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Jihad, Universalism, and International Law

*Darryl Li discusses his book, *The Universal Enemy: Jihad, Empire, and the Challenge of Solidarity* (Stanford University Press, 2020) with John Reynolds of the TWAIL Review editorial collective.*

The Universal Enemy is an ethnographic history of “jihadist foreign fighters” and their role in a pivotal event in the post-Cold War international legal order, namely the 1992-1995 armed conflict in Bosnia-Herzegovina. For Li, both jihad fighters and UN peacekeepers embody the concrete dilemma of universalism: how to realise ideals notionally directed at all of humanity in the face of national, racial, and other forms of difference – and how to do so in a war zone. The book is based on over a decade of research in a half-dozen countries, including interviews with and publications by participants in the jihad in multiple languages, as well as UN and Bosnian army archival records.

John: What motivated you to write this book?

Darryl: This book arises out of my experiences in the human rights NGO world in the early years of the post-September 2001 “War on Terror”. My dissatisfaction with the dominant liberal-legalistic critiques of the war have many political dimensions, but here I’d like to highlight a more fundamental issue of world-view: the lack of a historical sensibility that can properly recognise and challenge the War on Terror as, among other things, a global effort to police transnational Muslim mobility. I distinctly remember seeing the first news footage of detainees arriving in Guantánamo Bay and being struck that we as advocates had no way of making sense of the presence of these Arabs captured by the United States in Afghanistan and sent to Cuba. This absence of meaningful context underpinned the plausibility of the notion that they were all part of some nefarious terrorist conspiracy. It also informed

the challenges that many defense counsel and activists have in working on such cases.

As a non-white immigrant/settler living in the United States, I tend to think of history less in terms of fixed landmasses and more through the lens of mobility and the varieties of coercion it entails. For me, it seemed a common-sense assumption that there must have been diverse motives for travel to Afghanistan such as trade, charity, marriage, adventure, and so on – it was just harder to see that context because so much of our thinking about migration remains a story of “the West” versus “the Rest”, at the expense of other cross-regional connections. So I pursued concurrent graduate studies in anthropology and law with the idea that new combinations of research and advocacy would be needed to meet these challenges. I started studying the “Afghan Arabs” who traveled to wage jihad against the Soviets in the 1980s. Although this movement is best-known for including Osama bin Laden and spawning al-Qa’ida, I was interested in mapping the broader picture of motivations, projects, and trajectories, all the people who fought and then *didn’t* join the struggle against the US.

After several months of research in Pakistan, the logistical challenges of the project pushed me to consider Bosnia instead, where a small population of jihad veterans were living openly and therefore seemed easier to approach than people in the Afghanistan border region on the run from drones and bounty hunters. This turned out to be fortuitous from a conceptual standpoint, because Bosnia’s centrality in international law debates raised important questions about universalism that have also been a long-running concern. Meanwhile, the intuitions that drove my research came to be very helpful during my time working in the defense of a detainee at Guantánamo in researching and corroborating our client’s back story.

John: So universalism is the core concept that you’re probing in the book?

Darryl: Yes, the book is essentially about universalism, a concept that hangs over many debates in international law, one that is often invoked, interrogated, ridiculed but not always in the most careful or illuminating ways. Instead of trying to identify whether true universalism is possible or which norms are truly universal, this book tries to understand how universalism works in practice, what kinds of scales of analysis, categories, and objects do we need to even make sense of this question? How can we think with universalism as a concept in a way that does work distinct from, say, liberalism, empire, and so on?

The book explores these issues using the example of so-called “jihadists” in the Bosnian war. Several thousand volunteers, mostly Arabs, traveled to Bosnia to

wage jihad in support of their co-religionists on behalf of a global Muslim community. They're often called "foreign fighters," but they're no more foreign than the thousands of peacekeepers, diplomats, and aid workers who descended on the country in the name of the "International Community". They hail from a comparable number of countries, embodying a similar racial, national, and linguistic diversity. Like the International Community, they offer local populations assistance in the name of a particular notion of humanity; standards for integration and acceptance; and pathways to travel as bearers of the universal unto others.

But beyond noticing and thinking with these parallels, I wanted to understand the assumptions and arguments that allow for labeling Arab jihad fighters as *foreign* in Bosnia and Western-led peacekeepers as *International*. We can see this most clearly in the Dayton Peace Accords, which ended the war: the agreement had a provision requiring the departure of "all foreign Forces, including individual advisors, freedom fighters, trainers, [and] volunteers" within thirty days. That rule was drafted with jihad fighters in mind and is accompanied by another clause exempting UN and NATO-led peacekeepers! So some outsiders embody the universal and others are so different that their exclusion has to be enforced by the International Community.

That's why it's helpful to think of the jihad fighter as a *universal* enemy. Not because they are out there hating everyone who's not them, but because the very act of declaring them the "enemy of all" requires someone else assuming the ability to speak on behalf of mankind. Too often we self-described critical scholars simply say, "oh look, this group of people are being demonised as the enemy of all and that's problematic". This is true but I am interested in a different question: what if those people are claiming to speak in the name of the universal too, and what does that hypothesis show us about the "usual suspects" of universalism like empire and human rights? Some readers may balk at this argument, thinking that invoking universalism in relation to jihad is a form of glorification – but for me as an anthropologist, "universalism" is more often than not a dirty word. This book is less about making jihad look good than about making it seem interesting.

John: How does your approach and account differ from traditional attempts to theorise universalism in international law?

Darryl: In the TWAIL tradition, much of our work comes down to either talking about international law as an irremediable instrument of empire and white supremacy or about the need for a more just or inclusive global regime, perhaps better informed by non-Western cultures. This book does something different by asking: what if the

common critiques of universalism are not bugs but features? The fact that universalist projects never reflect the full diversity of lived realities they purport to represent, that they will always be invoked in hypocritical or self-serving ways to a certain extent, that they will lead to some forms of exclusion – what if these aren't proofs that a particular universalism is false, but rather general attributes that must be taken into account whenever we theorise universalism?

In international law, questions of universalism are often mediated through the form of the nation-state. Sometimes the nation-state is the vehicle for embodying universal values and other times it's counterposed to universalism; think of how we rely on states to ratify and translate human rights norms into concrete policy but also rail against national chauvinism as the antithesis of international law. A version of this dynamic was apparent in the Bosnian jihad: that roving transnational fighters, allegedly Salafi fundamentalists, served under the authority of generals that included non-practicing Muslims and non-Muslims, many of them erstwhile communists. These jihad fighters believed that war to defend Muslims did not require the permission of any government, but they were also willing to cooperate with an established nation-state when they deemed it proper. In this sense, they aren't that different from liberal humanitarians: both believe that there must be *some* form of authority for violence that exists above the nation-state. As the best scholars of international law have long recognised, the relationship between universalism and nationalism is always necessarily an ambivalent one.

But insights like these are occluded in the dominant discourse, which caricatures transnational jihads as rejecting the nation-state form altogether and, by extension, any possibility of rational legal regulation. The nation-state still shapes so many analytical categories, which is why in many narratives of conflicts like Bosnia, the foreign fighters show up as crazy interlopers, a sort of diabolus ex machina.

John: In contrast to such caricatures, your book really powerfully portrays the complexity and diversity of the backstories and afterlives of the jihad fighters that participated in the war in Bosnia. You describe the book as 'a kind of ethnographic history from below' - can you talk us through this approach?

Darryl: The standard narrative imagines foreign fighters as people simply sitting at home in one country who then decide to travel thousands of miles to risk their lives in another, all for Islam. This idea of travel from one national space to another without context can be seen as either heroic or fanatical, which is why it's shared by many supporters and opponents of the jihad. But it's not the whole story: the sinews

and pathways of jihad mobilisations build on, amplify, and transform existing forms of mobility and linkage across regions.

The book attempts to relativise the nation-state through using categories such as empire and diaspora. Early in the research, I noticed that many of the key figures in the jihad did not travel directly from their countries of origin, but were already living abroad as migrants of various kinds. So instead of just focusing on *where* these fighters came from, I ask *how* they arrived – by shifting from national origin as the key category to tracing their actual trajectories, I was able to capture a much richer social context for their emergence. Once we see how many of these people were engaged in various forms of travel, as workers, students, refugees, pilgrims, and so on, their shift to armed activity suddenly becomes less bizarre.

Now, after establishing this approach toward studying jihad, the book argues that a similar lens can help us look at other phenomena differently. That's the purpose of the latter half of the book – which I hope the TWAIL community in particular finds useful for thinking about the social reality of international law. The Non-Aligned Movement (NAM), for example, has often been studied as a series of meetings between famous people (often men), be they statesmen or artists, a thin narrative that leaves us with the unappetising choices of nostalgia and dismissal. The book instead shows how NAM created new lived realities by following the lives of Arab students who traveled to Yugoslavia and made families there with local women. Or with UN peacekeeping, we've had a few decades of policy-oriented literature that examines this phenomenon through the lens of different troop-contributing states and their motivations. This book instead grounds the extensive participation of India and Pakistan in UN operations in the two states' shared colonial history in the British imperial army, which sent troops all over the world for centuries. The Pakistani peacekeepers I spoke to who had served in Bosnia traced their regimental histories all the way to early 19th-century Bhopal; for them, service in the Balkans was part of a lineage that included imperial and national wars across Asia, Europe, and Africa.

John: That's really interesting. On the Non-Aligned Movement, I was struck by the choice you made to open the book not with an illustrative story of a mujahid who came to Bosnia *for the war* in the 1990s, but instead with that of an Iraqi who had been in Yugoslavia since going to study there in the late 1970s. Later on in a chapter on Non-Alignment you write about numerous other such examples of these transregional migrations and encounters. What do these stories of young people moving from Arab countries to socialist, secular Yugoslavia – including some whose language skills and knowledge of local context made them important intermediaries in the jihad – tell us about the relationship between the Non-Aligned Movement and

the Muslim world at that time, and how do you understand or conceptualise Non-Alignment as its own particular brand of universalism? What were the impacts ultimately of the wars in Yugoslavia on Non-Alignment?

Darryl: It was important to me that this book take seriously the legacy of Yugoslav socialism instead of reducing Bosnia to just a fungible nation-state case study in a global study about “jihad”. As mentioned above, thinking in transregional rather than national terms was important just to get some of the basic facts, like: if we imagine a bunch of “random” Arabs showing up to fight in Bosnia, how do they communicate with the locals? It turns out that the most available sources of bilingual labor were students who came in the context of NAM, and they became what the historian Natalie Rothman calls “cultural brokers”. They are part of the broader history of thousands of students from the Global South who traveled to Yugoslavia and the Soviet Bloc, giving rise to a staggering array of encounters across race and culture that scholars are only beginning to examine, and which continue in various ways today.

More broadly, I wanted to disrupt some of the Cold War thinking that has come to shape debates around war, intervention, and jihadism. In ex-Yugoslavia, liberals and Islamists tended to converge in dismissing state socialisms as basically anti-religious and oppressive. This is a convenient framing that appeals to the sympathies of US power, which was why American and British neocons were able to align with some pan-Islamic activists in advocating for war to save Bosnian Muslims. On the other side there are unfortunate alignments that invoke a kind of nostalgia for left projects in defense of regimes that have themselves long ago abandoned any substantive commitment to such politics. So for example, wartime Serb nationalists worked to dismantle Yugoslav socialism (with no little help from the West) even as they inherited the institutional structures of the Yugoslav state such as the army and its diplomatic apparatus – including ties with Arab states and the lucrative arms contracts that came with them. They could reject the Yugoslav motto of “Brotherhood and Unity” and murder Muslims at home while espousing “Non-Aligned unity” with Iraq under Saddam or Libya under Gaddafi in the face of US-led aggression.

In this very unappealing set of debates, left projects are either dismissed out of hand or reduced to empty slogans. In tracing how people experienced the life and death of Non-Alignment, and some of the unintended consequences that emerged, I want to contribute to a different sense of contingency in thinking about left politics. I want us to confront and struggle with the inherent awkwardness of transnational solidarity with greater honesty and determination.

John: This ties in somewhat to one of the undercurrents that you draw out through the course of the book which is to do with dynamics of race and racialisation. You take us beyond the familiar critiques of depictions of Yugoslavia as Europe's violent periphery, and move to examine more complex elements such as the appeal of the jihad in Bosnia to its participants as an inter-racial and inter-national imaginary, Bosnia as both a harbinger of the racialisation of Muslims in the global war on terror but also a site of racialisation between Muslims, and the notion (and symbolism) of Bosnia as a distinctly "European" jihad?

Darryl: Scholarship on the Yugoslav wars and the Balkans more generally has focused on the construction of difference with "the West". This is important but even more interesting is how this region confounds global hierarchies of race – where else, after all, have European countries been subjected to the forms of intervention typically reserved for the Third World, where we can see African peacekeepers handing out aid to white refugees? And in the context of the jihad and other pan-Islamist organising, the racialised desirability of Bosnian women as marriage partners was offset against perceptions that Arabs (especially from the Gulf) were both bearers of a more authentic Islam and wealthier.

Here, the tendency to treat the Balkans region as *not quite white* intersects with a global reconfiguration of Muslims as *other than white*. Thus, for Serb and Croat nationalists, portraying their violence against Bosnian Muslims as defense of Europe against Islamic fundamentalism was a way to shore up their own precarious position in global hierarchies of whiteness. And the intersection of these distinct axes of racialisation makes Bosnian Muslims into something of an oxymoron, one that arouses both fascination and suspicion. For Western liberals, Bosnia's Muslimness signaled the possibility of a truly secular and tolerant Europe, but also of white terrorists who could slip past racial profiling measures. For many Muslim audiences, Bosnia's whiteness was a reminder of Islam's universality and multi-racial appeal but also was connected with concerns about lack of piety or authenticity. Mapping these different dynamics was important to break out of prevailing conversations on the Balkans, insofar as their contours have been structured by an aspiration to whiteness.

John: Things culminate in your final chapter on 'the most powerful universalism of this book, the one that has overshadowed all that has come before it: the Global War on Terror'. What does your story of Bosnia tell us about this war on terror, the machinery of US empire and its legal logics?

Darryl: While Bosnia was perhaps the most prominent site for developing notions of humanitarian intervention after the Cold War, it was also an early and important site in the War on Terror. Shortly after the September 11th attacks, six Algerians were arrested in Bosnia and sent to Guantánamo Bay, in violation of a local court order. The case drew attention because by using the same legal theory to justify battlefield detentions in Afghanistan, the US was demonstrating its model of a truly globalised armed conflict. The Algerians went on to win the landmark US Supreme Court ruling that finally afforded habeas corpus rights to captives at the prison. Due to the notoriety of this incident, Bosnian authorities under US guidance spent years devising more legalistic ways to denationalise, detain, and deport Arabs it deemed suspicious, including participants in the jihad. The book follows these efforts in great detail, showing how the War on Terror shuttles people between “extraordinary” sites of detention like Guantánamo and seemingly mundane jails and immigration detention centers run by other countries – and that such shifts often make their situations harder to challenge legally, not because they are secret but because the country formally carrying out these actions (Bosnia) is not the one really in charge (the United States).

Most of the scrutiny directed at the War on Terror has focused on situations where the United States directly and openly uses violence outside its borders, such as drone strikes in Pakistan (and elsewhere) and the prison at Guantánamo. These spectacles should not cause us to overlook the fact that the bulk of the War on Terror – and of U.S. imperial violence more generally – is nominally committed by *other* governments, acting as free, equal, and independent states. The role of client regimes is crucial in allowing the US to obscure the extent and scope of its influence, minimise legal liability, and co-opt national elites. In recent decades, many of us have tried to understand the War on Terror using theories of sovereignty that emphasise domestic authority. Far more relevant to my mind, is sovereignty as an *international* legal category that allows the US to put responsibility for its actions onto other countries. Sovereignty is not just raw top-down authority, but a relational form of power that reconciles formal equality with substantive inequality between states. Petty authoritarians may cling to their own sovereignty to justify their actions; today’s empires use sovereignty to have other countries do the dirty work for them.