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Invoking Memories of Nikkei Oppression to Address the “War on Terror”: Constitutionalism, Authoritarianism, and the Mnemonics of Rights

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1. Introduction: 9/11 and Multi-Directional Memories of Internment

I was teaching the day after the September 11, 2001 terrorist attacks on the US Pentagon and World Trade Center. Very inexperienced, but aware that diving straight into lecture would be discordant, I asked the 150-or-so students if they wanted to discuss the horrifying events. One responded by saying something along the lines of, “My Mom is worried they’re going to do to the Muslims what they did to the Japanese.” My remembering of the intervention has since made it a kind of personal footnote to historian Timothy Snyder’s injunction that “political decency [requires] histor[ies] of horror.”¹ The intervention prompted me to share with the students what I knew of what Canada “did to the Japanese” after Japan’s December 1941 assault on Pearl Harbor: forcibly removed the some 24,000-strong Nikkei community from Canada’s Pacific Coast, incarcerating most in internment camps, dispossessing all of their property and basic rights, and destroying dozens of vibrant communities in the process.²

Upon hearing my anecdote last year, Michael Kenji Abe, the Project Manager of Past Wrongs, Future Choices, shared with me a morning-of-9/11 memory of his. Working at Tourism Victoria, Mike was called into an emergency staff meeting: “I remember standing up and saying that I hope that what happened to my parents and grandparents doesn’t happen to Muslims or other groups. [...] I had an eerily ominous feeling that morning.”³ These recalls of a Canadian history of horror were deeply personal in Mike’s case and a by-product of knowing about the

¹ Timothy Snyder, *The Road to Unfreedom*, New York: Tim Duggan, 2018, p. 2, paraphrasing Tony Judt.

² The [Japanese American Citizens’ League](#), among other voices in the US, contends that “internment” is a misnomer given that the policies of incarceration and removal were directed not primarily at enemy aliens, the category of person to which the term is often held legally to apply. Thus, many US experts speak of “incarceration” or “concentration” camps instead, although “internment” remains the label most commonly employed by Canadian Nikkei experts and institutions. This chapter will use “internment” for the Canadian case and “incarceration” for the US.

³ Shared with Mike’s kind permission.

successful Japanese-Canadian fight for apology and redress in mine (and perhaps in my student's Mom's as well). I like to imagine that they had untold counterparts in the days, weeks, and years after 9/11: personal and social memories of Nikkei persecution and persistence prompting diverse micro-interventions against Islamophobic hate more than five decades later.

Multidirectional memory is humanities scholar Michael Rothberg's lens for approaching the widespread transpositions and borrowings that occur in a hyper-mediated world of information collage that facilitates all manner of mnemonic comparison across time and space. Addressing the Nazi genocide specifically, Rothberg argues that these transpositions and borrowings need not and indeed tend not to lead to the zero-sum dystopia bemoaned by critics of redress and memory politics, who depict the field as a morass of competitive victimhood rife with angry complaints that attention to some group's suffering is coming at the expense of concern for some other's. The invocations of Nikkei internment memory discussed above seem multidirectional in Rothberg's sense; the following pages share Rothberg's hope that social memories of atrocity can be used to promote solidarity, protect rights, and prevent new wrongs.

In what follows, I analyze US, Canadian, and Australian media invocations of the wartime oppression of Nikkei in relation to the post-9/11 War on Terror through the lenses of multidirectional memory, constitutionalism, and what I call the mnemonics of rights, a concept that I will introduce and explain shortly. All three countries visited extreme oppression on persons of Japanese ancestry during the Second World War, and all have participated in and furthered the War on Terror's Islamophobic assault on equality and human rights. Studying

print media invocations of the earlier wartime injustices in the post-9/11 context shows us that opinion columnists and quoted speakers in news stories, particularly in the US in the period immediately following the attacks, tended to draw upon social memories of wartime Nikkei persecution in the rights-protective, multidirectional sense discussed above. However, invocations began to change as the immediate period of generalized post-attack public discussion gave way to a more concrete debate centring on Washington's main legislative response to the attacks, the Patriot Act. With this shift in focus, US policy elites began to repurpose memories of the Second World War oppression, using them to present new repressive measures as surgically tailored improvements reflecting lessons learned carefully from past excesses. I argue that this repurposing of Nikkei redress legacies represented the initial stage in a larger shift in public memory, engendered by a new authoritarianism that seeks to free powerful states and dominant groups from the inhibitions and introspection associated with the best aspirations of the liberalizing postwar, multidirectional human rights ideal, "never again."

2. On the Constitutional Significance of Multidirectional Memory

I am particularly interested in the impact of multidirectional internment memory on matters of rights and constitutionalism. As my Past Wrongs, Future Choices colleague, the historian Masumi Izumi, demonstrates, Nikkei injustice memories have a long and significant constitutional history in the United States.⁴ From the 1944 *Korematsu* case and other legal

⁴ Masumi Izumi, *The Rise and Fall of America's Concentration Camp Law: Civil Liberties Debates from the Internment to McCarthyism and the Radical 1960s*. Philadelphia: Temple University Press, 2019.

challenges sparked by the concentration camp policy, to congressional debates in the late 1960s and early 70s about surveilling Black and Red Power activists, and on to the redress package known as the Civil Liberties Act of 1988 and beyond, Nikkei and other Americans have recalled the Second World War injustices to help protect the rights of other vulnerable communities. Although the history of multidirectional Nikkei injustice memory involves “capital C” constitutional matters of rights adjudication and jurisprudence, my analysis here focuses on “small-c” constitutionalism in the so-called War on Terror: public interventions about the nature of citizenship and belonging, the boundaries of political community, and the difference between legitimate and illegitimate uses of political authority.

If histories of horror are necessary for better futures, then a minimally decent constitutionalism requires the political community to learn from its injustices. After all, appropriately supervising and constraining political authority would seem to require devising lessons from notable past evils and inadequacies in supervising and constraining that authority. Practices of transitional justice leverage this inquisitively progressive spirit, as seen, for instance, in the ground-breaking public education role of South Africa’s Truth and Reconciliation Commission in forging support for a democratic and rights-focused post-apartheid constitutional order.⁵ Germany’s Basic Law is perhaps the original example of a liberal democratic constitution shaped by historically informed regretful introspection, a “normative structure [...] vigilant not only to the excesses of state power but also to those of popular sovereignty.”⁶

⁵ Robert I. Rotberg and Dennis Thompson eds., *Truth v. Justice: The Morality of Truth Commissions*, Princeton: Princeton University Press, 2000.

⁶ Ruti G. Teitel, *Transitional Justice*, Oxford: Oxford University Press, 2000, p. 203.

Sociologists Daniel Levy and Natan Sznaider find a similar though more diffuse counterpart dynamic at the international level, with the slow postwar development of Holocaust memory helping to promote a liberalizing global constitutionalism organized around discourses of “never again” and corresponding international law norms against genocide, torture, and wars of belligerence.⁷ Without explicitly using Rothberg’s multidirectional memory lens, Levy and Sznaider stress that this constitutionally focused postwar globalization of Holocaust memory was multivalent. It involved not only elite-driven norm diffusion from above, but norm localization and vernacularization from below, in diverse national settings and in activist confrontation with distinctively local problems and wrongs.

To ground this paper’s analysis of Nikkei incarceration memory in post-9/11 debates, we begin with a short illustrative case study that explicates multidirectional Nikkei-Holocaust memory dynamics as a crucial but underacknowledged, vernacularizing “never again” influence on postwar Canadian constitutionalism. As I will soon explain, Japanese-Canadian activism intersected with Holocaust-informed discourses of memory and human rights to give resonant meaning to Canada’s 1982 Charter of Rights and Freedoms. By noting this baseline exemplar of multidirectional Nikkei injustice memory serving better futures, we can better understand the character and complexity of Second World War incarceration and internment invocations in the more recent War on Terror. Doing so sheds particularly important light on the motivations and origins of the broader and ongoing right-wing focus on neutralizing the small-c constitutionalism associated with introspective historical regret and the so-called Age of

⁷ Daniel Levy and Natan Sznaider, *Human Rights and Memory*, Philadelphia: Pennsylvania University Press, 2010.

Apology.⁸ Before turning to this preliminary account, the following section introduces the distinctive arena of discursive practice through which histories of horror, multidirectional memory, and constitutionalism intersect. I call this arena of practice the mnemonics of rights.

3. The Mnemonics of Rights

A mnemonic is a memory-jogging technique: English-speaking French-language learners might think of “Dr. and Mrs. Vandertrampp,” while music students probably know “Father Charles Goes Down and Ends Battle.” By mnemonics of rights, then, I mean shorthand invocations of past injustice pressed into service for making resonant claims about political authority, civil liberties, and constitutional protections. I developed the concept from an unlikely source, namely, the Trump- and torture-defending law scholar Alan Dershowitz’s *Rights from Wrongs*.⁹ Written in the shadow of 9/11, the book aims practically to respond to that security context and theoretically to propose an alternative to natural law and legal positivist ways of understanding the origins and nature of rights. Against these approaches, and conjuring 9/11 itself as his exigent example of a wrong that would have to reshape American thinking about rights, Dershowitz insists, first, that rights do not emerge from God or nature (*a la* natural law theory) and, second, that their elevated role does not derive merely from their status as a special kind of overriding legal command (as the legal positivists would have it). Instead, Dershowitz imagines rights as contingent outcomes of particular human communities engaging

⁸ Mark Gibney et al., ed., *The Age of Apology: Facing Up to the Past*, Philadelphia: University of Pennsylvania Press, 2008.

⁹ Alan Dershowitz, *Rights from Wrongs: A Secular Theory of the Origins of Rights*, New York: Basic Books, 2004.

with particular grave injustices to prevent or mitigate harms associated with particular kinds of historically experienced wrongs. His major examples of such rights-shaping wrongs are religious oppression, slavery, the Nazi genocide, the Second World War persecution of American Nikkei, and “religiously inspired global terrorism.”¹⁰

We can better understand the inclusion of terrorism in the list by observing that, just prior to publishing *Rights from Wrongs*, Dershowitz had called for so-called “torture warrants,” which would legalize the practice in order to subject it to tight preconditions, approvals, and rules.¹¹ Dershowitz’s case was that, because the post-9/11 US was going to engage in torture anyway, the wisest path would be oversight and constraint. Seen in this light, the upshot of *Rights from Wrongs* is that the wrong of religiously motivated global terrorism required the US to rethink the idea of a fundamental right not to be tortured, lest some future terrorist attack serve to unleash more utterly rights-destroying forms and levels of American torture. An exceedingly generous assessment would say that Dershowitz’s 9/11 constitutional memory project was about learning from harm, attenuating part of the American rights edifice in response, and thereby preserving the overall whole.

I find the project profoundly disturbing. I disagree that a terrorist attack, however grotesque, constitutes an historical wrong comparable to the other rights-shaping injustices in Dershowitz’s list (religious oppression, slavery, Nikkei persecution, and the Nazi genocide). The latter are distinct from the former in that they emerged from structures and relations of

¹⁰ Ibid., p. 9.

¹¹ Alan Dershowitz, “When torture is the least evil of terrible options.” *The Times Educational Supplement*, June 11, 2004, 20-21.

systemic domination targeting oppressed and minoritized groups. Their social remembering provides enduring lessons and resonant warnings about the organization of public power and political community in White-dominated, liberal, settler democracies. By contrast, a rights-focused mnemonics centred around the 9/11 attacks would seem to tend more towards perverse incitement, a spur to the world's most powerful political community to view minority protections, civil liberties, and legal safeguards through the prism of its own remembered victimhood.

Nevertheless, I take two useful, if inadvertent, contributions from *Rights from Wrongs*. First, it illustrates as a data point the role of 9/11 as an epochal catalyst for regressively bellicose forms of remembrance at odds with the rights-expanding character of the multidirectional postwar emphasis on “never again.”¹² Second, despite its disagreeable political purposes, Dershowitz's argument about wrongs as sources of rights calls valuable attention to rights mnemonics as an object of potential study: socially cognizable memories of historical injustice that actors deploy to buttress or contest public understandings and interpretations of constitutional liberties and protections. The following section, which focuses on Nikkei injustice memory in pre-9/11 Canadian debates about constitutional rights, civil liberties, and historical redress, demonstrates the mnemonics of rights as an analytic lens and provides a baseline case study for understanding the changed nature of rights mnemonics in the subsequent War on Terror.

¹² For a good early account, see Jenny Edkins, “The Rush to Memory and the Rhetoric of War,” *Journal of Political and Military Sociology* 31:2 (2003): 231-250.

4. Multidirectional Rights Mnemonics and Japanese-Canadian Internment: Charter Rights, the Emergencies Act, and Redress

In 1947-48 and again in 1949-50, Canada held special parliamentary hearings sparked by the newly created United Nations Universal Declaration of Human Rights.¹³ The hearings responded to the UN's request that member states consider entrenching the UDHR principles in their domestic constitutions to help prevent recurrences of the Nazi policies of irredentism and racial purity that had helped cause the Second World War. Thus, less than a year after Canada's revocation of the internment order, the newly formed National Japanese-Canadian Citizens' Association (NJCCA) appeared at the 1950 Senate Special Committee on Human Rights. The NJCCA saw the appearance as an opportunity to publicly probe Canada's newfound commitment to human rights in light of the internment experience.¹⁴ In Executive Secretary George Tanaka's words, the recent denial of "moral and juridical equality" demonstrated the need for a Canadian charter, a "constant teacher [of] fundamental rights and liberties [...] for all."¹⁵ The committee responded by reprimanding Tanaka for dwelling on "the past," insisting at the same time that the internment was warranted because "the Japanese always had two loyalties."¹⁶

This racist hostility to national self-examination was in fact central to Canadian rights thinking at the time. For example, in a 1948 parliamentary debate about establishing a domestic version of the UDHR, an avowed defender of the idea moved to reassure its

¹³ Walter Tarnopolsky, *The Canadian Bill of Rights*, 2d ed. Toronto: McClelland and Stewart, 1975.

¹⁴ The following discussion of Japanese-Canadian constitutional participation draws on Chapters 4 and 5 of Matt James, *Misrecognized Materialists: Social Movements in Canadian Constitutional Politics*, Vancouver: University of British Columbia Press, 2006.

¹⁵ Canada, *21st Parliament, 2nd Session: Special Committee on Human Rights and Fundamental Freedoms*, Vol. 8, May 10, 1950 (National Japanese-Canadian Citizens' Association), pp. 269-270.

¹⁶ Ross and Kinley, quoted in *Ibid.*, pp. 272, 275.

conservative opponents by stressing that entrenching the UDHR principles would have no effect on Canada's internment policies (they would remain in place for another year). The point of this implacably racist defence of entrenched constitutional rights was that, because Japanese Canadians were being targeted legitimately for their "subversive attitudes," not impermissibly for reasons of "race," reasonable applications of the UDHR rules would be bound to recognize the distinction.¹⁷ As we will now see, subsequent changes—in the immediate Canadian political context and in the broader globalization of Holocaust memory—created a dramatically different environment for Nikkei rights mnemonics when it came to the debates over the 1982 Charter of Rights and Freedoms.

A signature initiative throughout Pierre Elliott Trudeau's political career, the Charter became the prime minister's consuming political preoccupation following Quebec's failed but still momentous 1980 "sovereignty association" referendum.¹⁸ Facing determined opposition from the so-called "Gang of Eight" coalition of Charter-averse provincial governments, Trudeau sought to showcase citizen support for the Charter by encouraging civil libertarian, feminist, and antiracist organizations to participate in the televised and widely covered 1980-81 parliamentary hearings on the topic.¹⁹ At the same time, the dramatic rise of Holocaust awareness in the latter half of the 1970s helped to provide a widely resonant discourse of

¹⁷ William A. Schabas, "Canada and the Adoption of the Universal Declaration of Human Rights," *McGill University Law Journal* 43, No. 3 (1998), p. 414.

¹⁸ Alan C. Cairns, "An Overview of the Trudeau Constitutional Proposals," in *Disruptions: Constitutional Struggles from the Charter to Meech Lake*, ed. Douglas E. Williams (Toronto: McClelland and Stewart, 1991), pp. 58-65.

¹⁹ Cairns, "An Overview of the Trudeau Constitutional Proposals," pp. 60-61.

historical regret and historical learning that had been largely unavailable to the NJCCA in 1950.²⁰

At the 1980-81 Charter hearings, Japanese Canadians responded to these incentives and transformations by vernacularizing the “never again” discourse in light of their own experiences of Canadian oppression. After detailing the injustices of internment and the decades of legalized anti-Asian racism that had preceded it, Past President Roger Obata of the National Association of Japanese Canadians (NAJC) concluded his parliamentary committee presentation by insisting: “A [Charter] of Rights entrenched in the constitution to prevent what we have gone through is the least that Canada can do [...] to ensure that such injustices will never be repeated.”²¹ Parliamentarians of all parties praised the NAJC brief. Bryce Mackasey of the Liberals promised to circulate it among high schools in his riding, while John Fraser of the federal Conservative party, which in fact vehemently opposed the Charter initiative, suggested that the NAJC be shown subsequent drafts, “to consider whether [...] it has met your objections.”²² For his part, Justice Minister Jean Chrétien adopted the NAJC’s “never again” rallying cry as his government’s own in a final plea for public and intergovernmental support: “our task is to recognize the injustice of the past, to say ‘never again shall rights be trampled upon’.”²³

²⁰Daniel Levy and Natan Sznaider, “Memory Unbound: The Holocaust and the Formation of Cosmopolitan Memory,” *European Journal of Social Theory* 5, No. 1 (2002), pp. 87-106.

²¹ Canada, *Joint Committees, 32nd Parliament, 1st Session: Special Joint Committee on the Constitution of Canada*, Vol. 2, November 26, 1980 (National Association of Japanese Canadians), pp. 5, 9.

²² Quoted in *Ibid.*, pp. 13, 17.

²³Canada, *House of Commons Debates*, February 17, 1981 (The Right Honourable Jean Chrétien) https://parl.canadiana.ca/view/oop.debates_HOC3201_07/, p. 7374.

This emphasis on rights-focused injustice remembrance continued as the core theme of the NAJC's successful struggle for the apology and compensation measures known as the 1988 Japanese Canadian Redress Agreement. Just as "never again to internment" was a mnemonic commitment that required action via entrenching the Charter, so the NAJC fought for redress as a formal acknowledgment of historic injustice necessary for building a better collective future. As the NAJC put it, "it is as an act of citizenship and because we refuse to see democracy betrayed that we seek an honourable resolution to the injustices of the war years."²⁴

Lastly, Nikkei rights mnemonics played a significant role in shaping Canada's 1988 Emergencies Act, the successor legislation to the 1914 War Measures Act, which had allowed Ottawa to intern and dispossess Japanese Canadians without oversight, parliamentary approval, or recourse.²⁵ Japanese Canadians spoke from recognized experience in their successful lobby for a number of significant civil libertarian modifications to the new legislation. The resultant Emergencies Act is fully subject to the Charter, requires a public inquiry into the circumstances precipitating any instance of its use, contains mandatory expiry provisions, and allows critics to seek judicial review as to the legality of any invocation. One parliamentarian explained at the time: "'Never again!' Japanese Canadians told us. The government listened to them. The War Measures Act will be repealed and the Emergencies Act will contain guarantees making a recurrence of the persecution they suffered impossible."²⁶ At the mandatory inquiry following the Act's first-ever invocation and use, in the case of the February 2022 "freedom

²⁴National Association for Japanese Canadians, *Democracy Betrayed: The Case for Redress*, Vancouver: National Association of Japanese Canadians, 1984, p. 1.

²⁵ Masumi Izumi, "Lessons from History: Japanese Canadians and Civil Liberties in Canada," *Journal of American and Canadian Studies* 17, No. 1 (1999): pp. 1-24.

²⁶ Quoted in Izumi, *Lessons from History*, p. 15.

convoy” occupation of downtown Ottawa, the presiding judge noted that the Act’s safeguards were unparalleled elsewhere; even a noted conservative columnist called them a “cause for some national pride.”²⁷

Thus, Nikkei rights mnemonics have a distinguished constitutional history in Canada. They provided crucial public historical explanations that helped build political support for and lend resonant meaning to the 1982 Charter. They helped to justify and shape the Emergencies Act revisions. They helped to establish the country’s signal precedent for subsequent acts of reparation and apology, the 1988 Japanese Canadian Redress Agreement.²⁸ To borrow law scholar and Past Wrongs, Future Choices member Eric Adams’s phrase, they forged Canada’s most memorable “constitutional story” for discussing rights and citizenship in the first decade of the Charter.²⁹

Although their place in the longer and more complex history of rights debates in the US is less singularly prominent, Nikkei injustice mnemonics have been important sources of civic introspection and rights protection in that country as well. As Izumi explains, Nikkei activists and legislators drove Congress’s 1971 repeal of the Emergency Detention Act.³⁰ Modeled on the wartime incarceration and dubbed by critics “America’s concentration camp law,” the Act’s provisions for so-called preventive detention alarmed civil libertarians and equality activists, who feared that the Nixon administration might use them against the era’s Black and Red Power movements. In Izumi’s analysis, “the shared memory of the wartime incarceration of

²⁷ Andrew Coyne, “The Emergencies Act Proved Its Mettle,” *Globe and Mail*, February 22, 2023, Opinion Section.

²⁸ Audrey Kobayashi, “The Japanese-Canadian Redress Settlement and its Implications for ‘Race Relations’,” *Canadian Ethnic Studies* 24, No. 1 (1992), pp. 1-19.

²⁹ Eric M. Adams, “Constitutional Stories: Japanese Canadians and the Constitution of Canada,” *Journal of Australasian Canadian Studies* 35, No. 1 (2018), p. 5-36.

³⁰ Izumi, *Rise and Fall of America’s Concentration Camp Law*.

Japanese Americans was crucial to the consensus building for repeal. [...] The historical memory of mass incarceration [...] made opposition [to repeal] virtually impossible.”³¹ Much like in the Canadian case, the precedent-setting apology and redress measures in Congress’s 1988 Civil Rights Act solidified this rights-protective role, turning the memory of Nikkei persecution and persistence into an officially sanctioned constitutional story for the whole country.

Consider the case to which we now turn, President George Bush, Jr.’s immediate 9/11 response. On the day following the attacks, federal Transport Secretary Norman Mineta, himself a former wartime incarceree and redress activist, urged Bush to support Muslims and denounce Islamophobia. The president responded just five days after Mineta’s appeal, visiting the Islamic Center of Washington, where he called Muslims “friends” and “taxpaying citizens,” proclaiming, “These acts of violence against innocents violate the fundamental tenets of the Islamic faith. And it’s important for my fellow Americans to understand that. ... The face of terror is not the true faith of Islam. [...] Islam is peace” (65). Yet we also know that in the succeeding days, months, and years, Muslims were racially and religiously profiled, tortured, and imprisoned or deported without due process or charge, often under the explicit sanction of the bundle of post-9/11 anti-terror measures known as the Patriot Act.³² We cannot know whether worse might have happened without Mineta’s and other similar interventions. But we can study the nature and role of Nikkei rights mnemonics in the War on Terror in order to draw conclusions from this, arguably the biggest single test of “never again” collective historical

³¹ Ibid., p. 8.

³² Amnesty International, *Security and Human Rights*, London: Amnesty International Publications, 2008.

learning in the years after the 1988 US Civil Liberties Act and Japanese Canadian Redress Agreement.

The main findings emerging from the following analysis are fourfold. First, Nikkei incarceration memory provided a ready and widely resonant source of warning against Islamophobic overreaction in the immediate aftermath of the attacks, at least in the United States. Second, as we will soon see, by contrast, Canadian media discussions were more ambivalent while Australian ones were basically non-existent. In the latter country, historical gratitude for US military assistance in the Second World War combined with a relative absence of Nikkei survivors and lack of a redress politics tradition to create a particularly inhospitable context for regretful Nikkei mnemonics. Thus, the major US dailies stood apart from their Australian and Canadian counterparts in featuring the significant prophylactic use of progressive rights mnemonics in the early days of the War on Terror. However, hawks soon responded by pioneering a new, regressive mnemonic, which this analysis calls *maxing*; its emergence is the third major finding of this study. With the turn to *maxing*, hawkish US policy elites sought to transform the Second World War incarceration from source of warning into legitimating contrast, a mnemonic for defending what they presented as the limited, carefully tailored, historically informed, and rights-respecting measures associated with the Patriot Act and the War on Terror. Fourth, and lastly, Donald Trump's authoritarian 2016 presidential campaign and subsequent term in office featured an even more unabashedly revisionist assault, which deployed the earlier wrongs as positive sources of *precedent* for new discriminatory policies and hateful rhetoric targeting Arabs and Muslims.

5. The Mnemonics of Nikkei Internment in the *New York Times*: Immediate 9/11 Aftermath and Bush I

The following analysis examines print media invocations of the Second World War oppression of Nikkei populations which somehow also addressed the War on Terror. The first three sections of this analysis focus on news items and opinion pieces in the *New York Times*, *Globe and Mail*, and *Sydney Morning Herald* from 11 September 2001 to 8 November 2022.³³ I then supplement this analysis of relatively centrist media with an identical search covering three major right-wing dailies, the US's *Wall Street Journal*, Canada's *National Post*, and Australia's (Sydney) *Daily Telegraph*. Because the vast majority of relevant results came from the *New York Times* and, to a lesser extent, the *Wall Street Journal*, my coverage of the US case is relatively extensive. Conversely, because almost no relevant invocations were found in the *Sydney Morning Herald* and *Daily Telegraph*, the chapter's comparatively brief discussion of Australia serves mainly to establish the rough outlines of a War on Terror rights discourse that seems to have been unaffected by regretful memories of injustice.

We searched broadly, looking for all items containing both "Japanese" and "terror." This procedure yielded many moot results. For example, although the *New York Times* search produced 901 hits, only fifty-two items discussed the prior assault on Nikkei in relation to the 9/11 response. Many of the moot items were caught in the search simply because they drew parallels between 9/11 and Pearl Harbor or discussed the possible impact of 9/11 on Japanese policies, companies, or stock markets. Lastly, we separated the search results by time period in

³³ Although the search extended to 8 Nov. 2022, the last item found was from 17 Apr. 2018, so our analysis concludes about halfway through the Trump presidency. For the *Globe and Mail*, *National Post*, *New York Times*, and *Wall Street Journal* we used the ProQuest Historical Newspapers database; the *Daily Telegraph* (Sydney) and *Sydney Morning Herald* results come from EBSCO Regional News and NewsBank Access World News, respectively.

order to better understand the development and dynamics of internment rights mnemonics in the War on Terror. The periods are as follows: 1) the three months immediately after the attacks (11 September to 31 December 2001); 2) the remainder of Bush's first presidential term (2002-2004); 3) Bush's second term (2005-2008); 4) Barack Obama's first term (2009-2012); 5) Obama's second term (2013-2016); and, finally, 6) Donald J. Trump's presidency (2017-2020). The reasoning for this periodization is twofold. First, the immediate post-attack period requires separate analysis owing to its particularly fraught and uncertain nature. Second, presidential terms are reasonable proxies for different phases in the War on Terror, namely, its normalization in Bush's second term, its subsequent diminished rhetorical prominence in the Obama years, and its unprecedentedly overt linkage to White supremacy and Islamophobia in the Trump era.

What follows is not a critical discourse analysis that closely examines syntactical relationships and word choices in order to specify the role of language in reinforcing or contesting relations of power.³⁴ Instead, I am interested more straightforwardly in identifying and analyzing basic meaning frames, in this case by asking what considerations, approaches, or actions in the War on Terror the quoted source, columnist, or opinion writer in question seemed to hope to advance by invoking the earlier assaults on Nikkei freedom, equality, and dignity. In recalling the earlier injustices in order to stake out particular positions on the War on Terror, participants in these debates were engaging in what this chapter has already theorized as the mnemonics of rights. Appendix I identifies the twelve distinct mnemonics that we found in our search.

³⁴ Norman Fairclough, *Analyzing Discourse: Textual Analysis for Social Research*, London: Routledge, 2003.

Appendix II contains bar graphs covering each of the individual periods which organize our analysis, with separate bars in each graph representing the number of individual rights mnemonics that occurred in each of the different publications analyzed in the study. Throughout the remainder of this text, when referring to specific instances of mnemonic invocation or making claims about their presence or frequency, the relevant news item is cited in italics using its own specific identifying number, either parenthetically or, in cases of more complex references to multiple items, in an accompanying footnote. All of the news items included in this study are listed in Appendix III along with their individual numeric codes. Occasionally, an item contains more than one mnemonic and/or more than one invocation of the same mnemonic, which means that the numbers of invocations and numbers of items in the various chronological periods separated in the list do not always match and that the same item may contain different, even opposed mnemonics, particularly in instances when one speaker in the piece is disagreeing with another or a columnist is using their own mnemonic to rebut someone else's.

In the immediate post-9/11 period, stretching to 31 December 2001, the majority of *New York Times* mnemonics (eight of eleven invocations) were *non-repetition warnings*,³⁵ much like the day-of and day-after 9/11 appeals with which this paper began: pleas or admonitions for the US not to visit upon Muslims forms of treatment reminiscent of Washington's victimization of Nikkei following the 7 December 1941 Japanese attack on Pearl Harbor. This was the period that the Australian political scientist Kathleen Gleeson calls the "discursive abyss," a time of confusion, policy vacuum, and general disorganization of political

³⁵ Appendix III, items 1-7 and 10.

forces.³⁶ Invocations in the time of discursive abyss tended to be highly general rather than policy-focused. Consider the following representative examples of *non-repetition warnings*:

- a Muslim college professor worried that “they [might] put us in concentration camps like the Japanese” (1);
- a congressman cautioned that “Pearl Harbor led to the internment ... of Japanese Americans” (2);
- a civil-liberties activist worried about “post-Pearl Harbor ... overreactions not based on fact or careful analysis” (3)

Generalized *non-repetition warnings* continued to predominate even after the 26 October 2001 signing by President Bush of the Patriot Act, the package of legislation that authorized and that continues to authorize dramatically expanded police and security agency powers, indefinite detention, and assorted punitive measures against aliens and migrants.

However, from early 2003 incarceration mnemonics in the *Times* began to change. There were still generalized *non-repetition warnings* (four of fifteen invocations),³⁷ but as the immediate shock of the attacks receded and specific government actions, rather than general fears and reactions, became the focal point, progressive invocations tended to exhibit a more targeted emphasis on *policy critique* (five invocations),³⁸ either of the Patriot Act or particular War on Terror measures. Here are some illustrative samples of *policy critique* from this period:

- a senator likened the treatment of War on Terror detainees to Japanese-American incarceration, “when the government ran roughshod over basic rights in the name of national security” (29)
- a noted scholar of the earlier incarceration rebuked the Justice Department’s conduct in the War on Terror, cautioning that the historical record showed that “We can’t trust ourselves to do a little bit of racial profiling” (30)
- an unsigned editorial praised the Supreme Court’s reasoning in a War on Terror case, contrasting the Court’s repudiation of the Japanese-American incarceration with the Bush administration’s apparent indifference: “Fortunately, this court appears to be mindful of the mistakes of the past” (33)

³⁶ Kathleen Gleeson, *Australia’s ‘War on Terror’ Discourse*. London: Routledge, 2014, p. 25.

³⁷ Items 23; 25; 28; and 30.

³⁸ Items 29; 30; 33; 34; and 36.

The speakers also changed. Whereas three of the eight immediate post-attack invocations came from non-expert citizens interviewed for the reactions of proverbial persons-in-the-street,³⁹ the Patriot Act debate that unfolded in the period from January 2002 through the remainder of Bush's first term had no relevant invocations from non-expert speakers. Instead, different voices came to the fore: op-ed-writing academics, political representatives quoted in news stories, and professional columnists offering analysis. Moreover, many of the elite voices that came with the new policy focus brought a striking new development in the mnemonics of rights: invocations of the wartime injustices which were oriented towards restricting and diminishing rights rather than to expanding or defending them. Recall that all of the *Times* invocations in the immediate post-9/11 period came from speakers concerned to protect vulnerable individuals and communities from state and security agency overreach. War on Terror proponents responded to the evident obstacle posed by these invocations by developing a distinctive, post-9/11 incarceration/internment mnemonic, which this analysis calls *maxing*. There were four instances of this novel mnemonic in the three years of Bush's first term after the immediate period of discursive abyss.⁴⁰

The term *maxing* derives from Izumi's assessment of the role of the Second World War injustices in the Supreme Court's 2018 *Trump v. Hawaii* decision, which upheld the Republican president's so-called "Muslim ban."⁴¹ Trump had campaigned in the 2015 primaries on a "total shutdown" of Muslims entering the US but, as president, settled on a narrower but still Islamophobic and racist entry prohibition on foreign nationals from several Muslim-majority

³⁹ Items 1 and 10 (the latter featuring invocations from two different speakers).

⁴⁰ Items 27; 31; 32; and 35.

⁴¹ Izumi, *The Rise and Fall of America's Concentration Camp Law*, pp. 174-178.

countries. Continuing their community's tradition of deploying injustice memories to address future-facing questions of civil liberties and equality, Japanese-American intervenors told the Court that approving the Trump scheme would be tantamount to following the notorious 1944 *Korematsu* decision, which had upheld the constitutionality of the wartime incarceration. Siding with Trump, the Court majority countered that the modified Muslim ban neither replicated the earlier oppression nor followed *Korematsu*: in its assessment, the ban targeted foreign nationals, not citizens, and focused justifiably on source countries linked to terrorism rather than impermissibly on grounds of race or religion. Izumi assesses the Court's reasoning as follows: the "historical memory of Japanese Americans played the ironic role of justifying later civil liberties restrictions, even while what happened to Japanese Americans was perceived as unjust."⁴²

Upon encountering similar but much earlier invocations in this paper's news search, I suggested to Izumi that we needed to name this mnemonic move. She responded by offering *maxing*, by which she meant, and by which I mean in this chapter, the tactic of framing some prior injustice as a kind of maximum example of wrongfulness in order to promote some other action by comparison as less unjust and, therefore, as tolerable or even downright desirable. *Maxing* is the mnemonic that War on Terror hawks pioneered in the debate following the period of discursive abyss. In ways reminiscent of the US military discourse of "surgical strikes" from the 1990-91 Gulf War, experts and pundits differentiated the earlier racist policies of incarceration and concentration from their favoured measures by stressing the more precisely targeted nature of the latter. Emphasizing the depth of the injustices visited upon Nikkei also

⁴² Ibid., p. 176.

allowed hawkish policy elites to stress their own historical awareness and sensitivity, a positioning that aimed to further minimize the severity or abusiveness of whatever War on Terror measure or measures the speaker was advocating.

Quintessentially representative instances of *maxing* are found in the *New York Times* opinion-page interventions of the Canadian academic and future Canadian federal Liberal party leader, Michael Ignatieff (27 and 32). In a 2003 essay, writing as the director of Harvard's Carr Centre for Human Rights but also as an American addressing fellow citizens, Ignatieff introduced post-9/11 *maxing* to the readership of the *New York Times*. After expressing his liberal distaste for detaining terror suspects without charge or access to counsel, Ignatieff moved quickly to stress that these and other War on Terror measures were a "long way short of Roosevelt's internment of the Japanese" (27). Much like Dershowitz in the case of so-called torture warrants, he also believed that any illiberalism involved would pale in comparison to what might follow if "another large attack on United States citizens produce[d] mass casualties" (27). By 2004, although no such subsequent attack had taken place, Ignatieff was urging even harsher tactics, while continuing conspicuously to denounce the "shameful" policy of mass Nikkei incarceration; Ignatieff argued that it was now time for additional "lesser evils" in the War on Terror: "indefinite detention" and "coercive interrogation" (32). The overall thrust of the *maxing* mnemonic was to position the War on Terror as a model of restraint informed by historical learning. For example, writing about speakers at a scholarly conference who had complained that the War on Terror echoed the earlier persecution of Japanese Americans, a *Times* columnist stated that the political scientist Ira Katznelson countered by

noting that “the American public was for the most part maturing politically [and] ... there had been no such generalized campaign of hatred” this time around (31).

It may seem counter-intuitive that antiracist *non-repetition warnings* flooded the *Times* in the immediate aftermath of the attacks while the repressive mnemonic of *maxing* made its debut only with Ignatieff’s 5 January 2003 article. After all, folklore holds that blood lust and paranoia rush in when violence first strikes, while the passage of time allows reflection and restraint. It is certainly true that overt expressions of Islamophobic hate in US society surged immediately after the attacks,⁴³ but it is also true that Transport Secretary Mineta’s personal mnemonic prompting spurred Bush’s timely visit to Washington’s Islamic Center. While the *Times* intervenors who recalled the earlier wartime injustices during the uncertain period of discursive abyss invariably did so to warn against scapegoating Arabs, Islam, or Muslims, it was policy elites during what might have been more reflective circumstances who began to redeploy Second World War injustice mnemonics for rights-abusive purposes. Like the Supreme Court majority in *Trump v. Hawaii*, they conscripted the hard-won collective memory of redress and the wartime injustices into “the ironic role of justifying civil liberties restrictions.”⁴⁴

5.1. *New York Times*: Bush II through Obama II

We can deal briskly with *New York Times* War on Terror-internment mnemonics in the second term of Bush’s presidency and Obama’s first; there are relatively few instances (four and five,

⁴³ Gordana Rabrenovic, “When Hate Comes to Town: Community Response to Violence Against Immigrants,” *American Behavioral Scientist* 51:2 (2007): 349-360.

⁴⁴ *Ibid.*, p. 176.

respectively) to report.⁴⁵ Nevertheless, a new stage in the debate appeared to have begun. With the Patriot Act in full force and the turpitude of the illegal Iraq invasion increasingly apparent, the *Times* provided less space for hawkish incarceration mnemonics than formerly, while for progressives the time for generalized *non-repetition warnings* seemed to have passed.⁴⁶ Instead, the largest single category of Nikkei rights mnemonics in the *Times* during Bush's second term involved specific War on Terror *policy critiques* (four out of five invocations), focusing on the overbroad exercise of executive authority, the use of race and religion as grounds of discrimination, and the denial of due process rights.⁴⁷ Finally, and perhaps in limited confirmation of the criticism that Obama's War on Terror largely escaped the progressive opprobrium visited on Bush's, the new president's first term saw only three critical invocations of the incarceration in relation to antiterrorism, none of which addressed the Obama administration specifically: two dealt with the Patriot Act, while the other offered a general critique of US society.⁴⁸

However, Second World War incarceration mnemonics, in the *Times* and, as we will see soon, in the *Wall Street Journal*, changed significantly around the end of Obama's second term: its final year featured almost as many (thirteen) *Times* invocations as had the three concluding years of Bush's far more eventful first (fifteen).⁴⁹ Equally remarkable is that six of these final-

⁴⁵ Items 47-51 and 60-65, respectively.

⁴⁶ In the conservative *Wall Street Journal*, by contrast, *maxing* surged during Obama's first term (six of six invocations—see items 67-72), as Bush administration figures and supporters sought to place that administration's policies in a favourable historical light.

⁴⁷ Items 47; 48; 49; and 51.

⁴⁸ Items 60; 63; and 62, respectively.

⁴⁹ Items 74-79 and 23-36, respectively. The 13 invocations from Obama's final year emerged from 6 items; the larger-than-usual number of invocations per item reflected the tendency of items to include either multiple invocations from the Trump campaign or counter-invocations from Trump opponents.

year invocations went beyond *maxing* to cite the oppression of Japanese Americans as a *positive precedent* for new, oppressively racist measures.⁵⁰ The only relevant change was Donald J. Trump's 2015 Republican presidential nomination campaign, which, among other things, called for a "total shutdown of Muslims entering the US" and a government registry of Muslims already present in the country.⁵¹ Invocations of the Second World War incarceration which supported these proposals tended to stress that the US was engaged in a war on terror; that war required extreme measures; that extreme measures had won the Second World War; and that the president who had used them, Franklin Delano Roosevelt, was remembered positively.⁵²

For example, in the course of a single MSNBC television interview reported on in the *Times* (74), Trump defended his proposed Muslim registry, first by *maxing*, stressing that his plan was "not as drastic as the camps," and then by invoking as *precedent* Roosevelt's earlier use of presidential decree to order a preliminary counting of the Japanese-American community: "This is a president highly respected by all; he did the same thing." Trump concluded that, just as the USA had been at war in the 1940s, it was now "at war with radical Islam." Thus, telescoped into a single moment in a singularly race-baiting nomination campaign, the relatively subtle *maxing* of the Bush era metamorphosed into the *precedent*-invoking authoritarianism of the Trumpists.

⁵⁰ Items 74; 75; 76; 78; and 79.

⁵¹ Jessica Taylor, 2015, "Trump Calls For 'Total and Complete Shutdown' of Muslims Entering US," *NPR*, December 7, 2015, <https://www.npr.org/2015/12/07/458836388/trump-calls-for-total-and-complete-shutdown-of-muslims-entering-u-s>; Kat Chow, "Renewed support for Muslim registry called 'abhorrent,'" *NPR*, November 17, 2016, <https://www.npr.org/sections/codeswitch/2016/11/17/502442853/renewed-support-for-muslim-registry-called-abhorrent>

⁵² *Supra*, n. 51.

5.2. *Globe and Mail*: Early Warning Signs

Canada's Anti-Terrorism Act, which parliament approved on 18 December 2001, allowed, and continues to allow, secret evidence, preventive detention, and expanded surveillance powers for security agencies.⁵³ The broader Canadian War on Terror has included racial and religious profiling, the outsourcing of torture, and the militarization of policing.⁵⁴ Despite these significant developments and the high profile of Nikkei rights mnemonics in the first decade of Canada's Charter of Rights, the *Globe* printed only nine War on Terror-focused invocations of the Second World War injustices between the years 2001 and 2022, the majority of which addressed the US incarceration and US counterterrorism policy. Only four Canada-focused cautionary references to internment were found: a columnist referenced it to offer British counterterrorism restraint as a model for this country (52); a Muslim defendant mentioned it in his 2006 terrorism trial (53); an unsigned 2007 editorial cited internment redress as precedent for compensating the wrongfully accused and illegally tortured Canadian, Maher Arar (54); and a 2010 opinion column saw unfortunate echoes of internment in Canada's post-9/11 use of preventive detention and in-camera trials (66).

Perhaps most noteworthy about the *Globe* is that it offers this study's only instance (37) of a speaker in a relatively centrist publication challenging internment memory with a mnemonic blunter and more categorical than *maxing: attacking redress for endangering security*. Foreshadowing the neo-fascist Proud Boys of the Trump era, in their White

⁵³ Reem Bahdi, "No Exit: Racial Profiling and Canada's War Against Terrorism," *Osgoode Hall Law Journal* 41, No. 2 (2003), pp. 293-317.

⁵⁴ Amnesty International, *Security and Human Rights*.

supremacist refusal “to apologize for creating the modern world,”⁵⁵ long-time *Globe and Mail* opinion columnist John Ibbitson complained: “European North Americans have excoriated themselves for the evils committed against Japanese North Americans during the Second World War, against blacks since the days of the first slave boats, against native Americans since the days of the first white settlers. They have apologized and offered redress, and continue to debate whether they have done enough” (37). This “politically correct ... agonizing over” past wrongs, Ibbitson concluded, was preventing Canada from implementing what the new times required: namely, “racial profiling” against young men “dark of skin and strange of name” (37).

In addition to Ibbitson’s foray, we found two other instances of this far-right mnemonic, *attacking redress for endangering security*, one on 8 October 2001 in the *National Post* (19) and one on 28 May 2002 in the *Wall Street Journal* (38). Its most elaborated incarnation can be found in American alt-right agitator Michelle Malkin’s 2004 book, *In Defence of Internment*, which denounced Japanese-American incarceration memory as a “politically correct myth” whose demolition was necessary for a suitably muscular counterterrorism response.⁵⁶ It seems noteworthy that all these invocations, including Malkin’s, were confined to the relatively early stages of the War on Terror, when hawks were contending with a preponderance of *repetition warnings*, protective rememberings of the Second World War incarceration of precisely the sort

⁵⁵ Nick Smith, “Should Biden Apologize for Trump? National Remorse and the 2020 US Presidential Election,” *Society* 57, No. 6 (2020), pp. 698-703.

⁵⁶ Michelle Malkin, *In Defense of Internment*, Washington: Regnery Publishing, 2004, p. xx. At the time of writing the book had an average score of 4.3 from 196 ratings on amazon.com. The *Wall Street Journal* item was a letter to the editor by the main source for Malkin’s book, the far-right retired US army colonel, intelligence commentator, and unyielding Vietnam War advocate, Lee Allen (item 38).

that Transport Secretary Mineta had used to spur Bush's visit to the Islamic Center of Washington six days after the attacks.⁵⁷

5.3. *Sydney Morning Herald*: Nothing to See Here

Australia subjected its Japanese ancestry population to wartime policies of incarceration, dispossession, and deportation; more recently, it embraced harsh, post-9/11 measures that, among other things, criminalized migrants and refugees, placing thousands for lengthy, indeterminate periods in widely criticized and remarkably punitive offshore detention camps.⁵⁸

Yet the *Sydney Morning Herald* and, as we shall soon see, the *Daily Telegraph* as well, was devoid of progressive Nikkei rights mnemonics. Our search yielded 211 hits for "Japanese" + "terror" between 2001 and 2022 in the *Herald*; only two items contained references to the earlier injustices in relation to the War on Terror, both of which came from US commentators discussing their own country's injustices and counterterrorism measures.⁵⁹ As with the *Times* and *Globe* searches, most of the moot *Herald* results dealt with Japanese antiterrorism policy or the impact of 9/11 on Japanese politics, markets, or businesses. However, some of the moot results—moot, that is, because they did not invoke Australia's wartime injustices to discuss Australian counterterrorism—suggested a distinctive mnemonic factor at play in that country's War on Terror debates. These items revisited Japan's attacks on Australia during the Second World War, recalled appreciatively the role of the US military in defending the Australian

⁵⁷ *Supra*, n.33.

⁵⁸ Margaret Bevege, *Behind Barbed Wire: Internment in Australia during World War II*, St. Lucia: University of Queensland Press, 1993; Gleeson, *Australia's 'War on Terror' Discourse*.

⁵⁹ George Packer, "Enemy of the state?", *Sydney Morning Herald*, November 16, 2022, p. 40; Cynthia Banham et al., "Liberties to be sacrificed in war on bombers," *Sydney Morning Herald*, July 23, 2005, p. 19.

continent, and insisted on this basis that Australia owed Washington reciprocal duties of loyalty and support.⁶⁰

Further evidence of Australia's inhospitable climate for critical post-9/11 Nikkei mnemonics comes from Gleeson's analysis of resistance discourse in that country's War on Terror. As Gleeson shows, dissenters did not revisit prior Australian historical injustices as sources of instruction or warning but instead argued that the new antiterror and migration measures violated civilizational norms and Australian traditions of a "fair go."⁶¹ This approach may have reflected the comparatively low profile of historical redress in Australia, on the one hand, and the relative absence of Nikkei voices, on the other. First, for example, the only Australian entry addressing racism in the Tilburg University global database of political apologies is the so-called Stolen Generations apology for Australia's prior policy of forcibly adopting mixed-race Indigenous children into White families.⁶² Secondly, because Australia forcibly removed almost its entire Nikkei population after the war, it was uniquely deprived of citizens who might have produced a usable national memory of the Second World War injustices.⁶³

⁶⁰ Peter Hartcher, "Jumping at shadows no longer," *Sydney Morning Herald*, March 18, 2005, 27, and *ibid.*, "Rudd offers a cheeky lesson in soft power," *Sydney Morning Herald*, September 7, 2007, 31.

⁶¹ Gleeson, *Australia's 'War on Terror' Discourse*, pp. 216-219.

⁶² Marieke Zoodsma and Juliette Schaafsma, "Examining the 'Age of Apology': Insights from the Political Apologies Database," *Journal of Peace Research* 59, No. 3 (2022), pp. 436-448. See https://www.politicalapologies.com/?page_id=1118, and search "Australia."

⁶³ Timothy Kazuo Steains and Shannon Whiley, "Japanese-Australian Veterans and the Legacy of Anti-Asian Racism," *Discover Nikkei*, November 9 2021, accessed May 16 2022. <https://www.discovernikkei.org/en/journal/2021/11/9/japanese-australian-veterans/>. Despite their relatively small demographic presence, important Nikkei voices in Australia are working to commemorate and publicize the wartime injustices in that country; please consult [Nikkei Australia](#) for more information.

However, the causal significance of Australia's outlier status in the mnemonics of rights should not be overstated. As we just saw in the case of the *Globe and Mail*, Canada, long seen as a world leader in redress, if not in "land back" Indigenous reparation, fared little better in using regretful histories of domestic horror to inform its post-9/11 response. The following, penultimate section of this chapter, which analyzes three major right-wing dailies, shows that this was the case in Canada's *National Post* as well.

6. Incarceration/Internment Mnemonics in the *Wall Street Journal*, *National Post*, and *Daily Telegraph*

We focused the chapter's original search on relatively centrist dailies because, looking for evidence of the sort of multidirectional, rights-protective Nikkei memory that I witnessed in the classroom the day after 9/11, we assumed that more avowedly right-wing venues would be relatively impervious to the cautionary lessons of incarceration/internment. This assumption was incorrect. As I discuss below, the *Wall Street Journal* was virtually identical to the *Times* in featuring an overwhelming preponderance of rights-protective Nikkei mnemonics in the immediate aftermath of the attacks. Further, save for a single letter to the editor (38), hawkish pushback against such invocations began in the *Journal* only in early 2003 (41), just as it did also in the *Times* (27). For its part, Australia's *Daily Telegraph* followed the *Sydney Morning Herald* in eschewing regretful memory in its counterterrorism coverage. Turning to the *National Post*, Canada's major right-wing daily stands out as the only venue that featured a preponderance of hawkish mnemonics from the start (although the *Wall Street Journal* certainly joined it in this after the period of discursive abyss).

Therefore, notwithstanding the immediate hawkishness of Canada's *National Post* and the eventual divergence of the *Wall Street Journal* from the *New York Times* in featuring a preponderance of hawkish invocations, adding the right-wing dailies to the search serves primarily to confirm the dynamics and trajectory found in the earlier analysis. It seems particularly striking that progressive incarceration mnemonics dominated in the conservative *Journal* during the discursive abyss just as they had in the more centrist *Times*. Over this period, *non-repetition warnings* comprised five of seven invocations in the *Journal* and eight of eleven in the *Times*.⁶⁴ Consider the following illustrations from the *Journal*, markedly similar to their counterparts from the same period in the *Times*:

- a Muslim-American spokesman stated that, "in the back of every American Muslim's mind right now is the camps that Japanese Americans were thrown into after" Pearl Harbor (12)
- a contributor cited the *Korematsu* decision as a "blight" on US history and worried that civil liberties would soon be similarly "abridged in response to perceived threats to the public order" (13)
- a columnist warned that, "at times of fear, Americans sometimes rush to do things they later regret [such as] the internment of the Japanese in World War II" (14)

Furthermore, the right-wing reaction began in the *Journal* in the same way and at roughly the same juncture as it had in the *Times*. *Maxing* debuted in the *Journal* in May 2003 (41), four months after Ignatieff's initial *Times* foray (27), as War on Terror advocates sought in both venues to mount an effective mnemonic response to the *non-repetition warnings* spurred by Nikkei injustice memory. Here are two instances of *maxing* from the *Journal*:

- a columnist argued that Washington could avoid repeating the denigration of citizenship rights involved in the Second World War incarceration by using special military tribunals for foreign War on Terror suspects; doing so would shield American citizens "from the starker justice accorded agents of foreign enemies during conditions of war" (41)
- a column reported on the far-right defender of the earlier incarceration, Michelle Malkin, who professed to reject the idea of "Arab or Muslim internment camps" while calling for a narrower "policy of ethnic profiling at airports ... [barring] Muslims ... [from] certain jobs in the military ... [and] a ... separate court system for terror suspects, one with less 'liberal' rules and rights" (44)

⁶⁴ For the *Journal*, see items 12-15 and 17; for the *Times*, see items 1-7 and 10.

However, from roughly the midpoint of the first Bush presidency, the overall balance of invocations in the *Wall Street Journal* changed. Recall that our two major examples of progressive mnemonics are *non-repetition warnings* and *policy critique*; these were eventually challenged by three counterpart mnemonics on the right: respectively, these were *maxing*, invoking the incarceration/internment *as precedent*, and claiming that *redress endangers security*.⁶⁵ Although progressive mnemonics dominated in the *Journal* during the discursive abyss (six of seven invocations),⁶⁶ hawkish mnemonics prevailed in that venue over the remainder of Bush's time in office (seven versus three invocations in 2002-2008)⁶⁷ and thereafter (ten versus three in 2009-2017).⁶⁸ Conversely, progressive mnemonics reigned in the *Times* (twenty-six invocations versus six)⁶⁹ until December 2015, when Trump's Republican primary bid flooded the paper's hard news coverage with authoritarian rights mnemonics, producing a seven-versus-five hawkish balance over Obama's second term.⁷⁰

⁶⁵ We also found scattered instances of mnemonics that were sufficiently rare and idiosyncratic to exclude from our categorization and tallying of the invocations that we are labelling as progressive or hawkish. Possibly progressive but nevertheless idiosyncratic invocations of incarceration-internment were expressions of *solidarity* (one total instance [item 11]); warnings about the nation's *reputation* (two [items 24 and 59]); arguments that post-9/11 redress for War on Terror victims was *warranted* (one [item 54]); general *social critique* (one [item 62]); and what I call *paling* (i.e. claiming that someone else's hawkish internment invocation put them "beyond the pale" of appropriate discourse—two total [items 86 and 87]). Possibly hawkish but idiosyncratic invocations of incarceration-internment were claims that US policymakers had confronted *similar dilemmas* before (three total [items 26, 55, and 56]); and historical references that sought to *normalize* the War on Terror (two total [items 58 and 61]). In no case would counting these invocations affect any of the judgments or claims in this study.

⁶⁶ Items 12-17; item 17 also contained a hawkish invocation.

⁶⁷ Hawkish mnemonics are in items 38 (two different instances—*precedent* and *redress endangers*), 41; 42; 44 (two different instances—*maxing* and *precedent*), and 57. Progressive mnemonics are in items 39; 40; and 43.

⁶⁸ There were no incarceration mnemonics found in the *Journal* after 2017. Hawkish mnemonics are in items 67-72; 80 (two invocations, *maxing* and *redress endangers*), 81; and 88; progressive mnemonics are in items 81; 82; and 88.

⁶⁹ Progressive mnemonics are in items 1-10; 23; 25; 28; 29; 30 (two invocations); 33; 34; 36; 47-51; 60; and 63. Hawkish mnemonics are in items 27; 31; 32; 35; 64; and 65.

⁷⁰ Hawkish mnemonics are in items 74 (two invocations); 75 (two invocations); 76; 78; and 79. Progressive mnemonics are in items 75-77 and 78-79. It was relatively common in the Trump era for individual items to contain both hawkish and progressive mnemonics, the latter often in direct rebuttal to instances of the former.

I noted already that there was no evidence in the Australian dailies of speakers attempting to use domestic histories of horror to inform Canberra's post-9/11 response. But the Canadian publications fared little better: the relatively centrist *Globe* had only six relevant internment invocations over the entire 2001-2020 period,⁷¹ while the conservative *Post* featured fifteen.⁷² The balance of invocations in the *Globe's* small set was mildly progressive (three versus two),⁷³ while the *Post's* was slightly hawkish (seven as against six),⁷⁴ with only two instances of *policy critique* (73 and 83) and one instance of *non-repetition warning* (84) following the period of discursive abyss. Most significant about the *Post* is its early championing of hawkish mnemonics. It was split equally between progressive and hawkish invocations in the discursive abyss (with three of each),⁷⁵ a time when even the right-wing *Wall Street Journal's* lone hawkish invocation (17) was overshadowed by six progressive ones (12-17). Here are some representative instances of the early hawkish mnemonics that set the *Post* apart from the other major dailies during the time of discursive abyss:

- an unsigned editorial about Canadian and US policy, titled "Profiles in Prudence," insisted approvingly that "racial profiling" was morally and legally distinct from imprisoning people "on the basis of race, as [had been done to] Japanese Americans ... after Pearl Harbor" (*maxing*; 18)
- a columnist noted that Canada had "abjectly apologized and made reparations" for the wartime internment. Regretting the precedent, she complained that, "In our war, we are allowed to look askance at no one lest we be deemed racist or narrow-minded or guilty of racial profiling" (*redress endangers*; 19)
- an unsigned editorial rebuked "a lawyer who [had] recently addressed a [House of] Commons committee on behalf of the Canadian Islamic Congress," scoffing at the lawyer's argument that "the treatment of Muslims in the days since Sept. 11 ... [was] akin to that of Japanese Americans during the Second World War" (*maxing*; 22)

⁷¹ Items 37 (two invocations); 52-54; and 66.

⁷² Items 18-21; 22 (two invocations); 45-46; 58-59; 73; 83-84; 85 (two invocations).

⁷³ Progressive mnemonics are in items 52; 53; and 66; two hawkish invocations are in item 37. Note that more ideologically ambiguous mnemonics are excluded from our tallies of progressive versus hawkish mnemonics as discussed in n. 67.

⁷⁴ Hawkish mnemonics are in items 18-19; 22; 45; 49; and 85 (two invocations). Progressive mnemonics are in items 20-22; 73; 83; and 84.

⁷⁵ Progressive mnemonics are in items 20-22; hawkish mnemonics are in items 18-19 and 22.

7. Conclusions

This study has uncovered a revealing and dynamic picture of memory politics in US counterterrorism debates. In both the *New York Times* and the *Wall Street Journal*, multidirectional Nikkei injustice mnemonics provided significant calming guidance in the immediate aftermath of the 9/11 attacks. President Bush heeded this guidance by going to Washington's Islamic Center on 17 September with a message of inclusion and respect. By noting this role of Nikkei injustice mnemonics, we complicate the commonplace assumption that communities overreact vengefully when catastrophic experiences spark hot emotions. The vast majority of relevant *Times* and *Journal* invocations in the immediate aftermath of the attacks focused on protecting Arabs and Muslims, not licensing Islamophobic torment.

The significant multidirectional role of Nikkei injustice mnemonics in an incendiary context also points up a paradox about the underlying historical narratives on which the mnemonics relied. This paradox is that the basic etiology of historical injustice that they mobilized to warn about the recurrence of similar injustices was in some ways contrary to how the War on Terror actually unfolded. Progressive invocations of the incarceration-internment cleaved closely to the accounts consecrated in the official US and Canadian apologies, which, respectively, blamed "prejudice, war hysteria, and failure of political leadership" and "perceived military necessities ... [in the] crisis of wartime."⁷⁶ The historical record of Nikkei oppression in North America, of course, tells a different story. The wartime measures of mass incarceration and rights deprivation did not appear out of nowhere; they punctuated decades of official,

⁷⁶ For a comparative discussion, see James et al., "Separate National Apologies, Transnational Injustices: Second World War Oppression, Anti-Japanese Persecution, and the Politics of Apology in Five Countries," *Global Studies Quarterly* 2, No. 4 (2022), pp. 7-8.

deliberately targeted racism that isolated Nikkei as exploitable second-class citizens in labour markets, business opportunities, education access, and public voice.⁷⁷ Similarly, the rights-abusive and Islamophobic War on Terror overwhelms the “temporary madness” trope that sometimes provides depoliticizing comfort in post-conflict reckonings.⁷⁸ While Holocaust memory offers a readily available template for discussing the sober, long-run realities of “administrative evil,” such a focus on official racism and the institutional levers, expertise, and planning required to legitimate and sustain it has been relatively absent from the official mnemonic repertoire of incarceration/internment, which presents it instead as a by-product of panicked bigotry in exceptional times.⁷⁹

Inaccurate as an empirical account and misleadingly narrow as an interpretation, but arguably vital amidst the confusion and alarm immediately following the attacks, the “panicked bigotry” frame became in some ways irrelevant after the closure of the discursive abyss. As the War on Terror developed, it was policy elites with respected media platforms, not mobs with pitchforks and slogans, who posed the greater danger to human dignity and human rights. Joined eventually by the US Supreme Court in the 2018 case of *Trump v. Hawaii*, leaders of strategy and opinion used *maxing* to retool incarceration/internment memory into a yardstick for defending whatever abuses they could plausibly place below the absurdly high threshold of race-based, categorical, mass incarceration. An important minority current in the *New York Times*, this hawkish push soon dominated in the *Wall Street Journal*, laying the ideological

⁷⁷ Jordan Stanger-Ross and Matt James, “Social Accountability after Political Apologies,” in *Landscapes of Injustice: A New Perspective on the Internment and Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross, 454-484, Montreal and Kingston: McGill-Queen’s University Press, 2020.

⁷⁸ Ruti Teitel, *Transitional Justice*, Oxford: Oxford University Press, 2000, pp. 109-113.

⁷⁹ Danny L. Balfour, Guy B. Adams, and Ashley E. Nickels, *Unmasking Administrative Evil*, London: Routledge, 2020.

groundwork for a Trumpist mnemonics of rights that unabashedly revisited past injustices to inspire new ones.

Despite these cavils and complications, the larger point remains: the hawkish thrust was a backlash against the significant cautioning role of Nikkei injustice mnemonics in the combustible time of discursive abyss. Some frustrated hawks said so directly, with one complaining as early as May 2002 that the Bush administration's alleged reluctance "to allow 'racial profiling' as a means of enhancing air travel security ... [was] based on a flawed and self-serving understanding of the Japanese-American experience ... [and] a feeling of guilt over the many innocents who were subjected to hardships as a result of the action taken to defeat the Japanese" (38). Hawks who were unwilling to engage in such blatantly racist revisionism, which falsely claimed military necessity for internment to insist that the precedent of Nikkei redress itself was now *endangering national security*, opted instead for *maxing*, calling the War on Terror a "long way short of Roosevelt's internment of the Japanese" (27).

In Canada, by contrast, hawkish mnemonics were not responses to progressive ones but rather pre-emptive strikes against what right-wing opinion leaders saw as an unduly apologetic and therefore unforgivably timid liberal elite. Their opponent was largely imaginary. Indeed, the prime minister at the time, Jean Chrétien, was a consistent and avowed opponent of historical redress and political apologies.⁸⁰ Nevertheless, *National Post* columnist Christie Blatchford (19) complained that Canadians, having "abjectly apologized and made reparations," now had to fight a "war [in which] we are allowed to look askance at no one lest we be deemed

⁸⁰ Matt James, "The Permanent-Emergency Compensation State: A 'Post-Socialist' Tale of Political Dystopia," in *Critical Policy Studies*, ed. Michael Orsini and Miriam Smith, 321-347, Vancouver: University of British Columbia Press.

racist or narrow-minded or guilty of racial profiling.” Blatchford’s complaint, from 8 October 2001, is the first chronological instance in this study of a speaker directly blaming redress for *endangering security*. The next instance from a paper’s own news or editorial output was John Ibbitson’s (37) anti-redress screed of 3 June 2002 in the Toronto *Globe and Mail*. Further, this study’s first two chronological instances of *maxing* came from the *National Post*, on 20 September (18) and 10 November 2001 (22), respectively.

Thus, Canadian hawks led the charge against regretful internment memory after 9/11, and did so at a time when the major Canadian dailies were eschewing almost entirely the reflective, cautionary mnemonics irking their US counterparts. Perhaps this eagerly bellicose tilt reflected the junior partner status of a country lacking a sense of leadership or responsibility in the War on Terror. A relatively unburdened and unreflective approach was certainly evident in Ottawa’s response to the extraordinary rendition of the innocent Canadian citizen Maher Arar, who was sent to Syria by the US for torture, following Islamophobic conduct and the sharing of faulty intelligence by Canadian security agencies.⁸¹ Even in the course of apologizing after a federal commission of inquiry had established Arar’s innocence and Canada’s serial derelictions in the case, multiple Canadian authorities blamed transnational processes beyond their control, complained that other relevant parties had not participated in the inquiry process, and refused to admit specific wrongdoing.⁸² This was not the conduct of institutions or leaders freighted with a strong sense of choice-making agency. Turning to the

⁸¹ Yasmeeen Abu-Laban and Nisha Nath, “From Deportation to Apology: The Case of Maher Arar and the Canadian State,” *Canadian Ethnic Studies* 39:3 (2007): 71-98; Pauline Wakeham, “Rendition and Redress: Maher Arar, Apology, Exceptionality,” in *Reconciling Canada: Critical Perspectives on Canada’s Culture of Redress*, ed. Jennifer Henderson and Pauline Wakeham, 278-298, Toronto: University of Toronto Press, 2013.

⁸² Wakeham, “Rendition and Redress,” 283-284.

Australian case, although the absence of critical injustice mnemonics reflected that country's lack of a redress tradition and paucity of Nikkei voices, something of a junior partner syndrome could also be seen in the argument that, because US forces had defended the country in the Second World War, there was no acceptable alternative to joining fulsomely in the War on Terror.⁸³

This chapter began by proposing the mnemonics of rights as a useful analytic for studying the impact of memory politics on constitutionalism. As we have seen, Nikkei injustice memory played an early and honourable role in urgent US debates about national community and the dividing line between the legitimate and illegitimate use of public power. Hawks responded, first, by turning to *maxing*, then by complaining that the standard established by the precedent of redress *endangered security*, and, finally in the Trump era, by citing the incarceration as a *positive precedent* for new wrongs. By examining the development of these tactics for closing the discursive abyss, this chapter has provided a close-up look at some of the early dynamics of the small-c constitutionalism that has gone on to reflect and help solidify a larger post-9/11 backlash against the very idea of regretful historical introspection.

This backlash and its underlying constitutionalism is central to what journalist David Renton calls today's "new authoritarian" right.⁸⁴ Preferring 9/11 as their epochal mnemonic touchstone, the new authoritarians exhibit a concerted, long-run focus on weakening multidirectional Holocaust memory.⁸⁵ They pursue this focus because they hope to lift the

⁸³ See, e.g., Peter Hartcher, "Jumping at shadows no longer," *Sydney Morning Herald*, March 18, 2005, 27, and *ibid.*, "Rudd offers a cheeky lesson in soft power," *Sydney Morning Herald*, September 7, 2007, 31.

⁸⁴ David Renton, *The New Authoritarians: Convergence on the Right*, London: Pluto Press, 2019.

⁸⁵ *Ibid.*, chap. 1, "The Subordination of the War."

taboos on state violence, racism, and cruelty that liberal constitutionalism hoisted, albeit fitfully and often hypocritically, under the “never again” banner in the decades after the Second World War. From the standpoint of the far right, the post-9/11 turn to torture, mass deportation, and more overtly racialized approaches to security and intelligence gathering was spectacularly successful in this regard: as these extraordinary developments became normalized, the mainstream right across much of the global North became ideologically convergent with people and positions it had once shunned as unacceptably extremist.⁸⁶

Self-professed liberals who began to break with the postwar taboos, such as Dershowitz and Ignatieff, probably saw themselves as brave thinkers adapting reluctantly to dangerous times.⁸⁷ But what began with *maxing* soon devolved into outright attacks on redress for *endangering national security*. The *National Post*'s Christie Blatchford (19) foreshadowed the turn when she protested in early October 2001 that, because of the precedent of internment redress, Canadian authorities found themselves unable to engage in racial profiling. Eight months later, her colleague John Ibbitson (37) of Toronto's *Globe and Mail* complained similarly about the baleful impact of the apologetic proclivities of “European North Americans,” even though such an oddly named and institutionally inchoate group had not been known to have actually issued any political apologies. South of the border, Malkin followed these pioneering racist interventions with 2004's *In Defence of Internment*, which attacked Japanese-American redress to demand a more full-throatedly authoritarian 9/11 response; its introductory chapter was called, “A Time to Discriminate.”⁸⁸

⁸⁶ Ibid., 20.

⁸⁷ Dershowitz, *Rights from Wrongs*; Ignatieff, items 27 and 32.

⁸⁸ Malkin, *In Defence of Internment*.

This war on introspective, regretful social memory dramatically intensified in the Trump era. What had once been widely recognized as historical injustices were now cited as *positive precedents* for fresh rounds of demonization and incitement. Trump went on to assume increasingly public associations with White supremacists and antisemites.⁸⁹ Malkin surpassed even her own earlier attacks on Japanese-American redress, calling George Soros a “Holocaust facilitator” while consorting at the same time with known neo-Nazis.⁹⁰ The neo-fascist Proud Boys strove to make refusing to apologize into a banner of White-male self-respect; even relatively mainstream right-wing figures began to strut their bona fides as “unapologetic” conservatives.⁹¹

From this surreal vantage point, “never again” postwar liberal constitutionalism seems worth defending for the simple reason of fidelity to decency and sense-making. But there is more. Nikkei memory struggles developed in dialogue with that constitutionalism, invigorating and deepening it by vernacularizing it for multidirectional use in the US and Canadian contexts. These struggles advanced the causes of historical honesty and introspection, setting signal precedents for redress for other wronged groups. They reshaped legal landscapes, helping to change civil liberties and emergencies legislation in both countries and to set the 1982 Canadian constitution on an explicitly antiracist footing. They gave Americans an important meaning frame for combatting Islamophobia in the immediate wake of the 9/11 attacks, even if the Patriot Act debate highlighted key insufficiencies of the official Nikkei apology narratives.

⁸⁹ See, e.g., Anti-Defamation League, “Extremists react to Trump’s dinner with Ye and Nick Fuentes,” November 29, 2022, <https://www.adl.org/resources/blog/extremists-react-trump-dinner-ye-and-nick-fuentes>

⁹⁰ Anti-Defamation League. “Michelle Malkin is attempting to normalize White supremacy,” August 5, 2020, <https://www.adl.org/resources/blog/michelle-malkin-attempting-normalize-white-supremacy>.

⁹¹ Smith, “Should Biden Apologize for Trump?”

The question is how to defend and build upon these mnemonic and constitutional achievements in adverse times.

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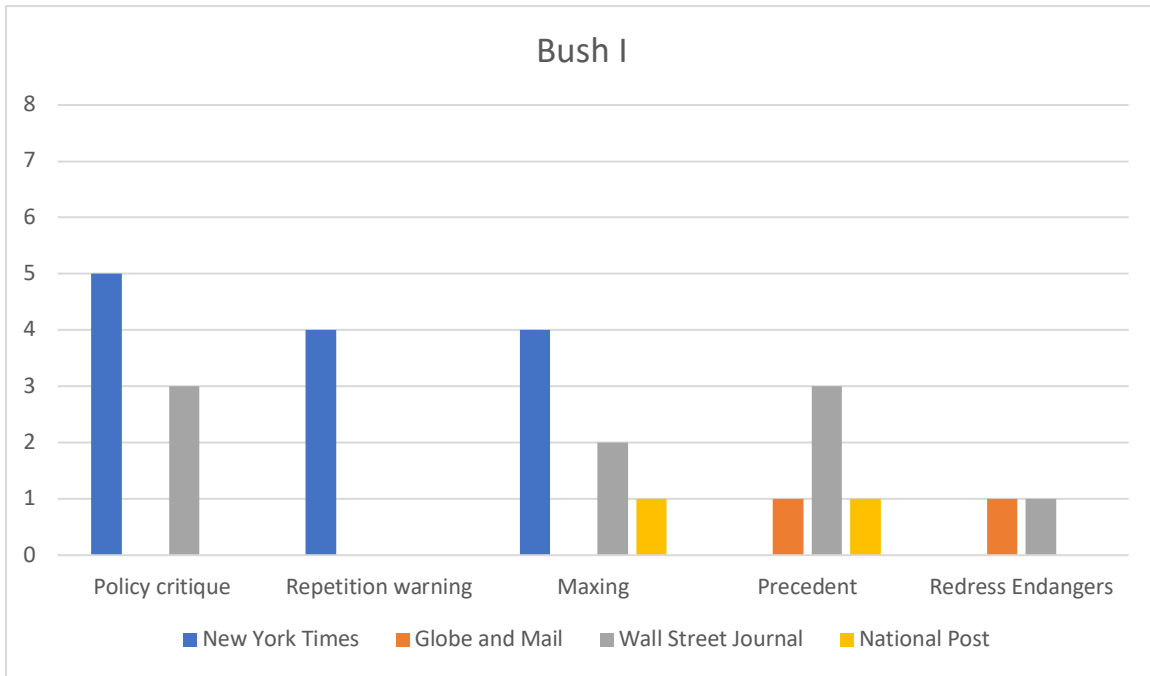
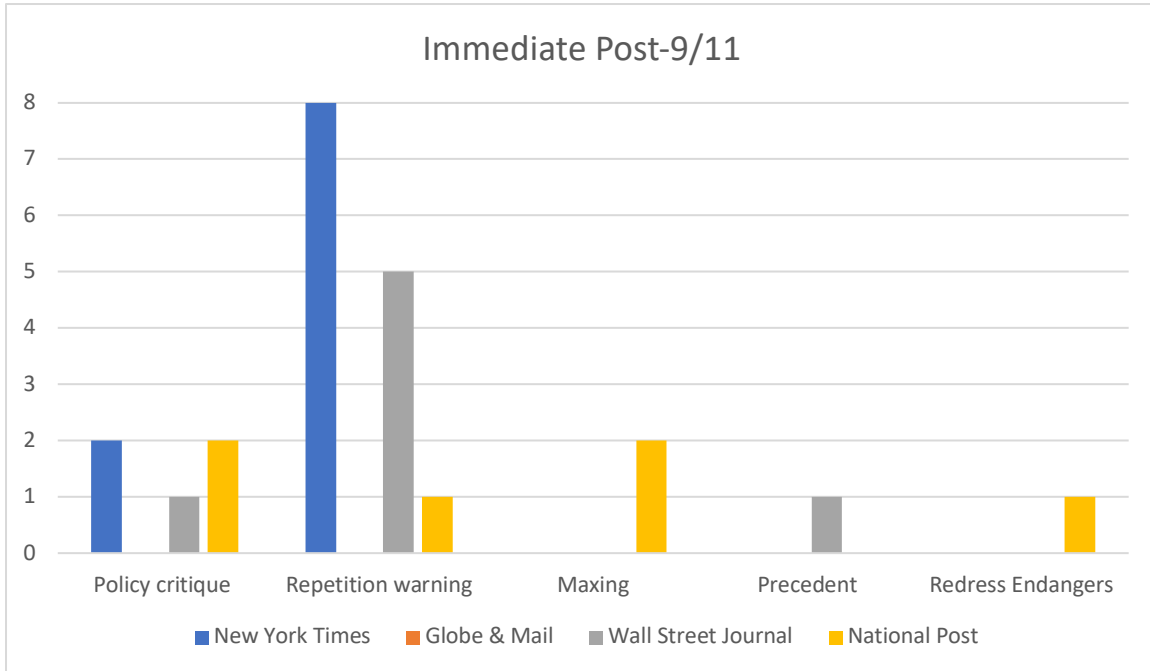
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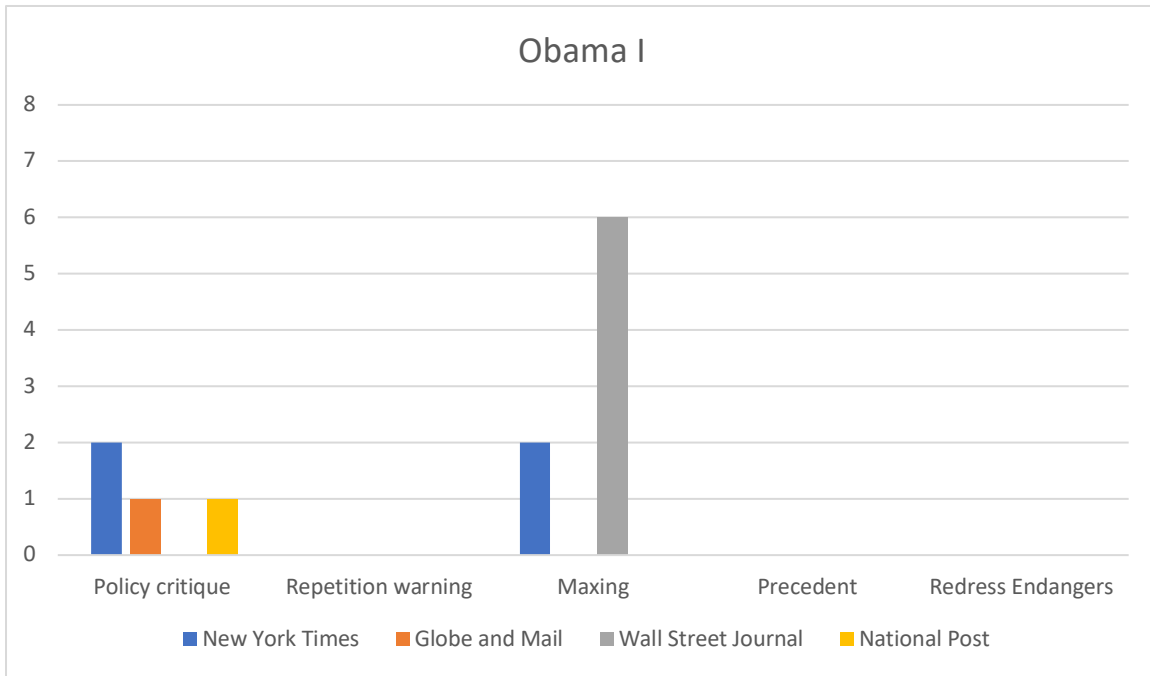
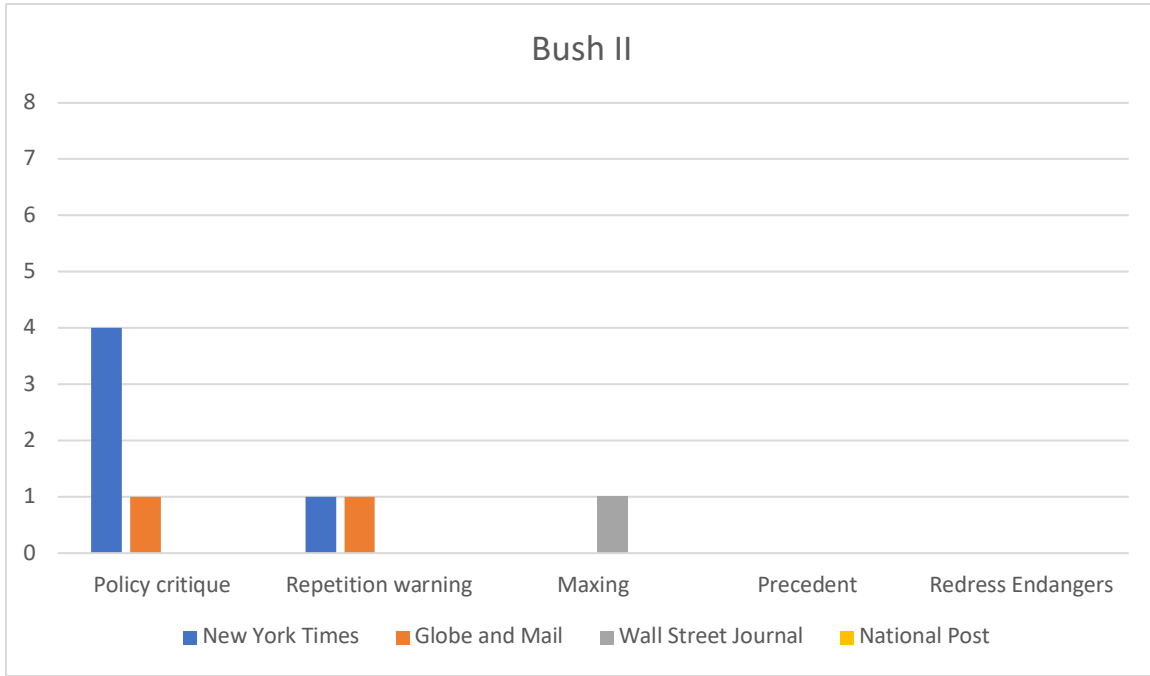
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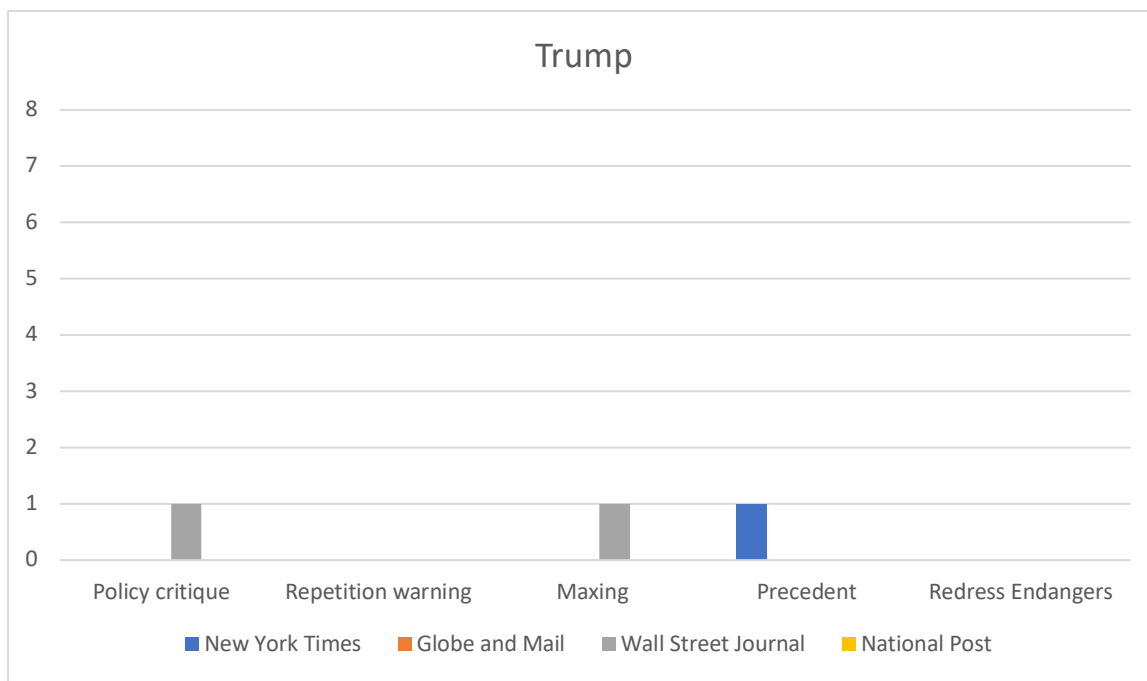
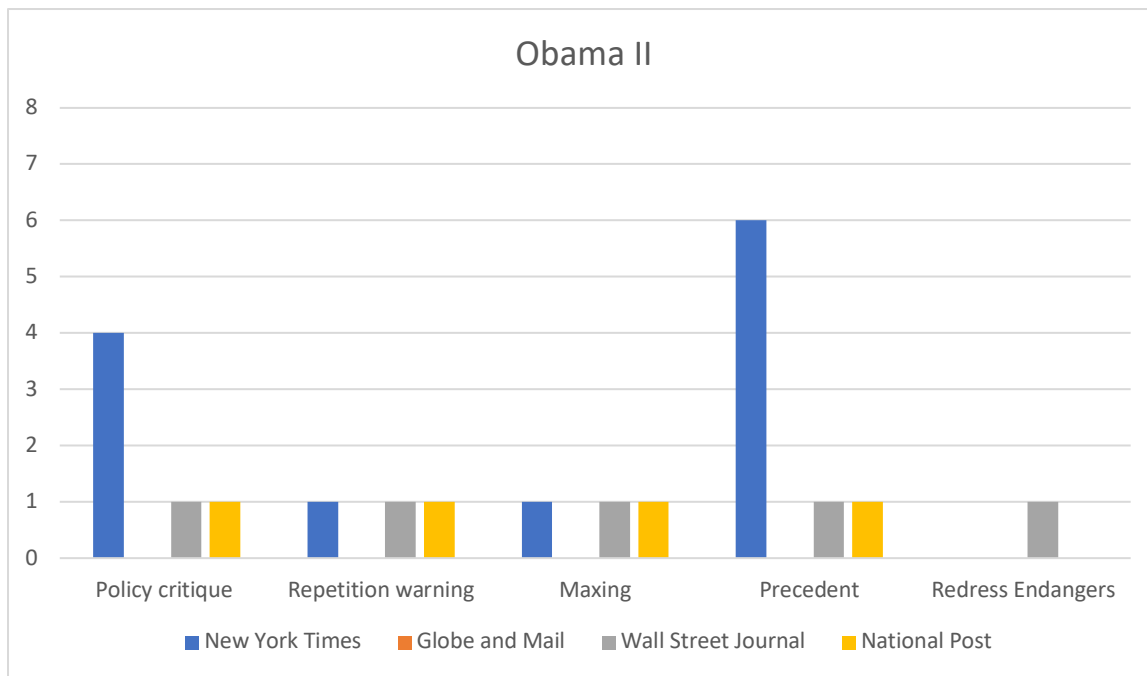
Appendix I: Mnemonics of Rights Identified in This Study According to Their Purpose

- 1 criticizing policy
- 2 warning against repetition
- 3 expressing solidarity
- 4 maxing
- 5 warning that antiterror measures endanger country's reputation
- 6 observing that comparable policy dilemmas occurred prior to 9/11
- 7 normalizing the War on Terror
- 8 criticizing society generally
- 9 citing incarceration/internment as precedent
- 10 "paling" (refers to a speaker invoking incarceration/internment to declare a War on Terror proponent "beyond the pale"—a progressive counterpart to maxing)
- 11 attacking redress for endangering security
- 12 demanding redress for War on Terror measures

Appendix II: Frequency of Specific Mnemonics, Organized by Publication and Time Period







Appendix III: List of Items

The following list includes all non-moot items from the media search. The list is organized chronologically by periods (immediate post-9/11, Bush I, Bush II, Obama I, Obama II, and Trump) and media source. Each item is preceded by its unique identifying numeric code.

Immediate Post-9/11: *New York Times*

1

Goodstein, Laurie. "Relations: In US, Echoes of Rift of Muslims and Jews." *New York Times*, September 12, 2001, A12.

2

Mitchell, Alison and Richard L. Berke. "The Congress: Differences are Put Aside as Lawmakers Reconvene." *New York Times*, September 13, 2001, A16.

3

Toner, Robin. "Civil liberties: Some Foresee a Sea Change in Attitudes on Freedoms." *New York Times*, September 15, 2001, A16.

4

Glaberson, William. "War on Terrorism Stirs Memory of Internment." *New York Times*, September 24, 2001, A18.

5

Cole, David. "Liberties In a Time of Fear." *New York Times*, September 25, 2001, A29.

6

Hernandez, Raymond. "New Racial Profiling Debate Puts Legislators to the Test." *New York Times*, September 30, 2001, NJ2.

7

Pear, Robert and Neil A. Lewis. "House Panel Approves Bill Expanding Surveillance." *New York Times*, October 4, 2001, B7.

8

Toner, Robin, and Neil A. Lewis. "House Passes Terrorism Bill Much like Senate's But with Three-Year Limit." *New York Times*, October 13, 2001, B6.

9

Herbert, Bob. "The Witch Hunt." *New York Times*, December 3, 2001, A19.

10

Verhovek, Sam Howe. "In Liberal Enclave, Dose of Skepticism." *New York Times*, December 4, 2001, B7.

11

Hakim, Danny. "U.S. Arabs, Spurred on by Inquiry, Set Museum." *New York Times*, December 29, 2001, A8.

Immediate Post-9/11: *Wall Street Journal*

12

Tomsho, Robert, Barbara Carton, Joe Periera, Patricia Calahan and James Dorseg. "Islamic-Americans Grapple With Quick Backlash." *Wall Street Journal*, September 12, 2001, A15.

13

Wingfield, Nick, Lee Gomes, and Ted Bridis. "Some Fear Fight Against Terror Will Imperil Privacy." *Wall Street Journal*, September 13, 2001, B4.

14

Wessel, David. "Attack Offers Lessons On People and Markets." *Wall Street Journal*, September 20, 2001, A1.

15

Tribe, Laurence H. "We Can Strike a Balance on Civil Liberties." *Wall Street Journal*, September 27, 2001, A18.

16

Paltrow, Scot J, and Laurie P. Cohen. "Government Won't Disclose Why It Detains 200 People in Terror Probe." *Wall Street Journal*, September 27, 2001, B1.

17

Bowman, James. "Towers of Intellect: It doesn't take terror to show the imbecility of professors, but it helps." *Wall Street Journal*, October 5, 2001, W17.

Immediate Post-9/11: *National Post*

18

"Profiles in prudence." *National Post*, September 20, 2001, A17.

19

Blatchford, Christie. "A test of what we are." *National Post*, October 8, 2001, A1/Front.

20

Simons, Paula. "'Better safe than sorry' adage puts rights at risk: Crackpot comments, black market fraud treated as terrorism." *National Post*, October 29, 2001, A14.

21

Wells, Paul. "'Sunset' shouldn't see light of day." *National Post*, November 2, 2001, A5.

22

"Liberty and liberties." *National Post*, November 10, 2001, A13.

Bush I: *New York Times*

23

Sanger, David E. "There's a Small Matter of Checks and Balances." *New York Times*, January 27, 2002, C1.

24

"Reflections on an America Transformed." *New York Times*, September 8, 2002, C15.

25

Cohen, Adam. "Justice Rehnquist's Ominous History of Wartime Freedom." *New York Times*, September 22, 2002, C12.

26

Brzezinski, Matthew. "On Sept. 12, 2001, Without Being Charged, He Was Put Behind Bars for 73 Days." *New York Times*, October 27, 2002, E50.

27

Ignatieff, Michael, and Stephen Crowley. "The Burden: With a Military of Unrivaled Might, the United States Rules a New Kind of Empire." *New York Times*, January 5, 2003, SM22.

28

Lewis, Anthony. "Marbury v. Madison v. Ashcroft." *New York Times*, February 24, 2003, A17.

29

Lichtblau, Eric. "Ashcroft Defends Detentions as Immigrants Recount Toll." *New York Times*, June 5, 2003, A23.

30

Liptak, Adam. "The Pursuit of immigrants in America after Sept. 11." *New York Times*, June 8, 2003, WK14.

31

Rothstein, Edward. "Is Fear Itself the Enemy? Or Perhaps the Lack of It?" *New York Times*, February 14, 2004, B11.

32

Ignatieff, Michael. "Lesser evils: What It Will Cost Us to Succeed in the War on Terror." *New York Times*, May 2, 2004, 46.

33

"Reaffirming the Rule of Law." *New York Times*, June 29, 2004, A26.

34

Lewis, Anthony. "The Court v. Bush." *New York Times*, June 29, 2004, A27.

35

Rosen, Jeffrey. "One Eye on Principle, the Other on the People's Will." *New York Times*, July 4, 2004, WK3.

36

Radsch, Courtney C. "The Enemy Within: Terror in America." *New York Times*, August 5, 2004, E1.

Bush I: *Globe and Mail*

37

Ibbitson, John. "Why Racial Profiling is a Good Idea." *Globe and Mail*, June 3, 2002, A15.

Bush I: *Wall Street Journal*

38

Lee, Allen. "Terrorism Defense: Wrong Lessons From Wrong History." *Wall Street Journal*, May 28, 2002, A19.

39

Bravin, Jess. "More Terror Suspects May Sit in Limbo: White House Seeks to Expand Indefinite Detentions in Military Brigs, Even for U.S. Citizens." *Wall Street Journal*, August 8, 2002, A4.

40

Fields, Gary and Marjorie Valbrun. "FBI Will Contact Iraqi Nationals Living in the U.S." *Wall Street Journal*, January 15, 2003, B2.

41

Coffey, Kendall. "The Case for Military Tribunals." *Wall Street Journal*, May 19, 2003, A16.

42

Kmiec, Douglas W. "Citizen Hamdi: The Supreme Court elects to walk a tightrope." *Wall Street Journal*, January 13, 2004, A14.

43

Greenberger, Robert S. and Jess Bravin. "High Court Backs Detainees' Right To Challenge U.S.: In a Blow to Bush Policy, Ruling Says Terror Suspects Are Entitled to Hearings." *Wall Street Journal*, June 29, 2004, A1.

44

Minitzer, Brendan. "In Defense of Internment." *Wall Street Journal*, October 1, 2004, W7.

Bush I: *National Post*

45

Morgan, Ed. "Terrorism challenges the profiling taboo." *National Post*, January 2, 2002, A14.

46

Jonas, George. "Racial profiling, revisited." *National Post*, January 3, 2005, A10.

Bush II: *New York Times*

47

Greenhouse, Linda. "Detainee Case Hits on Limits of Presidency." *New York Times*, January 10, 2006, A22.

48

Zernike, Kate, and Carl Hulse. "Security and War Take Center Stage as Campaign Break Nears." *New York Times*, September 26, 2006, A16.

49

Bernstein, Nina. "Echoes of '40s Internment Are Seen in Muslim Detainees' Suit." *New York Times*, April 3, 2007, B1.

50

Mahler, Jonathan. "Why this Court Keeps Rebuking this President." *New York Times*, June 15, 2008, WK3.

51

Robbins, Liz. "Judge Rules that Suspects Cannot be Detained Because of Ethnicity." *New York Times*, November 25, 2008, A26.

Bush II: *Globe and Mail*

52

Gee, Marcus. "The British are Right to be Bulldogs." *Globe and Mail*, July 13, 2005, A15.

53

Freeze, Colin. "Terror Law Vague, Accused to Argue." *Globe and Mail*, August 30, 2006, A7.

54

"The Compensation Canada Owes Arar." *Globe and Mail*, January 26, 2007, A16.

Bush II: *Wall Street Journal*

55

Bravin, Jess. "Judge Alito's View Of the Presidency: Expansive Powers: Court Pick Endorsed Theory Of Far-Reaching Authority; Tenet of Bush White House; A Debate Over Terror Tactics." *Wall Street Journal*, January 5, 2006, A1.

56

McKinnon, John D. "Hearings to Air Issue of Wartime Powers: Lawmakers Consider Extent of President's Authority in Fight Against Terrorism." *Wall Street Journal*, January 6, 2006, A4.

57

Rosenbaum, Thane. "The Counterterrorism Club." *Wall Street Journal*, July 18, 2007, A15.

Bush II: *National Post*

58

Oliver, Steve. "Fitting in is never easy for immigrants." *National Post*, June 9, 2006, A17.

59

Leong, Melissa. "Ontario terror case far from over." *National Post*, June 2, 2007, A19.

Obama I: *New York Times*

60

Kristof, Nicholas D. "Putting Torture Behind Us." *New York Times*, January 29, 2009, A27.

61

Baker, Peter. "Obama's War on Terror." *New York Times*, January 17, 2010, SM30.

62

Kristof, Nicholas D. "Message to Muslims: I'm Sorry." *New York Times*, September 19, 2010, WK11.

63

Shieler, David K. "Free to Search and Seize." *New York Times*, June 23, 2011, A27.

64

Liptak, Adam. "Civil Liberties Today: Criminal Law Changed Surprisingly Little After the Attacks." *New York Times*, September 11, 2011, 464.

65

Freedman, Samuel G. "Six Days After 9/11, Another Date Worth Honoring." *New York Times*, September 8, 2012, A15.

Obama I: *Globe and Mail*

66

Valpy, Michael. *Globe and Mail*, October 5, 2010, A12

Obama I: *Wall Street Journal*

67

Herman, Arthur. "The Power To Protect." *Wall Street Journal*, January 11, 2010, A17.

68

Rabinowitz, Dorothy. "The Alien in the White House." *Wall Street Journal*, June 9, 2010, A17.

69

Wolfowitz, Paul. "9/11: Did the U.S. Overreact?: We Had to Address State Sponsors of Terror." *Wall Street Journal*, September 9, 2011, A19.

70

"The 9/11 Decade." *Wall Street Journal*, September 10, 2011, A14.

71

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