

**The Language of Osama Bin Laden:
How Language is Used as a Proxy for Race in Discrimination Against Arabic Speakers in
U.S.**

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I. Introduction

Last spring, Berkeley student and Iraqi refugee, Khairuldeen Makhzoomi, boarded his flight after attending an event where Ban Ki-moon, United Nations Secretary General, had given a speech. Excited about the event and speech, Mr. Makhzoomi called his family to tell them about it.¹ He spoke to his family in their native language, Arabic, telling them all about the dinner, and then concluded the conversation: “*Inshallah*,”² a ubiquitous Arabic phrase literally translated to *God Willing*.³ After concluding the phone call, Khairuldeen was removed from the

¹ Oliver Millman, *Southwest Airlines Draws Outrage over Man Removed for Speaking Arabic*, GUARDIAN (April 16, 2016), <https://www.theguardian.com/us-news/2016/apr/16/southwest-airlines-man-removed-flight-arabic>.

² *Id.*

³ *Id.*

flight before the plane left the gate.⁴ In an official statement, the airline stated it was concerned about passengers' safety after he was "overheard making 'potentially threatening comments.'"⁵

Only a few months earlier, Amine Aouam was walking in Philadelphia. He was walking with a friend speaking Moroccan Arabic, their first language.⁶ "*Masaa' al-khir*," *good evening*, he said to a woman as the two passed her and a group of others.⁷ The man next to the woman heard Amine speaking in Arabic and lashed out violently: "Take that s*** you said and shove it up your a**." ⁸ The next thing Amine remembers is waking up in a hospital hours later.⁹

These incidents aren't isolated. They are only two examples of many where language-based discrimination and violence has been directed against Arabs or those perceived to be Arab. A substantial body of articles, data, and scholarship document the increased discrimination against Arabs and Arab Americans—categories often conflated with Muslims or Muslim-Americans, and people of Middle Eastern descent¹⁰. Many do not realize that *Arab* is a linguistic term, referring to those who speak Arabic. *Arabic* is a language originating in and spoken by people in the Arab peninsula (and elsewhere now). Although Arab is fundamentally a linguistic designation, and although Arabs (those who speak Arabic) are racially, ethnically, and

⁴ *Id.*

⁵ Liam Stack, *Student Is Removed from Flight After Speaking Arabic*, N.Y. TIMES (April 17, 2016), https://www.nytimes.com/2016/04/17/us/student-speaking-arabic-removed-southwest-airlines-plane.html?_r=0.

⁶ Sam Newhouse, *Muslim Man Says He Was Beat in Philadelphia Attack for Speaking Arabic*, METRO (Jan. 20, 2016), <http://www.metro.us/philadelphia/muslim-says-he-was-beat-in-center-city-attack-for-speaking-arabic/zsJpas---SSPwzymZmBUI>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*; see also David Felix Sutcliffe, blog, *Hate, Heroes, and Hope: Reflections on David Felix Sutcliffe's ADAMA from a 7th Grade Class*, PBS (Feb. 23, 2016), <http://www.pbs.org/pov/blog/america-reframed-unfiltered/2016/02/america-reframed-unfiltered-2/>.

¹⁰ The "Arab" world generally is considered to consist of 22 countries extending from the Arab Peninsula and Persian Gulf across the Northern coast of Africa. It consists of 10 countries in Africa and 12 countries in Asia. The "Middle East" is a "geopolitical term" used to refer to many Arab and some non-Arab countries, including Iran and Israel. ROSINA HASSOUN, RACIALIZATION AND STEREOTYPE OF ARABS, <https://www.uakron.edu/race/keynote/arab.pdf> (last visited May 5, 2017).

religiously diverse, the term has become a racialized label in the U.S.¹¹ In other words, negative and erroneous stereotypes have been attributed to the language by majority groups, a process that has paralleled the stigmatization of those who speak Arabic, particularly in a post-9/11 world. Simply put, “[t]errorism has warped the way we hear Arabic.”¹² Arabic is now often perceived and presented as violent and has been stereotyped as ‘the language of terrorism.’¹³

The racialized nature of Arabic is cause for serious concern, as it has recently been identified as “the fastest growing language in the U.S.” by a PEW Research Poll.¹⁴ There are an estimated 420 million Arabic speakers globally.¹⁵ Nearly 3.7 million people in the U.S. “trace their roots to an Arab country,”¹⁶ of which over one million speak Arabic.¹⁷ In addition, it worth noting that, contrary to popular narrative and belief, the majority of Arabs in the U.S. were born here and the great majority (82%) are citizens.¹⁸ In line with this reality, many of those who speak Arabic in the U.S. are not immigrants.¹⁹ Online reactions of this growth reveal how narratives around Arabic are intertwined with racial and ethnic stereotyping, and xenophobia

¹¹ Rowan Wolf, *An Introduction to Islamophobia and Anti-Arabism*, PORTLAND COMM. COLL., <https://www.pcc.edu/resources/illumination/documents/introduction-to-islamophobia-and-anti-arabism.pdf> (last visited April 4, 2017); see also RACIALIZATION, *supra* note 10.

¹² Caitlin Kindervatter-Clark, ‘Allahu Akbar’ Isn’t a Scary Phrase, but Terrorism Has Warped the Way we Hear Arabic, WASH. POST (April 20, 2016), https://www.washingtonpost.com/posteverything/wp/2016/04/20/arabic-can-sound-scary-when-your-only-exposure-to-it-comes-from-stories-about-terrorism/?utm_term=.ae56d5c89277.

¹³ *Id.*; see also Basma El Baz, *I Speak Arabic and I am Not a Terrorist*, HUFFINGTON POST (May 9, 2016), http://www.huffingtonpost.com/basma-el-baz/i-speak-arabic-i-am-not-a_b_9867410.html.

¹⁴ Anna Brown, *The Challenges of Translating the U.S. Census Questionnaire into Arabic*, PEW CTR. (June 3, 2016), <http://www.pewresearch.org/fact-tank/2016/06/03/the-challenges-of-translating-the-u-s-census-questionnaire-into-arabic/>.

¹⁵ El Baz, *supra* note 12; *Arabic Speaking Countries*, WORLD ATLAS (last modified March 15, 2017), <http://www.worldatlas.com/articles/arabic-speaking-countries.html>.

¹⁶ *Demographics*, ARAB AM. INST., <http://www.aaiusa.org/demographics> (last visited April 4, 2017).

¹⁷ Steven A. Camorata & Karen Zeigler, *One in Five U.S. Residents Speaks Foreign Language at Home*, CTR. ON IMMIGRATION STUD. 1 (Oct. 2015), <http://cis.org/sites/cis.org/files/camarota-language-15.pdf>.

¹⁸ *Demographics*, *supra* note 16.

¹⁹ Camorata & Zeigler, *supra* note 17, at 1.

more generally. A quick “Google search” for reactions to the PEW Research Poll makes this point clear. Breitbart News, of which a former editor is a senior advisor in the White House, reported these statistics regarding the growth of Arabic, and commented on the new and “unique challenges to assimilation” Arabic speakers posed to the U.S. and the large “cost that non-English speakers are imposing on American communities.”²⁰ A much more visceral response was published by the “Daily Wire,” whose author suggested that this increase is a result of refugee policy that may lead to a “wave of rapes, molestations, robberies, assaults, brawls, and mob riots” as he alleges has happened in Germany.²¹ A staff writer for the Center for Immigration Studies, a right wing policy group, reportedly stated: “English as our common language is part of the glue that holds our country together” and the increases in Arabic language usage “may strain” the glue, ultimately concluding that “the nation is headed into uncharted territory.”²² Although these are not necessarily the most popular or cited media sources in the U.S., as seen in the last election, these and other similar sources can play a large role in both educating the public and revealing the sentiments felt by various groups in the U.S.²³

This paper will explore how these types of media portrayals along with other forces have racialized the Arabic language in the U.S., particularly in the wake of September 11, 2001. Part II will begin by detailing some primary mechanisms through which Arabic has been racialized, including governmental profiling for the “war on terror,” and through media and popular culture,

²⁰ Julia Hahn, *Obama’s America: Arabic Is the Fastest Growing Language in the USA*, BREITBART (Oct. 5, 2015), <http://www.breitbart.com/big-government/2015/10/05/obamas-new-american-century-arabic-fastest-growing-language-usa/>.

²¹ Michael Qazvini, *The Fastest Growing Language in America . . . Is Arabic*, DAILY WIRE (July 23, 2016), <http://www.dailywire.com/news/6882/fastest-growing-language-america...-arabic-michael-qazvini>.

²² Souheila Al-Jaddahtps, Column, *Stop the Anti-Arab Scare-Mongering*, USATODAY (Oct. 28, 2015), www.usatoday.com/story/opinion/2015/10/28/arab-language-immigration-english-only-column/74213392/.

²³ See Hunt Allcott & Matthew Gentzkow, *Social Media and Fake News in the 2016 Election*, STANFORD UNIV. (March 2017), <https://web.stanford.edu/~gentzkow/research/fakenews.pdf>.

and discuss how it manifests in the day-to-day experiences of harassment and discrimination directed at Arabic speakers. Part III will analyze how the law should respond to the racialized nature of the language and its speakers, by recognizing language as linked with ethnicity or race in both employment and civil rights law. Finally, since legal means are only a starting point for combatting racism, Part III will conclude with a brief exploration of how cross-cultural and bilingual education may serve as a starting point to fight the current stigmatization of Arabic and those who speak it.

II. The Racialization of Arabic

The Arabic language has become stigmatized by the racial connotations otherwise ascribed to Arabs and Arab Americans. Otherwise stated, it has been *racialized*, which is the “social process” by which dominant groups “assign[] racial connotations to activities of minority people,”²⁴ or by which they “extend[] racial meaning to a previously unclassified relationship”²⁵. The racialization of an “Arab” identity, more generally, galvanized during the 1960’s—though distinctions between “Arab” peoples from those who were permitted to be “white” has been an issue for over a century.²⁶ Those who were identified and perceived as Arab were quickly stereotyped and racialized by dominant culture. By the 1980’s Arabs had been reduced to three types of “Arab baddies . . . billionaires, bombers, and belly dancers.”²⁷ Over the next five decades, the “Orientalist” and “Exotic” racialization of the group was superseded by narratives of violence and extremism, and manifested in “a renewed animus [towards Arabs] in the wake of

²⁴ *The Process of “Racialization”*, YORK UNIV., http://www.yorku.ca/lfoster/2006-07/sosi4440b/lectures/RACIALIZATION_THEPROCESSOFACIALIZATION.html (last visited May 5, 2017).

²⁵ MICHAEL OMI & HOWARD WINANT, RACIAL FORMATIONS 11–13 (1986).

²⁶ RACIALIZATION, *supra* note 10.

²⁷ JACK SHAHEEN, THE TV ARAB (1985).

the events of September 11, 2001.”²⁸ These Post-9/11 discriminatory tendencies have translated into the same stereotypes and racialization of the Arabic language, an integral piece of Arab identity.²⁹ As a result, the language is now used as a policy tool to identify perceived “threats,” is portrayed to the public through singular unrepresentative depictions, and likely as a result, is seen by the public as threatening.

A. Arabic and the Government’s “War on Terror”

Speaking about the terrorist attack in San Bernadino, California, and others, popular libertarian politician Rand Paul stated the following regarding how to prevent future attacks:

We spend billions of dollars scooping up all the phone records of millions of Americans . . . when in reality what we ought to do is maybe spend more time on people who speak Arabic, people who are looking at public avenues and public access to see who are the ones talking and might want to harm us.

³⁰ His reasoning reflects an unfortunate approach by policymakers to the “War on Terror”: Direct a suspicious eye towards and single out those who speak the Arabic language. As one author puts it, the language has been “deemed a language of forensic interest, if not outright criminalized.”³¹

An examination of cases and incidents, in particular those involving Arabic speakers taking

²⁸ Wolf, *supra* note 11, at 3; *see also generally* John Tehranian, *Compulsory Whiteness: Towards a Middle Eastern Legal Scholarship*, 82 IND. L.J. 1 (2007); Amina Zarrugh, *Racialized Political Shock: Arab American Racial Formation and the Impact of Political Events*, 39 ETHNIC & RACIAL STUDIES 2722 (2016).

²⁹ *See, e.g.*, Hasheemah Afaneh, ‘Don’t Speak Arabic Here’, ARABAMERICA (Jan. 1, 2017), <http://www.arabamerica.com/dont-speak-arabic/> (an Arab American was told not to speak Arabic while in the U.S., to which he reports “[I] felt like someone was trying to lock up part of my identity”).

³⁰ *2016 Presidential Candidate Profile: Rand Paul*, ARAB AM. INST. (Dec. 2015), http://www.aaiusa.org/paul_2016 (citing Christopher Massie, *Rand Paul: U.S. Should Spend More Time Monitoring “People Who Speak Arabic”*, BUZZFEED (Dec. 4, 2015), https://www.buzzfeed.com/christophermassie/rand-paul-us-should-spend-more-time-monitoring-people-who-sp?utm_term=.pnj47qG3O#.vclxKn0mY).

³¹ Sinaan Antoon, *Why Speaking in American Feels like a Crime*, GUARDIAN (April 19, 2016), <https://www.theguardian.com/commentisfree/2016/apr/19/why-speaking-arabic-america-feels-like-crime>.

flights in the U.S., demonstrates this point: Arabic has become a marker of “terrorism” for many policy makers and law enforcement agents.³²

The LA Times published a predictive piece in the weeks following September 11, 2001, noting the potential risk of discriminatory profiling based on the “difficult[]” fact that “all the hijackers are from abroad, all are from the Middle East and all are Arabic speaking” and that, as a result, Arab Americans would begin to face increased scrutiny.³³ The Government has since used this exact line of reasoning to profile Arabic speakers flying in the U.S., including against plaintiffs Tarik Farag and Amro Elmasry nearly two years to the day after the 2001 attacks. On August 22, 2003, the two flew from San Diego to New York, where they “were immediately [met by] armed police officers in SWAT gear with shotguns and police dogs, ordered to raise their hands, frisked, handcuffed and taken to a police station [and] placed in jail cells.”³⁴ Farag and Elmasry were both subject to hours of intense interrogation “regarding suspected terrorist surveillance activity aboard the plane,” but were released after the officers found “absolutely no evidence of wrongdoing.”³⁵ In a subsequent Civil Rights §1983 action, the Government took the position that the plaintiff’s “Arab ethnicity and use of the Arabic language are relevant factors in the probable-cause, as well as the reasonable-suspicion, calculus.”³⁶ Their explicit reasoning for using Arabic as relevant was: “because ‘all of the persons who participated in the 9/11 terrorist attacks were Middle Eastern males.’”³⁷ Under the guise of “a very real threat of domestic

³² Arabic is in fact one of the oldest and most widely spoken languages in the world. *Most Widely Spoken Languages in the World*, WORLD ATLAS, <http://www.worldatlas.com/articles/the-most-widely-spoken-languages-in-the-world.html> (last modified Feb. 21, 2017).

³³ Henry Weinstein et al., *Racial Profiling Gains Support as Search Tactic*, L.A. TIMES (Sept. 24, 2001), <http://articles.latimes.com/2001/sep/24/news/mn-49203>.

³⁴ *Farag v. United States*, 587 F. Supp. 2d 436, 422 (E.D.N.Y. 2008).

³⁵ *Id.*

³⁶ *Id.* at 460.

³⁷ *Id.*

terrorism from Islamic terrorists,” the U.S. Government felt “it appropriate to arrest or investigatively detain [Farak and Elmasry] simply for speaking Arabic on an airplane.”³⁸

Specifically in the context of flying, this line of reasoning shows up in other cases as well. One well-reported example was a case brought by Nicholas George, a senior at Pomona College, who was taking a flight from his home in Philadelphia to California in August of 2009.³⁹ While proceeding through security, the TSA agents noticed that Mr. George was carrying Arabic-English flashcards.⁴⁰ “After seeing the flashcards,” the TSA Agent immediately took the Student into separate room to be questioned.⁴¹ The following line of questioning ensued:

[TSA Agent]: You know who did 9/11?

George: Osama bin Laden.

[TSA Agent]: Do you know what language he spoke?

George: Arabic.

[TSA Agent]: Do you see why these cards are suspicious?

⁴² The TSA Agent was merely applying what the Government had argued in *Farak*: The fact that the perpetrators of the 9/11 attacks spoke Arabic was sufficient grounds for the government to target anyone speaking or learning to speak Arabic. And in this case, the Third Circuit agreed: “[I]t is simply not reasonable to require TSA Officials to turn a blind eye to someone trying to board an airplane carrying Arabic–English flashcards”⁴³

The racialization of Arabic has manifested in official policies outside of the context of airport security as well. For example, the current approach to Arabic language education in the U.S. has shifted to reflect the Government’s priority of Arabic as a “strategic” language for

³⁸ *Id.* at 469.

³⁹ *George v. Rehiel*, 738 F.3d 562, 566 (3d Cir. 2013).

⁴⁰ *Id.* at 566–67.

⁴¹ *Id.*

⁴² *Id.* at 567–68.

⁴³ *Id.* at 578. It is important to note that the Third Circuit relied heavily on the fact that some of the flash cards were translating words such as “bomb,” “Terrorist,” and “to kill.” But it is equally noteworthy that it is unclear whether the TSA agent had looked at these specific cards prior to detaining George, or even while questioning Mr. George. *See id.* at 567–68.

security purposes, rather than cultural as for other languages.⁴⁴ Arabic is seen as a means to “address[] global terrorism”⁴⁵ rather than as a culturally rich and important world language. Another example has been reported anecdotally in prisons. Though prisons do not often report reasons for censoring many books, some have reported that simple Arabic Lexicon books have been inexplicably included on the banned lists from prisons.⁴⁶ Prisoners are also sometimes prevented from subscribing to Arabic language newspapers, which in one case the U.S. Court of Appeals for the Tenth Circuit has upheld as justified in a prison’s need to prevent the inmate “from receiving information and instructions [to attack someone] in a manner difficult to detect.”⁴⁷ These other miscellaneous governmental policies serve as both a reflection and a perpetuation of how society has singled out Arabic as inherently suspect and threatening.

B. Arabic in the Media and Popular Culture

The stereotypes and false associations of Arabic as the language of terror is further entrenched by the repeated and singular narrative portrayed through film, television, and popular culture more generally. In the 1960’s the language was seen as “exotic,” reflecting the racialized stereotypes of Arab populations at the time. The 1960’s song *Ahab the Arab* includes chanting in “mock Arabic” and its music video portrays an “Arabian” belly dancer singing fake Arabic syllables. But contemporary representations of the language reflect contemporary stigmatization of the language. For example, “[t]he modern depiction of Arabs in film [has] shifted to depict

⁴⁴ Evelyn Daugherty, *Language in the Name of National Security: The Transformation of Arabic Language Instruction in U.S. Institutions of Higher Education* 3 (Macalaster College Sociology Honors Projects, Paper 27, 2011), http://digitalcommons.macalester.edu/soci_honors/27/.

⁴⁵ ROSEMARY C. SOLOMON, TRUE AMERICAN: LANGUAGE, IDENTITY AND THE EDUCATION OF IMMIGRANT CHILDREN 12 (2010).

⁴⁶ N. CAROLINA DEP’T OF PUB. SAFETY, MASTER LIST OF DISAPPROVED PUBLICATION FROM: 05/16/2014 TO: 05/16/2015 5; see also Allison Flood, *Censorship of Books in US Prisons and Schools ‘Widespread’ – Report to UN*, GUARDIAN (Feb. 26 2014), <https://www.theguardian.com/books/2014/sep/26/books-censorship-prisons-schools-free-speech-un-shakespeare>.

⁴⁷ AMS. FOR EFFECTIVE L. ENFORCEMENT, *Prisoners and Foreign Language Mail*, 12 AELE MO. L.J. 301, 308 (2016).

them not[]as backwards desert dwellers, but[]as violent, angry, and obsessed with destroying the west.”⁴⁸ In other words, the Arabic language has now become a marker of “the terrorist” in popular culture. For instance, by 1985, Arabic “jibberish” was the language spoken by the “Libyans” that came to shoot down Doc in the classic 1980’s film, *Back to the Future*.⁴⁹

Portrayals of Arabic, or “mock Arabic,” in film are overwhelming negative. Even before 9/11, films failed to “offer[] balanced view points or . . . present[] positive representations of Arabic heritage.”⁵⁰ For example, the 2000 film *Rules of Engagement*, a movie based on the story of former Navy Secretary, Jim Webb, includes a scene where a “chanting mob of veiled women, bearded kuffiyeh-clad men with missing teeth, and unruly children toss rocks, throw bombs, and brandish anti-US banners, written in Arabic.”⁵¹ Post 9/11, these types of scenes became even more ubiquitous. Fueled by the media’s repeated portrayals of the hijackers, the image of “the enemy” was born and it spoke Arabic.⁵² A proliferation of motion pictures about the attacks and “acts of terror” more generally, and increased portrayals of the Arabic language in films. Through this proliferation a “consistent and broad image of the Middle Eastern terrorist is generated through Hollywood film productions, presenting these characters as primitive, violent

⁴⁸ Shadi Matar, *Arab Portrayals in Film: A History of Stereotypes*, ARAB AM. INST.: BLOG (March 20, 2015), <http://www.aaiusa.org/arab-portrayals-in-film-a-history-of-stereotypes>.

⁴⁹ Movieclips, *Back to the Future Movie Clip (2/10) – The Libyans Find Doc Brown (1985) HD*, YOUTUBE (May 26, 2011), <https://www.youtube.com/watch?v=f2c-tMZSZtY>.

⁵⁰ Yasmeen Elyan, *Stereotypes of Arab and Arab-Americans Presented in Hollywood Movies Released During 1994 to 2000*, East Tenn. Univ. 53 (May 2005) (electronic thesis), <http://dc.etsu.edu/cgi/viewcontent.cgi?article=2160&context=etd>.

⁵¹ *Id.* at 31.

⁵² Heather Jolls et al., *The View of Muslims and Arabs in America Before and After September 11th*, CAL. ST. UNIV. NORTHRIDGE, <http://www.csun.edu/~sm60012/GRCS-Files/Muslims-post-9-11.htm> (last visited April 4, 2017); see also Jay William Read, *Discourses of Film Terrorism*, UNIV. ADELAIDE 1 (2013) (unpublished thesis), <https://digital.library.adelaide.edu.au/dspace/bitstream/2440/85040/8/02whole.pdf>.

and addicted to religion;”⁵³ this image has fueled the racialized perceptions of both the “Middle Easterner” and often, by extension, the language they are speaking. Given the importance of Hollywood portrayals in social attitudes and exposure to this population and language, it plays a particularly powerful role in shaping and perpetuating these stereotyped images.⁵⁴

Video games have been a surprisingly powerful source of perpetuating the racialized narrative of Arabs and Muslims, and have intensified the image of “the terrorist” in popular culture. The popular video game series *Call of Duty* depicts Arabic speaking “enemies” and includes Arabic script scrawled across most of the buildings in the various battle settings.⁵⁵ As some have pointed out, however, the Arabic language or Arabic names were used even where culturally and linguistically inappropriate. For example, Arabic was used on all the signs in and spoken in *Karachi*, despite the fact that “Arabic isn't spoken in Pakistan.”⁵⁶ One commentator attributes this, in part, to the fact that the overwhelming majority of video game programmers are white, and operate from “basic mistakes and misunderstandings . . . about the Muslim World.”⁵⁷ In other words, white programmers assume the racialized stereotype of Arabic—that it is the language spoken by any terrorist—when deciding how to portray the “enemies” in the game. An empirical study verified that video games can shape youths’ perceptions and biases.⁵⁸ In the

⁵³ Tayyara, Abed el-Rahman, *The Representations of Arab-Muslims through the Language Lens*, 1 CULT. ENCOUNTERS, CONFLICTS, & RESOLUTIONS 1, 18 (2014).

⁵⁴ See Read, *supra* note 52, at 18.

⁵⁵ Nicole Lee, *Shooting the Arabs: How Video Games Perpetuate Muslim Stereotypes*, ENGAGEDNET: POLITICS (March 26, 2016), <https://www.engadget.com/2016/03/24/shooting-the-arabs-how-video-games-perpetuate-muslim-stereotype/>; See also Seung Lee, “Just Shoot the Arab”: How Muslim Representation in Video Games Perpetuate the Terrorist Stereotypes, NEWSWEEK: TECH & SCI. (March 18, 2016), <http://www.newsweek.com/how-muslim-stereotypes-video-games-perpetuate-terrorist-stereotype-438593>.

⁵⁶ Nicole Lee, *supra* note 55.

⁵⁷ Seung Lee, *supra* note 55.

⁵⁸ Diane Swanbrow, *Violent Video Games Intensify Anti-Arab Stereotypes*, UNIV. MICH. (Jan. 15, 2013), <http://ns.umich.edu/new/releases/21091-violent-video-games-intensify-anti-arab-stereotypes>.

study, the “typical” Arab became the one from the video game: a terrorist shouting in Arabic and strapped with a bomb.⁵⁹

These are only two ways in which media and popular culture perpetuate damaging and unrepresentative stereotypes of Arabic speakers. These depictions are then repeated over and over in various media, which complicitly support these erroneous stereotypes by allowing the public to adopt these images as representative of the “typical” or “majority” image of a large and diverse group of Arabic speakers.⁶⁰

A. Harassment of Arabic Speakers

Private individuals and corporations, who are often shaped by these ubiquitous negative portrayals in the media, then target Arabic speakers based on erroneous assumptions and misconceptions. As demonstrated through the examples below, Arabic can serve as a salient trait through which companies and individuals single out Arab or Arab American populations or those perceived as such.

A very recent example is the case of Adam Saleh, who was allegedly kicked off a flight with his friend after the two were heard conversing with a family member in Arabic over the phone.⁶¹ Although the airline disputed the reasoning for removal, the official statement acknowledged the removal was due to “more than 20 customers expressing their discomfort” with the Adam and his friend.⁶² Mr. Saleh recorded his removal and various passengers can be

⁵⁹ *Id.*

⁶⁰ Evelyn Alsultany, *Arabs and Muslims in the Media After 9/11: Representational Strategies for a “Postrace” Era*, 45 AM. QUARTERLY 161 (2013).

⁶¹ Amy B. Wang, *YouTube Star Known for Pranks Claims He Was Kicked Off Delta Flight for Speaking Arabic*, WASH. POST (Dec. 21, 2016), https://www.washingtonpost.com/news/arts-and-entertainment/wp/2016/12/21/youtube-star-known-for-pranks-claims-he-was-kicked-off-delta-flight-for-speaking-arabic/?utm_term=.193a22844b62.

⁶² Anaella Safdar, *Social Media Star Adam Saleh Removed from Delta Plane*, ALJAZEERA (Dec. 22, 2016), <http://www.aljazeera.com/news/2016/12/social-media-star-adam-saleh-removed-delta-plane-161221143420274.html>.

heard in the background shouting “bye!”⁶³ The facts of the case are not settled, but it is not a stretch to believe Mr. Saleh’s account. As one Law Professor explains, “‘Muslim’ appearance or language gives rise to terror suspicions[; the] combination of the two seems to intensify for the Islamophobic passenger.”⁶⁴ This, Professor Beydoun posits, has led to a host of documented examples of Arabic speakers, like Adem Saleh, being singled out by airlines and airline passengers.⁶⁵ Not the least of which includes Mr. Makhzoomi⁶⁶ who was kicked off based on the discomfort of one female passenger when he spoke his native tongue. Or Ms. Nazia Ali and her husband, both Cincinnati locals and American citizens, who were removed from a flight after a woman reported her discomfort “with the Muslim couple” on the plane and a flight attendant’s report that “[Mr.] Ali tried to hide his cell phone and that she had heard the couple use the word ‘Allah.’”⁶⁷ The Council on American-Islamic Relations took this as Professor Beydoun would have, and insisted there be “policy guidelines on the objective factors that are to be considered when determining that a passenger may legally be removed from a flight,” because existing practices allowed for discrimination by passengers and airline staff.

Although there are countless anecdotes, one case in particular poignantly portrays the stigma against Arabic. Raed Jarrar is an Arab American Architect who attempted to board a flight, but the airline singled him out and told him he was not allowed to board unless he covered

⁶³ Wang, *supra* note 61.

⁶⁴ Khaled A. Beydoun, opinion, *Speaking Arabic While Flying*, ALJAZEERA (April 20, 2016), <http://www.aljazeera.com/indepth/opinion/2016/04/speaking-arabic-flying-160420051548323.html>.

⁶⁵ *See id.*; *see also* Homa Khaleeli, *The Perils of ‘Flying While Muslim’*, GUARDIAN (Aug. 8, 2016), <https://www.theguardian.com/world/2016/aug/08/the-perils-of-flying-while-muslim>.

⁶⁶ *Supra* notes 1–4.

⁶⁷ Mark Curnette, *Local Muslim Couple Removed from Delta Flight: ‘It Was Humiliating’*, CINCINNATI.COM (Aug. 6, 2016), <http://www.cincinnati.com/story/news/2016/08/04/muslim-group-announce-profiling-complaint-against-delta/88063364/>; Peter Holley, *Muslim Couple Says They Were Kicked Off Delta Flight for Using Phone, Saying ‘Allah’*, WASH. POST (Aug. 7, 2016), https://www.washingtonpost.com/news/morning-mix/wp/2016/08/07/muslim-couple-says-they-were-kicked-off-delta-flight-for-using-phone-saying-allah/?utm_term=.b6710e2a693e.

his shirt, which had writing in Arabic with an English translation below it: “*We Will not be Silent*.”⁶⁸ Mr. Jarrar was told that “Arabic script was not permitted at airports” and that it makes “other passengers feel uncomfortable.”⁶⁹ He was then told that wearing a t-shirt with Arabic script at an airport was like wearing a t-shirt “at a bank[]that stated, ‘I’m a robber.’”⁷⁰ Not only does this case demonstrate how ugly stereotypes plague the experience of Arabic speakers on flights, but also demonstrates the demeaning effect this type of singling out can have. Mr. Jarrar reported that he “continues to feel uncomfortable reading Arabic script and wearing clothing with Arabic script in public places because he is afraid that he will again be subjected to discriminatory[]treatment.”⁷¹ The case was eventually settled for \$240,000.⁷² The airline staff’s comments, even in spite of an available English translation, is an explicit example of the assumption-laden attitudes taken by many towards the Arabic language.

Harassment towards Arabic speakers, though commonly seen and reported on in the context of flying, is not isolated to the airport. For example, harassment is also directed towards Arabic Speakers in the work place. One illustrative example is the story of Rami Awad, a plaintiff—as the Court put it—of the “Arabic”⁷³ race, who was subject to harassment and taunting based on his Arab ethnicity.⁷⁴ Rami recounted various forms of discrimination, such as being called a “terrorist” by a colleague.⁷⁵ The harassment also targeted Rami for speaking in a

⁶⁸ ACLU, THE PERSISTENCE OF RACIAL AND ETHNIC PROFILING IN THE UNITED STATES: A FOLLOW-UP REPORT TO THE U.N. COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION 38 (2009).

⁶⁹ Complaint at ¶2, Jarrar v. Harris, CV 07-3299 (CBA) (JO) (E.D.N.Y. 2008).

⁷⁰ *Id.*

⁷¹ Jarrar v. Harris, 2008 U.S. Dist. LEXIS 57307, CV 07-3299 at *4 n.1 (E.D.N.Y. 2008).

⁷² ACLU, *supra* note 68.

⁷³ Awad v. Nat’l City Bank, No. 1:09-CV-00261, 2010 U.S. Dist. LEXIS 37576, at *2 (N.D. Ohio 2010). As mentioned before, Arabic is not a racial or ethnic indicator, it is correctly used as a linguistic term. *See supra* note 10.

⁷⁴ Awad v. Nat’l City Bank, 2010 U.S. Dist. LEXIS 37576, at *1–2.

⁷⁵ *Id.* at *4.

language other than English.⁷⁶ A bank officer allegedly said that he overheard “Rami saying he was going to blow up something” after hearing Mr. Awad speak “in Arabic to his mother on the phone.”⁷⁷ This incident, in particular, shows how individuals assume that whatever is spoken in Arabic is manifestly violent or linked to terrorism.

Irrational fears of Arabic as a language has also manifested in the educational setting as well.⁷⁸ After Pine Bush Elementary School led the pledge of allegiance in Arabic, parents and other members of the public quickly complained to the school.⁷⁹ The school had been leading the Pledge in a different language each day as a part of National Foreign Language Week. After an Arabic-speaking student led the pledge and announcements one morning, there was outcry from parents in the community, particularly from a few “who [had] lost family in Afghanistan and from Jewish parents.”⁸⁰ Presumably, there was no outcry over the other languages used that week. The school was surprised and quickly apologized to the public and community for what it had done. At least one person involved was not surprised: the Arabic-speaking student who led the Pledge, who stated, “I knew exactly what would happen.”⁸¹ This wasn’t the first time the public had expressed fear of Arabic as a part of public education. One NY Sun Op-Ed author warned, “Arabic-language instruction is inevitably laden with pan-Arabist and Islamist baggage” and he was against protecting civil liberties to the point where “preventing terrorism counts less

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *US Pledge of Allegiance in Arabic Leads School to Apologise*, BBC NEWS (March 21, 2015), <http://www.bbc.com/news/31989874>.

⁷⁹ Jeremiah Horrigan, *Arabic Version of Pledge of Allegiance at Pine Bush High School Ignites Furor*, TIMES-HERALD RECORD (March 8, 2015), <http://www.recordonline.com/article/20150318/NEWS/150319327>.

⁸⁰ *US Pledge*, *supra* note 78.

⁸¹ Horrigan, *supra* note 79.

than soothing Muslim sensibilities.”⁸² Arabic instruction and speaking was also discouraged at one school in Michigan.⁸³ A report stated that “use of languages other than English contributes to an atmosphere of distrust and suspicion on the part of English only speaking adults” and that to speak in other language “reinforces a perception by some that [the school] is an Arab school in America”⁸⁴ These examples serve to demonstrate the broader point: Arabic, particularly in a post 9/11 America, is seen as a “menacing” language that inherently carries orthodoxy⁸⁵ or even terrorist values, when in reality it carries neither.

Based on the reactions of others, Arabic speakers have reported that there is a general disincentive, or even, outright discouragement to speak Arabic.⁸⁶ Hasheemah Afaneh, for one, was warned when she moved back to the U.S.; “‘Don’t speak Arabic here’ was one of the first pieces of advice I rec[ei]ved when I moved back to the United States,” she recounts. It is not entirely a surprising piece of advice following the slew of examples that shows the risk one might be taking by speaking in their native or heritage tongue. Through a combination of the official policies and actions of the government and harassment by community members, the language has been branded and results in regular discrimination of those who speak it.

⁸² Daniel Pipes, *A Madrassa Grows In Brooklyn*, N.Y. SUN (April 24, 2007), <http://www.nysun.com/foreign/madrassa-grows-in-brooklyn/53060/>.

⁸³ Michigan is home to the second largest population of Arabic speakers in the United States. *See Arabic Language*, UNIV. MICH.: NEAR EASTERN STUDIES, <https://lsa.umich.edu/neareast/languages/languages/example-1.html> (last visited May 5, 2017).

⁸⁴ NABEEL ABRAHAM, SALLY HOWELL & ANDREW SHRYOCK, *ARAB DETROIT 9/11: LIFE IN THE TERROR DECADE* 360 (2011).

⁸⁵ Anthony Dimmagio, *Arabic as a Terrorist Language*, COUNTERPUNCH (Aug. 30, 2007), <http://www.counterpunch.org/2007/08/30/arabic-as-a-terrorist-language/> (“Claiming that the Arabic language is inherently Muslim makes about as much sense as claiming that English is inherently Christian. But this doesn’t mean that such efforts to confuse the public are ineffective.”).

⁸⁶ Afaneh, *supra* note 29.

III. Ways Forward

Given that discrimination against Arabic speakers manifests through societal and political forces, combatting such discrimination will require a multi-level approach. First and foremost, since Arabic has been racialized—*i.e.*, ascribed erroneous racial meaning by dominant groups—it must be seen through the lens of race by courts and lawmakers in relevant areas of the law. Singling out Arabic speakers based on racialized notions must be scrutinized as such. But law-based approaches are not sufficient to address the underlying racialization of the language by dominant-group members and institutions. Therefore, programs should be instituted that break down erroneous stereotypes of Arabic and those who speak it.

A. Legal Recognition of Race-Based Animus

Because languages are inherently linked with factors such as ethnicity and national origin, many scholars argue that language discrimination should be more widely recognized as discrimination in the courts.⁸⁷ Language discrimination, as discussed above, manifests in many areas of law. For example, denial of access to or participation in federal programs or services based on language ability is illegal under Title VI of the Civil Rights Act.⁸⁸ This paper will focus on two areas that are particularly relevant to Arabic speakers: Title VII employment discrimination and areas of Civil Rights Law under the Fourteenth Amendment.

Employment law, through Title VII of the Civil Rights Act, has a more developed doctrine around language discrimination claims than other areas of the law, likely because

⁸⁷ See, e.g., Juan Perea, *Hernandez v. New York: Courts, Prosecutors, and Fear of Spanish*, 21 HOFSTRA L. REV. 1 (1992) (arguing that striking jurors on the basis of their ability to speak Spanish is discriminatory on the basis of race); Janet Ainsworth, *Language, Power, and Identity in the Workplace: Enforcement of 'English-Only Rules by Employers*, 9 SEATTLE J. SOC. J. 233 (2010).

⁸⁸ OFF. FOR CIV. RTS., *Guidance to Federal Financial Assistance Recipients Regarding Title VI and the Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons – Summary*, U.S. DEPT. OF HEALTH & HUMAN SVCS., <https://www.hhs.gov/civil-rights/for-providers/laws-regulations-guidance/guidance-federal-financial-assistance-title-VI/index.html> (last visited May 1, 2017).

“[L]anguage-based discrimination is especially prevalent in the workplace.”⁸⁹ Likewise, the Equal Employment Opportunity Commission (EEOC) has promulgated guidelines that recognize that “[t]he primary language of an individual is often an essential national origin characteristic.”⁹⁰ Employers are only permitted to treat those who speak languages other than English or have a minority accent differently where the employer has “business necessity” or can successfully argue that the language or accent “materially interferes with job performance.”⁹¹ How this standard plays out in the courts still affords employers “vast discretion to set rules” and so individuals attempting both disparate impact or discrimination based on national origin claims generally do not make it to trial.⁹² Moreover, many appellate courts do not even recognize disparate impact claims under English only rules and, therefore, allow policies to stand that discriminate and burden speakers of languages other than English.⁹³ As a result, the opportunity for language discrimination claims to succeed are narrow.

In light of the EEOC’s guidance and the racialization of the Arabic language, courts should be cognizant of how discrimination manifests against Arabic speakers in the workplace and should more widely recognize language-based claims brought by Arabic speakers as discrimination. As in other areas, stereotypes of Arabs and Arabic speakers as violent, suspicious, and associated with extremism are pervasive in the workplace in the form of language discrimination. Take for example, Mr. Raed Agha, who after September 11, was

⁸⁹ Shireen Baghestani, *The Injustice of Language-Based Discrimination Against Immigrants in the United States*, <http://community.miamioh.edu/writingcontest2007/node/58> (last visited May 1, 2017).

⁹⁰ 29 C.F.R. § 1606.7(a).

⁹¹ *Language Discrimination*, LEGAL AID NETWORK, <https://legalaidatwork.org/factsheet/language-discrimination/> (last visited May 5, 2017).

⁹² James Leonard, *Bilingualism and Equality: Title VII Claims for Language Discrimination in the Workplace*, 38 U. MICH. J.L. REFORM 57, 103 (2004).

⁹³ Ainsworth, *supra* note 87, at 237.

forbidden from speaking Arabic and told to stop seeing his “Arab friends” by an employer,⁹⁴ or similarly, Ms. Nissrine Kalafatoglu, who was forbidden from speaking Arabic, even though other bilingual speakers of Hindi or Chinese were exempt.⁹⁵ Courts should take note of the disparate impact of language prohibitions on Arabic speakers, particularly when they are laden with false stereotypes like the ones seen projected towards Mr. Awad in the case cited above.⁹⁶ In order to do this, courts must expand their recognition of language discrimination claims as many scholars argue,⁹⁷ in order to remedy the discrimination that is regularly directed towards Arabic speakers in this setting.

In addition to racially discriminatory practices in the workplace, racial profiling by law enforcement is also “patently illegal,”⁹⁸ as “the Constitution prohibits selective enforcement of the law based on considerations such as race.”⁹⁹ Nonetheless, courts inconsistently allow racially or ethnically linked factors to be used in determinations of probable cause and reasonable suspicion.¹⁰⁰ In fact, the U.S. Supreme Court has stated, “[t]he likelihood that any given person of Mexican ancestry is an alien is high enough to make Mexican appearance a relevant factor” in enforcing immigration laws.¹⁰¹ Many argue, and I would agree, that this is erroneous, and results in discriminatory enforcement of immigration laws against speakers of racialized languages,

⁹⁴ Agha v. Rational Software Corp., 252 F. Supp. 2d 1074, 1079 (D. Oreg. 2003).

⁹⁵ Kalafatoglu v. Beauty 35 Inc., No. 711763/15, at *2 (N.Y. Sup. Ct. April 4, 2016).

⁹⁶ See *supra* notes 73–77.

⁹⁷ For example, James Leonard in his article puts forth a new burden-shifting scheme that could allow more disparate impact claims of language discrimination to succeed. Leonard, *supra* note 92, at 98–99.

⁹⁸ *Racial Profiling*, ACLU, <https://www.aclu.org/issues/racial-justice/race-and-criminal-justice/racial-profiling> (last visited April 4, 2017).

⁹⁹ Whren v. United States, 517 U.S. 806, 813 (1996).

¹⁰⁰ See, e.g., Kevin R. Johnson, *How Racial Profiling in American Became the Law of the Land: United States v. Brignoni-Ponce and Wren v. United States and the Need for Truly Rebellious Lawyering*, 98 Geo. L.J. 1005, 1066–69 (2010). Some scholars have also pointed out circuit splits with regards to Employment law as well. See generally, e.g., Robyn Stoter, *Discrimination & Deference: Making a Case for the EEOC’s Expertise with English-Only Rules*, 53 VILL. L. REV. 595 (2008).

¹⁰¹ United States v. Brignoni-Ponce, 422 U.S. 873, 886–87 (1975).

such as Spanish¹⁰² and Arabic. This type of reasoning allows the INS, for example, to justify immigration raids based on surveillance reports of simply “hearing ‘Spanish language’ or ‘Spanish music’.”¹⁰³ Arizona’s controversial law, SB 1070, aptly highlights this point. In one case, an Arizona court said that, although “Hispanic” appearance alone was not sufficient, the addition of Salvadorian dress and speaking Spanish gave law enforcement enough cause to stop the individuals.¹⁰⁴ As one author explains, in this way, not only did SB 1070 sanction racial profiling, it required it.¹⁰⁵ This proves unsurprising, as the laws were based in racist stereotypes,¹⁰⁶ with one of the sponsors of the bill reportedly stating that “Denver’s illegal aliens sang our national anthem in Spanish and bastardized the words of OUR country’s most sacred song”¹⁰⁷

The statements made by the SB 1070 Sponsor parallels the current rhetoric of U.S. officials on Arabic. For example, Michael Flynn was on record discussing a wave of “radical islamists” entering the U.S. following paths from Mexico marked by Arabic signage: “I have personally seen the photos of the signage along those paths that are in Arabic. They're like way points along that path as you come in. Primarily, in this case the one that I saw was in Texas and

¹⁰² See, e.g., Gabriel Chin et al., *A Legal Labyrinth: Issues Raised by Arizona Senate Bill 1070*, UNIV. ARIZ.: ARIZ. LEG. STUDIES (Discussion Paper No. 10-24, April, 2011), http://migrationcluster.ucdavis.edu/research/law%20papers%20+%20individual%20pages/chin_a_legal_labyrinth.pdf

¹⁰³ Michael Wishnie, *State and Local Police Enforcement of Immigration Laws*, 6 U. PA. J. CONST. L. 1084, 1113 (2004).

¹⁰⁴ Chin et al., *supra* note 102, at 67.

¹⁰⁵ *Id.* at 68.

¹⁰⁶ NAT’L IMMIGRATION L. CTR., ALONG RACIAL LINES: THE GENESIS OF ARIZONA’S SB 1070 IS A CAUTIONARY TALE OF RACE-BASED IMMIGRATION POLICY 8 (Oct. 2016), <https://www.nilc.org/wp-content/uploads/2016/10/Along-Racial-Lines-SB1070-2016-10-28.pdf>.

¹⁰⁷ *Id.*

it's literally, it's like signs, that say, in Arabic, 'this way, move to this point.'"¹⁰⁸ Similarly, Rand Paul's suggestion that the government more closely monitor "people who speak Arabic"¹⁰⁹ evokes the same stereotypical image of the language: its use is exclusively to support extreme ideologies so should be closely monitored. The Government then uses this justification, similar to its justification of Spanish speaking in immigrant enforcement, to selectively enforce laws against Arabic Speakers as well, albeit in the context of counter terrorism. The government puts forth the simplistic logic that since the September 11 attackers spoke Arabic, the use of Arabic as a factor in profiling someone is now legitimate indefinitely.¹¹⁰ For example, it "conducts surveillance of electronic communications[,]program[ing] the computers" to flag "all messages sent in Arabic . . . and other languages known to be used by Al Qaeda."¹¹¹ Just as "speaking only Spanish" is "legal" cause for suspicion¹¹², likewise speaking Arabic has become cause in the eyes of the government, as well.

But allowing this type of language profiling sets a dangerous precedent. One author puts forth an illustrative example of how allowing profiling in this setting can translate into empty stereotyping:

[Say] a packet of white powder found next to graffiti is first associated with the War on Drugs and the profile is for an African American; found next to a pamphlet in Arabic, the same packet is presumed to be anthrax planted by a Muslim Arab. This is so despite the possibility that translations might reveal the graffiti to be a tribute to the artist's mother and the Arabic pamphlet to be a take-out menu . . .

¹⁰⁸ Andrew Kaczynski, *Michael Flynn Once Claimed Arabic Signs on Southern Border Guide 'Radicalized Muslims' into U.S.*, CNN (last updated Dec. 9, 2016), <http://www.cnn.com/2016/12/08/politics/kfile-michael-flynn-arabic-signs-on-border/>.

¹⁰⁹ See Massie, *supra* note 30.

¹¹⁰ See *supra* Part II.A.

¹¹¹ Stephen J. Ellman, *Reflecting on the Legal Issues of our Times: Portraits of Grief: Reflecting on the New York Times 9/11 Obituaries through a Lens: Racial Profiling and Terrorism*, 19 N.Y.L. J. HUM. RTS. 305, 308 n.16 (2003).

¹¹² Doris Marie Provie & Gabriella Sanchez, *Suspecting Immigrants: Exploring Links Between Racialised Anxieties and Expanded Police Powers in Arizona*, 21 POLICING & SOC'Y 468, 474 (2011).

¹¹³ As this example shows, although the Government might arguably use language as a “necessary” profiling tool, language as a consideration for law enforcement can easily become based in empty stereotypes. The Government’s scrutiny of Arabic speakers, rather than based in data or reality, ultimately results in erroneous detention and the perpetuation of negative stereotypes of Arabic speakers.

Instead, as one case correctly points out, using “speaking in Arabic” as a factor in reasonable suspicion is discriminatory by using an ethnically based criterion and should be met with scrutiny.¹¹⁴ In this case, the Court called the Government’s bluff: “[I]t cannot rationally be held that if, hypothetically, the plaintiffs were two Caucasian traveling companions speaking French, or another non-Arabic language which the agents did not understand, ‘a person of reasonable caution’ would have believed that they were engaged in terrorist surveillance.”¹¹⁵ The Court here is, indirectly, shedding light on the discriminatory surveillance by the Government by highlighting its assumption that there is something suspicious about the two individual speaking *Arabic*. Because the Government and other entities perpetuate these stereotypes and assumptions through means that have potentially criminal repercussions, more courts should scrutinize governmental behavior the way the court did in *Farag* and recognize language-based targeting as “selective enforcement” on the unconstitutional basis of race or ethnicity.¹¹⁶

Unfortunately, in current employment and civil rights law, there is wide variation in how courts enforce language discrimination. Moreover, there are many areas where the court dismisses language-based claims as “race-neutral,” such as striking jurors from a jury for being

¹¹³ Annalisa A. Jabaily, *Ships Passing in the Night: Mapping the Trade Routes Between the War on Drugs and the War on Terror*, 15 TEMP. POL’Y & CIV. & CIV. RTS. 1, 13 (2005).

¹¹⁴ See generally *Farrag v. United States*, 587 F. Supp. 2d 436 (E.D.N.Y. Nov. 24, 2008).

¹¹⁵ *Id.* at 458.

¹¹⁶ See *Whren v. United States*, 517 U.S. 806, 813 (1996)

bilingual.¹¹⁷ Many scholars argue, and as this paper contends, that these courts are wrong; all courts should recognize the direct link between language profiling and the racialization of subordinate groups. In turn, courts should scrutinize treatment directed towards Arabic speakers based solely or in part on language as racially motivated and counter to our promise of equal protection.

B. Combatting Language Prejudice

Language discrimination against Arabic speakers, however, is perpetuated beyond the courtroom and “has not to do with the language itself, but with the social circumstances and identities attached to that language.”¹¹⁸ In order to combat the misconceptions by many Americans of Arabic speakers, the U.S. should look to support and encourage programs that will combat stereotypes attached to both Arabic and Arabic speakers; bilingual and multi-cultural education are just two examples of effective ways to do this. Empirical studies have shown that “exposing native English speakers to a new language and culture can instill a heightened appreciation for diversity.”¹¹⁹

Researchers have found that bilingual education, and more specifically, learning the languages of “other-ed” groups can begin to combat racial prejudice and stereotypes.¹²⁰ This is in part because education of another language includes education on cultural values and norms.¹²¹ It can also improve communication between different identity groups, and has been empirically proven to “cause[] statistically significant” improvements “in positive trait [associations for] all

¹¹⁷ Perea, *supra* note 87.

¹¹⁸ See ROSINA LIPPI-GREEN, ENGLISH WITH AN ACCENT 335 (2012).

¹¹⁹ Jenna Suttmeier, *Appreciating Bilingualism: The First Step to Reducing Racism in the United States*, CLAREMONT MCKENNA COLL. 6 (2011) (electronic thesis), http://scholarship.claremont.edu/cgi/viewcontent.cgi?article=1151&context=cmc_theses.

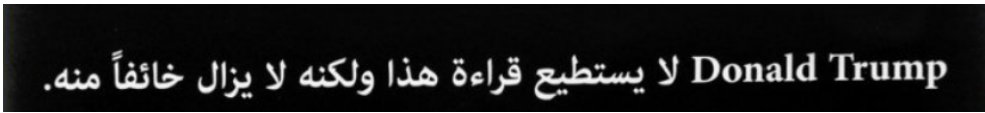
¹²⁰ See, e.g., *Learning the Language of ‘The Other’ in Conflict-Ridden Cyprus: Exploring Barriers and Possibilities*, in *Languages and the Military*, http://link.springer.com/chapter/10.1057/9781137033086_13.

¹²¹ Suttmeier, *supra* note 119.

nationalities,” which in turn may “help [individuals] perceive differences, appreciate them and above all respect” people who speak other languages.¹²² And given the links between language and culture, at least one author has highlighted the environment of a second language class as an ideal space to explore the intersections of race and language and to begin to break down judgment and discrimination through intercultural interactions.¹²³ Ultimately, due to the likely resistance to such efforts¹²⁴, any approach to combat stereotypes must be a complement to legal recognition and protections, such as the ones explored in Part II.A above.

IV. Conclusion

Arabic speakers in the United States are aware of the perception of their language, as is evidenced through the sharing of their lived experiences through writings and cases—some of which are expounded upon above. A satirical billboard aimed at Presidential Nominee Donald Trump also poignantly illustrates this point. Along I-94 in Dearborn Michigan¹²⁵ the following message was broadcast in large Arabic letters:



Donald Trump لا يستطيع قراءة هذا ولكنه لا يزال خائفاً منه.

Donald Trump can't read this, but he's still scared of it.

¹²² *Id.* at 329–30.

¹²³ STEPHANIE ANN HOUGHTON, INTERCULTURAL DIALOGUE IN PRACTICE : MANAGING VALUE JUDGMENT THROUGH FOREIGN LANGUAGE EDUCATION (2012).

¹²⁴ See *supra* notes 20–22 for a discussion on reactions to Arabic language proliferation in the United States. The Mexican American Studies Program is another example of a successful multicultural program with aspects of bilingual education that was met with great resistance. See, e.g., Nolan L. Cabrera, Elisa L. Meza, and Roberto Dr. Cintli Rodriguez, *The Fight for Mexican American Studies in Tucson*, N. AM. CONGRESS ON LATIN AM. (2011), <https://nacla.org/article/fight-mexican-american-studies-tucson>.

¹²⁵ Detroit's greater area has “one of the largest concentrations of Arabs outside the Middle East.” Bobby Ghosh, *Arab-Americans: Detroit's Unlikely Saviors*, TIME (Nov. 13, 2010), <http://content.time.com/time/magazine/article/0,9171,2028057,00.html>.

¹²⁶ The billboard, somewhat humorously, highlights how political and social discourse has singled out the Arabic language and branded it as ‘menacing’ or ‘scary.’ Though the script is a harmless poke at the presidential nominee, it suggests on a deeper level that the Arabic script, alone, is something with the ability to invoke fear in others. And perhaps, based on the misconceptions and stereotypes perpetuated by the government and pop culture, it does.

The portrayal of Arabic as “menacing” and as the language of terrorists is, at its core, a racist and xenophobic characterization. This type of “[l]anguage subordination is[]taking away a basic human right [of Arabic speakers] to speak freely in the mother tongue without intimidation, without standing in a shadow.”¹²⁷ Racial subordination of Arabic demonstrates how racial discrimination can manifest through the proxy of language. The current language discrimination against Arabic speakers parallels past instances of discrimination, and should thus prompt reflection and action on the part of policy makers and the public, alike. The U.S. and Americans who are not Arabic speaking must recognize how the racialization of languages is perpetuated and is harmful to its speakers, and begin to work on reversing the process of language racialization that has begun for Arabic speakers in the U.S.

¹²⁶ Photo retrieved from *Anti-Trump Billboard Along I-94 In Dearborn Sends Message In Arabic*, CBS DETROIT (Oct. 17, 2016), <http://detroit.cbslocal.com/2016/10/17/anti-trump-billboard-along-i-94-in-dearborn-sends-message-in-arabic/>.

¹²⁷ LIPPI-GREEN, *supra* note 118, at 336.