive review of the system is needed—the enabling laws, the kinds of weapons the police use, the training they receive, and the use of technology such as on-body cameras to ensure accountability.<sup>83</sup>

All five United Nations human rights experts articulated misgivings about the lack of racial diversity in police agencies, grand jury decisions not to indict in the face of conflicting evidence, the pattern of excessive force aimed at African Americans, and racial profiling.<sup>84</sup> Mendes-France’s statement on the Charleston Massacre speaks to the

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81. *Id.*

82. Press Release, Mireille Fanon Mendes-France, Chairperson, U.N. Working Group of Experts on People of African Descent, Charleston Shooting: UN Experts Deplore Killing of African Americans and Urge Measures Against Racist Crimes, U.N. Press Release (June 19, 2015), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16105&LangID=E>.

83. “Legitimate Concerns,” *supra* note 78.

84. *Id.*

increasing awareness, recognition, and dismay from the United Nations and international community with anti-black violence. These historic pronouncements provide global legitimacy to the ailing problem of state violence against African Americans.

Police brutality and barbarity has also prompted criticism from allies and traditional adversaries such as China, Cuba, Egypt, Iran, North Korea, and Russia. These states essentially scrutinize the United States for its inability to halt the killing and brutalization of Black Americans. For example, France's first Black justice minister, Christiane Taubira, lashed out at Ferguson police brutality tweeting in French, "Michael Brown, racial profiling, social exclusion," territorial segregation, cultural marginalization, guns, fear, fatal cocktail!"<sup>85</sup> In August 2014 Russia's Foreign Ministry issued special commentary on the situation in Ferguson where it concluded that the United States "has positioned itself as a 'bastion of human rights' and is actively engaged in the 'export of democracy' on a systematic basis," but "serious violations of basic human rights and barbaric practices thrive" in the country.<sup>86</sup> It further stated that "'police murder' . . . had happened in the context of the United States' generally 'inhumane' treatment of Black Americans, listing medicinal testing and forced sterilization of inmates who are 'mostly black,' as well as police abuse of non-whites."<sup>87</sup> The Russian Foreign Ministry urged "American partners to pay more attention to restoring order in their own country before imposing their dubious experience on other nations."<sup>88</sup> In Iran, the events in Ferguson eclipsed reporting on the August 2014 magnitude 6.2 earthquake that injured dozens. Iran's Grand Ayatollah Khamenei harshly criticized the United States for its treatment of African Americans in the wake of the Ferguson

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85. Ishaan Tharoor, *France's Black Justice Minister Slams U.S. Racism After Ferguson*, WASH. POST (Nov. 25, 2014), <http://www.washingtonpost.com/blogs/worldviews/wp/2014/11/25/frances-black-justice-minister-slams-u-s-racism-after-ferguson/>.

86. Karoun Demirjian, *Ferguson Riots Play Big in Russia*, WASH. POST (Aug. 15, 2014), <http://www.washingtonpost.com/blogs/worldviews/wp/2014/08/15/ferguson-riots-play-big-in-russia/>.

87. *Id.*

88. *Id.*

riots,<sup>89</sup> and the Islamic Republic News Agency noted that “violence has become institutionalized in the U.S. in recent years, but since President Obama, the 2009 Nobel Peace Prize winner, came to the White House, the violence has intensified, and now it has erupted against blacks in Ferguson.”<sup>90</sup> While the motivations behind these statements may be more contrived than benevolent, it is quite tragic that the appraisals are spot-on.

Perhaps the greatest indicator of a shift in global perceptions of the United States and the outrage over the killing of African Americans is captured in responses from non-governmental organizations and civil society. For example, for the first time Amnesty International, one of the world’s foremost human rights organizations, deployed a delegation in the United States (Ferguson) to work directly with community leaders and “protestors on non-direct action and de-escalation tactics in protests” as well as observe, monitor, and report on the protests and the police responses to them.<sup>91</sup> The report highlighted human rights abuses in several areas, including the unlawful use of lethal force in the death of Michael Brown; racial discrimination and excessive use of force by police nationwide; the imposition of restrictions on the rights to protest, such as curfews and restricted assembly areas; intimidation of protesters; the use of tear gas, rubber bullets, and long range acoustic devices; restrictions imposed on the media covering the protests; and the lack of accountability for law enforcement policing protests.<sup>92</sup> Perhaps, the ultimate sign of moral decay and neglect in Ferguson became clear when Tibetan monks deemed it necessary to travel to Ferguson to offer prayer,<sup>93</sup> and Palestinians—as a show of solidarity

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89. Aaron Sankin, *Even Iran’s Grand Ayatollah Khamenei Is Angry About Ferguson*, DAILY DOT (Dec. 1, 2014, 12:31 PM), <http://www.dailydot.com/politics/ayatollah-khamenei-ferguson-tweets/>.

90. Julie Makinen, *Michael Brown Shooting in Ferguson Becomes International Incident*, L.A. TIMES (Aug. 18, 2014, 3:56 PM), <http://www.latimes.com/world/asia/la-fg-ferguson-michael-brown-shooting-world-reaction-20140818-story.html#page=1>.

91. AMNESTY INT’L, ON THE STREETS OF AMERICA: HUMAN RIGHTS ABUSES IN FERGUSON 6 (2014) available at <http://www.amnestyusa.org/sites/default/files/onthestreetsofamericaamnestyinternational.pdf>.

92. *Id.* at 2, 4, 7–18.

93. Makinen, *supra* note 90.

with African Americans—tweeted advice to Ferguson protestors on how to minimize the effects of tear gas.<sup>94</sup>

There are many more examples, but the point is that the targeted killing and maltreatment of Blacks in the United States amounts to systematic and fundamental human rights abuses. These abuses have illuminated the moral conscious of the world, and we must reflect on how to employ such goodwill to halt our repression and advance the race. When African Americans progress all minority groups, women and other disadvantage groups directly benefit.

From this background, Americans can harness international concern and outrage by continuing to draw attention to the issue of police brutality and deadly police violence by engaging in non-violent, direct action protests. For example, my teenage daughter and I participated in the week-long protests of the brutal murder of Laquan McDonald by Chicago police officer Jason Van Dyke that led to the Black Friday shut down of the Magnificent Mile in Chicago on November 27, 2015.<sup>95</sup> The protests and consequent public exposure of McDonald's murder has, thus far, led to charges of first-degree murder for Van Dyke,<sup>96</sup> the firing of Chicago Police Department Superintendent Garry McCarthy and a Department of Justice civil patterns-and-practice investigation of the Chicago Police Department.<sup>97</sup> Other important tools available to advocates and

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94. Mark Molloy, *Palestinians Tweet Tear Gas Advice to Protestors in Ferguson*, TELEGRAPH (Aug. 15, 2015), <http://www.telegraph.co.uk/news/worldnews/northamerica/usa/11036190/Palestinians-tweet-tear-gas-advice-to-protesters-in-Ferguson.html> (noting that Palestinian supporters used Twitter to advise Ferguson protestors facing tear gas not to “run against the wind”, to “keep calm”, “don’t rub your eyes!” and the “the pain will pass”, and “don’t keep much distance from the police, if you’re close to them they can’t tear gas.”).

95. Ryan Grenoble, *Laquan McDonald Protests Shut Down Chicago’s “Magnificent Mile,”* THE HUFFINGTON POST BLACKVOICES (Nov. 27, 2015), [http://www.huffingtonpost.com/entry/laquan-mcdonald-chicago-protest-magnificent-mile\\_56589596e4b08e945feb38af](http://www.huffingtonpost.com/entry/laquan-mcdonald-chicago-protest-magnificent-mile_56589596e4b08e945feb38af).

96. Jason Meisner, Jeremy Gorner & Steve Schmadeke, *Chicago Releases Dash-Cam Video of Fatal Shooting After Cop Charged with Murder*, CHI. TRIB. (Nov. 24, 2015, 7:14 PM), <http://www.chicagotribune.com/news/local/breaking/ct-chicago-cop-shooting-video-laquan-mcdonald-charges-20151124-story.html>.

97. Kim Janssen, *Michigan Avenue Black Friday Protests Cost Stores 25–50 Percent of Sales*, CHI. TRIB. (Nov. 30, 2015), <http://www.chicagotribune.com/business/ct-black-friday-mag-mile-fallout-1201-biz-20151130-story.html>; Elizabeth Cambell, *Chicago Police Chief Fired in Fallout from Shooting Video*, BLOOMBERG POLITICS (Dec. 1, 2015), <http://www.bloomberg.com/politics/articles/2015-12-01/chicago-police-chief-said-to-be-fired-in-fallout-from-shooting>; Elliott C. McLaughlin, *AG: Justice Department Investigating If Chicago Police Broke*

members of civil society are the human rights mechanisms in the United Nations and Organization of American States. Claims or petitions can be filed against the U.S. Government for not protecting African Americans against unlawful deadly police violence, police brutality and racial profiling in, for example, the Inter-American Commission on Human Rights.<sup>98</sup>

#### VI. TO RECOGNIZE OR TO RADICALIZE? THAT IS THE QUESTION<sup>99</sup>

The rights, welfare, and well-being of Black men, women, and youth protesting in the streets of America need to be recognized and celebrated, not trampled upon. For four centuries, they have been the moral compass of the United States. We have borne the brunt of violent oppression fighting enslavement, racial segregation, and inequality from our landing in 1619 through the demise of Jim Crow in 1965 to the present. There would be no abolitionist crusade, civil rights movement or the ensuing anti-Apartheid, women’s rights and LGBT movements without us.

In the 1960s, Black youth internationalized America’s civil rights movement by, for example, confronting racial tyranny and violence from Selma to Montgomery, Alabama, and by staging Woolworth’s lunch counter sit-ins from Greensboro, North Carolina, to St. Augustine, Florida.<sup>100</sup> They too were called “thugs” and terrorists,

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Law, CNN (Dec. 7, 2015), <http://www.cnn.com/2015/12/07/us/chicago-police-justice-department-laquan-mcdonald-investigation/>.

98. While the UN Committee on the Elimination of Racial Discrimination in one important venue, no advocates have used the Inter-American human rights system to file petitions against the U.S. for the recent string of deadly shootings of African American men by police agencies across the country. Specifically, the American Declaration of Human Rights states that every person has the “right to life, liberty and the security of his person”, that “[a]ll persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor”, and the “right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life.” American Declaration of the Rights and Duties of Man, art. 1, 2, 5 OEA/Ser.L./V.II.23, doc. 21, rev. 6 (1948), reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V./II.82, doc. 6, rev. 1 at 17.

99. Jeremy I. Levitt, *Black Youth Need to Be Recognized, Not Radicalized*, ORLANDO SENTINEL (May 05, 2015), <http://www.orlandosentinel.com/opinion/os-ed-jeremy-levitt-black-youth-20150505-story.html>.

100. Patricia Sullivan, *Civil Rights Movement*, in AFRICANA: THE ENCLYCLOPEDIA OF THE AFRICAN AND AFRICAN-AMERICAN EXPERIENCE 441–55 (Kwame Anthony Appiah & Henry

and many were brutally beaten, jailed, tortured, and murdered fighting Jim Crow terrorism for the greater good of equality and justice. Most Americans considered the Rev. Martin Luther King Jr. and his youthful followers to be anti-American troublemakers, traitors and communists.<sup>101</sup> The U.S. government, led by the Federal Bureau of Investigation, sought to neutralize him.<sup>102</sup> Not unlike today, they were spat on, beaten, hosed, gassed, attacked by dogs, unlawfully detained, terrorized, and murdered by police and white citizens, begging the question: Who were and are the real thugs and terrorists? Was corporeal Eric Casebolt's racist and abusive use of excessive force against fourteen-year-old Dajerria Becton and other Black teenagers in McKinney, Texas not an example of thuggish community terror?<sup>103</sup>

Black men have fought in every American war from the Revolutionary War in 1775 to the continuing wars in Afghanistan and Iraq along with the ongoing military operations against the Islamic State of Iraq and Levant (ISIL) in the Middle East. We have acquired special training and skills while sacrificing life and limb to protect freedom and democracy at home and abroad. Many with such skills join law enforcement agencies upon leaving the military, begging the question: What if racism, police abuse, and indifference towards Black men stifle recruitment to law enforcement, the military, and homeland security, or worse, serves as a catalyst for radicalization?

Over the past decade there has been a dangerous spike in the number of African American men—statistically the least likely to engage acts of terrorism—being radicalized by domestic and foreign

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Louis Gates Jr. eds., 1999). *See also Civil Rights Movement*, HISTORY.COM, <http://www.history.com/topics/black-history/civil-rights-movement> (last accessed Oct. 31, 2015).

101. FREEDOM OF INFORMATION AND PRIVACY ACTS, SUBJECT: MARTIN LUTHER KING, JR. FILE NUMBER: 100-106670, MAIN FILE, SECTION: 103, MARTIN LUTHER KING, JR. PART 2 OF 2, 1 available at <https://vault.fbi.gov/Martin%20Luther%20King%2C%20Jr./Martin%20Luther%20King%2C%20Jr.%20Part%20of%202/view>.

102. FBI, FREEDOM OF INFORMATION AND PRIVACY ACTS, SUBJECT: MARTIN LUTHER KING, JR. FILE NUMBER: 100-106670, MAIN FILE, SECTION: 103, MARTIN LUTHER KING, JR. PART 1 OF 2, 114–16, available at <https://vault.fbi.gov/Martin%20Luther%20King%2C%20Jr./Martin%20Luther%20King%2C%20Jr.%20Part%20of%202/view>.

103. Nick Valencia, Ashley Fantz & Catherine E. Shoichet, *What Role Did Race Play in How Police Handled Texas Pool Party Chaos?*, CNN (June 9, 2015), <http://www.cnn.com/2015/06/08/us/mckinney-texas-pool-video/index.html>.

violent extremist ideology and groups, respectively.<sup>104</sup> Variants on two principal ideologies seem to converge in radicalization processes among African Americans: violent jihadist and black power ideologies. Unfortunately, tensions between African Americans and their communities across the nation and local and state police agencies have also exponentially increased due to a well-documented and disquieting pattern of unlawful police practices such as “stop and frisk”, excessive uses of force, police brutality, and the extrajudicial killings of African Americans, particularly men.<sup>105</sup> African Americans from Wall Street to Main Street are disillusioned with racialized police abuse and a justice system that seemingly ensconces impunity for those with a badge. Consequently, from Wall Street to prison, African Americans may arguably be becoming more vulnerable to radicalization and recruitment by violent extremist ideology and foreign terrorist organizations. This is particularly troubling because of America’s turnstile criminal justice system that releases approximately sixty thousand inmates per year that are disproportionately African American male converts to various forms of violent extremist ideologies.<sup>106</sup>

ISIL is using Black disenchantment as a recruiting tool, and the intelligence community and law enforcement assessments are woefully incomplete and seemingly incapable of curbing the tide of main street and prison conversions to extremist forms of violent anti-American Islam or thwarting the recruitment of African Americans for violent jihad.<sup>107</sup> What is perhaps most disconcerting is that U.S.

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104. Radicalization may be taken to mean “[t]he dynamic process whereby an individual comes to accept terrorist violence as a possible, perhaps even legitimate, course of action. This may eventually, but not necessarily, lead this person to advocate, act in support of, or to engage in terrorism.” PREVENTING TERRORISM AND COUNTERING VIOLENT EXTREMISM AND RADICALIZATION THAT LEAD TO TERRORISM: A COMMUNITY-POLICING APPROACH, OSCE 15 (2014), available at <http://www.osce.org/atu/111438?download=true>.

105. See generally *Int’l Convention on the Elimination of All Forms of Racial Discrimination*, *supra* note 71.

106. See generally MARK S. HAMM, *THE SPECTACULAR FEW: PRISON RADICALIZATION AND THE EVOLVING TERRORIST THREAT* xii (2013).

107. See generally Souad Mekhennet, *Even the Islamists of ISIS Are Obsessing over Ferguson*, WASH. POST (Aug. 21, 2014), <https://www.washingtonpost.com/posteverything/wp/2014/08/21/even-islamist-fighters-in-syria-and-iraq-are-obsessing-over-ferguson/>; Robert Spencer, *Islamic State to Ferguson Protesters: “Hey Blacks ISIS Will Save You”*, JIHADI WATCH (Dec. 24, 2014, 3:38 PM) <http://www.jihadwatch.org/2014/12/islamic-state-to-ferguson-protesters->

national intelligence leaders did not concede that Americans were being radicalized by foreign terrorist organizations such as ISIL until recently. And to this day the FBI and Department of Homeland Security do not believe there are specific or credible terror threats to the United States homeland from ISIL.<sup>108</sup> They are wrong. Information technology and social media know no boundaries and are quietly radicalizing Americans. The case of Douglas McArthur McCain, an African American ISIL fighter that died in combat in Syria battling al-Nusra Front, an al-Qaeda-linked foreign terrorist organization blacklisted by the U.S. government, is a sobering example. McCain is the first known African American ISIL fighter, raising questions about the number of Americans fighting with ISIL “who, rather than dying on the battlefield, might inflict harm stateside.”<sup>109</sup> Troy Kastigar, an African American of Somali descent that attended high school with McCain, joined the terrorist group al-Shabab in Somalia and was also killed in fighting.

Disenchanted and disenfranchised African American men and youth are more at-risk and susceptible to radicalization today than at any other time, and their stories are legion. In June 2015, after seeking to behead Islamic critic Pamela Geller, who organized a Prophet Mohammed cartoon drawing contest, Usaamah Abdullah Rahim allegedly plotted to target police officers. Rahim was fatally shot after supposedly waving a knife at law enforcement officers in Boston.<sup>110</sup> In May 2015, ISIL referred to Elton Simpson and his

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hey-blacks-isis-will-save-you; and Aaron Morrison, *Baltimore Uprising: Is ISIS Using the Riots to Recruit Black American Muslims?*, INT’L BUS. REV. (Apr. 29, 2015, 11:17 AM) <http://www.ibtimes.com/baltimore-uprising-isis-using-riots-recruit-black-american-muslims-1901484>.

108. Jeh Johnson, Sec’y of Homeland Sec., Remarks at the Council on Foreign Relations (Sept. 10, 2014), available at <http://www.dhs.gov/news/2014/09/10/remarks-secretary-homeland-security-jeh-johnson-council-foreign-relations-%E2%80%93>

109. Greer Botelho & Jim Sciutto, *Slain ISIS Jihadi Among More Than 100 Americans Fighting with Militants in Syria*, CNN (Aug. 27, 2014, 8:44 PM), <http://www.cnn.com/2014/08/26/world/meast/Syria-american-killed/>; Cassandra Vinograd & Ammar Cheikh Omar, *American Douglas McArthur McCain Dies Fighting for ISIS in Syria*, NBC NEWS (Aug. 26, 2014, 6:13 PM), <http://www.nbcnews.com/storyline/isis-uncovered/american-douglas-mcauthor-mccain-dies-fighting-isis-syria-n189081>.

110. See generally Ashley Fantz, Ben Brumfield & Shimon Prokupecz, *Usaamah Rahim’s Boston Terror Plot: How Deep Does His Network Run?*, CNN (June 4, 2015, 7:35 PM), <http://www.cnn.com/2015/06/04/us/boston-police-shooting/>.

accomplice Nadir Soofi as two of its “soldiers” and threatened more attacks after the two drove to Garland, Texas to attack a Prophet Mohammed cartoon contest.<sup>111</sup> In September 2015, Muslim convert Alton Nolen was charged with first-degree murder in the decapitation of a former co-worker at a processing plant in Oklahoma.<sup>112</sup> Sgt. Hasan Akbar was sentenced to death for the murder of two fellow soldiers during the 2003 U.S. invasion of Iraq.<sup>113</sup> In 2009, Abdulhakim Mujahid Muhammed (born Carlos Leon Bledsoe), confessed to killing an Army soldier and wounding another at a Little Rock recruiting station two years ago, and wants to be tried on terrorism charges in federal court.<sup>114</sup> In 2008 and 2009, Hassan Abujihaad (born Paul R. Hall), a Navy signalman, who attended the same mosque as Elton Simpson, was convicted of terrorism and espionage offenses for disclosing military intelligence on the locations of Navy ships to al Qaeda financiers.<sup>115</sup> And, there are many more cases worthy of exploration including those of Jasmine Richards,<sup>116</sup> Alton Nolen,<sup>117</sup> Zale Thompson,<sup>118</sup> Jeff Fort,<sup>119</sup> ‘The

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111. Associated Press, *Texas Attack: FBI Alerted Police that Elton Simpson May Go to Prophet Cartoon Event*, THE GUARDIAN (May 7, 2015, 9:22 PM), <http://www.theguardian.com/us-news/2015/may/08/texas-attack-fbi-alerted-police-that-elton-simpson-may-go-to-prophet-cartoon-event>.

112. Timothy Williams & Michael S. Schmidt, *Oklahoma Man Is Charged in Beheading of Co-Worker*, N.Y. TIMES (Sept. 30, 2014), <http://www.nytimes.com/2014/10/01/us/oklahoma-man-charged-with-murder-in-beheading-of-co-worker.html>.

113. Manuel Roig-Franzia, *Army Soldier Is Convicted in Attack on Fellow Troops*, WASH. POST, Apr. 22, 2015, <http://www.washingtonpost.com/wp-dyn/articles/A7210-2005Apr21.html>.

114. James Dao, *A Muslim Son, a Murder Trial and Many Questions*, N.Y. TIMES (Feb. 16, 2010), [http://www.nytimes.com/2010/02/17/us/17convert.html?\\_r=0](http://www.nytimes.com/2010/02/17/us/17convert.html?_r=0).

115. *Passing Secrets at Sea To Terrorists, No Less*, FBI (Mar. 10, 2008), <http://www.fbi.gov/news/stories/2008/march/secrets031008>.

116. Ryan Lovelace, *‘Black Lives Matter’ Protester Arrested for Making ‘Terrorist Threats’*, NAT’L REV. (Apr. 2, 2015, 2:07 PM), <http://www.nationalreview.com/articles/416373/black-lives-matter-protester-arrested-making-terrorist-threats-ryan-lovelace>.

117. Joanna Jolly, *Alton Nolen: A Jihadist Beheading in Oklahoma?*, BBC (Sept. 29, 2014), <http://www.bbc.com/news/magazine-29408139>.

118. Chris Pleasance, *Hatchet-Wielding Muslim Radical Who Attacked Rookie New York Cops Spent Months Visiting Jihadist Websites and Stalked Officers for Hours*, DAILY MAIL (June 7, 2015, 11:33 AM), <http://www.dailymail.co.uk/news/article-2820584/Hatchet-wielding-Muslim-radical-attacked-rookie-New-York-cops-spent-months-visiting-jihadist-websites-stalked-officers-hours.html>.

119. *In The News, Jeff Fort*, CHI. TRIB., <http://articles.chicagotribune.com/keyword/jeff-fort>.

Colorado Three',<sup>120</sup> 'The Newburgh Four',<sup>121</sup> and the 2009 Bronx terrorism plot.<sup>122</sup> While each one of these cases differs—from Black political activists to entrapped misfits, self-professed jihadists, hardened homegrown terrorists and radicalized foreign fighters—they are interconnected by race (African American), religion (converts to Islam), age (all under the age of 35) and perhaps most important, deep feelings of indifference, discrimination, disaffectedness, and disenfranchisement.

The above represent a select sample of case studies of what appears to be a broader albeit uncertain patterned manifestation of the combustible intersection between disenchantment and radicalization. From this viewpoint it is in America's interests to ensure that a new national plan of action is developed and adopted to curb police brutality and that those released from prisons and returning from the battlefield succeed.

Notwithstanding this fact, Black youth have earned the right to protest against systematic police abuse, and politicians, pundits, and law enforcement agencies must realize that not all protests will duplicate the placidity of the 1963 March on Washington. Not all resistance movements can or should be docile—some necessitate spirited provocation. Even Nelson Mandela's African National Congress included a military wing.<sup>123</sup> Yet Mandela, like Dr. King, was a Nobel Peace laureate.<sup>124</sup>

As previously noted, unarmed Black youth have borne the brunt of violent repression by police agencies across the country. Is such cruelty beginning to radicalize American youth? Black youth have

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120. CBS & Associated Press, *Colorado Girls' Apparent Bid to Join ISIS Renews Terror Recruiting Fears*, CBS NEWS (Oct. 23, 2014, 9:00 PM), <http://www.cbsnews.com/news/colorado-girls-apparent-bid-to-join-isis-renews-terror-recruiting-fears/>.

121. Paul Harris, *Newburgh Four: Poor, Black, and Jailed Under FBI 'Entrapment' Tactics*, THE GUARDIAN (Dec. 12, 2011, 11:39 AM), <http://www.theguardian.com/world/2011/dec/12/newburgh-four-fbi-entrapment-terror>.

122. Al Baker & Javier C. Hernandez, *4 Accused of Bombing Plot at Bronx Synagogues*, N.Y. TIMES (May 20, 2009), [http://www.nytimes.com/2009/05/21/nyregion/21arrests.html?\\_r=0](http://www.nytimes.com/2009/05/21/nyregion/21arrests.html?_r=0).

123. *Umkhonto we Sizwe (MK): The ANC and the Turn to Armed Struggle*, SOUTH AFRICAN HISTORY ONLINE, <http://www.sahistory.org.za/topic/umkhonto-wesizwe-mk> (last accessed Nov. 1, 2015).

124. *The Nobel Peace Prize 1993*, NOBELPRIZE.ORG, [http://www.nobelprize.org/nobel\\_prizes/peace/laureates/1993/](http://www.nobelprize.org/nobel_prizes/peace/laureates/1993/) (last accessed Nov. 1, 2015).

played a critical role in protecting our nation since its founding, but neglect and abuse change tradition. The tragic cases of Amadou Diallo (New York), Sgt. Manuel Loggins Jr. (San Clemente), Ronald Madison (New Orleans), Sean Bell (New York), Trayvon Martin (Sanford), Jordan Davis (Jacksonville), Dontre Hamilton (Milwaukee), Eric Garner (New York), John Crawford (Dayton), Michael Brown (Ferguson), Ezell Ford (Florence), Dante Parker (Victorville), Akai Gurley (New York), Tamir Rice (Cleveland), Romain Brisbon (Phoenix), Jermain Reid (Bridgeton), Tony Robison (Madison), Jonathan Ferrell (Charlotte), Eric Harris (Tulsa), Walter Scott (North Charleston), Freddie Grey (Baltimore), Laquan McDonald (Chicago), and the hundreds of other Black men, women, and youth that have been and will be tortured and killed by police brutality illustrate the severity of the problem—apathetic bigotry cloaked in actual or assumed state authority.<sup>125</sup>

Deadly police violence in the above cases raises the question whether Blackness itself provides a justifiable basis for state violence against unarmed and non-violent African Americans. Since when have driving while Black, running while Black, walking while Black, standing while Black, shopping while Black, being a child while Black, being handicapped while Black, injured while Black, making eye contact while Black, playing loud music while Black, breathing while Black, and being handcuffed while Black justified summary executions? Since when have Black parents testified before the UN Torture Committee for the unjust killings of their children?<sup>126</sup> America is at a critical juncture.

Every Black man I know is keenly aware that every encounter with police may be his last. In my opinion this brand of fear, intimidation, and harassment has caused severe anxiety and

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125. See, e.g., Nicholas Quah & Laura E. Davis, *Here's a Timeline of Unarmed Black People Killed by Police Over Past Year*, BUZZFEEDNEWS (May 1, 2015, 5:46 PM), <http://www.buzzfeed.com/nicholasquah/heres-a-timeline-of-unarmed-black-men-killed-by-police-over#.hcGop3q01v>.

126. Josh Levs, *Michael Brown's Parents Address U.N.: "We Need the World to Know"*, CNN (Nov. 12, 2014, 1:22 AM), <http://www.cnn.com/2014/11/11/us/ferguson-brown-parents-u-n-/>; WRITTEN STATEMENT ON THE POLICE SHOOTING OF MICHAEL BROWN AND ENSUING POLICE VIOLENCE AGAINST PROTESTERS IN FERGUSON, MISSOURI, ORG. FOR BLACK STRUGGLE (2014), *available at* 2014, [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT\\_CAT\\_CSS\\_USA\\_18534\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT_CAT_CSS_USA_18534_E.pdf).

undiagnosed sickness from depression to intermittent explosive disorder in the African American community. The pathophysiology of race-based stress is quite real, and I fear its internal and external manifestations. What caused Ismaaiyl Brinsley to explode, murder two New York City police officers and commit suicide?<sup>127</sup> Was he simply crazy? Why did Freddie Gray run after making eye contact with the police?<sup>128</sup> Police abuse generates fear, distrust, and deep-seated disdain and conflict. Domestic and foreign forces intent on attacking the U.S. through various modes of radicalization are experts at manipulating dread. Will police brutality and its damsel—impunity—encourage and activate recruiters, self-radicalization, lone-wolf terrorism, or a new generation of anti-American activists?

All things considered, Black youth have sacrificed more than any other group to uphold and protect America's security and values, even when it has not safeguarded theirs. Americans must stop sacrificing Black youth at the altars of fear, apathy, indifference and hate before it births a generation of martyrs. Violent white extremism, police brutality, and societal dejection are generating a dangerous cocktail in the African American community.

#### FINAL THOUGHTS

The United States can no longer afford to ignore the unabashed pathology of deadly police violence against us—a violence that abrogates fundamental human rights norms and shocks the conscience of humanity. It can no longer view the cruel disease of racism, bigotry, and corruption through lenses of denial. The systematic maltreatment of African Americans by police agencies is producing a national crisis with potentially significant health, developmental, and security ramifications. It is also negatively impacting America's moral standing abroad.

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127. Kim Barker, Mosi Secret & Richard Fausset, *Many Identities of New York Officers' Killer in a Life of Wrong Turns*, N.Y. TIMES (Jan. 2, 2015), [http://www.nytimes.com/2015/01/03/nyregion/ismaaiyl-brinsleys-many-identities-fueled-life-of-wrong-turns.html?\\_r=0](http://www.nytimes.com/2015/01/03/nyregion/ismaaiyl-brinsleys-many-identities-fueled-life-of-wrong-turns.html?_r=0).

128. Sheryl Gay Stolberg, *Baltimore Suspends 6 Police Officers in Inquiry in Death of Freddie Gray*, N.Y. TIMES (Apr. 20, 2015), <http://www.nytimes.com/2015/04/21/us/baltimore-officials-promise-investigation-into-death-of-freddie-gray.html?action=click&contentCollection=U.S.&module=RelatedCoverage&region=Marginalia&pgtype=article>.

I will not offer comprehensive suggestions for why or how law enforcement agencies should stop killing and brutalizing African Americans. To offer any outlandish ideals is to be complicit in the problem. I do, however, believe that it is important for anti-racists of all backgrounds to continue to resist the unlawful killing and brutalization of African Americans by police agencies across the country. We must work with people, communities, institutions, and even friendly foreign governments and entities dedicated to protecting, preserving, and advancing the welfare and well-being of African Americans.

In brief, we must advocate for a National Plan of Action to combat racial discrimination. One key component of any plan is to advocate for the creation of multiple public and private systems that track and monitor police conduct and excessive uses of force as well as disrupt, dismantle and degrade the capacities of violent white extremist actors and groups. For example, this may entail collecting accurate and comprehensive national data on police uses of force, including data on all police-related shootings, injuries and arrests. This data is critical to assessing the frequency, location, and circumstances of uses of force, which can therein be used to reform and improve policing tactics, strategies, approaches, and policies. More robust systems must be developed to disrupt, dismantle and degrade violent white extremists and sympathizers in both blue uniforms and civilian clothing. I suggest that every African American own and carry a digital recorder on his or her person. Digital recordings are largely responsible for exposing and illuminating the recent trend of police killings and brutality as well as providing a window into other examples of domestic mayhem or terrorism such as the wicked Charleston Massacre, which demonstrates the important role that technology can play in regulating encounters with police and other violent actors.

In the wake of the senseless killing of unarmed teen Tony Robison by Madison police officer Matt Kenny in March 2014, Madison Police Chief Michael Koval concedes that police have been complicit in the “calculus of racial disparities” and that they need help to

“combat their own unconscious biases.”<sup>129</sup> He believes that his department is a model of progressive policing “in terms of casting, or recasting ourselves, reinventing ourselves into a mold more of a community activist and a guardian, and much less emphasis on traditional law enforcement warrior mindset.”<sup>130</sup> As an alumnus of the University of Wisconsin-Madison Law School, I find it hard to believe that the Madison Police Department is a model of progressive policing in the city’s Black community considering its high arrest-rate disparities; Black adults are eight times more likely than white adults to be arrested.<sup>131</sup> However, I think Koval is on the right track.

My experiences with police agencies and officers, respectively, in the United States and in other countries, has provided valuable insights into effective community policing in communities where trust is broken. The Levitt approach to “community policing,” which should simply be called “competent policing”, necessitates mandatory and intermittent anti-discrimination attitudinal screening, cultural competency clusters integrated into promotion testing, intermittent cultural competency and sensitivity training, targeted hiring of minorities, and the establishment of “community policing liaisons” that are integrated into the policing structure. These would be independent observers of police conduct selected by local residents that conduct police training and report directly to the city mayor and police chief on real or perceived police abuse.

If police agencies do not take concrete measures to build-trust and forge new and positive relations with African Americans and Black communities, I fear that the worst is yet to come.

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129. Leonard Pitts Jr., *Police Force Minus the Warrior Mindset*, MIAMI HERALD (May 30, 2015), <http://www.miamiherald.com/opinion/opn-columns-blogs/leonard-pitts-jr/article22638297.html>.

130. *Id.*

131. Tom Kertscher, *In Madison, Black Adults Are 8 Times More Likely Than White Adults to Be Arrested?*, POLITIFACT (Mar. 9, 2015, 3:41 PM), <http://www.politifact.com/wisconsin/statements/2015/mar/09/young-gifted-and-black-coalition/madison-black-adults-are-8-times-more-likely-white/>.