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**Racial Profiling : The Case of the Arizona
Senate Bill 1070**

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Fulfillment of the Requirement for the Master's Degree in Anglophone Language,
Literatures, and Civilization.**

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Dedications

In the Name of ALLAH, the Most Compassionate, the Most Merciful

I would like to dedicate my modest work to my family.

To my beloved parents, Youness and Nour El Houda, for their love and endless support throughout my entire academic career and for teaching me how strong a woman can be.

To my best brothers, Ayoub, Iheb, and the little Borhan El Dine, my dearest sisters Rayan and Chayma,

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Abstract

What is commonly known is that racial profiling in the USA has become an increasingly controversial issue by law enforcement in recent years. Its practice has always depended on race alone or race with other physical and ethical characteristics when selecting suspect criminals. In this regard, the research work firstly provides a clear image about the issue under study through various definitions and explanations and a brief history of race-based practices in the United States. While racial profiling evolution is traced from Richard Nixon's "War on Drugs" in the 1980s to the current Donald Trump administration, an investigation of the conflicting reactions of the US government, leaders and organizations to the phenomenon is undertaken. In addition, the work spots light on the discriminatory practices such as stops, searches, investigations, frisks, and arrests that are directed mainly to African Americans, Arab Americans, and Latinos with regards to its extremely negative results embodied in mass incarceration and high rates of deportation. Racial profiling gained national attention in 2010 immediately after the enactment of Arizona SB/1070 that targeted Latinos, particularly illegal immigrants. On this basis, the bill was selected to prove the serious impact of racial profiling on both national and individual levels. The dissertation concludes that instead of maintaining law/order and security, the practice of racial profiling intensifies racial discrimination and hate crimes within the American society.

المخلص

من المعروف أنه في السنوات الأخيرة، أصبح التمييز العرقي في الولايات المتحدة الأمريكية قضية مثيرة للجدل بشكل متزايد من جانب تطبيق القانون. تعتمد ممارسته دائماً على العرق وحده أو العرق مع الخصائص المادية والأخلاقية الأخرى عند اختيار المجرمين المشتبه بهم. وفي هذا الصدد، يقدم العمل البحثي أولاً صورة واضحة حول القضية قيد الدراسة من خلال مختلف التعاريف والتفسيرات وتاريخ موجز للممارسات العرقية في الولايات المتحدة. في الوقت الذي يتم فيه تتبع تطور التمييز العرقي من "الحرب على المخدرات" لريتشارد نيكسون في الثمانينات إلى إدارة دونالد ترامب الحالية، يتم التحقيق في ردود الفعل المتضاربة بين الحكومة الأمريكية والقادة والمنظمات تجاه هذه الظاهرة. بالإضافة إلى ذلك، يسلط الضوء على الممارسات التمييزية مثل التوقف والتفتيش والتحقيقات والفرز والاعتقالات الموجهة بشكل رئيسي للأمريكيين من أصل إفريقي والعرب الأمريكيين واللاتينيين فيما يتعلق بنتائجها السلبية للغاية التي تؤدي إلى السجن الجماعي والمعدلات العالية من الترحيل. اكتسب التمييز العنصري الإهتمام الوطني عام 2010 مباشرة بعد SB 1070 التي سنته أريزونا لاستهداف اللاتينيين، وخاصة المهاجرين غير الشرعيين. وعلى هذا الأساس، تم اختيار مشروع القانون لإثبات الأثر الخطير للتمييز العرقي على المستويين الوطني والفردى. تخلص المذكرة على أنه بدلاً من الحفاظ على القانون/ النظام والأمان، فإن ممارسة التمييز العرقي تزيد من حدة التمييز العنصري وجرائم الكراهية داخل المجتمع الأمريكي.

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List of Abbreviations and Acronyms

ACLU	American Civil Liberties Union
AIUSA	Amnesty International United States of America
BNDD	Bureau of National Dangerous Drugs
BNDD	Bureau of Narcotics and Dangerous Drugs
CAP	Criminal Alien Program
CBP	Customs and Border Protection
DEA	Drug Enforcement Agency
DHS	Department of Homeland Security
DWB	Driving While Black or Brown
DWW	Driving While White
ERPA	End Racial Profiling Act
FBI	Federal Bureau of Investigation
ICE	Immigration and Customs Enforcement
IRC	Immigration Reform and Control ACT
ODALE	Office of Drug Abuse Law Enforcement
SB	Senate Bill
TRAC	Targeting Raleigh Armed Criminals
US/ USA	United States of America
USCIS	Citizenship and Immigration Services
WASPs	White Anglo-Saxon Protestants
WTC	World Trade Center

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Introduction

Racial profiling is a topic that has created a heated debate among scholars. Although this practice is considered a new, it is an old phenomenon related to race that dates back to the foundation of America. In its simplest definition, it refers to the law enforcement regarding race, ethnicity, origin, and skin color through the process of identifying and deciding criminals. The attacks on New York City and Washington DC on September 11, 2001, have made it one of the most debatable issues in the US judiciary system.

Differing from the previous laws and policies that simply address only African Americans, racial profiling under its definition targets all minority groups without exception. In fact, it is assumed that all minorities are exposed to racial profiling and even people who were believed to belong to minority groups are also vulnerable to this practice. In this context, African Americans, Arab Muslims, Middle Easterners, and Latinos highly experienced it due to their apparent physical characteristics that distinguish them from white Americans.

This dissertation investigates racial profiling as prominent dilemma in US current history. It examines the historical development of this issue in the USA. It also investigates the constitutionality of racial profiling, the reason behind its national debate. The fact that this debatable subject focuses on all minorities present in America, then it requires a comprehensive study that analyzes the history-race relationship of each group separately. This research, therefore, will be divided into three main chapters to talk about the most important and controversial issue that America faces today.

The first chapter of the dissertation provides a clear and understandable definition of racial profiling. It also spots light on the historical overview of the race-based policies in the USA and the factors that contribute to its establishment. Due to the important discussion over the idea that racial profiling is in contradiction with the American Constitution, a deep analysis is required either to assert or to refuse the claim. Since the last seventeen years, there

has been a significant change within US government decisions concerning racial profiling. The shift is shaped by the 9/11 bombings. So, chapter one also investigates the impacts of the terrorists' attacks on the American Justice System in general and anti-immigration policies in particular.

The second chapter deals with the three major ethnic groups that exist in the United States and their relation to racial profiling. It provides the historical background of the three groups in question, how they were established and developed over decades, and their sufferance within the American society. The concerned groups witnessed significant events that led to the enactment of many acts and bills. In this context, this chapter will tackle and analyze the key laws that encourage the use of racial profiling.

The last chapter is devoted to the selected case study Arizona SB 1070 that proves its persistence in racial profiling. As this law is considered to be the strictest in the history of anti-immigration policies, it mainly describes the state environment and the historical backgrounds that led to the creation of the bill. This section shows the implications of the new law and how it would affect minorities' lives particularly Latinos and Arizona's economy.

The significance of this research is to investigate the real causes behind the creation and the development of racial profiling and its continuity despite the fact that it is illegal. Since it is a crucial and controversial issue in law enforcement, it is important to highlight the national responses that are designed either to support and encourage the use of this racial practice or to prevent and discourage its application by asserting its constitutional violation. It also analyzes how the attacks of 9/11 changed the officials' viewpoint from attempting to ban it to encouraging its use in order to prevent future terrorist attacks.

The main objective of this study is to define the problem of racial profiling, analyze the factors that led to its emergence although the United States constitution prohibits such practices, and examine the noticeable shift in the enforcement laws in relation to the

September bombings of 2001. Throughout their history in the USA, ethnic groups suffered from racism, humiliation, and segregation and are currently suffering from racial profiling. This work focuses on the experience of minority groups with racial profiling separately in order to clarify the main reasons that led these groups to be the target of law enforcement officers. Another objective of the research is to examine profoundly its economic, social, and political consequences on communities and individuals, precisely on children.

This dissertation also aimed at supporting the view that criminalized the use of racial profiling by police officers and considered it a violation of both human rights and the amendments of the constitution. In general, the study aims are to depict the life of minorities under suspicion of being criminals and their bad experiences and clarify that racial profiling is a wrong practice and that the government should ban it.

Finding answers to the following questions is very important to understand the presented issue: What is racial profiling? To what extent have the terrorist attacks of September 11, 2001 changed the US government's opinion toward Racial Profiling? Will the US government seriously follow future measures to diminish racial profiling or will it encourage its use? What are the implementations of racial profiling that take into consideration the Arizona SB. 1070 bill? Answering the above questions will provide an easy and clear comprehensive study to this complex issue.

The issue of racial profiling has recently launched a serious debate in the USA and the selected case study is equally more recent. As the latter has about eight years since its enforcement, exactly on April 23, 2010, a limited literature is available in both printed and electronic forms. Few books and articles have been written by researchers, scholars, journalists, and governmental committees that represent the significance of this recent subject in the American society.

In a book chapter entitled “Racial Inequality”, Norton August explores the nature of racial inequality that shaped American history from its beginnings in terms of its historical variation and cotemporary realities. He provides clarifications to race, racial inequality, and racism in addition to a brief examination of how racism harmed racial group members. August also focuses on experiences of racial inequality of African Americans with brief discussion about Native-Americans, Mexican-Americans, and Chinese-Americans.

Good Cop, Bad Cop: Racial Profiling and Competing Views of Justice is a book written by Milton Heumann and Lance Cassak who investigated the progress of racial profiling in which it started by crimes related to profile, skyjacker, airport drug courier profile, and highways profile. In addition, it examines the practices and the performances of the police over suspected people. The writers of this book conclude that it is necessary to ban the race-based-legislation because it becomes equivalent to racial discriminations. It also examines the effects of the terrorist attacks of September 11 that are regarded as the turning point in US history. Finally, it analyzes the benefits and costs of race-based-treatment.

In his book *Profiles in Injustice: Why Racial Profiling Cannot Work?* David A. Harris, puts racial profiling into perspective by giving concrete examples and solid credible statistics to prove the existence of the problem. However, in chapter six entitled “It’s not just Driving While Black: How Profiling Affects Latinos, Asians? and Arabs,” August extends the discussion beyond African-American victims, Middle Easterners, Arab Muslim Americans, and Hispanics in a form of a comparative study.

Ryan Murphy published a Master thesis entitled “Arizona’s Senate Bill 1070: A Case Study on State-Sponsored Immigration Policy” that examines the origins of Arizona anti-immigration policies. It also investigates Arizona’s social factors that contributed to public support of SB 1070. The consequences and impacts that resulted from passing the bill were determined.

The research methodology is based on a descriptive analytical process, focusing on the description and investigation about the issue of “Racial Profiling”, as well studying and exploring the impact of the debatable issue. It describes how police officers engaged in the practice. The argumentative method is also required to provide a deep comprehension to the subject under discussion. The qualitative method is also needed to provide an analysis through statistics and graphs that will clearly explain the economic, social, political impacts on communities and individuals.

The research takes Arizona’s bill as the best case study of the practice of racial profiling against its illegal aliens – Latinos and Hispanics -, and the fact that the second chapter will deal with three major racial groups in the United States as doable case studies. Thus, the historical method is given an important place in this research as well since it deals with the historical background of the following: racial profiling in relation to Arabs, African Americans, Latinos, and the Arizona’s SB1070 bill. Racial profiling and its manifestations are one of the most debatable, controversial, and unexpected issues in the recent history of the USA.

Chapter One

Dissecting the Roots of Racial Profiling

Racial profiling is a recent phenomenon that has emerged in the United States of America as a controversial issue. As a subject of discussion, it requires explanation about the American society's development and the historical development of racialized policing in the USA. To talk about the development of the American society, it is important to provide clarification concerning the major factors that led to the diversity of this country, such as immigration, inequalities, and ethnic groups and their classification according to European settlers. The early origins of laws that were enacted solely on the basis of race will be tackled too because they are viewed as seeds for the growth of racism, and then racial profiling.

To tackle the subject of racial profiling, it is necessary to provide its full understanding by giving a set of definitions according to different perspectives of scholars and researchers. It is also crucial to look at the scope of racial profiling and its development over years. Due to its unconstitutional doubts, an explanation will be provided to demonstrate how racial profiling violates the constitutional amendments. The 9/11 attacks will be discussed as the turning point in American history in general and in government's decisions concerning racial profiling, mainly against Arab and Muslim Americans whom they have been considered the bombers, in particular. It will end with a brief explanation of the current status of racial profiling in America.

1.1. What is Racial Profiling?

Racial profiling is one of the most controversial practices of law enforcement in US history. Due to its nature, it gained national and international attention which launched endless debate over it, and resulted in variety of definitions from different perspectives. Racial profiling is the outcome of the successive past ethnic and racial laws and practices; from past laws, practices, and techniques including patrol slaves, free blacks, Jim Crow laws, and the

creation of suspect's profiles. It was adopted by police officers as attempts to maintain order in the American society, but indirectly it aimed at controlling members of minority groups who were believed to be the source of America's crimes and problems. So, it can be defined as the act of targeting people primarily on the basis of race.

The controversial nature of racial profiling was reflected in the diversity of its definition (qtd. in Glaser and Martin 491). There are different types of explanation given to the debatable concept. According to American Civil Liberties Union (ACLU): "Racial profiling refers to the discriminatory practice by law enforcement officials of targeting individuals for suspicion of crime based on the individual's race, ethnicity, religion or national origin" ("Racial Profiling: Definition"). The End Racial Profiling Act (ERPA) of 2010 defines it as "the practice of a law enforcement agent or agency relying, to any degree, on race, ethnicity, national origin, or religion in selecting which individual to subject to routine or spontaneous investigatory activities..." (Glaser and Martin 496).

From the above explanation, one understands that the definition of racial profiling according to both ACLU and ERPA is almost the same. They point that racial profiling encompasses any law enforcement officers' practice in which they rely only on persons' race, ethnicity, national origin, and religion when targeting suspect individuals for committing crimes. More clearly, it refers to the act when law enforcement officers depend only on race, ethnicity, religion, and national origin in their selection of the suspicious individuals.

Unlike the aforementioned explanation, in a 2002 speech at Santa Clara University Law School, then California Chief Deputy Attorney General Peter Siggins defined racial profiling as a practice that "refers to government activity directed at a suspect or group of suspects because of their race, whether intentional or because of the disproportionate numbers of contacts based upon other pre-textual reasons" (Nittle 3). In other words, it refers to any governmental activity that considers only the factor of race in its process of targeting suspect

individuals. It can be an intentional selection or a selection based on pre-textual grounds.

Notwithstanding, in a report submitted by *Sun-Sentinel*, racial profiling is viewed as:

One of the most ineffective strategies, and I call it nothing less than lazy, sloppy police work. It's basically saying you don't want to learn about your community, you don't want to learn about people's behavior, you don't want to do your job, and you don't want to investigate, you just want to stop a lot of people and see if you can come up with some statistical number at the end of the evening.... (qtd. in Miramar)

From the above definitions and explanations, it can be concluded that racial profiling is an ineffective technique used by law enforcement officials. It is an unproductive practice because instead of concentrating on individuals' behavior, police officers focused on arresting high numbers of people the majority of them were victims.

1.1.1. Is it Legal?

By the 1990s and 2000s, the debate over racial profiling increased, specially, about its lawfulness; either it is a legal practice law enforcement agencies should adopt or it is an illegal practice that should be banned. Many arguments that stood against it were provided. From different perspectives scholars outlawed these race-based practices. However, other arguments legalized the use of racial profiling. The former, outlawed it because it violated the Constitution. The latter claimed its legality because it assured security and prevented disorder in the country.

1.1.2. Racial Profiling: Is it Productive or Counter-productive?

Opponents of racial profiling follow a legal path to prove that it is an ineffective and illegal law enforcement technique. They used the Constitution as evidence to contend their legal claim against racial profiling. Racial profiling, essentially, is regarded as a violation of both the Constitution and core American values of human rights and liberty (Glaser and

Martin 491). Racial profiling violates the Fourth Amendment to the Constitution, which prohibits unreasonable searches and seizures without a warrant or probable cause (“Arguments against Racial Profiling”). Constitutionally, racial profiling violates the Fourteenth Amendment which was added to the US Constitution in 1868 to protect the right of Equal Protection under the law and to guarantee the right to Due Process to all American citizens particularly blacks (Paterson). According to Professor Kennedy, the Fourteenth Amendment is among the strongest arguments against racial profiling (Clearly 11). The First, the Thirteenth and the Fifth Amendments to the US Constitution were violated too.

In addition to the constitutional arguments, there are social arguments against racial profiling. Professor Kennedy argues that practicing racial profiling caused an alienation of the members of minority groups (Clearly 11). The latter pushed them to refuse being engaged in social activities especially in cooperating with police officers, lawyers, and jurors because the minority members’ feeling toward police developed to be one of mistrust and hatred toward government (12). When the police rely only on race factor in law enforcement, members of racial minority groups feel anger due to their mistreatment. As result, this creates a kind of mistrust that prevents minority members to collaborate with the police in their operation of finding criminals that are believed to belong to that specific group. Consequently, police efforts go in vain and racial profiling becomes an ineffective practice.

As any controversial issue, racial profiling has opponents and proponents. Concerning its proponents, they provide different arguments to support their position toward its productivity. It is productive because through making stops, searches, and investigations the police can prevent crimes (Risse and Zechauser 132). Others argue that ethnic or racial profiling prevents and breaks up terrorist networks and criminal offenses or activities. In this context, the American Department of Homeland Security affirms that national security is enhanced through anti-terrorism measures, discourage and interrupt terrorist attacks, which

concentrate on Arabs and Muslims because they deter and disrupt terrorist activity (Bahdi, Parsons and Sandborn 15). Even though there are arguments that stand for racial profiling, but those against it are the strongest.

1.2. History and Developments of the American Continent

The American continent's history should be highlighted before discussing the subject of racial profiling. By emphasizing it, the reader will have a clear understanding about the development of the USA and the fundamental events and aspects that shaped the American political system which always described as a race-based system. Different notions concerning the history of the USA need explanation, yet the central and prominent ones are immigration, slavery, various ethnicities and population, disparities in social hierarchy, the successive enactment of laws and its application on the basis of race.

The USA witnessed an influx of immigration from all over the world: Europe, Africa, Asia, and South America ("US Immigration before 1965"). The immigrants moved to the American continent seeking better living conditions, primarily, because they were convinced that America was the New World where freedom, peace and equal opportunity were offered to all the oppressed people (Arizaga). The fact that this continent is vast and rich of natural resources serves as an incentive factor immigrants, mainly Europeans, to settle there.

The original inhabitants of America were the Indians. Later in the seventeenth century, the country was firstly settled by Europeans, mostly, from Western Europe and Great Britain. They were white Anglo-Saxon Protestants WASPs (Reil) and identified themselves with the "pure race" or "God-like race". What is more is that they became the nucleus and the dominant group in the American society. In 1619, the USA witnessed the first arrival of Africans who were brought forcibly to Jamestown, Virginia, as slaves who were the largest group concerning population ("Arrival of First Africans..."). Then, continual waves of immigrants would settle in the New World. This intensive immigration towards the New

Continent had made it full of different ethnicities.

The diverse ethnicity in the United States resulted in a multicultural society. For that reason, the latter suffers from racial inequalities. Although blacks were among the largest ethnic minority groups in America (“Largest Ethnic Groups and Nationalities ...”), they were the most oppressed people as they were permanent slaves. Despite the fact that Indians were the natives of the New World, they were persecuted and defeated by the whites who identified them as savage, fierce, aggressive, and brutal that is why they could not possess the land and govern themselves (August 4). Following the WASPs, however, there was a continuum of immigration waves from European and Asian countries towards the USA. The American society had been dominated by the first European settlers regardless to the huge immigration flows from all over the world.

Disparity in the US was different in comparison to other countries in which it was a kind of inter-immigrants inequality instead of native-immigrants inequality. It firstly occurred when whites had dismissed Indians (August 5), who eventually found themselves as a defeated minority in their own land. The Europeans classified themselves at the top of social class hierarchy, while they classified other groups at lower positions just because they did not belong to the white race. In other words, race had been used by WASPs for claiming their superiority over other races which led to endless tensions and clashes, precisely between whites and dark-skin people (Benarbia, Hemaidia and Slimi 1). It was a racial classification dominated by white race.

Slavery was adopted firstly by the Europeans during the Renaissance period (“Custom Slavery during the Renaissance”). During Europe’s rebirth from the fourteenth century to the middle of the seventeenth century which called for supplementary land use with extra labor to satisfy their economic needs (“Custom Slavery during the Renaissance”). Whereas in the USA, slavery started when Europeans found a new vast land with few native Indians and then

chose it as a new land for exploitation. This led WASPs recognized that there was a need for more labor requirements for filling the labor shortage and realized that blacks were the perfect solution for that issue in their vast new territory (“Why was Slavery so Rapidly Adopted...”). The selection based on the idea that blacks resisted in hot climate because they came from a hot continent. Through “the Triangular trade”¹, they brought them to the American Continent (Benarbia, Hemaidia and Slimi 3).

To justify their victimization to the black race, Europeans utilized religion as first justification to their act (Benarbia, Hemaidia and Slimi 2). A social convention on the basis of biological traits had developed by Europeans, because the religious convention did not serve as a powerful justification for slavery. Later, scientific evidence, “Social Darwinism,” was used as new rationalization in which the English naturalist Charles Darwin and others stated the natural evolution of species (2). An appreciable harm was directed mainly to blacks not just because they had been classified at the lower social class, but also because they were regarded as non-humans. The Europeans identified themselves to be the superior race that manipulated other races. Consequently, whites’ arrogation of the supremacy of their race created America’s knotty problem of race.

1.2.1. The Early Racialized Laws

Race is a fundamental aspect that played a vital role in American history; it came out of slavery in the sixteenth century. In its simplest definition, it refers to the concept of dividing human species into groups or races on the basis of physical characteristics such as skin color and hair style (“Ethnicity v. Race”). Whites classified themselves at the top of social classes as the superior race that manipulates other races and considered all what is different, non-white, to be inferior especially blacks (Hodson). What is more, this racial reasoning was firstly introduced by whites during their initial encounter with the people of color (Benarbia, Hemaidia and Slimi 2). They immediately hold prejudices about them just

because they were born black. The whites' despise encouraged blacks to react aggressively and violently. Blacks' reaction intensified the feeling of hatred towards them which produced more aggressive clashes and tensions between each other.

Racism is traced back to the arrival of WASPs to their racist attitudes and practices towards the Native people. Racism refers to the prejudices, beliefs, attitudes, institutions about the different races that caused discrimination (Long). It also came out from the concept of "classification of races" that produced the superiority of white race and the inferiority of others; whites believed in the purity of their race, God-like, beauty, goodness, nobility, and civilization, while they regarded dark skinned people as soiled, uncivilized, and savages ("James Baldwin and the Meaning of Whiteness"). From the perspective of white supremacy, racial practices started. According to Bonilla Silva, an American political sociologist, white supremacy is a racially based political regime; it refers to the practices that emerged in the sixteenth century that sought to provide an explanation and justification for the racial ordering in the American society (Glover 11). So, the division and classification of races created what is known as racism.

The racialized policies can be traced back to the first arrival of a slave ship in 1619 in Virginia, when white colonials imposed laws on slaves (Glover 12). The slave laws of the early North American colonial period were firstly passed in order to restrict slaves' behaviors and prevent any violent insurrection against white settlers ("Slave Codes"). More clearly, a slave written permission to leave the plantation was a compulsory means to prevent any African Americans' gathering and employ harsh physical punishment against any black's disobedient behavior. They were forms of slave laws or what is called slave codes ("Slave Codes"). That is to say, they controlled blacks from birth to death.

"Slave patrols" was another American form of policing that emerged in South Carolina during the colonial period (Kappeler). According to Katheryn K. Russell, a

professor of law and director of the Center for the Study of Race and Race Relations at University of Florida Law School, slave patrols operated to restrain a stiff control on slaves' activity at their plantation and to monitor the moves of the suspect slaves (Glover 12). The whites adopted this distinctive form of policing because they were frightened of blacks rebellion. On the purpose of operated well, slave patrollers were countenanced to arrest, search, and penalize blacks who did not carry permission to leave their plantation (qtd. in Glover 12).

The slaves' status continued until the Civil War era from 1861 to 1865 when there were fundamental events that played a vital role in American history. One of them was Lincoln's Emancipation Proclamation of January 1, 1863 in which he freed just the slaves who fought on the Union side residing in states in rebellion against the federal government ("Abraham Lincoln..."). At the end of the Civil War, the nation found itself in need for rebuilding and reuniting or what is called the reconstruction (Moneyhon).

During the Reconstruction Era there were several changes and challenges; the most significant of which were the three Reconstruction Amendments to the Constitution: the Thirteenth, Fourteenth and Fifteenth Amendments passed in 1865, 1866, 1869 which provided the following respectively: abolished slavery, guaranteed equal protection of the laws, and finally granted African Americans their voting rights (*Jim Crow and Segregation* 1).

In the aftermath of the Civil War, during Renaissance Era, approximately 4 million slaves, mainly from the Southern Confederate States, gained their freedom as a result of Lincoln's emancipation (Moneyhon). Due to the Freedmen's Bureau, which was established by the Congress to facilitate the integration of slaves into Southern society and the recently emancipated slaves started to go to schools, received fair wages, and created special courts to protect their rights ("The Southern Black Codes"). Southerners started to impose laws that

restricted and suppressed freedmen' daily activities, prevented them from voting in the constitutional conventions, constrained their travel and outlawed their marriages ("The Southern Black Codes"). These laws were passed in 1865 and 1866 and were called the Black Codes because they constrained the newly freed blacks rather than the slaves ("Black Codes"). So, those new legislatures paved the way for the Jim Crow laws.

One of the major incidents that led to the continuity of these laws that were based on race in the USA was the fourth ratification of the Mississippi constitution in 1890 (*Jim Crow and Segregation* 1). During the Reconstruction Era that took place from the end of the Civil War in 1865 to the Compromise of 1877, a large number of slaves gained their freedom and enjoyed some rights within the American society which caused a marked improvement in the circumstances of their lives (Moneyhon). The free blacks were unsatisfied by the 1877 Compromise in which white Southerners strived to abandon the enforcement of both the Fourteenth and Fifteenth Amendments that provided civil rights (*Jim Crow and Segregation* 11). Later by 1890, disfranchisement of the right to vote for African Americans was added to Mississippi's constitution. Decades of segregation laws were adopted in public institutions, particularly, in the Southern States. So, the legitimacy of Jim Crow laws started.

The Jim Crow laws started from 1876 to 1965, as a state and local laws, and enacted in the Southern and Border States of the American Continent ("Blacks and Whites: Separate and Unequal..."). As a result, these unfair laws restricted the legal rights of black Americans. All public places, such as schools, restaurants, transportation, rest rooms, hospitals, churches and cinemas were segregated and white's conditions were better than blacks' conditions (*Jim Crow and Segregation* 2). As segregation was enforced by vigilantes who performed violent attacks, African Americans started to resist against the persistent restrictions (*Jim Crow and Segregation* 2).

By the twentieth century, blacks escaped to the North for better life only to discover another form of discriminations against them. During the mid-twentieth century, African Americans launched demonstrations and marches seeking to restore the rights and protections provided by the Constitution (*Jim Crow and Segregation 2*). Jim Crow laws were overturned by a series of the Supreme Court decisions, commencing by *Brown v. Board of Education of 1954* that would outlaw segregation in schools, then the Civil Rights Act of 1964,² and the Voting Rights Act of 1965 (2).³

The racist practices and laws that ruled the United States of America from the colonial period till the twentieth century comprised different forms, yet all of them, explicitly or implicitly, were race-based laws either enacted specially for the purpose of discriminating or targeting racial groups only, or theoretically enacted to all Americans but in practice applied only to minorities. Racial profiling with its controversial definitions and analyses is one of the most racist laws that have existed in the contemporary era.

1.2.2. Insight into Racial Profiling Roots

Before engaging directly to the core subject of the dissertation, racial profiling as the act of stopping citizens on the basis of their racial and ethnic status , it will be more understandable if an insight into its roots will be provided. After decades of slavery and segregation in the US, exactly in the second half of the twentieth century, a new phenomenon had already taken place which was racial profiling, yet in the beginning, it appeared just as a profiling in general, and after years it became criminal profiling that at the end would be labeled racial profiling.

1.3. Profiling and Criminal Profiling

The term profiling was firstly used in TV shows and movies like “Profiler” and “The Silence of the Lambs”, then, it was applied by the Federal Bureau of Investigation (FBI) to refer to “criminal investigative analysis”. Its central aim was to develop descriptions about

offenders in order to help the police detective in his investigation (Winerman). During the 1880s, the term became wide spread, exactly, when crime scene clues were utilized by George Phillips and Thomas Bond, two physicians, to predict the personality of Jack the Ripper, a British serial murderer (Sliwinski). At the same time, profiling started in the USA as modest attempts in which profilers relied only on their suspicions and some informal studies (Winerman).

Profiling is viewed as a complement to the investigation techniques of law enforcement. It started to operate in few cases by limited numbers of criminologists and psychologists, yet by the 1990s, it took different types of cases with different professionals (Winerman). What is more is that the direction of profilers shifted from finding and solving the committed crimes to stopping crimes from being committed (Heumann and Cassak 11). From being regarded as a simple technique of investigation, it becomes the most debatable issue in law enforcement that has been adopted frequently.

After profiling, there appeared criminal profiling or offender profiling. It has been defined as "... the reliance on a group of characteristics they believe to be associated with crime" (Sliwinski 1). It also means giving some evidences such as the crime's place and scenes to the profiler in order to determine the personality characteristics of the criminal to assist the police in their searching process (Ebisike 15). Psychiatrist Dr. James A. Brussel used this technique to look over "The Mad Bomber" who believed to be the one who was responsible for all the bombings, happened more than 15 years ago, in which he used some photographs of the crime scenes and some letters had been sent to newspapers by the bomber himself talking about his criminal achievements (Kops 27). As a result, Brussel's deductions were correct and the police caught the Mad Bomber. Then, it mentioned as the first criminal case to be solved by using offender profiling when predicting (Ebisike 45).

From the 1960s to the 1980s, criminal profiling was developed -by FBI- to be shaped as a scientific approach to crime solving and criminal investigation incorporating experts and professionals from different fields, mainly, from criminology, psychiatry, psychology, and behavioral sciences (Moree 27-28). More clearly, in the investigation process, both of profilers and the FBI adopted different procedures in the establishment of the criminal's profile including: gathering, evaluating, formulating hypothesis, and testing the proposed hypothesis and other different approaches such as diagnostic evaluation, Statistical, clinical and scientific approaches (Vettor 2). To sum up, criminal profiling marked a shift from being regarded as a simple art to become a scientific approach.

The types of crimes developed by time, and profilers started to investigate and search for other profiles; it means, originally, criminal profiling operated only on limited crimes, such as murder, rape, and incendiarism, yet profiles were developed for broad form of crimes (Heumann and Cassak 15). This shift in sorts of crimes that the criminal profilers had been operated in, led to the development and the creation of different profiles, namely, Drug Courier, Skyjacker, and Airport Drug Courier Profiles.

1.3.1. Drug Courier Profile

The most prominent profile among the others was “the drug courier profile” that addressed illegal traffickers. During that period, three main incidents happened and then changed the traditional techniques of investigation of the FBI. These three fundamental events that happened during the late 1960s and the early 1970s were the US Supreme Court decisions, namely, *Terry v. Ohio* (1968), the beginning of the War on Drugs and initiating the arrest of the Airline Hijackers (Santamaria13).

Concerning the previous mentioned decisions, each one led to the emergence of specific profile. Firstly, *Terry v. Ohio* in 1968, that happened when the police detective, McFadden, observed suspicious men, Terry and Chilton, pacing back and forth in front of a

store (Jones). He spotted them because they appeared to be casing the store for robbery (Jones). On the basis of the petitioners' behavior, the officer decided to stop and search them. He found concealed weapons.

According to Terry and Chilton, the officer's arrest, search, and seizure violated their Fourth Amendment right, because he had no probable cause to arrest both of them (Santamaria¹³). However, the police officers, generally, agreed that holding guns was a probable cause to arrest and frisk them. After sequential courts - state, local, and federal courts -, the United States Supreme Court held that if the police officer had a reasonable suspicion to stop the suspect - that the person was or was about to be engaged in criminal activity or the person might be armed and dangerous, and then he stopped the suspect person and frisked him without probable cause -, then the police's behavior would not be regarded as a violator of the Fourth Amendment (Batterton et. al). In *Terry v. Ohio*, the US Supreme Court ruled that, in order to justifiably detain and search a suspect, a law enforcement officer need only to have reasonable suspicion that the suspect person is armed and dangerous, even if this suspicion is not sufficient to be probable cause for arrest (Glaser and Martin 498).

The Supreme Court decision helped in creating other types of investigations and stops. It also considered as the fundamental aspect for creating other profiles, specifically, the drug courier profile. Before the nineteenth century, there were many law enforcement efforts to stop the legal use of drugs. However, the legal attempts started during Richard Nixon's presidency, when he implemented the slogan of law and order, particularly, the illegal use of drugs in his election campaign (Vulliamy). At the beginning, the new president faced difficulties in enacting law enforcement to realize his goal of preventing the use of drugs and persuading the society's members of its negative impact on person's health and mental troubles, which was viewed as the source of criminal activity (Heumann and Cassak 25). Despite the fact that the narcotic problems had been always related to the minorities and

illegal immigrants from Latin America, the American war on drugs, such as marijuana, heroin, and cocaine started when Richard Nixon criminalized blacks of bringing drugs to the country.

During the war on drugs, Nixon's administration adopted new law enforcement techniques that contributed to the development of profiling. There were three main developments that happened during the war on drugs process. As an initial step, the Drug Enforcement Agency (DEA) was established in 1973 by the Congress, a merger of the Bureau of Narcotics and Dangerous Drugs (BNDD) and the Office of Drug Abuse Law Enforcement (ODALE), aimed at fighting down both the use and the distribution of illegal drugs in the United States (26-7). Secondly, he adopted the cooperative work at federal, state, and local levels to prevent any kind of abuses and oversights. Finally, the DEA enforced new tactics, techniques, and weapons to win the war on drugs, including, preventive detention, mandatory sentencing and "no-knock"⁴ ("A Brief History of the Drug War..."). The Drug Enforcement Agency developed a strategy similar to that of the Illinois State Polices, leading to the seizure of 989,643 kilograms of illegal narcotics by 1999 (Nittle 4).

1.3.2. Airplane Hijacker Profile

The creation of the "drug courier profile" by the DEA had a great impact in the establishment of the Airplane Hijacker Profile. On May 1, 1961, the USA witnessed the first skyjacking on its commercial airplane flights; a passenger threatened and forced the pilot to change the plane destination to Cuba according to the hijacker's choice. After 1961, there was noticeable growing in hijacking's number which threatened the American sky's safety (Kops 30). In its process of assaulting and stopping the increasing number of hijacking, the US government proposed the task force system that was composed of members of different agencies, including the Department of Justice, the Federal Aeronautics Administration, the Department of Commerce, and different experts, such as psychologists, engineers, and

lawyers (30). Their task was to adopt particular process to catch the skyjackers and prevent them from boarding the plane.

Airplane Hijacker's profile had been created by the task force. It was composed of set of characteristics which had been identified by different professionals, psychiatrist and psychologists, in which their identification was based on studies about previous skyjackers' characters (Altschuler). The process that had been adopted by the airline workers was as follows: as a first step, the airline detectors search to stop persons with the same designed profile. If they had the same characteristics or some of them, and triggered the magnetometer, directly, they were stopped and interviewed. If the airline travelers did not find a threat of hijacking, the persons were allowed to board the plane, but if they had doubt, the passenger was prevented from boarding it (Kops 31). At first, it appeared that the new policies were acquired to put an end to skyjackings, but, what is real is that the government's efforts intensified the bombings and attacks.

1.3.3. The Airport Drug Courier Profile

Nixon's war on drugs did not operate effectively. For that reason, in 1973, the DEA emphasized the need to develop drug courier profile, using the hijacker profile as a model, for catching and arresting illegal drug dealers on the basis of set of characteristics (Kops 32). In this context, Paul Markonni, a DEA agent, played a significant role in the development of the drug courier profile and he adopted a new technique, after the application of the skyjacker profile in airports, he used the drug courier profile (Kadish 748). Markonni guaranteed safety from hijackers and illegal drug traders.

1.3.4. Drug Courier Profile on Highways

The war on drugs did not stop by the end of Nixon's administration. President Ronald Reagan implemented the drug courier profile; instead he focused on the application of the profile on highways in general not only on airports (Kops 37). In fact, when Ronald Reagan

was elected president in 1982 (Rushing 2), drug task force of Florida was created, under his administration and George H.W. Bush's direction as a Vice President, to fight against drug smugglers in Florida (Harris "Driving while Black: Racial Profiling on Our...").

Inspired by the intensified prohibition of drugs, the states' law enforcement officers found out that the profile can be operated well at the state level (Kops 36). Thus, they became involved in the drug's interdiction process, and initiated aggressive procedures to arrest the illegal drug dealers within the States. By 1984, highway patrols of Florida started to stop motorists in their investigation about illegal drugs by using guidelines, issued by Florida Department of Highway Safety and Motor Vehicles, containing "The Common Characteristics of Drug Couriers" (Kops 37; Harris "Driving While Black...").

There were a lot of troopers who developed the drug courier profile, yet Robert L. Vogel, Florida's trooper, was regarded as the most prominent figure in the development of the profile in highways travel all over the country (Kops 37). After the success he realized, he became a celebrity, and his methods and techniques were adopted by many local highway troopers. As a result of the well-stretched profile, in 1985, the DEA decided to establish a program called "Operation Pipeline"; its aim was to train the state and the local law enforcement officers how to adopt Vogel's methods, or how to use characteristics of the narcotic courier profile provided by Vogel in determining and arresting drug traffickers on highways (Luna121-122). Stops that happened on the nation's highways assisted in finding the final profile of drug smugglers, particularly their origins (Kops 39).

In the 1980s and 1990s, DEA considered that the source of illegal drugs in the USA was from other countries, and the majority of the narcotics dealers within the country were from ethnic groups, particularly, African Americans (Kops 39). It means that, the task of determining the source of drugs was complex. A study shows the complexity in determining the source of cocaine:

Extensive distribution system for cocaine featuring many groups from a number of countries, such as Colombia and Mexico, but also domestic groups as well: “Distribution groups were comprised chiefly of the African-American street gangs and the ethnic Cuban, Dominican, Haitian, Jamaican, Mexican, and Puerto Rican criminal groups that controlled cocaine and crack sales at the retail level. Gangs, including the Crips, Bloods, and Dominican gangs as well as Jamaican posses, were primarily responsible for widespread cocaine and crack cocaine-related violence. (Heumann and Cassak 83-4)

The DEA indicated that each type of narcotics was related to specific ethnic groups. Another report shows that Chinese, Nigerian, Afghan, Greek, Lebanese, Pakistani, Indian and Turkish groups were responsible for smuggling heroin from both Southeast and Southwest. Whereas, cocaine trafficking was the responsibility of Colombians, Jamaicans, Dominicans, Puerto Ricans and Cubans (“National Drug Threat Assessment Summary”). After that a biological characteristics, particularly race, became one of the useful traits by the law enforcement officers in arresting drivers who carried illegal drugs. The later was illustrated by the arrest of Colombian, Latino, African American males just due to their race (Kops 39).

As reported by *The New York Times*, in March, the New Jersey police in their 1997 investigation found that cars of blacks and Hispanics were the overwhelming majority that were stopped and searched by the police (Callahan and Anderson 3). Even the duration of the driver-police encounters was not the same one; encounters of the minority drivers were approximately twelve minutes, while encounters of whites lasted five minutes only (Heumann and Cassak 88).

On account of the high rates of minority groups’ drivers, particularly blacks, were subjected to pretext stop and search for drugs by police rather than whites. What is so called

Driving While Black or Brown (DWB) it can be concluded that among the central components applied by Police officers in “stop and frisk” program was race, precisely, black race. Surprisingly, the results of the seizure were unpredictable; while people of color were searched more than whites, troopers found drugs on 17% of whites searched compared to 8% of blacks (Nittle 4). It means that while the police focus was on stopping and searching colored drivers, the real smugglers of narcotics in USA were whites.

Obviously, the concept of racial profiling was used firstly in the 1980s to describe the race-based practices by law enforcement officers (Glover 11). Yet, by the 1990s, debate over this concept was generated and its evolution was started, mainly, due to the development of drug courier profile and its application on both airlines and highways, and the police wide use of the pretextual traffic stops over minorities (Heumann and Cassak 99). Before discussing the different point of views about the lawfulness of racial profiling that was applied by law enforcement officers, the concept of racial profiling should be defined according to many researchers’ views.

1.4. Racial Profiling and the 9/11 Attacks

The 9/11 Attacks were the worst attacks in American history in which a series of four terrorist attacks were committed coordinately and more than 3000 persons were killed (Bergen). According to the American government, the aircraft hijackings were Muslim-made attacks launched by al- Qaeda’s terrorist network that prepared planes carefully to crash the World Trade Center in New York and the Pentagon (Bergen). These horrific attacks resulted in dramatic change in economic, social, historical, and political aspects. However, in this dissertation discussion will be on the impact of the 9/11 attacks in racial profiling history and how this international event changed government’ view and measures toward this issue. This part seeks to explain how US government’s efforts to put an end to racial profiling evaporated after the horrible attacks on Washington DC.

Prior to the terrorist attacks, debate over racial profiling was directed, mainly, to the measures that the government may adopt to eliminate this racial phenomenon. During Bush's presidency, the aim of banning racial profiling ("Racial Profiling: Definition" 1) was declared on February 27, 2001. He said, "It's wrong, and we will end it in America" (qtd. in Glaser and Martin 493). Besides, after Bush's declaration of the wrongness of the practice, on June 6, a bill entitled the End Racial Profiling Act (ERPA) of 2001 was introduced to the 107th Congress by Representative Conyers (Birzer 46) to ban racial profiling, provide remedies for the targeted victims, and assist the police by training them (Glaser and Martin 493). On February 28, 2002, Attorney General John Ashcroft declares that:

This administration...has been opposed to racial profiling and has done more to indicate its opposition than ever in history. The President said it's wrong and we'll end it in America, and I subscribe to that. Using race... as a proxy for potential criminal behavior is unconstitutional, and it undermines law enforcement by undermining the confidence that people can have in law enforcement. (qtd. in "Racial Profiling: Definition" 1)

According to Attorney Ashcroft, this race-based practice in targeting criminal is unconstitutional and leads to break up the good relation between the government and the police. Shortly, before the horrible terrorist attacks the Bush administration strived to prevent the use of race as a factor to conduct any law enforcement procedures. In this context, it introduced bills for realizing the promise of banning racial profiling.

Likewise, on September 11, 2001, the government path to eradicate racial profiling witnessed a sudden change. Due to the 9/11 aircraft hijackings government's attempt evaporated and instead of prohibiting it, the attacks encouraged law enforcement agencies to apply it, particularly, for American Muslims as an attempt to

deter future assaults. The raised issue since the attacks was about the continuity of this race-based practice after the evil event of 9/11; the practice of racial profiling would be prevented after the bombings or not? A report shows that 1200 people of Middle-Eastern ancestry were singled to investigation for suspects directly after the 9/11 attacks. Many of them were confined and mistreated by prison officials (“Questions and Answers about Racial Profiling...”). This means that the attacks called for using racial profiling in law enforcement decisions.

On the other hand, others still fought against it and reject it. The Leadership Conference on Civil Rights strongly rejected the previous appeals and claimed that laws must be enforced without discrimination and according to the Constitution (“Racial Profiling and the September 11...”). One may contend that the attacks can be used as arguments against racial profiling. In other words, the causes that led skyjackings to manage for such crashes can be the production of racial practices by law enforcement officials toward racial minority groups. As revenge, they decided to commit the bombings to spread fear among Americans and government officials. Despite the fact that the terrorist attacks stopped Bush’s effort of banning racial profiling, attempts to eradicate it still exist and arguments against it are still provided.

During Obama’s Presidency, new policies to restrict racial profiling were declared by the Department of Justice (Leins). Obama’s plan to guarantee an effective and productive policing in the US was established to replace Bush’s guidelines (Sullivan). In this context, the *Washington Post* reported that federal officers could not single and profile individuals on the basis of race, national origin, religion, gender, and religion or sexual orientation, and could not practice it in national security cases (Leins). Briefly, the Obama administration announced a new plan to ban racial profiling by federal law enforcement officers.

1.5. The Current Status of Racial Profiling

After Obama, the new president, Donald Trump, has been recently elected. Trump won the elections after a strong competition with Hillary Clinton. His position toward racial profiling was announced in the wake of New York bombings when one of the journalists asked him about his opinion toward this controversial race practice. Concerning his opinion, Trump believes that the only way to regulate America's race relation is through "law and order" and it will be effective by implementing it through "stop and frisk" tactic (Guilford and Merelli). Thus, his view was the same as Richard Nixon's. He thinks that only through "stop and frisk", the American government can eradicate crime rates.

It can be concluded that race-based practices date back to the 1700s with the first encounter between black Africans and the US criminal justice system. It is developed by the 1980s under a new name "racial profiling"; concerning its name, it is a new one, but as a practice it dates back to slavery. By tracing its roots and analyzing its evolution, explanation started by profiling, criminal profiling, and a series of developed profiles- Drug courier profile, skyjacking profile, and drug courier Airport profile. Since the watershed day, the 9/11 attacks, racial profiling has become the most debatable issue. Arguments against and in favor of racial profiling are provided, yet each president has his own perspective toward the issue.

Endnotes

1. The “Triangular trade” or “the Atlantic slave trade” operated from the Sixteenth to Nineteenth centuries. It was a purchase system that carried slaves, crops, goods such as Tobacco, rum, and cotton between West Africa, Europe, American Colonies, and Caribbean. More clearly, slaves were purchased in Africa with European goods, then sold in the Caribbean and America Colonies and the profits used to ship Tobacco, rum and cotton back to Europe (“The Triangular Trade”). Web.1 May 2017.

2. It is one of the civil rights movement’s acts. It ended segregation in public spaces and forbids any discriminatory practice over African Americans (“Civil Right Act of 1964”). Web. 1 May 2017.

3. It is an act that gives African Americans the right to vote and outlaws any racial segregation over them in voting (“Voting Rights Act of 1965”). Web. 1 May 2017.

4. It is a search warrant that gives the police officers permission to enter suspicious houses without knocking the doors in order to catch the illegal objects before being hidden. (“No-Knock Warrant”). Web.1 May 2017.

Chapter Two

African Americans, Latinos, and Arabs Facing Racial Profiling

The contemporary issue to be discussed is not about targeting people of color only, but it is about racial profiling, the practice of targeting minorities such as African Americans, Arabs, Latinos, and Asians and the obvious unfairness toward them compared to white Americans. Attention in this chapter will be given to the three major ethnic groups in America - African Americans, Arabs, and Latinos, taking into account the degree of how disproportionate numbers of these minority groups suffered from racial profiling.

In this section, the American Criminal Justice System's procedures that were adopted to address minorities will be explored and its efficacy in maintaining order and realizing public safety in the US will be questioned. It will also provide cases as evidence to confirm the fact that racial practices violate the human rights of American citizens who belong to minorities. It will equally examine and analyze different statistics to show the disproportionate rates of incarceration within racial groups although the majority of them are victims, while lower rates of incarceration are found in the white population.

2.1. African Americans

Throughout history, the black race has suffered from systematic humiliation, discrimination, separation, and unequal treatment. Slave patrols, black codes, and Jim Crow Laws were the worst policies directed to communities of color. Civil Rights Congress, in 1951, shows that (Harrison). The high scales of dramatic incidents within African Americans encouraged them to protest against regular discrimination. In the mid-1950's, blacks gained social status and enjoyed some rights that improved their life conditions.

In the late 1960's and 1970's law enforcement officials created some characterizations and profiles to identify criminals and illegal drug traffickers. In their investigation process, police officers profiled people of color on the basis of the belief that blacks were the source of

crimes and criminal behaviors in America not because of reasonable and real suspicion (Taylor 3). Later, agencies developed different profiles of skyjackers, drug couriers, and carjackers in which they based on race according to their selection of suspects (Brown and Jantzi). In their searches and stops, the officers of laws devoted specific scrutiny to specific groups such as African Americans.

The “war on drugs” paved the way for racial profiling and helped in escalating the use of skin color by police agencies. The need for public safety requires great efforts to fight criminality which develops primarily from the impact of narcotics on person’s health. Based on the assumption that minorities commit variety types of crimes (“Wrong then, Wrong Now” 5), the US government uses profiling and follows strict programs aimed at stopping, searching and arresting any suspect of carrying drugs in airports, highways, and streets. In 1986, it adopted pretext stops which became the core of racial profiling debate (Harris “Driving while Black: Racial Profiling on our...”).

The consequences of policies and practices that adopted under the framework of “the war on drugs” marked a noticeable change in the criminal justice system (Mauer 98-9) and encouraged racist punishment toward blacks. The shift was about the high rates of imprisonment among communities of color presented in prison’s demographics. The Sentencing Project prepared a report for the US Commission on Civil Rights in April 1999, stating that “an estimated 400,000 inmates in the US either waiting trial or serving time for a drug offense, out of a total inmate population of 1.7 million” (qtd in. Harris “Driving while Black: Racial Profiling on our...”).

The escalation in the use of those practices by law enforcement officers intensified the rate of drug arrests of African Americans from 25% in 1980 to 37% in 1995 (qtd. in Harris “Driving while Black: Racial Profiling on our...”). In his article “Addressing Racial Disparities in Incarceration”, Mauer states that threefold increase in drug arrest scale from of

581,000 in 1980 to 1,663,000 by 2009. As a result, it raised the rate of imprisonment from 41,000 prisoners in 1980 to almost 500,000 prisoners by 2003 (94). From both studies, it seems that the governmental efforts to maintain safety in the USA promote and preserve the issue of race, specially, in the American criminal justice system. The figure below shows the rate of drug arrest according to race from 1980 to 2007.

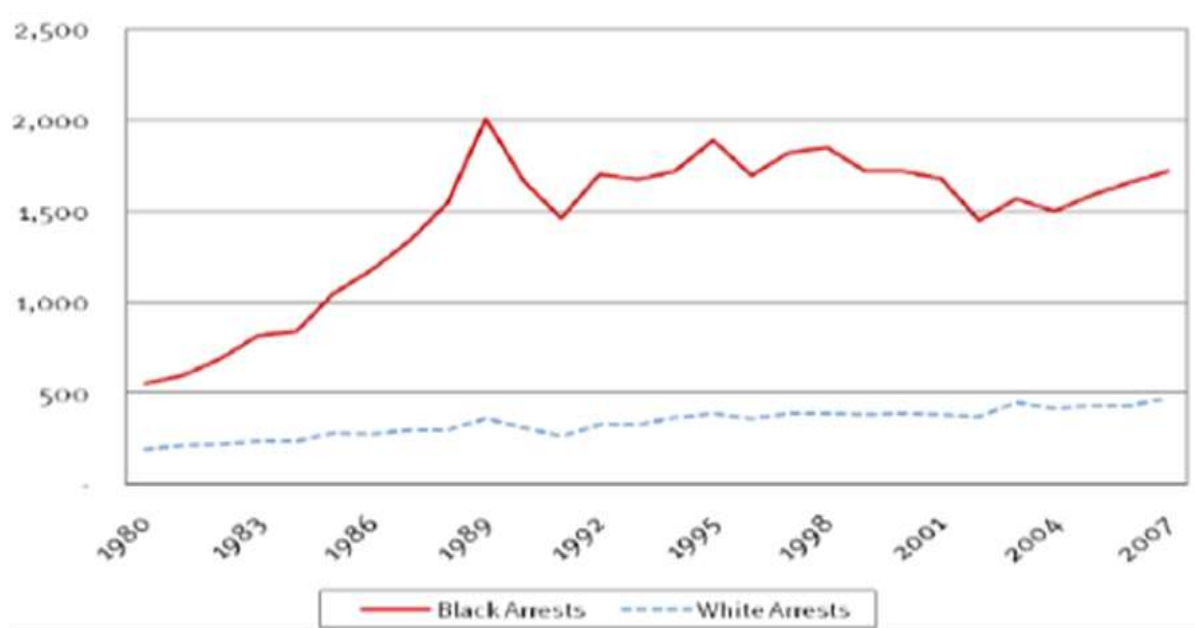


Fig.1. The Rate of Drug Arrest According to Race (Hill 20). Web. 9 May 2017.

In addition to increasing numbers of drug arrests and incarceration of people of color, the scales of sentencing decisions also escalated. Cassia Spohn, a sentencing scholar, finds that decision makers did not manipulate race only in arresting or imprisoning African Americans, yet they used it in deciding the type and the term of sentencing. For them, it differs according to the race of the offender either he is a white or a black person. This can be illustrated by the most powerful federal policies – sentencing decisions - adopted by Congress in 1986 and 1988 concerning the two forms of cocaine - powder and crack-: an offender of powder cocaine incarcerated 5 years for selling 500 grams, while an offender of crack cocaine incarcerated 5 years for selling or possessing only 5 grams, before raising it to 28 grams in 2010 (Mauer 94).

2.1.1. Driving while Black - or Brown - as Way of Racial Profiling

Recently racial profiling has become a pervasive practice against minority groups and gained public attention under the guise of “Driving While Black”. It is viewed as black issue due to two points; the focus is only on African Americans and the police stop and arrest them not because of real offences, yet just because of their skin color (Harris “Driving while Black: Racial Profiling on our...”).

Concerning the African American case, “Driving While Black or Brown” is the heart of racial profiling debate. When police officers are involved in DWB, they target people of color particularly black drivers without reasonable traffic violation or real crime. According to police officials , drivers are stopped, arrested, interrogated, and searched not only on the basis of their skin color - being black - , but also on the basis of the degree of their blackness. Thus, the degree of criminality increases vis-à-vis the rising degree of their blackness.

High numbers of blacks are pulled over while driving and subjected to vehicles’ searches in order to seize contraband or weapons, but most of them are targets and victims (Harris “Driving while Black: Racial Profiling on our...”). The following case confirms the above statement: on June 14, 2008, in Newark, New Jersey, the police officer stopped a car ridden by three African Americans, two youth, and their football coach Kelvin Lamar James. He pulled its riders out waiting under the rain to investigate it (“ACLU-NJ Sues Newark Police for Illegal...”). The officer’s investigation went in vain because no illegal drug was found in the car. The coach condemned the officer’s practice and viewed it as a violation to his right. The case represents that African Americans have been victimized on the basis of wrong and injustice assumptions.

2.1.2. Major Cases of Racial Profiling within the Supreme Court

Despite the fact that the use of traffic violations, such as pretexts, by police to conduct stops and investigations for suspects is unconstitutional (Alexander 68), the Supreme Court

decisions in all the cases aimed at increasing and enhancing the power of the police agencies and reducing the rights of citizens belonging to communities of color (Adams-Fuller 1). In the case of *Whren v. United States* (1996), the Supreme Court ruled that it is not violation of the Fourth Amendment when law enforcement officer stops driver for committing traffic violation regardless to the real intent of the stop which can be a stop for search not for law offence (Kamalu 193). In other words, if the driver commits minor traffic violation and the officer observes it, the latter can stop the driver apparently for the purpose of enforcing the traffic laws, yet the principal purpose behind the stop is the investigation of the car.

In the same year another case happened. In *Ohio v. Robinette* case, the police officer singled out Robert Robinette based on traffic violation, speeding, and issued a warning to pull him out and investigate the car (Alexander 68). After the search, the officer found a small amount of illegal drugs, such as marijuana and methamphetamine (68). As a result, the Supreme Court ruled that it is not a violation of the Fourth Amendment, if the law enforcement officers did not inform the suspect that there was no official permission that allowed them to investigate the car (Adams-Fuller 1), and the police can use traffic violation to stop drivers and search them regardless if there is a real evidence of the existing of drugs on the car or not (Alexander 68).

In 1997, the right of pulling passenger out of a car with or without reasonable cause was added to the police due to the Supreme Court decision in *Maryland v. Wilson* case (Adams-Fuller 1). On April 5, 1999, in *Wyoming v. Houghton* the Court decided that driver's personal items, purse, can be searched by the police after any legitimate arrest even though the passenger had no traffic violation or no involvement in any crime (“*Wyoming v. Houghton*, 526 U.S. 295...”). As shown in the above cases, although the practices of the police officers were misconducted, judicial decisions were gained extra power that helped them to do it in a comfortable way.

In the African American case, males are the largest category that suffers from racial profiling (Newport), particularly young males who are viewed by the police as the category that engaged in illegal activities and described as assailants (Simmons 26). In a study conducted in the United States from September 24 to November 16, 1999 based on randomly selected sample composed of 2,006 adults' telephone interviews shows that nearly three-quarters of young black males aged 18-34 were most likely to be stopped by police because of their race with a small percentages of both old black women and men (Newport). In addition to the race, age also is an important factor to be used by officers of law when deciding who to stop.

According to police officers, there is no consideration to black person's occupation, level of education, and income during the process of conducting stops and searches (Newport). Alvin Penn, an African American deputy president in the state Senate, was stopped in 1996 by the police officer Trumbull who ordered him to stop the car and checked his license and registration, and then he interrogated Penn about the name of the town he was in (Harris "Driving While Black: Racial Profiling on our..."). When he asked the police officer about the real reason behind the stop, Trumbull told him if he strove to make it a big issue he would give him a ticket of speeding (Harris "Driving While Black: Racial Profiling on our..."). Penn's position as state senator did not prevent the police officers from stopping and interrogating him.

2.2. Latinos

Writing about Latino or Hispanic, Racial profiling requires deep knowledge about their origin and history. The status of Mexican Americans in the United States should be analyzed from its beginning and also before and after the awful attacks on the World Trade Center on 11 September 2001. This part also analyzes the negative policies and procedures applied by law enforcement officials against Latinos. Finally, a series of cases that reveal the

victimization of Latino population by the law enforcement officers are mentioned in this case of study.

2.2.1. Historical Context of Latinos' Presence in the USA

History of Latinos is rich and varied. They lived in America long before the Pilgrims' ship the *Mayflower* landed on the Plymouth Rock¹ and Jamestown in 1620 (Korrol 5; Alamillo 1). Their origins began before the massive immigration to the United States (Korrol 5). It started when their settlements were established in Florida, Texas and New Mexico (Alamillo 1), immediately after the coming of Christopher Columbus to North America in the late 1400s and 1500s ("Exploration of North America"). According to Latino Americans, a documentary series that chronicles the 500 years history of Latinos in the United States and their experiences, Latino history is presented in timeline of important dates from 1565, the first coming of European settlers in St. Augustine, Florida to the present day ("Latino Americans" 30-7).

Vicki Lynn Ruiz, a professor of history and Chicano/Latino studies, distinguishes three crucial historical moments that helped understand the early Chicano history that led to the current status: 1848, 1890, and 1948 ("Why Latino History Matters to US History"). Ruiz exposes the thresholds as follows: firstly, from the creation of the first European community by Spanish in 1565 in Florida to 1848 the end of Mexican-American War with the peace treaty of Guadalupe Hidalgo, secondly, 1890 which was characterized by the US-Spanish conflicts over Cuban independence which is reflected in the Filipino-Cuban-Spanish-American War that ended by the independence of Cuba and the US possession of the Philippines, Puerto Rico, and Guam ("Spanish-American War"), thirdly, the 1940s that marked the struggle over civil rights through protests ("Nuestra América..." 656-62).

After 1948, during Harry S. Truman's presidency, a series of immigration policies and laws was enacted to improve immigrants' conditions and welcome the process of

immigration to the United States (Laque 6). The positive shift of the Immigration Acts increased the number of immigrants and created an unbalanced ethnic composition within the American society and economic problems that altered the direction of those policies from being inclusive to being restricted (8). The figure bellow presents the historical context of immigration legislatives in the United States.

<i>Time Period</i>	<i>Legislative Action</i>			
	<i>Restrictive</i>	<i>Enforcement</i>	<i>Inclusive</i>	<i>Neutral Governance</i>
1790-1900	13 (48%)	9 (33%)	3 (11%)	2 (7%)
1901-1940	13 (37%)	11 (31%)	5 (14%)	6 (17%)
1941-1960	4 (11%)	5 (13%)	26 (68%)	3 (8%)
1961-1980	9 (24%)	1 (3%)	22 (59%)	5 (14%)
1981-2006	12 (34%)	8 (23%)	15 (43%)	0 (%)
Total	50 (29%)	33 (19%)	71 (42%)	16 (9%)

Restrictive: policy established some measure which prevented or otherwise restricted the legitimate immigration of individuals or any group thereof; Enforcement: the policy established some provision which enhanced the enforcement capacity of government in response to immigration; Inclusive: the policy relaxed or made easier the ability to immigrate to the US for all or specific groups of migrants; Neutral governance: the legislative action did not accomplish any of the above classifications constituted some other change to government involving immigration by way of policy directive.

Fig.2. Distribution of US Immigration Legislative Actions by Historical Period from (Laque 7). Web.1 June 2017.

The table above shows that the immigration legislative actions varied over time. The lenient policies reached their peak in the period from 1941 to 1960 in which they attained 68%. Whereas the most restricted laws were in 1790-1900, 1901-1940, and 1981-2006. The shift in the direction of immigration policies demonstrates the unstable perception of the American government about Latinos.

2.2.2. The September 11 Attacks and the American Immigration System

The American immigration system is varied and requires a deep analysis to be understood. Since the terrorist attacks were foreigner-made hijackings mainly Muslim terrorists, national attention was directed to non-American citizens or immigrants as an

attempt to prevent future attacks (Chishti and Bergeron). According to Smith's paper "US/Mexico Border and Illegal Immigration: Policy Analysis", the immigration system can be discussed and analyzed in accordance to the September 11, 2001 terrorist attacks in which he distinguishes two separate sections to examine the system: Pre and post-September 11, 2001.

The enacted immigration policies before the attacks varied from one administration to another from inclusive to restrictive. The radical change happened after the dramatic 9/11 attacks. For example, Harry Truman's administration encouraged immigration in America through the "Truman Doctrine" that supported immigrants and prohibited the use of race and ethnicity in decision making (Laque 7-8).

After the terrorist attacks, the American government found itself in need for adopting harsh policies against immigrants specially in its airlines to provide more security to its borders, particularly US/Mexico borders in order to keep the US safe from future foreign attacks (Smith 10). The threat that resulted from the bombings increased the police profiling and discrimination against minorities particularly Arabs and Latinos. Despite the fact that the terrorists prominently were legal residents, government's focus since the attacks was devoted more to the southern borders to restrict the immigrants' movements, prevent the illegal ones from entrance, and deport non-criminal migrants from the USA (Hesson).

2.2.3. Fighting for Rights or Fighting to Revive their History?

The Latinos' knotty problem within the American society is about the denial of their history as first settlers in the New World. While they are struggling to revive the fact of their presence in what is now known as the United States, both Europeans and Americans not only neglected this fact, but also negatively created stereotypical perceptions about them (Allamilo 1). The eraser of the bright history of Spanish in the USA caused by the European Empires competition, mainly the British Empire, over the New World when they stressed the

discussion over the Thirteenth Colonies as the foundation of the American Revolution (Ruiz, “Nuestra América...” 656). Latinos’ issue initiated when new Europeans came to the USA, established colonies, and neglected all what had been done before their coming.

The Black Legend is the perfect evidence to prove the validity of the hatred sentiment of Europeans toward the growth and achievements of Spanish Empire in America (Ruiz, “Nuestra América...” 656). The term was firstly used by the Spanish historian Julián Juderías in his book *La Leyenda Negra* to express his disappointment and allegation about the act of falsifying the history and reality of Spanish people in the USA. It was defined in Gibson Pamphlet as “accumulated tradition of propaganda and Hispanophobia according to which Spanish imperialism is regarded as cruel, bigoted, exploitative, and self-righteous in excess of reality” (qtd. in Keen 708). The Black Legend refers to the process of denying Spain’s heritage and providing a distorted image about Spain and Spaniards.

The current status and sufferance of Latinos is not a temporary issue. It is the reflection of the Black Legend within the society which is characterized by the negative stereotypes that complicate their life and make it disruptive. In the *New York Times*, Tony Horwitz states, “If Americans hit the books; they’d find what Al Gore would call an inconvenient truth. The early his-tory of what is now the United States was Spanish, not English, and our denial of this heritage is rooted in age-old stereotypes that still entangle today’s immigration debate.”

He points out that ignorance of Spanish truth is old, yet it is highlighted when the debate over immigration prevails in America. He concludes that the Black Legend and its stereotypes about the past of Spanish still reflects their social life, especially, and causes their current events facing unlimited harassment, mistreatment, and unequal punishment.

2.2.4. Racial Profiling of Latinos

Latinos are among the major ethnic groups that experience the negative practices of law enforcement agencies. Like blacks, disproportionate rates of Latino are criminalized during the “War on Drugs” on the basis of ethnicity and race. Police officers target Latinos, deport, stop and arrest them just because they are under the suspicion of being undocumented immigrants (Harris *Profiles in Justice* 130). Whether these Latinos legally reside in the USA are criminal committers or not, they are racially profiled by the police especially at the borders.

2.2.5. The Drug War Drives Mass Deportation and Large Incarceration of Latinos

The Drug War affected all ethnic groups in America. Concerning Latinos, police detained large scales on the basis of ethnic appearance, negative stereotypes, and Mexico phobia² (“Racial Profiling...”). The Illinois state police in Chicago was the first to launch the targeting of drug traffickers. The first couriers that they arrested were young male Latinos (Nittle 4). Later, this new policy continued to be applied in other different states in which by 1999 the DEA seized 983,643 illegal narcotics (4). Thus, the war on drug promoted negatively the police practices and tactics over them.

The status of being lawful or unlawful immigrant in the USA during the war of drugs, is enough to be stopped and arrested by police officers. In this context, the federal government enhanced the law enforcement agencies’ efforts in arresting and detaining innocent Latinos because of their physical appearance, such as clothes style, skin color, and accent (Rushing 2). Among the people who experienced racial profiling by law enforcement officers was Angel Francisco Castro-Torres. While he was riding his bicycle, on the basis of his look two police officers stopped and beat him (“Angel Francisco Castro-Torres v. Jeremiah M. Lignitz...”), unlike Tiburcio Briceno who was arrested because of his Mexican accent (Rushing 2).

The latter demonstrates the power that was given to police to stop, seize, and search Latino without reasonable suspicion (Harris 130-31). What is more is that the Supreme Court explicitly gives the law enforcement officers the permission to stop suspects on the basis of Hispanic or Mexican characteristics. This resulted in the use of ethnicity and race by the police officers toward immigrants even though the police agency is not concerned about Immigration (132). It is presented well during Obama's presidency when he enforced a program in which police officers granted the power to be as de facto immigration agents even though it is not their responsibility.

The pernicious practices of officers of law during the drug war resulted in a high number of incarcerations and deportations of Latinos. Harsh punishment, such as deportation and detention, were devoted to non-citizens and legal permanent residents for minor violation of narcotics laws ("The Drug War and Mass Deportation" 1). The same article shows that the US government has deported more than 250,000 for drug offenses since 2007, and most of them have been deported for no reason ("The Drug War and Mass Deportation" 1). In 2011, 38 percent of Latino received mandatory minimum sentence and 31 percent for blacks ("The Drug War, Mass Incarceration and Race").

The growth of rigid immigration laws and the progressing number of deportees from America increased every year. In *The Huffington Post's* research concerning the nature of relationship between the corporate benefits and the growth of inmates' rates in Arizona, Kirkham states: "... In this southern Arizona community, private prison companies share the spoils of their business with the local government, effectively giving area law enforcement an incentive to apprehend as many undocumented immigrants as they can" (qtd. in Hesson). This means, the real reason behind the huge scales of deportation is the result of profit private companies' aim of gaining more financial benefits from the government through promoting them by sharing the benefits together.

2.2.6. Latinos' Cases with Racial Profiling

Approximately all Latinos who have experienced racial profiling were victims of officers of law by which they stopped them just because they fit the illegal immigrant profile. Venecia Zavala, Celso Vazquez and Juan Gonzales were among the people who faced this negative racial practice - approached by police and asked for their citizenship - despite the fact that they were documented immigrants (“Racial Profiling as a Means of Thwarting the Alleged Latino...”). Filiberto was one of the innocent unauthorized immigrants; he had resided in the USA for more than sixteen years. He worked as a mechanic in Gwinnett County, Georgia, (“The Persistence of Racial Profiling...” 12). He was stopped by the police officer, asking him about his driving license and documents about his immigration status. He received a ticket and was arrested in the Gwinnett County Jail (12). Having Latino appearance is enough to be subjected by police regardless of immigration status.

From the above experiences, one notices that after 11/9 attacks, incidents related to racial profiling rose remarkably due to many causes. One of the reasons that empower the local police officers' race-based practice toward Latinos is the responsibility that is given to both state and local law enforcement agencies in enacting immigration policies (“The Persistence of Racial Profiling...” 6). The program 287(g) was firstly practiced in 2002 in Florida, and it permitted local officers to enforce legislatives concerning immigration (Saunders 2). In addition to 278(g) program, there is another federal program Senate Bill 1070 “Support Our Law Enforcement and Safe Neighborhoods Act” enacted in Arizona in 2010, it is composed of a set of provisions aimed at intensifying efforts that eliminate illegal aliens in the USA (2).

2.3. Racial Profiling against Arabs and Muslims in the US

The Arab-American population across the United States is one of the fastest growing and diverse ethnic groups in the United States over the last decade. Throughout the history of

Arab immigration to the USA, Arab Americans have faced a series of issues and challenges - identity, belongingness, race, culture, religion, nationality, origin, and physical appearance - the same way other minority groups suffered. However, the Arabs' problem within the American society reaches its pick, immediately, after the terrorist attacks of 9/11 on the World Trade Center. Consequently, the US government directed its attention specifically for them because it believed that it had been an Arab-made attacks (Elver).

This part of the chapter concentrates on the most prominent issue related to Arab Americans. It explores the roots of racial profiling of this ethnic group and its manifestation before and after the terrorist attacks of September 11, 2011 on both national and local levels. After studying, analyzing and tracing Arabs' history in the USA and their suffering that resulted from racial profiling, this part discusses four main areas: the first one provides the historical background of Arab Americans, their early waves of immigration. The second one concerns their status within the American society and their pervasive stereotyped images in all aspects and domains of life before the catastrophic events of September 11. The last area investigates the implication of the 9/11 attacks on the American society and how it is reflected against the Arab Americans lives.

2.3.1. Historical Overview of Arab Americans

Like African Americans and Latinos, the Arabs' historical overview is traced from the earliest waves of immigrants until their present day descendants in addition to the development and changes of their immigration status in the American society. Their history in the United States started in 1528 when the first recorded Arab slave speaker "Zamouri" who came from Morocco and known by his slave name Estebanico, was brought to the American soil by the Spanish explorers (*Arab Americans...3*).

Started from the 1800s, several documented waves of immigrants from different Arabic-speaking countries settled in the United States (Eraqi 58). According to many sources,

waves of Arab immigration to the United States were divided into three (Elver 126). Not like the other immigrant groups, Arabs settled in America separately, in waves during several periods of time from diverse countries and continents. Consequently, each wave has its unique characteristics and its own factors and causes that pushed its members to leave the country.

2.3.1.1. The First Wave of Immigration

Different reasons, different regions, and different events led Arabs to immigrate to America in distinctive periods of time. The earliest waves of Arab immigrants started in the late nineteenth century approximately during the period 1880-1924 and all its members were from Greater Syria, an Ottoman province at that time that currently encompasses the present day countries known as Syria, Lebanon, parts of Iraq, Jordan, Palestine, and Saudi Arabia (*Arab Americans...*7; Eraqi 58). The majority of them were uneducated Christians who left for America as a result of economic, political, and social difficulties in their mother countries such as conflicts, wars, discriminations, hard economic circumstances, and bad social conditions (Semaan 22; Özdil 4).

2.3.1.2. The Second Wave

The second wave is totally different from the first one. It occurred in the aftermath of the Second World War as a result of the 1948 Palestine/Israel war and Egypt, Lebanon, Jordan, Iraq, and Syria's revolutions. They were both Muslims and Christians, highly educated, and politically active (Esber 1; "Arab American History"). Immigrants of this wave contributed to the shaping and emergence of Arab American identity and involvement in American politics on national and local levels ("Arab American History"). So, compared with the first wave, the second one witnessed a population that was more diverse and more literate.

2.3.1.3. The Third Wave

Concerning the third wave that extends from the 1970s to the present, Arab immigrants went to America after the enactment of the Hart-Cellar Act in 1965 that terminated all the immigration restrictions and limitations that were based on nationalities and origins (*Arab Americans*... 11). More than this, the successive wars in the Middle East region such as the 1967 Middle East War, the Lebanese Civil War, the protracted war with Iran, the first and second Gulf Wars- and the cloudy political climate caused the huge migration to the US (Esber 1). Furthermore, immigrants within the last wave had a strong Arab identity, good political participation, and high level of education (Elver).

The political, economic and social circumstances of the Middle East acted as a catalyst that pushed Arabs to immigrate to the land of opportunities. After three major waves of immigration, the Arab American population increased. Consequently, by 2011, it reached 3.6 million people as it is quoted in Eraqi's dissertation, "Census records and data collected by the Arab American Institute suggest that there are approximately 1.7 to 3.6 million Americans of Arab decent in the US" (qtd. in Eraqi 57).

2.3.2. Arabs' Status in the US before and after the 9/11 Attacks

Discrimination against Arabs is not a new tradition in the United States. It had started long before, when the early waves of immigration foot stepped this continent. The feeling of hatred and violence against them grew during years, whereas the 9/11 incident resulted in an unprecedented upwardly level of discrimination. This work then sheds light on how Arabs, differently, suffered from negative sentiment within the American society in the pre and post-September 11 events and its effects that altered their living conditions.

2.3.2.1. Media's Influence on the Portrayal of Arab Americans before and after 9/11

The mass media has a great influential role in shaping and altering the viewpoint of Americans for Arabs. Concerning the case of Middle Easterners, from their earliest years on

the American soil, Western media negatively created harsh, exotic, and ugly depiction of Arabs using bad conceptions and images. Sadly, in the post-September 11 period, US negative perceptions toward Arabs were prevailing and resulted in unexampled degree of backlash, discrimination, force, violence, segregation and aggression.

2.3.2.2. The Stereotypical Image of Arabs in Hollywood in the Period before 9/11

The bad representation of Middle Easterners had been manifesting in American rhetoric long before the 9/11 terrorist attacks. During the earliest days of Hollywood, Filmmakers portrayed Arabs, firstly, as “comic villains,” and then, as “foreign devils” (Arti 1). Also, it mentioned that on American TV Arabs were pictured as “baddies, billionaires, bombers, and belly dancers” (Semaan 17). After analyzing and scrutinizing the Arabs’ defamation³ from the earliest days of cinema to 2001, it concludes that Middle Easterners were figured in Hollywood oddly, harshly, uncivilly, and roughly, and year after year their depiction became worse (Arti 3).

Subjects and topics featuring and depicting Arabs previously were displayed in numerous forms of media. According to Jack Shaheen, writer and lecturer specialized in addressing racial and ethnic stereotypes against Arabs-, Easterners were described negatively through plenty forms of media including editorial cartoons, television shows, comic strips, comic books, college and school textbooks, novels, magazines, newspapers and in novelty merchandise (qtd. in Semaan17). Kamalipour, professor of communication, also states that the image of Arabs was stereotyped through the pervasive portrayal on “radio, television, movies, scholarly works, and academic textbooks” (19). In the process of stereotyping and characterizing Arabs exotically, Americans depend on various types of media.

2.3.2.3. Arabs in News before and after the 9/11Events

The tragic events of September 11 totally changed the lives of Americans especially Arab Americans. Middle Easterners suffered a lot within American society, but after the 9/11

attacks their sufferance became harder because of the belief that the perpetrators of the terrorist attacks were from Arab descent. Consequently, the status of Arab Americans within American society was altered from unpleasant, odd, and uncivilized ethnic group to be considered the source of violence, threat, danger, and terror.

The media, one of the most influential means in America, was affected too and it is manifested in the amount of articles, shows, news, and discussions about Arabs in relation to the attacks. Taking news as an example, the distinction in the use of the word Arabs during the two periods, pre- and post-9/11, was apparent. In Amraoui and Benguedih dissertation, a surge was presented to demonstrate how much the word Arabs was mentioned in American news six months before and after 9/11 tragedy. The statistics shows that the mentioning of the word Arabs in major American news including CBS News, CNN, and *New York Times* increased from 27, 43, and 345 to 117, 200, and 1272, respectively. (Amraoui and Benguedih 41). So, according to journalists, before 9/11 Arab Americans were just a minority group like other minorities and in their articles, they tackled issues related to African Americans, Latinos, and Arabs equally. Whereas in the post-9/11 context, Middle Easterners turned to be the focal point in news discussions because they became the most dangerous enemy of the US.

Arab American females, especially Muslim females, were affected too by the terrorist bombing of September 11. After analyzing and examining Western media's representations of Arab females in news during post 9/11 era, numerous stories about the oppression of Muslim women were detected (Alsultany 165). The overwhelming majority of stories were about their physical appearance; exactly their religious wearing known as Hijab. A year after the bombings, the majority of newspapers headlines were about Muslim women and their veils such as "Lifting the Veil," "Free to Choose," "Unveiling Freedom," "Under the Veil," "Beneath the Veil," and "Unveiled Threat" (165).

Western media contained unlimited number of shows, episodes, films, and movies that depicted middle Easterners. Shaheen stated that after analyzing and examining all the different shows and episodes, there were four prevailing myths about Arabs: “They are all fabulously wealthy; they are barbaric and uncultured; they are sex maniacs with a penchant for white slavery; they revel in acts of terrorism” (qtd. in Semaan 19). Western media applied four main dominating myths when depicting Middle Easterners.

2.4. The Effects of 9/11 on Racial Profiling

In the aftermath of 9/11, US government under George Bush announced the “War on Terrorism” in order to prevent any future terrorist attacks that threatened American public safety and peace. Efforts of the United States that were aimed to enhancing public security required an increased power of surveillance in the American society including minority groups’ communities particularly the Arab American community.

The adopted procedures and policies under the pretense of “War on Terrorism” intensified the practice of all sorts of discrimination, interrogation, investigation, arrest, imprisoning, confinement, and deportation against Middle Easterner Americans exclusively. The above hate acts that targeted Arab Americans were what is called racial profiling; the use of race, ethnicity, origin, and skin color as basic characteristics for targeting individuals (“Actioned Bias...” 3).

2.4.1. Ostracism of US Arab Population Following the 9/11 Tragedy

In the post 9/11 period, Middle Easterners were targeted, investigated, and detained by law enforcement officials, openly. In contrary, post 9/11 measures were merely attempts for implicit “de-Americanize” the Arab Americans population from the American community. It was clearly stated by a commentator, “what has been happening to Muslims, Middle Easterners, and South Asians in the United States in the wake of September 11 is a process of ostracism from the American community - a de-Americanization process - that we have witnessed before”(qtd. in Audi 2). It means that the hateful acts, bad treatment,

discriminations, and searches and raids directed to Arab Americans aimed not to just monitoring Middle Easterner population's actions to prevent further threats, but to achieving the process of de- Americanization.

2.4.2. Immigration Policies after the 9/11 Attacks

The United States is the country that witnessed the overwhelming majority of immigrants over years. It saw a quick growth for both documented and undocumented immigrants. Consequently, this brought the US government to pass new laws to stop the unlawful immigrant from entering the country. US immigrants were from Europe, Africa, Asia and South America, and the majority of unlawful foreigners were from South America that's why the government's concentration, firstly, was devoted to US-Mexican borders.

However, after the 9/11 events, the enactment of policies turned to Arab Americans and some South Asian Muslims. The shift was due to the belief that the attacks were committed by Arab Muslims under the guidance of Osama bin Laden, the founder of al-Qaeda, the militant organization that claimed responsibility for the 9/11 attacks on the United States (Amraoui and Benguedih 57).

Most of US government's policies, up to September 11, were devoted to migration laws and policies. The enacted laws apparently were applied to all immigrants but practically were applied almost to Arabs, Muslims, and South Asians. After the terrorist attacks, the Immigration and Naturalization Service directly passed a policy that advocated strongly American citizens who were born in Middle Eastern countries to register their locality in their local INS office (Bonikowski). The registration policy was the first step that facilitated the investigation and identification process.

In January 2002, the Alien Absconder Initiative was announced by the Department of Justice aiming at identifying and deporting 315000 undocumented immigrants who dismissed court orders to leave the US (Christencen 4). It is clear that immigration policies complete

each other because the registration program assisted the Alien Absconder Initiative in its deportation procedures of Arabs by identifying their whereabouts.

2.4.3. Airline Discrimination

“Flying While Arab” was the most common sort of racial profiling practiced since the attacks of September 11. As a result, it heightened discrimination at airports particularly over passengers who were perceived to be Arabs or Muslims. For example, 80 reports of illegal airline discrimination were sent to the Arab-American Anti-Discrimination Committee in the year after the attacks. Also, dozens of airline passengers who fit the Arab and Muslim profile were singled out and even removed from flights (Alsultany 161). Hundreds of passengers received discrimination at air transportation merely because their physical appearance was like Middle Easterners.

2.4.4. Workplace Discrimination

Post-September 11 era witnessed various forms of discrimination, segregation, and oppression in all fields of life. In addition to the already existing troubles in the employment arena, the 9/11 attacks caused intensified problems and harassments to Arab Americans at workplace. They accused Arabs, Arab Muslims, and South Asians of destroying and bombing the World Trade Center, pushed coworkers and managers to harass employees who hold the aforementioned nationalities at work by calling them “Osama,” “al Qaeda,” “Taliban,” and “dumb Muslim”, and instead of writing their names in key holders, they wrote “Osama Binladin,” “Alkaeda,” and “Taliban” (Audi).

2.4.5. Religious Discrimination

According to the First Amendment of the US Constitution, the right of exercising religion is protected for all American citizens. Despite the fact mentioned above, the number of the religious discrimination charges against Arab American Muslims doubled from 1997 to

2005 (Audi). Although the practice of any religion is permitted, Middle Easterner Muslims were still criminalized for practicing one of their Islamic exercises intensively.

2.5. Racial Profiling of Arabs on National and Local Levels

After the bombing of the Twin Towers, the US government passed legislation that targeted Arabs and Muslims both inside and outside the United States. The Middle Easterners immediately gained special focus of investigation from federal and local law enforcement. So, racial profiling of Arab Americans in the criminal justice system became pervasive and systemized behavior on national and local levels.

2.5.1. On the National level

Following the horrible 9/11 attacks, federal law enforcement directly initiated new measures to deter and prevent future terrorist attacks. Theoretically, the measures were directed to all US immigrants, but in reality it was applicable, mostly if not totally, to Arab Americans. In their process of enhancing security all over the country, The FBI adopted different policies including investigations, searches, interviews, and raids of homes and even organizations.

After the brutal attacks, federal law enforcement immediately investigated 5000 young Arab men (Christensen 2-4). On October 26, 2001, the USA Patriot Act was enacted to facilitate the process of investigating -persons, homes, airline passengers, and even individual spending-, searching, seizing, raiding, detaining and confining, and deporting Middle Easterners (Bonikowski). Then in 2002, federal law agencies raided about 14 American Muslim organizations, and in 2004, the FBI conducted about 13000 interviews from Arab communities (2-4).

2.5.2. Local Racial Profiling of Arab Communities

The impact of racial profiling against Arab Americans affected them on the local level as well. According to the Department of Justice, the local law enforcement frequently

concentrated on Middle Easterners' communities in their counterterrorism campaigns (Christencen 4). In addition, in a poll presented by the Arab American Institute in 2002, 78% of Arabs who were surveyed claimed that their experiences concerning racial profiling intensified after September 11 (4). American public suspicion of Arabs pushed law enforcement officers to increase the identification of criminals, and the latter led them to devote extra attentiveness on Arab American communities.

Racial profiling of minority groups is by no means new; it has been a prominent feature in the lives of black Americans, Latinos, and Arab Americans within the United States for decades. Each of the above groups has experienced similar treatments during different periods of time only. Concerning Black Americans, racial profiling has become pervasive since the "War on Drugs" when law enforcement officers started practicing it under the guise of "driving while black". Similarly, Middle Easterners have experienced the same treatment following the tragic bombings of September 11, 2001, when President Bush declared the "War on Terror" to prevent future threats. Like Blacks, the phrase "flying while Arab" resulted in intensified discrimination and humiliation of the Arab and Muslim passengers. However, Latinos have experienced racial profiling powerfully in the aftermath of both the "War on Drugs" and the "War on Terror". As they fit the drug courier profile, they faced anti-Hispanic sentiment, and were fought because of their immigration status.

Racial profiling is among the most pervasive practices of the American law enforcement agencies. It is directed mainly to minority groups including African Americans, Latinos, and Arab and South Asian Americans aiming at protecting their nation, preventing terror, and remaining the order and security. Hundreds and thousands of racial policies throughout the American history were enacted to restrict minorities' activities and movements especially individuals who cross US border unlawfully. This specification is due to tragic bombings of 9/11 - resulted in more than 3000 murders - that changed the direction of laws

and policies to be over Immigration and US-Mexican borders. In the following chapter, a deep analysis was devoted to the most debatable and controversial law in American anti-immigration policy particularly the Arizona “Senate Bill 1070.”

Endnotes

1. Is a place in the New World where the first Pilgrims' ship Mayflower was landed in 1623 (Hunter). Web. 31 May 2017.

2. It is the sentiment of hatred, fear, discrimination against Hispanic people, Hispanic culture and the Spanish language ("Racial Profiling as a Means of Thwarting the Alleged Latino Security Threat"). Web. 5 June 2017.

3. It is a word used by Edward W. Said in his book Orientalism(1987) describing the degree of stereotyping image of Arabs by Western media (Arti 3). Web. 6 June 2017.

Chapter Three

Arizona's Senate Bill 1070: A Case Study for Racial Profiling

The United States of America is apparently known as the country of justice and equality. Besides, it has an open immigration policy throughout history for these reasons it attracts unlimited number of immigrants from all over the world. Unfortunately, the reality is that both equality and justice have not been achieved and anti-immigration law practice has become stricter. This has led to the suffering of minorities and immigrant groups from unequal treatment within the American society. In addition to the unfair treatment, mass of discrimination, acts of violence and race-based practices are experienced by major immigrant groups, mainly Latinos who are the focal point of discussion in this chapter.

Like other minorities, Latinos are targeted by the arbitrary US government decisions from their arrival to the land of opportunities. However, the most debatable and recent one is the Arizona's Senate Bill 1070 that gained attention at both local and national levels. The following chapter will discuss the practice of racial profiling against Latino immigrants and Senate Bill/ 1070 as the best case study of racial profiling in America, specifically in Arizona. It mainly discusses three crucial points in three separate parts.

The first part provides a historical overview about previous immigration policies directed to Latinos. The second identifies the backgrounds within Arizona that contributed to the enactment of the Arizona's law "Support Our Law Enforcement and Safe Neighborhoods Act", and analyzes the bill and the goal behind its creation. Concerning the third one, it discusses both the societal effects of the bill on Arizona and its immigrants -legal and illegal immigrants -, and eventually the acceptance and rejection of the bill by the public opinion.

3.1. Historical Background of the US Immigration Policies

Latino immigration, particularly undocumented immigrants, to United States is not a recent problem; it dates back to the establishment of US-Mexico national borders. The

modern-day proportion of unlawful immigrants is due to the ineffectiveness of the US immigration system. The historical part of the chapter investigates the progress of unlawful immigration. American immigration policy also will be analyzed mainly in two parts; all the policy had been occurred before and after the water shed attacks of September 11, 2001.

3.1.1. US Immigration System before the 9/11 Attacks

Immigration policy in the United States originates from the post-Civil War Era between 1865 and the 1870s when the number of immigrants had increased, yet the new transportation technology, advent of the steamships in the 1880s, had facilitated the travel to America. This fact justified the continual influx of immigrants (Smith 6). Following the end of the First World War, the US witnessed increased rates of European Immigrants compelling Congress to pass the “national-origins quota system” that limited the number of persons who would enter America as immigrants (7).

By 1924, the Department of Immigration Services created the US Border Patrol, then the Bracero Program was passed and lasted from 1942 to 1964 in order to provide temporary Mexican worker visas (Mandeel; Murphy 10). As a matter of fact, in the late 1950s, approximately 400 000 Mexicans were employed by nearly 50,000 farms and 17 powerful constituencies on US-Mexican borders (Kandel et al.7). This significant number reflects the increasing favor of such labor flow. It is obvious that from 1865 to 1964 the US procedures and measures were on immigration favor; the US policy encouraged a huge number of immigrants.

A shift was apparent in US policy after the passage of the Immigration Nationality Act of 1965 by Congress and followed by illegal flows of migration that seriously expanded over the next four decades (Murphy 10). The act was issued to stop Mexican’s temporary work visas, but unintentionally it intensified the number of unauthorized immigrants to the United States through giving visas to any illegal immigrants who could find a family to sponsor him

(10). Consequently, after passing the law, rates of undocumented immigrants witnessed a sharp increase and the US-Mexican borders were out of control. As a solution, the Reagan administration created the “Immigration Reform and Control ACT of 1986” to increase security, prevent employers from hiring illegal individuals, and punish disobedient employers (Osuna 145-6).

After 8 years Congress passed the Immigration Act of 1990. It authorized more spending at the border and expanded employment-based visas’ number followed by the Illegal Immigration Reform and the Immigrant Responsibility Act of 1996 that included many immigration enforcement provisions (Meissner and Hipsman). In his book, *US-Mexico Border and Illegal Immigration: Policy Analysis*, Smith states a variety of tactics, programs, and acts adopted in the 1990s to guard US border including: “Triple Strike,” renovated to “Operation Gatekeeper” in 1994 and later in 1999 to the “Operation Safeguard,” the “Immigration Reform and the Welfare Reform Acts of 1996,” and finally the “Operation Rio Grande” at the Texan border.

Despite the exertions, attempts, and the wide range of law enforcement acts and reforms of the US government to enhance security at the border to minimize and eliminate the high rates of illegal migrants, unauthorized population has increased threefold than before. As a matter of fact, according to the Pew Hispanic Center, the estimated number of undocumented immigrants increased from 3 million in 1980 to 11.9 million in 2008, a four-fold increase (“Hispanics and Arizona’s New Immigration Law” 2). Surprisingly, the results indicate the ineffectiveness of immigration enforcement policy and measures at US-Mexican border.

Due to the both the US failure in preventing the entry of unlawful immigrants to reduce their high rates and to the tragic WTC bombings in New York City, the American

government under George Bush's administration followed new directions and adopted strict measures.

3.1.2. Anti-Immigration Enforcements in the Post 9/11 Period

Before discussing Bush's new policies up to the terrorist attacks, it is crucial to mention his instructions and orders related to the American immigration system. After being initially elected in 2000, President George W. Bush immediately scheduled an appointment with the Mexican President Vicente Fox to accelerate successive efforts in order to cover the immigration issues (Smith 9; Murphy 20). As an initial step, on June 22, the two presidents announced a plan to constrain the fatal incidents on the US Southwest border with Mexico, and then in early September, before the 9/11 attacks, they implemented the "Partnership for Prosperity" as an attempt to promote the Mexican economy and improve employment at borders that tightened the unauthorized migrants (Smith 10).

The September 11, 2001 events changed the American policies particularly immigration and security enforcement. George Bush's concentration and concern were directed to United States national security and war on terrorism instead of anti-immigration policies. Directly after the 9/11, the "USA Patriot Act of 2001" was signed into law to allow US Attorney General to detain foreigners who threatened America's security, and "the Enhanced Border Security and the Visa Entry Reform Act of 2002" that constrained the borders (Pampel 20-21).

In addition to the Bush administration's new acts, different law enforcement agencies, such as the Federal Bureau of Investigation, helped the Government in its process of identifying and addressing illegal immigrants who were viewed as the source of threat by providing secret information about migrants; various funds were provided for the purpose of employing higher number of border patrol agents (Pampel 21). Despite the fact that these

measures were ineffective and just increased the discrimination against minorities especially migrants, government efforts extended regardless to the consequences.

The unsuccessful measures of the anti-immigration process and the attempts to stop and prevent individuals from entering the United States unlawfully pushed the government to implement three federal programs at both the state and the local levels including: the Criminal Alien Program (CAP), the Secure Communities Program, with the addition of the 287(g) program (Murphy 20).

The aim of these three laws was as follows: the first permitted prison agents in local and state jails to detain and confine the arrestee after his immigration status being determined; the second is a system implemented to preserve and share the fingerprints of arrestees with the FBI for the aim of checking their immigration status, and the third gave local officers power to enforce legislatives concerning immigration (Saunders 2, 21). It concluded that the 287(g) program paved the way for the most debatable law, the Arizona's SB 1070.

The year 2003 was marked by the institutionalized linkage between immigration policy and national security due to the creation of the US Department of Homeland Security; the establishment of the DHS -with its three bodies "Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE) and US Citizenship and Immigration Services (USCIS)-" led to the adjustment of immigration policymaking ("How US Immigration Policy has Changed Since 9-11").

In the aftermath of the 9/11 attacks, the congress devoted more concentration on border enforcement and migration control in which it passed five more laws related to immigration control in the period 2002-2006 (Smith 14). The US-Mexican talks, efforts, and attempts to enhance security at the border to reduce the unauthorized migrants were intensified and many agreements were signed, but problems remained the same if not getting worse.

The post 9-11 developments have been centered on talks between the two Presidents Fox and Bush to find a solution concerning the unauthorized Mexican immigration issue. The two

governments failed to find effective policies. Consequently, the attempts to improve security and economy were not successful.

3.2. What is the Senate Bill of Arizona?

Before this study sheds the light on what the Senate Bill of Arizona is, it attempts to identify what is meant by a Senate Bill, and how it is enacted? The bill is an introduced legislation in the United States Congress. It is enacted due to the issue and debate over the two: the high number of illegal immigration in Arizona State and its impact on Arizona and the social life of its citizens.

Like all American laws, the bill cannot be put into practice unless it is signed and approved by the majority of the House of Representatives and the Senate Committees who ensure and check whether the bill conforms to the general principles of democracy or necessitates some adjustments. Afterwards, it is moved to be viewed by the US president who decides to approve or disapprove it, and in the case of the latter, the process is called “enrollment”. It becomes an official law, only if the president does not perform a pocket veto and refuses to sign it.

The Senate Bill of Arizona, “Support Our Law Enforcement and Safe Neighborhoods Act” better known by “SB 1070” is regarded as one of the most debatable bills in the history of US anti-immigration laws. It was signed on April 23, 2010 by Arizona Governor Jan Brewer. It was directly intended to prevent, discourage, and minimize the illegal entry and the presence of Mexicans or Latinos through the Arizona-Mexican borders (“Arizona: The Key Players...” 1).

It was enforced by its policy which stands for “attrition through enforcement” meaning that it forcibly pushes people out of the state borders, however, by saying ‘pushing people out’ does not mean every person in the state must validate their legal citizenship in the

state, rather, it addresses people who have a “reasonable suspicion” of being illegally inside the state’s borders (“Arizona’s SB 1070: Fact and Fiction” 239).

According to Jan Brewer, the SB 1070 allows the local police enforcement officers to enact immigration laws; for example the police officers consider it “... a state crime for immigrants to be in the state without carrying their papers, and made it a crime to hire, rent to, or transport an undocumented person” (“Arizona: The Key Players...” 1). Existing in Arizona state unlawfully or just looking like an undocumented immigrant, or even transporting an undocumented person inside the Arizona state is considered a crime for assaulting the state’s laws, and in this case the person gets penalized either by arresting and deporting him, or by returning and transferring him directly to his state by the law enforcement agency for violating the law.

Immediately after signing the bill, public discussions were raised and numerous lawsuits were received by the Department of Justice claiming its legality (Hessick 43). The national debate over the constitutionality of the new law pushed the United States to ask for Preliminary injunction to enjoin the most rejected provisions (Pendley). On 28 July 2010, the United States gained Preliminary Injection and many provisions were enjoined, then on 29 July 2010, the State of Arizona and Brewer appealed to the Ninth Circuit (Pendley). Consequently, the Ninth Circuit affirmed and the questioned provisions were amended before their application and effectiveness (“Supreme Court of the United States” 1).

In addition to core provision of the Senate Bill 1070, there are other provisions that revolved around the same concept of illegal immigration. The bill basic sections include the following restrictions: the new immigration legislature – article 8- states that “No official or agency of this state or a county, city, town or other political subdivision of this state may adopt policy that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law” (“Senate Bill 1070” 1). Here, the bill strictly

prohibited the local agencies from violating the rules of this law or adopt any act that restricts its content apart from how it is explicitly cited by the federal law. In this case the legal citizens have the whole authority to sue any local agency or government if they violate the law. It also considers unlawful practice and violation for a legal resident who engages on harboring, concealing, employing, Procurement of transportation¹, smuggling human being and establishing deals with illegal immigrants or registering them (“Senate Bill 1070” 5-6).

It is clearly understandable that the Arizona bill prevents and forbids any interaction or corporation between the lawful US residents or American citizens and individuals who reside in the US without state authorization and considers it a violation of the law that requires different penalties and punishments according to the degree of violation.

Under the SB 1070, it is forcibly for both documented and undocumented residents to carry their legal documents wherever they go in order to show them to validate their legal immigration status whenever they fall under any reasonable suspicious of being unlawfully present within the state (Silverleib). Additionally, the state officials and agencies must not by any means get restricted from sending, receiving or maintaining information of a particular illegal immigrant status with federal immigration authorities (“Senate Bill 1070”). The law also authorizes the police -without the need of a warrant- to arrest any person they think that he is illegally existent in the state (“Supreme Court of the United States” 1).

So, it is worthwhile to mention that the provisions are imposed to all the state and local government agencies of Arizona to ensure the safety of the state borders from alien immigrants and prevent all unlawful deals with them.

3.2. 1. Background behind the Creation of the Senate Bill 1070

Historically speaking, almost every state in America has a long story with illegal immigrants of different minority groups from different races and Arizona was not an exception when such topic is raised. Just the fact that Arizona and Mexico share the same

borders explains the whole matter. Immigration has been a serious problem since decades ago, not only at the Arizona-Mexico borders but the whole ground of the United States. That is why Arizona fought against illegal immigration through several acts throughout history, in this regard it is said that:

Arizona's approach to immigration enforcement echoes past policies toward populations that have been deemed unwanted, removable, or criminal based on race... the enforcement of SB 1070 has striking similarities to the enforcement of the Fugitive Slave Act of 1850... the similarity in motivation behind their provisions enforcing exclusion based on race illustrates why racial profiling laws like SB 1070 ... [this indicates that the] the ideological seeds of SB 1070 had taken root many years prior to its passage.... during the decade that led up to SB 1070. ("Along Racial Lines: The Genesis of Arizona's SB 1070..." 2)

The Senate Bill of Arizona is built upon previous acts directed to issues related to immigration, race problems, and non-welcomed minorities. The bill reflected the state anti-immigration sentiment that dates back to the creation of America itself that led to passing laws regularly based on race categorization and profiling such as the FSC of 1850 which shares similar provisions – consideration of race- with the bill under discussion. The latter indicates the unfinished clash between Americans and minorities, especially Latinos, who became dreadful due to the law enforcement agencies' biases. From the above conception, the intention of the SB 1070 becomes evident and it is purely based on racial profiling, and it is established that way to maintain and preserve the identity and homogeneity of the United States.

The environment of Arizona is one of the factors that led to the creation of the bill. The atmosphere of anti-immigrant sentiment and rhetoric in the state pushed its officials and

lawmakers such as former Senator of Arizona State, Russell Pearce and Kris Kobach, Kansas Secretary of State, to fight against massive illegal migratory flows (“Arizona: The Key Players in the Anti-Immigrant Movement” 1). According to Pearce, the reaction of the anti-immigration activists is not because foreigners break the legislated laws, rather because they are perceived as a threat that destroys the American life and diminishes its quality (“Along Racial Lines...” 7).

The idea of the bill here does not only revolve around illegal actions that might be held by immigrants, or about being inside the borders of the state unlawfully, but about protecting the pure race of Americans and alienating the other races and categorizes them as inappropriate. Hence, if one profoundly analyzes the bill provisions, he might find that the enacted law does not only address illegal immigrants, but also legal ones who were forced to show their identity several times a day. So, in this case the bill becomes a prejudice for a particular race.

Considering other causes that led to the creation of the SB 1070, the increasing number of illegal immigrants was one of the main reasons. Years before the passing of the bill, Arizona witnessed high scales of unauthorized migrants. The figure on the page 64 shows the estimated number of individuals who crossed the US-Mexican borders without legal documents.

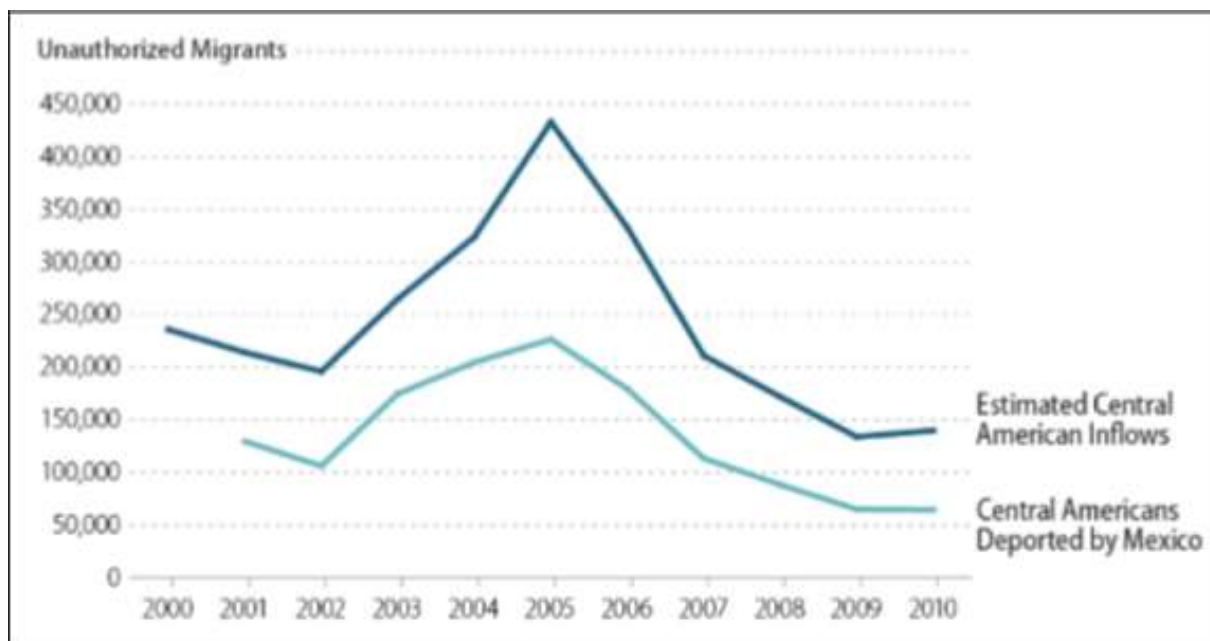


Fig. 3. The Unauthorized Migration through Mexico, 2000-2010 (Rosenblum, Kandel, Seelke, and Wasem 23). Web. 20 May 2018.

The figure demonstrates the sudden increase of the unlawful immigrants after the tragic events and it reaches approximately 450 000 foreigners in 2005, but from 2007 to 2012, the undocumented immigrants population dropped 40 percent. The fact that immigration especially illegal implemented negatively on the society according to the anti-immigration activists viewpoint over migration pushed them to react by imposing laws and bills to solve this issue. According to Al-Assar, Pistoni, and Betancourt in their article “Policy Brief on Immigration”, the increase of immigrants created the sense of ethnocentrism within US born citizens which developed the feeling of hatred toward strangers and the fear of losing American superiority, culture, heritage, and identity.

In 2008, data from the Pew Hispanic Center shows that about 9.8 percent of workforce in Arizona was composed of unlawful aliens (“Arizona’s SB 1070: Fact and Fiction” 239). The rate of crime related to drugs also has increased in the state - in most cases an illegal immigrant seems to have a hand in it- and it also states that illegal aliens each year cost the state of Arizona 2.6 \$ billion (239).

This statistics explains why lawmakers have specified whole sections in SB 1070 to prohibit hiring, transporting, and dealing with undocumented aliens. In other words, the American-born citizens think that immigrants occupied their jobs and opportunities and they receive unnecessary government benefits. The latter has caused the law enforcement agencies and immigration authorities to pass several laws and policies that aimed at preventing the illegal immigrants from entering the country to minimize their negative impacts.

3.2.2. Is SB 1070 Constitutional?

Immediately after the law was signed, serious doubts and debates were raised about its constitutionality. The thing that led the state leaders to split into opponents and proponents as it is the case for all the laws of this kind in the United States. Starting with the Arizona law's clear recurrent statement "reasonable suspicion", sociologists and even politicians wondered about the real meaning of this expression; they wanted to know exactly the criteria that must be taken into consideration to make someone suspicious of being illegally present in the state.

Constitutionally, numerous claims and lawsuits were received from different officials and organizations by which they questioned its legality and ensuring its violation of the core basics of the American Constitution including the Fourth Amendment, the Fourteenth Amendment, and the Due Process. In contrast, the supporters of the bill believe in its legality and saw it as the best solution in Arizona's immigration history.

3.2.2.1. Arguments against SB 1070

Although the real meaning of the aforementioned expression was not mentioned, explicitly, in the provisions of the SB 1070, all interpretations revolved around race characterization and the fear that the bill may lead to racial profiling launched a national debate over it ("Racial Profiling as a Means of Thwarting the Alleged Latino..."). This general interpretation seemed to be the real intention of the law because if one looks profoundly into the provisions of the law especially in Section 2, Title 11, Chapter 7 "a law

enforcement officer, without a warrant, may arrest a person if the officer has probable cause to believe that the person has committed any public offense that makes the person removable from the united states” (“Senate Bill 1070” 1).

The act used the word ‘believe’ and believing is usually based on guessing or expecting, so it is not based on something real, absolute, and undeniable for everyone. In other words, the officer may think that someone is legally present in the state while he is not and vice versa. Also, one officer may suspect a person for being unlawful resident while another police officer believes in its legality. Since, there are no specific criteria explicitly stated in the bill provisions, then how can officers detect and distinguish the documented from the undocumented immigrants. So, the officers’ detection is certainly based only on race consideration or what is known as racial profiling.

In the same context, critics stressed the idea that it is impossible for a police officer to enforce the bill without engaging in the race-based practices, although SB 1070 explicitly forbids the use of race in the identification process (Glaser and Martin 491). The fact that the vast majority of illegal immigrants in Arizona are from Mexico and Hispanics, does not necessarily mean that all of them reside in the United States illegally. So, the use of SB 1070 probably results in racial discrimination against all Latinos whether documented or not (491). Here opponents claim that the new legislation encourages and authorizes the officer of law to engage in racial profiling in their investigations.

By taking the Constitution into consideration which says that all the US citizens have the right to be safe from unreasonable searches and seizure (“Fourth Amendment”), it is obvious that the Senate Bill provisions violate it by granting officers the power to arrest people unreasonably and without warrant just on the basis of their belief. In addition to the previous issue, it violates the Fourteenth Amendment that guarantees the equal protection under the law, the due process, and the Supremacy Clause which grants the Federal

government exclusive power to regulate the US border (“Arizona’s Immigration Enforcement Laws”).

As a reaction to the above mentioned violations, President Barak Obama immediately criticized the bill by describing it as a “misguided” attempt to enforce immigration law and solve this national problem (“Restoring a National Consensus...” 18). The Arizona Association of Chiefs of Police strongly opposed the bill by considering it a negative process that prevents law enforcement agencies from being accomplished (18). This situation led proponents of this law to blame the Federal government of disregarding the state’s serious concerns of illegal immigration and thus prioritizing illegal immigrants over the safety of Arizona’s citizens and state.

Directly after the passing of the senate bill, collective reactions of rejection were announced. Several civil rights organizations such as the American Civil Liberties Union (ACLU), the National Immigration Law Center, the Mexican American Legal Defense and Education Fund, the National Day Labor Organizing Network, and the Asian American Justice Center joined together to file a lawsuit to prevent the implementation of the bill on the basis of race, origin, or ethnicity (Murphy 82). Here, the civil rights organizations were not against the bill itself but their complaint was against the use of racial profiling when applying it.

3.2.2.2. SB 1070 Proponents

Advocators of the bill argue that the bill aims to simplify the implementation of anti-immigration laws within the states in order to address the issue of illegal immigrants and minimize the problems and issues related to their existence (Nakama 24). In other words, the creation of the bill is an explicit attempt by local enforcement agencies to decrease the high scale of illegal migrants -the state had witnessed- that the federal enforcement agencies failed to achieve. Other proponents said that the new law has been enforced because Obama’s

administration, Federal government, failed to impose successful immigration laws in the state of Arizona specifically and in all the United States generally (Hessick 47).

According to former Governor Janice Brewer, despite the fact that it had been rejected by many, the senate bill was signed because it was viewed as the best solution that would reduce the increasing flows of undocumented migrants who were believed to be the source of threat, crimes, and drug related issues in Arizona (Nakama 24). From a cultural perspective, supporters of the law, or the American citizens, consider it an obligation to fight against the presence of the unauthorized immigrants who were perceived to be a direct danger for their race, culture, history, identity, and public safety, hence, it is necessary to implement strict laws to solve the issue (“Along Racial lines: The Genesis of Arizona’s SB 1070...” 9).

3.3. Social and Economic Costs of Arizona’s New Legislative of 2010

The intention behind the creation of Arizona’s SB 1070 was to increase security at the border state to decrease the high rate of its unauthorized migrants by adopting serial restrictions and policies. This part of the last chapter examines the impacts of Arizona legislation on immigrants and on Arizona; it means the effects of SB 1070 on immigrants’ social life and the economy and security of Arizona. An important feature of SB 1070 is that the law never took full effect because a federal judge blocked several of its controversial provisions directly before its implementation (Santos and Menjivar 8).

3.3.1. Economic Impact of the Bill

The hot debate over the legality of Arizona Senate Bill 1070 of 2010 created two opposed point of views concerning its economic effects. Some believe that the SB 1070 positively improved the Arizona economic while others conceive it as the legislative that caused the state serious financial deficiencies. Both views were supported by different analyses, studies, and statistics provided by advocates and opponents.

Major opponents of the illegal migratory flows were the major advocates of Arizona's bill. According to them unlawful migrants affected US economy negatively. In his essay in the *Quarterly Journal of Economics* 2003, George Borjas estimates that due to negative contribution of immigration, from 1980 to 2000 the US average wages decreased by 3 percent, native workers' wages, without high-school diploma, fell by 9 percent, and the average hourly wage of about 20 million American low-skilled workers dropped 30 percent from 1979 to 1995 (Burns 46). So, the presence of illegal aliens in the US affected negatively the average individual income of the American citizen.

In the *Wall Street Journal*, Ted Cruz published an article concerning defendants of the bill, in which they stressed the legality of the law and considered it the restrictive tool that tightened illegal migrants and hence its negative impacts were minimized. He also stated that Arizona's policy concerning the deportation of undocumented immigrants after the new legislature saved the state economy by saving hundreds of millions of dollars.

Unlike the first previous view, advocates of the unauthorized individuals who crossed the US-Mexican border unlawfully argued the positive contribution illegal immigration added to the US economy. Paying federal income and payroll taxes demonstrated the economy's positive additions of the undocumented aliens and their integral role on the American labor force (Burns40). Besides, a shortage of over than 5.5 billion dollars was the net impact that resulted from the massive deportation of migrants for the state (Godles).

Among the key concepts of the SB 1070 is that the court orders the person in prison to pay his jail costs. Jail costs changes in accordance with the degree of the committed violation. The amount of costs is mentioned on the revised bill as follows: the first violation costs at least five hundred dollars and it will be doubled if the person previously receives an assessment according to the subsection ("Senate Bill 1070" 3).

Taking the high rates of arrests and jails into consideration and the fact that each person in prison for committing violation should pay specific amount of money, one can imagine the amount of the collected money. This result proves the idea that the bill has a positive impact on Arizona economy.

3.3.2. Did Arizona's Anti-Immigration Policy SB 1070 Affect the Employment Arena?

Immigrants come to the United States for various reasons such as wars, natural disasters, political problems, and search for good jobs. The overwhelming majority of immigrants settle there to obtain good jobs with higher wages. This indicates the great impact, either positive or negative, immigration plays on employment arena. According to the bill purpose, the undocumented Latinos are prohibited from engaging in any economic activity because Arizona comprises a high rate of migrants (The CNN Wire Staff).

In his article "The Costs and the Benefits of Immigration", West states that despite the fact that 51 percent believe that immigrants take jobs of native-born workers, 61 percent think that migrants create their jobs and establish their own business by themselves (Pistoni and Betancourt). He also shows that there is no difference between the unemployment rate of immigrants and citizens who were born in US, however the distinction may be revealed in the type of jobs and the amount of wages (Pistoni and Betancourt). It means that, although immigrants work harder and longer, the native-born population earns higher wages compared to immigrants. The illegal immigrants take jobs of Native Americans and led to an increase in the number of the unemployed native-born.

Enacting such strict federal law to address immigration is not an easy investment. It has a double-edge impact; it can cost the state hundreds of millions of dollars or benefit it. Before the enactment of the Arizona Senate Bill, most of immigrants settled in the state searching for jobs and better conditions. The high percentage of immigrants in Arizona created fear among officials and pushed them to pass SB 1070 to address the immigration

issue and find a solution to minimize it. A study showed the estimated loss of work in the period following the application of the policy in which economy fell by 250\$ million, approximately equal to losing 3000 jobs (CAP Immigration Team).

3.3.3. Harassment against Lawful Migrants

Arizona's central intention behind the passing of the law was to "discourage and deter the unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States" (qtd. in Nakama 24). Explicitly, it is mentioned that the targets are persons who entered US illegally. However, in practice, law enforcement agents apply it to all immigrants. Despite the fact that Latino baseball players entered US legally the enforcement of the bill increased the harassment and false detention toward them (28). The implement of SB 1070 in Arizona resulted in negative impact such as discrimination, harassment, and race-based practices not only on the unauthorized immigrants, but also on the lawful migrants.

The Arizona law of 2010 that granted local polices the authority to check the immigration status of individuals who seem to be illegal residents enhanced discriminations. The figure on page 72 shows a recent finding conducted from 1990 to 2009 from the Pew Research Center and Pew Hispanic Center. It provides percentage of Hispanics who experienced or knew someone who had experienced discrimination.

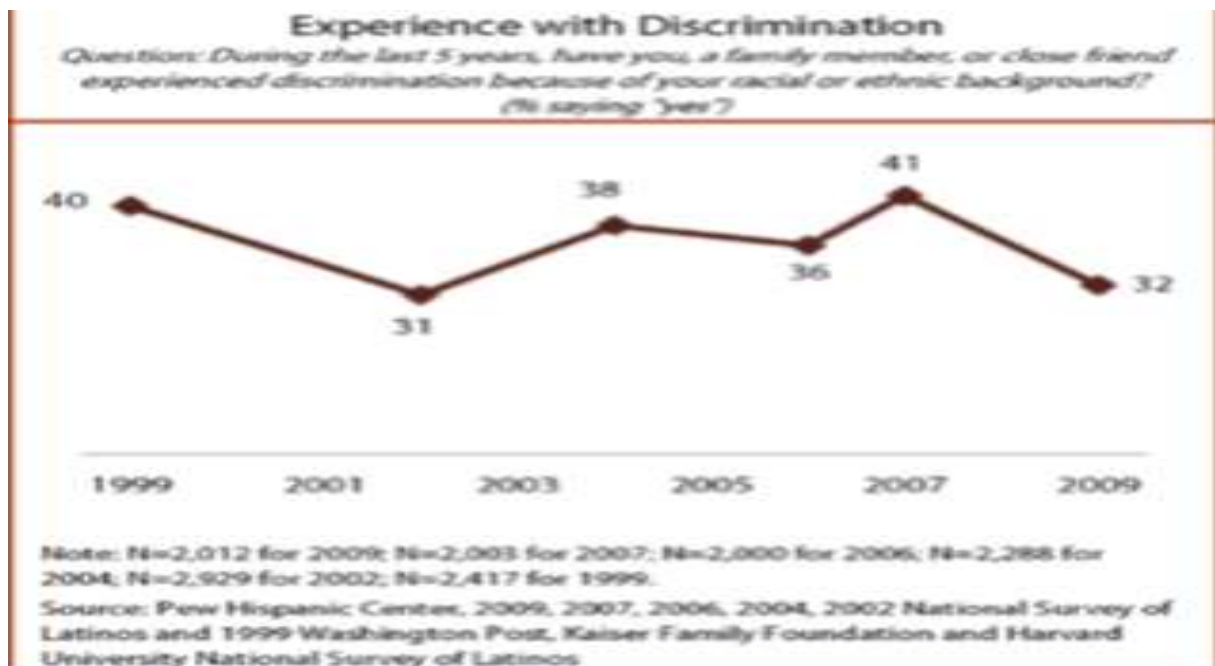


Fig. 4. Hispanic Experiences with Discrimination. (“Hispanics and Arizona’s New Immigration Law” 3). Web. 10 May 2018.

According to the figure, approximately all Latino had experienced or they knew persons who had experienced discrimination within the United States. The findings show that the high rates of Hispanics who had experienced this racial harassment took place in the periods before 9/11 and prior to the SB 1070 of Arizona, 40 percent in 1999 and 41 percent in 2007 (“Hispanics and Arizona’s New Immigration Law” 3-4). Highest rates of harassment have been registered in the state of Arizona. Attacks were launched on citizens who seemed to be unlawful citizens. Even the authorized citizens suffered from the same problem. In their process of combating the illegal migratory flows, law enforcement officers directly applied discriminations against Hispanics and Latino population.

3.3.4. Latino Youth after SB 1070 Implementation

This state level policy has a significance impact on the psychological, social and emotional wellbeing of immigrant children and families too. These policies have serious impact on the psychological, social and emotional wellbeing of both immigrant and non-immigrant children and families (Toomey et al.).

Following the enactment of the Senate Bill 1070 many changes occurred at the state level that resulted in negative consequences among Latino immigrants and even non-immigrants. It was reflected by the noticeable shift in their social attitudes by avoiding the report of crimes to the police to avoid any contact with officers, not visiting hospitals or any welfare institution to avoid detection, limiting if not stopping the use of transportation, and even preventing children from going to school (Santos and Menjivar).

SB 1070 implementation affected the whole society particularly Hispanic and Latino youth population. From the educational perspective, the enforcement of the new law decreased the number of registration in schools due to the great number of Latino families that left the state. It directly led to the following results including decline in the amount of schools' funding and the unbalanced size of classrooms (Cohn 175). The mass departure affected the entire community not only Latinos and their children, but also the non-immigrant children due to the split and loss of friendship, and the dissociation of both sports teams and school activities (175).

It can be concluded that, the United States has a long history with anti-immigration policies. This is due to the fact that it is made up of the successive immigration flows. Approximately all its laws have revolved around the unwelcomed minority groups; Arab and Asian Americans, African Americans, and Latino-Hispanics. Because of the shared borders between US and Mexico important rates of immigrants belong to Latino groups. This fact has shaped the federal and local enforcement policies and directed it toward border states. A lot of laws were passed, however, the well-known one is the SB 1070, the most controversial and strictest bill in the United States in general and Arizona history in particular.

The enactment of the bill launched a national debate over its legality due to its core provisions that were criminalized because it authorized local police officers to practice racial profiling when detecting illegal aliens. The controversial nature of the bill split leaders into

two main categories of opponents and proponents who, respectively, claim the unconstitutionality of the bill and support the law and its use.

As a result, its advocates justified its use by showing the issues and problems that rose through the higher rates of the undocumented migrants. While its opponents support their opinion by analyzing, studying, and then stating facts and statistics that enhance their claims that revolved around the negative impacts that resulted immediately after the passing of the bill. Their arguments were about the state economic costs due to the losing of jobs and the large investment of deportation and incarceration, the high use of discriminations when applying it, and its social and moral impacts on immigrant and non-immigrant families especially their youth.

Endnotes

1. It means any kind of participation or facilitation of transportation and it includes two main areas: the first is about providing services or assistance that facilitates transportation including arranging travels or exchanging currencies. The second is about providing any mean that may help the immigrant in their travel such as a weapon, a vehicle, renting houses, selling goods or any deal with them (“Senate Bill 1070” 4). Web. 25 May 2018.

2.It is directed to any person either he is lawful resident or not, who engaged in or transported undocumented immigrant or entity in order to obtain any benefit from them (“Senate Bill 1070” 4). Web. 25 May 2018.

3.It is a court order given before trials. It is a request from a particular party to revise a specific bill, act, or law because it contains illegal orders or practices. If the case is decided in favor of the party that has been enjoined, the injunction will usually be dissolved or dismissed and vice versa (*Legal Dictionary*).Web. 25 May 2018

Conclusion

The dissertation has focused on the debate surrounding racial profiling in the United States. It has also looked into its historical roots and has taken into account its main developmental stages. The work has delved into its manifestation in the American society through scholarly opinions, leaders' reactions, statistics, and studies. To recapitulate, racial profiling is the use of racial or ethnic characteristics such as skin color, origin, nationality, and physical appearance as one factor to select which individual is subject to stop, search, investigate, and arrest. In this regard, there are two variations concerning the application of racial profiling. It can take place by using race either as a unique factor through suspect selection, or as part of a larger set of characteristics or behaviors to decide who to attract in the net of this discriminatory practice. After dissecting the roots of race-based practices in the United States into Slave Codes, Slave Patrols, Black Codes, and Jim Crow Laws, the work has explained how racial profiling is an old practice which every time uses a new disguise mask.

Various notions in the history of the United States such as slavery, immigration, and racial laws led to the rise of discrimination, segregation, harassment, and hate crimes that paved the way for the emergence of racial profiling. This practice moves through clear stages: 1) From profiling as a process that aims to identify and interpret crime behavior or actions for the purpose of predicting the personality of the offender, to criminal profiling which is relegated to major crimes, such as murder and rape. 2) It is followed by the creation of a series of drug courier, skyjacker, and airport drug courier profiles. So, depending on those profiles to select and predict the criminals on the basis of race, national origin, or skin color, by law enforcement officers defines what is racial profiling.

It is common that the 9/11 terrorist attacks had a negative psychological, social, cultural and economic impact on the American citizens. However, after a profound

examination of its implications, it can be deduced that racial profiling is a direct damage on minority group members more than white Americans. This is due to is the strict policies adopted by the US government as an attempt to prevent extra attacks in the future.

All minority groups in the United States have experienced racial profiling, but in distinctive manners. Despite the fact that discrimination has always been a prominent feature in blacks' lives in the United States, the "War on Drugs" has recently intensified the police officers' brutality over blacks and under the guise of "driving while black"; their experiences with racial profiling became pervasive more than ever before. Concerning Middle-Eastern Americans, their experience with racial profiling is marked by the bombings of September 11, 2001 with the pretext that the terrorist attacks were committed by Arab extremist terrorists. Immediately after the attacks, "the War on Terror" was launched and profiling Arabs increased enormously under the pretense of "flying while Arab". However, Latinos' experience with racial profiling is exceptional as it was highly intensified during the war on drugs. There has always been a common belief especially from whites Americans that Latinos/Hispanics fit well the drug courier profile on the basis of discrimination fallacy that the overwhelming majority of Latinos are drug dealers. The implementation of this discriminatory law enforcement policy was embodied in the practical and abusive control on the US-Mexican borders, especially after the passing of the Arizona Senate Bill 1070 on 23 April 2010.

After all failed efforts to curtail illegal immigration in the United States and tightly control the border with Mexico, the state enforcement law passed the SB 1070 that gives the state police prerogatives to arrest randomly selected persons who are suspected of being illegal immigrants and check their immigration status. The bill has proven to be the focal point of an ongoing national debate about its provisions that violate the US constitutional Amendments and the serious impacts behind its application. After a deep analysis, it can be

summed that the SB 1070 is the worst practice of racial profiling because of its negative consequences that inevitably reinforce its progressive rejection and widening unpopularity.

After a national debate that evolved around the practice of racial profiling and its legality, proponents view it as the best means to fight terrorism and maintain public safety in America. However, opponents convincingly outlaw, reject, and criminalize it because of manifest human rights undermining and total neglect to the Constitution and its fundamental principles of justice regarding the important number of innocent persons racially profiled, the high rates of incarcerations and deportation among minorities. This fact is added to the social, political, cultural, psychological impact of the Senate Bill of Arizona 1070 on the state and its population. It is concluded that, the practice of racial profiling has existed despite the fact that it is unconstitutional and wrong for law enforcement. For this reason its ban is more than necessary.

The main problem with racial profiling is that law enforcement officers targeted African Americans, Hispanics, and Arab Americans when investigating street crimes, immigration violations, and terrorist attacks with reliance on specific racial and ethnical characteristics and with the absence of reasonable suspicion that has resulted in thousands of victims. As a way out, the US government needs to provide alternative procedures, tools, or policies that are based on probable causes in their investigations to eventually find and arrest the true criminals especially the illegal ones.

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