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Transatlantic Counterterrorism Policy: Cultural, Economic, and Financial Aspects

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What are U.S. and German approaches to securing critical infrastructure?

Does the integration of Muslim immigrants play a role in preventing radicalization?

How do different privacy concerns and laws impact international counterterrorism cooperation?

Introduction

Counterterrorism policy has been at the forefront of U.S. domestic and foreign policy since 11 September 2001. Germany has been a key ally in the fight against terrorism, even though differences in framing the issue and developing policies have also emerged. International terrorism is a global threat; in Europe. Terrorist attacks in London and Madrid, foiled attempts in Germany, and attacks in India and elsewhere in the past decade have continued to keep terrorism on the forefront of domestic and foreign policy agendas in Europe and the United States. The German Marshall Fund of the United States released a study in 2007, which found that Europe's and the U.S.' views of terrorism are converging: The difference in the question if terrorism will be a personal threat in the next ten years has dropped to only eight percentage points. While in 2007 Europe and the United States were still quite far apart on the question of how to address these threats and which policies are the most promising, the change in the U.S. administration has also signaled a rapprochement in the question of tactics. In the 2007 study, Europe, and especially Germany, saw terrorism as a criminal offense and viewed more stringent laws and criminal prosecution as the key solution. The United States, however, viewed military means as necessary because they viewed international terrorism as a threat, for which the usual civil law tools are powerless.¹ Under President Barack Obama this has changed to a certain degree. While the President has returned the focus on the war in Afghanistan, thus continuing to view military means as an important tool in the fight against terrorism, decisions by the new U.S. administration to close the detention center in Guantanamo and try some of the alleged plotters of the 9/11 attacks in a New York City court instead of by a military tribunal have signaled the addition of legal tools to the counterterrorism arsenal. In the 2009 *Transatlantic Trends* survey by the German Marshall Fund of the United States, Europeans displayed a large amount of confidence in President Obama in the fight against terrorism—at 75 percent, more confident than Americans, at 45 percent.² As international terrorism requires an international solution, a certain convergence between Europe and the United States—as well as increased trust and cooperation—is certainly desirable.

While many challenges remain, the commitment of the current U.S. administration toward multilateralism should thus be embraced and welcomed by Europe and Germany.

This Issue Brief will focus on three aspects of transatlantic counterterrorism policy: Cultural aspects, including issues of religion and how cultures relate to each other, as well as how the cultures of both the United States and Germany influence the issue and possible policy solutions; economic aspects detailing how critical infrastructure can be protected; and finally the financing of terrorism and what international policies are needed to combat the financing of terrorist organizations and terrorist attacks.

Cultural Aspects

Since the 9/11 terrorist attacks and subsequent wars in Afghanistan and Iraq, much has been written about the cultural aspects on terrorism and questions of the role of religion as well as a possible “clash of civilizations.” The mixture of culture and religion makes it very hard to discern the reasons for Muslim radicalization, which is viewed as a threat especially in connection with Muslims in Europe, who enjoy visa-free travel to the United States if they are European citizens. The prevention of radicalization of Muslims is one of the key questions in counterterrorism.

Cultural Exchanges, Disenfranchised Muslims in the West, and the “Kiss of Death”

One of the fundamental questions is how the West and Muslims around the world can talk to each other about problems of integration, religion, politics, and culture issues. Without summarily criticizing the West or Islam, is it important to have an open, honest, and critical discussion about compatibilities and differences of religion and culture, of Muslims and the West, and about problems and solutions. Of course, neither the West nor Islam is a single entity and cannot be viewed simplistically as such. Yet both will have to cooperate with each other; Europe and the United States will have to find a way to engage with moderate Muslims to solve the questions of integration, disenfranchisement, and radicalization. Cultural exchanges have long been viewed as one tool to explain Western cultures and, in particular, to bring young people from different religions and regions to the United States and Europe. While such exchanges’ short-term effect and effect on individuals can be debated, they are one useful policy tool that Europe, Germany, and the United States can use to foster communication and understanding.

Additionally, the West will have to answer the question of

how much they should support moderate Muslim groups in the Middle East. Some analysts describe any monetary or political support by the United States for moderate Muslim groups in the region as the “kiss of death” for any kind of influence these groups might hope to attain. Being connected to the U.S. in a climate of anti-Americanism and distrust of the United States can be rather counter-productive and counteract the intentions of the U.S. policy behind this support. Alternatives remain a question. Apart from largely symbolic gestures, which should not be discounted, abandoning monetary and political support for moderate Muslims in the world would leave the U.S. little leeway to further engage with Muslim non-governmental organizations. While recognizing that the struggle between moderate and fundamental Islam is largely an internal struggle, one solution might be for Europe and the United States to support moderate Muslim organizations jointly, in order to prevent this support as being seen as only American. Although its participation in the ISAF mission in Afghanistan has also caused Germany to be viewed as an enemy of Islam by some people, Germany is still considered as an honest broker in the Middle East by many and could thus become a stronger supporter of moderate Muslim organizations in the region.

However, it is not enough to only look at relations between the United States and Europe vis-à-vis Muslims in other nations. The terrorist attacks in London and the uncovering of the Sauerland Cell in Germany, as well as the recent arrest of five U.S. Muslims in Pakistan accused of trying to join al Qaeda, shows that the radicalization of Muslims is not just an issue of international relations and foreign policy but rather a question of domestic integration policy as well. In a separate project, AICGS is examining the question of Muslim integration in the United States and Germany. Both countries are facing differences, yet also similarities when it comes to

the integration of their Muslim immigrant communities. One of the topics that is also addressed in AICGS Issue Brief 33 by Mounir Azzoui in December 2009³ is the influence of the Imams on Muslims in Europe and the U.S. In Germany, Imams are not educated by a state institution but rather sent to Germany from abroad, mainly from Turkey. Not accustomed to German culture and language, these Imams are often only in Germany for a limited time period and then replaced by new Imams coming from abroad. This enforces the ties of Turkish Muslim immigrants to Turkey rather than their host country and increases the suspicion Germans have of the Muslim religious communities in their midst. German-educated Imams would thus further integration, consequently reduce the disenfranchisement of Muslims in Germany, and therefore prevent a feeling of not belonging that might be supplanted by a radical Islamist ideology, which seeks to fill exactly this void. Additionally, the West should not be afraid to be proud of its values, heritage, and traditions and thus set a counter to radical Islamist ideology. One of the means to do so is by trying terrorist suspects in court, for example, as discussed further below.

The Different Legal Cultures in Europe and the United States

While cultural and religious aspects are usually connected to discussions about Islam versus the West, cultural differences among Western countries cannot be forgotten as they impact the West's cooperation in the fight against terrorism. Much has been said and written about the differences that arose between the United States and Europe, and especially Germany, during President George W. Bush's administration in terms of legal and political decisions concerning counterterrorism policy. Guantanamo, torture, and extraordinary renditions are only a few of the issues that have led to disagreements between Europe and the United States. President Obama's popularity in Europe is also founded on his promise to close Guantanamo and conduct a different counterterrorism policy than his predecessor. Yet, even though President Obama has promised a radical change in how U.S. counterterrorism policy is conducted, implementation has been hampered by thorny realities. Closing Guantanamo leads to a wide array of questions: Where will detainees be sent that cannot be prosecuted due to lack of evidence but are too dangerous to be released? Will they remain incarcerated indefinitely? On what legal grounds? What happens to the detainees that can be released but that are in danger of being tortured in their home countries? If the U.S. is not willing to allow detainees to settle in the United States and if European countries are also wary of taking them in, a scenario that emerged over the previous few months, where will they go? If detainees are to be tried for crimes they have committed, which court is the right venue?

U.S. Attorney General Eric Holder has partially answered this question by announcing that Khalid Sheikh Mohammed and other alleged plotters of the 9/11 attacks will be tried in a civilian court in New York City. While the decision has caused discussions in the United States of whether a civilian court is the appropriate venue compared to military court, the current policy of the U.S. administration has bridged the Bush administration's militaristic war on terrorism and the European view that terrorism is a criminal activity best prosecuted in a court of law. However, President Obama's decision to close Guantanamo is not shared by the majority of the U.S. population. A recent Gallup poll from November 2009 found that 65 percent of Americans oppose the plan to close Guantanamo and move some of its prisoners to the U.S. Even among Democrats only 50 percent support the U.S. President's proposal, while 45 percent oppose it.⁴ Because current law prohibits the administration from bringing Guantanamo prisoners into the U.S. unless they are put on trial, the President will need congressional approval for his plan. With public support of his plan so low even in his own party, President Obama might have to reconsider his decision, which would certainly have consequences for his image in Europe. Additionally, if the U.S. is unwilling to take in prisoners or released detainees, European countries will have a much harder time to explain to their citizens why they should take in any released Guantanamo detainees.

Since 9/11, both the United States and Europe view many modern challenges through the prism of terrorism. The integration of minorities, laws regulating immigration, and foreign policy objectives, to name only a few, are nowadays often viewed through the lens of security concerns. While this has meant that Europe and the United States have experienced a certain rapprochement when it comes to setting the policy agenda, with terrorism and security being on the forefront, it has also limited creative policy solutions to many of today's pressing problems. A smart immigration policy, for example, will not only take into account security concerns, but will also reflect a concern for other dimensions of society, such as economic and integration concerns. Thus, while the desire to create a safe and secure society and protect one's citizens is certainly a high priority, policy issues cannot only be seen through the lens of terrorism to find the most optimal solution. In order to avoid having terrorist activities carried out by Muslims become a question of culture, religion, or politics, one should regard terrorism first and foremost as a criminal activity requiring a legal answer. However, as each country's legal system and culture are unique, so should be their response in the legal framework. By trying terrorists in the legal framework, the West is also giving a cultural answer to the question of how to combat terrorism: If one sees Islamist terrorism—or any kind of terrorism, for that matter—as an attack on Western values and democracy, the answer is not

to abandon these societal cornerstones but rather embrace them as a counter model to Islamist ideology.

Economic Aspects

Terrorist threats and attacks aim at impairing the necessary functions of a society, which include the economic well-being of a nation and its citizens. It is critical both to protect the infrastructure of a country and to examine how best an economy is able to withstand a potential terrorist attack.

Protecting Critical Infrastructure

Germany has implemented an all-hazard approach to secure its critical infrastructure. An all-hazard approach evaluates critical infrastructure and its protection against all kinds of different disasters which could impact them; terrorism is counted among those potential hazards and is thus covered under this policy. In this, Germany pursues a baseline approach in which it partners with the operators of critical infrastructure, for example electricity companies, to implement sufficient protection. The operators of the critical infrastructures are then responsible for ensuring that important measures are in effect and that protection is sufficient. Infrastructure systems are usually interdependent; the disruption of one impacts other sectors. The interdependences of critical infrastructure, economy, and society, as well as the all-hazard approach Germany and many other nations employ, means that a wide variety of agencies have to be consulted and involved in the process of developing and implementing policies. Additionally as mentioned above private operators of critical infrastructure components have a stake in policies and implementation as well.⁵ In addition to managing the inter-agency process, Germany as a federal state also has to coordinate state-federal cooperation. As critical infrastructure—for example, in the area of cyber security, which experts expect to become an even greater target of terrorist activities—is international in scope, in the case of Germany protection of critical infrastructure involves the EU and NATO, which has two committees dealing with this topic, and other international partners. In particular, this international cooperation needs to be improved. While the EU has taken steps to harmonize policies protecting critical infrastructure, a better cooperation within the EU is needed.

The United States faces similar issues to Germany when it comes to the protection of critical infrastructure. The multitude of types of critical infrastructure means that many agencies and different kind of policies have to be coordinated. After 9/11, the U.S. created the Department of Homeland Security (DHS), which functions as the lead agency in coordinating the inter-agency process. Like Germany, the U.S.

must coordinate state-federal issues; perhaps even more so than Germany, as U.S. states enjoy greater autonomy than German *Länder* (states). Critics allege that coordination between the state and federal level in the U.S. has been lacking and that the Bush administration failed to create “new Federal-state and private-public arrangements for protecting critical domestic assets and improving the nation’s ability to respond to and recover from catastrophic events.”⁶ Furthermore, DHS lacks the funding to support critical infrastructure; in 2007 the department “received only \$750 million to support critical infrastructure protection grants for the nation’s ‘high-risk urban areas.’”⁷ A third area in need of improvement in the U.S. is state and private partnerships. As the owners of 85 percent⁸ of critical infrastructure assets and as the primary implementers, the private sector will have to have a seat at the table when policies detailing the protection of critical infrastructure are discussed. Private companies would be severely impacted by a terrorist attack on their assets and it would be in their best interest to become part of prevention and protection.

The field of critical infrastructure protection is fairly new, especially in an international setting such as the EU. As states come to terms with the increased need for coordinating policies among agencies, opportunities will arise on the state-federal level and on an international level for states not only to work internationally but also to exchange best practices in research and policy development. Germany and the United States should continue their fruitful cooperation to improve their respective policies on protecting critical infrastructure.

Financial Aspects

No terrorist attack can be undertaken without logistical and financial support. International policies to combat terrorist financing are thus one important tool of counterterrorism policy. The United States and Europe have recognized this, but cooperation is sometimes hampered by different legal structures and cultural values.

Financing of Terrorism and Counterterrorism Policy

The global nature of international terrorism—as well as the financing of terrorist organizations and activities—requires international policies designed to combat them. The cooperation between Europe, the United States, and other international partners is therefore crucial. Much progress has been made in this regard, but more has to be accomplished. A problem that has come up between the United States and Europe is the designation of terrorist organizations, which is crucial to be able to freeze their assets. Unanimity among EU member states is required to identify an organization other than the Taliban or al Qaeda as a terrorist organization; thus, Hezbollah, for example, has not been designated a terrorist organization, as France voiced opposition.⁹ In this regard, having a consensus among EU members has been problematic, not only when it comes to the designation of terrorist organizations, but also concerning questions of data protection and privacy (see below). Furthermore, the implementation of common EU policies varies from country to country, as “northern European countries tend to take the directives and develop detailed implementations, [while] some countries in southern Europe as well as the EU’s newer members take these obligations far less seriously.”¹⁰ Having then to merge positions with the United States and potential other international partners into international agreements that take national concerns and legal structures into consideration is a complicated process. As international negotiations can take a long time, sometimes international agreements are then overtaken by events or technology, which is especially the case in combating international terrorist organizations, which do not have to take national or international concerns into consideration. Yet, if each nation can implement counterterrorism policies curbing financing in their own legal framework, much can be done already.

In addition, the situation and policies are complicated by the fact that Muslim non-profit organizations have fallen under suspicion as part of the financing of terrorist organizations. A general suspicion, aided by lists circulated by the government under the Bush administration, have strained the relationship between Muslim organizations and the government in the U.S. Good cooperation between Muslim non-profits

and the U.S. government are not only important in curbing financing of terrorist organizations, but also in improving the integration of Muslim immigrants into political processes. The Justice Department’s decision to “shut down six Muslim charities without filing charges [...] have instilled among Muslims ‘a pervasive fear that they may be arrested, prosecuted, targeted for law enforcement interviews’ if they give to any Islamic charity, the A.C.L.U. (American Civil Liberties Union) said.”¹¹ Cooperation between the FBI and Muslim organizations has stalled recently, with Muslim organizations complaining about the FBI’s tactics—problems that hamper a successful integration of Muslim immigrants in the U.S.

Furthermore, combating the financing of terrorist organizations and activities faces a tactical dilemma. On the one hand, policymakers and law enforcement organizations would like to stem the flow of money in order to prevent a terrorist attack from being financed and thus from happening. Yet following the money is one of the best ways to find the masterminds of a terrorist organization. It is a challenge for policies and law enforcement to know when to prevent a transaction and when it might be more prudent to find out who is the recipient of the transaction.

In order to effectively combat terrorism financing, international cooperation needs to take place in coordination with increased cooperation between the private and public sectors. Because banks are the first line of defense as they process countless financial transactions each day, a public-private partnership is vital for success. It is especially important for governments to give the private sector a tool set to evaluate data correctly. Banks, afraid of fines that they might encounter for failing to report a suspicious activity, tend to over-report such activity, creating a problem for intelligent analysts. Experts have suggested that providing analysts in financial organizations with certain security clearances and thus transferring some of the work to the financial institutions would relieve intelligence agencies of an increased volume of financial intelligence. Informal banking systems are a further challenge for the international community as these might be used increasingly by terrorist organizations if counterterrorism policy in the formal banking sector becomes too successful. The hawala banking system is already widespread in countries where people rely on informal means to transfer money. Should an increase in these informal transactions occur, law enforcement and policies designed to combat the financing of terrorism will have a harder time tracking these transactions. It will be prudent for the United States and Europe to discuss possible policies and the implementation of such with their international partners in order to prevent a shift to more informal transactions and to

increase the formalization of the banking sector worldwide.

Different Culture of Privacy and Data Sharing

The U.S. and Europe recently negotiated an agreement on access to data from the Society for Worldwide Interbank Financial Telecommunications (SWIFT), which has servers in the U.S. and Europe. The agreement allows U.S. authorities to access European citizens' financial transaction data for anti-terror investigations through SWIFT. U.S. authorities, however, are prohibited from passing the data on to third parties, a particular concern in Germany. While the agreement will initially be in effect for nine months only, both sides would like to draft a more permanent agreement once the current one expires. However, the agreement has not been without critics, and Germany was among the EU members that abstained from the vote. The abstention of the German interior minister, Thomas de Maizière, from the vote signals not only Germany's reluctance to water down rather stringent European and national privacy laws, but also a division within the new German governing coalition of CDU/CSU and FDP. The FDP has historically been very adamant about privacy protection and the right of citizens to protect their data from authorities. In its 2009 election platform, the FDP demanded that data protection should be included in the Basic Law and views privacy as the core of personal freedom. Additionally, the party demanded that secret online searches of private computers should be stopped and data about airline travel should not be retained.¹² While the coalition agreement between the CDU/CSU and the FDP is a compromise and does not reflect all of the FDP's demands, the FDP will continue to lobby for more rights to privacy for German citizens, which will impact the stance Germany will take on these issues domestically, within the EU, and in negotiations about data sharing with the United States. German justice minister Sabine Leutheusser-Schnarrenberger (FDP) criticized the recent SWIFT agreement arguing that "this decision makes millions of citizens in Europe less secure."¹³ Additionally, the German Constitutional Court (*Bundesverfassungsgericht*) is currently reviewing a challenge to Germany's law governing the retention of phone and internet data. The law requires phone and internet providers to save information pertaining to the usage of phones (landline and cell connections), fax, internet, and email. Critics view this law as too far-reaching and are concerned that ordinary German citizens will fall under general suspicion. Additionally, telecommunication companies are currently unsure how much data has to be saved and thus more data is retained than needed. The German data protection commissioner alleges that terrorists can circumvent the existing law easily, as it does not govern social networking applications such as Facebook.¹⁴

The conflict between protecting a citizen's privacy and being able to secure important data in preventing terrorist attacks is thus also impaired by the fact that lawmakers and laws are failing to adapt to the challenges of modern technology. Yet, counter-terrorism laws and policies will only have a complete effect if the internet, cell phone usage, and social networking sites are also taken into account. The most recent example of five U.S. Muslims arrested for traveling to Pakistan to allegedly join al Qaeda underscores this. A high-ranking Department of Homeland Security official was quoted in the Washington Post as saying that "Online recruiting has exponentially increased, with Facebook, YouTube and the increasing sophistication of people online."¹⁵ The internet as recruiting tool has become more important because "recruiters are taking less prominent roles in mosques and community centers because places like that are under scrutiny."¹⁶ Websites allow recruiters to reach potentially radicalized Muslims around the world, yet practically they are very hard to monitor. Additionally, as is the case with the financial aspect of terrorist activities (mentioned above), questions arise of when a would-be terrorist should be stopped and when it is more prudent to let the activities unfold to gather evidence for a potential trial or to uncover members of the larger terrorist network. Cases such as that involving the five U.S. Muslims arrested in Pakistan, however, underscore the need for global cooperation in tracing financial transactions and recruitment activities involving the internet. As Germany, Europe, and the United States continue to engage in negotiations concerning the exchange of SWIFT data and information on air travelers, different emphases on privacy versus counterterrorism policy might strain international cooperation, which is much needed in the fight against global terrorism.

Conclusion

Counterterrorism policy is not only domestic or foreign policy but a combination of both. Cultural and economic policies and considerations play a role as do international cooperation. The United States and Germany have cooperated in all aspects of counterterrorism policy since the 9/11 attacks, but different cultural implications and legal structures have sometimes hampered an all-encompassing cooperation and negotiations. Germany and the United States have implemented efforts to coordinate agencies and policies and improve the cooperation between the states and the federal level. As the EU continues to increase its role in counterterrorism policy, another level of negotiations has been added. Yet the complexity of the issue, as well as cultural and legal differences that might occur during negotiations about cooperation or cooperation itself, should not deter the United States, Germany, and Europe from increasing their cooperation. International terrorism is a global phenomenon that requires global policy answers. Islamic terrorism should not cause a 'west versus Islam' thinking, but Europe and the United States should coordinate their approaches to moderate Muslims not only around the world but also in their own countries. Moderate Muslims deserve Western support, and if this support comes from Europe and the United States together, it is perhaps not seen as a tainted "kiss of death" in a very anti-American society. While security for one's citizens is paramount, counterterrorism policy cannot cross the

borders of the legal and civil society traditions of the West. Western values and legal traditions are one of the countermodels to radical Islamist ideology and are thus one of the important tools Europe and the United States should employ in their counterterrorism strategies. President Obama has taken initial steps toward this goal and, while problems remain, Germany and Europe should support him in his endeavor.

NOTES

1 The German Marshall Fund of the United States, *Transatlantic Trends* 2007.

2 The German Marshall Fund of the United States, *Transatlantic Trends* 2009.

3 Mounir Azzaoui, *Similarities in Difference: The Challenge of Muslim Integration in Germany and the United States*, AICGS Issue Brief 33, (Washington, D.C.: American Institute for Contemporary German Studies, December 2009).

4 Frank Newport, "Americans Oppose Closing Gitmo, Moving Prisoners to U.S.," Gallup Poll, 16 December 2009, <<http://www.gallup.com/poll/124727/Americans-Oppose-Closing-Gitmo-Moving-Prisoners.aspx>>.

5 Kathryn Gordon & Maeve Dion, *Protection of 'Critical Infrastructure' and the Role of Investment Policies Relating to National Security*, OECD Report, May 2008, <<http://www.oecd.org/dataoecd/2/41/40700392.pdf>>.

6 Stephen E. Flynn, "Homeland Insecurity, Disaster at DHS," *The American Interest*, May/June 2009, <<http://www.the-american-interest.com/article-bd.cfm?piece=602>>.

7 Ibid.

8 Ibid.

9 Matthew Levitt and Michael Jacobson, "The Money Trail – Finding, Following, and Freezing Terrorist Finances," *The Washington Institute for Near East Policy*, Policy Focus #89 (November 2008), 34.

10 Ibid.

11 Paul Vitello & Kirk Semple, "Muslims Say F.B.I. Tactics Sow Anger and Fear," *The New York Times*, 17 December 2009, <http://www.nytimes.com/2009/12/18/us/18muslims.html?pagewanted=2&_r=1&hp>.

12 "Die Mitte stärken. Deutschlandprogramm 2009, Programm der Freien Demokratischen Partei zur Bundestagswahl 2009," 15-17 May 2009.

13 "EU approves data-sharing SWIFT agreement with US authorities," *Deutsche Welle*, 30 November 2009

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15 Griff Witte, Jerry Markon, and Shaiq Hussain, "Terrorist recruiters leverage the Web," *The Washington Post*, 13 December 2009.

16 Ibid.

The fight against terrorism has been on the forefront of the U.S. and German agendas and shapes the relationship between both countries. While differences in counterterrorism policy exist, the U.S. and Germany have also very successfully cooperated in counterterrorism measures. This publication examines the cultural, economic, and financial aspects of counterterrorism policy in the United States and Germany. It is the result of a conference held in Potsdam, Germany, together with the Brandenburgisches Institut für Gesellschaft und Sicherheit (BIGS) on "Terrorism in the Transatlantic Context: Cultural and Economic Implications and Solutions," which analyzed the cultural and economic implications of terrorism and counterterrorism policy and aimed to find concrete solutions to the problems terrorism presents.

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Recent Publications from AICGS:

- Frank Gadinger and Dorle Hellmuth, *Finding Security in an Age of Uncertainty: German and American Counterterrorism Policies*, AICGS Policy Report 41 (2009).
- Mounir Azzaoui, *Similarities in Difference: The Challenge of Muslim Integration in Germany and the United States*, AICGS Issue Brief (December 2009).

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