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## **Civil Liberties Post-September 11: A Time of Danger, A Time of Opportunity**

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Kevin R. Johnson<sup>1</sup>

From legal scholarship to pop culture, the statement “September 11 changed everything” has become almost a mantra. More often than not, the phrase is not invoked with a clear articulation of what in fact has changed, but as a way of explaining why security measures must trump civil rights. Because so much in the United States, if not the world, was transformed by that momentous day, it will take years to fully appreciate the impacts of the terrorist attack on U.S. social life. The contributions to this timely issue, which hopefully will be part of a continuing dialogue on the subject, shed light on some of the civil rights impacts of the events of September 11, 2001 in the United States.

Not long after September 11, the U.S. government took aggressive security measures in the name of protecting the nation from terrorism; many of them evoked strong criticism.<sup>2</sup> These various security measures most directly affected Arab and Muslim noncitizens in the United States. Critics claimed that the federal government’s policies amount to racial profiling,<sup>3</sup> although some defended such profiling.<sup>4</sup> Over time, the nation began to understand the ripple effects of the war on terror on immigrant communities generally, including the substantial Mexican immigrant community in the United States.<sup>5</sup>

As the smoke cleared from the mass destruction of September 11, growing political opposition emerged to the hastily enacted USA PATRIOT Act,<sup>6</sup> a lengthy, complex law that was passed within months of September 11. Citizens and noncitizens have begun to realize the far-reaching impacts on civil rights of the federal government’s national security efforts.<sup>7</sup>

The contributions in this issue of the *Seattle Journal for Social Justice* analyze the ripple effects of that fateful September day in 2001. An influential civil rights commentator,<sup>8</sup> Professor Natsu Taylor Saito situates the war on terror in the long history of repression of “un-American” racial and political minorities and asks who is being protected, and who is placed at risk, by the war on terror.<sup>9</sup> She analyzes how immigrants historically have been defined as “foreigners” unworthy of legal protection and are often the first casualties of governmental efforts to stifle political dissent.<sup>10</sup> Immigration law has served as an important tool to suppress social change from the days of the Chinese exclusion laws of the 1800s,<sup>11</sup> to the Red Scare after World War I, to McCarthyism in the 1950s,<sup>12</sup> and finally to the modern war on terror.<sup>13</sup> The USA PATRIOT Act, as well as the proposed USA PATRIOT Act II,<sup>14</sup> offers frightening insights into what could happen to racial and political minorities in the United States, citizens and noncitizens alike.<sup>15</sup>

Focusing on the role of the courts in reviewing the lawfulness of governmental conduct, Tania Cruz critically evaluates the judicial review of governmental measures taken in the name of national security.<sup>16</sup> Her thoughtful article analyzes how the courts have been extremely deferential to the government when national security has been invoked as a justification for harsh policies, with the Japanese internment during World War II perhaps the most well-known—and now deeply regretted—example.<sup>17</sup> Cruz contends that, as with internment, “the executive is once again attempting to limit judicial review of fundamental liberty restrictions ostensibly justified by national security concerns.”<sup>18</sup> Advocating that the courts closely scrutinize national security measures, Cruz calls for the precise opposite of the deferential review exercised by the courts considering the legality of the detention of Yaser Esam Hamdi<sup>19</sup> and Jose Padilla,<sup>20</sup> two native-born U.S. citizens classified as “enemy combatants”<sup>21</sup> by the federal government and detained indefinitely without being charged with a crime or having access to counsel. The government’s treatment of

these two U.S. citizens brings to mind the word “lawless,” with the Bill of Rights effectively suspended based on the federal government’s unsubstantiated and unreviewed charges, and the courts turning a blind eye.

There are recent precedents for positive political responses to civil rights setbacks. In the early 1990s, anti-immigrant, anti-Latina/o sentiment peaked with California’s Proposition 187<sup>22</sup> in 1994 followed by draconian federal immigration and welfare reform in 1996.<sup>23</sup> As a result, immigrants filed petitions to naturalize and become citizens at record rates.<sup>24</sup> New Latina/o citizens increased Latina/o political power. Today, political candidates aggressively pursue the Latina/o vote, with Republican candidates generally seeking to avoid the anti-immigrant politics of the past.<sup>25</sup> Consequently, the immigration climate, at least for the few years immediately before September 11, 2001, changed dramatically, with President Bush and Mexico’s President Vicente Fox discussing a possible migration accord between the United States and Mexico in the days immediately preceding September 11.<sup>26</sup>

Adding to our understanding of the civil rights impacts of September 11, three civil rights activists offer concrete examples of changes in the civil rights landscape after September 11. These activists see the potential for positive outcomes to follow today’s civil rights devastation. Pramila Jayapal, Executive Director of the Hate Free Zone Campaign of Washington, calls for the need for a renewed conviction and concerted action to protect civil rights in these turbulent times.<sup>27</sup> She contends that the civil rights deprivations after September 11 are only the surface injustice:

The real injustice is to the hearts and minds of the human beings who are being profiled. The real injustice is in the fear that has been created in immigrant communities across the country. The real injustice is in the long-term implications of our actions on the lives of people who have fled war-torn countries, searching for hope and promise, only to be told that they do not belong here.<sup>28</sup>

Jayapal discusses how the large Somali immigrant community in Seattle has been deeply affected by the Bush administration's policies in the war on terror.<sup>29</sup> Rather than only seeking to protect those communities directly under attack, Jayapal advocates using the opportunity to create "a powerful movement" for the future.<sup>30</sup> She offers two concrete examples, the Hate Free Zone Campaign, a concerted effort to build "common ground" among diverse communities in the state of Washington, and the Immigrant Workers Freedom Ride during the fall of 2003. Designed to bring the plight of undocumented workers in the United States to national attention, these rides were based on the 1960s civil rights freedom rides that raised public awareness about racial injustice in the American South.<sup>31</sup> Besides the impact on the national consciousness, the Immigrant Workers Freedom Ride was a transformative event for the riders who traversed the nation only to come away having learned much about themselves and energized about the quest for racial justice in the United States.<sup>32</sup>

Criticizing the incursions on civil rights after September 11, Professor of Law and American Civil Liberties Union (ACLU) President Nadine Strossen advocates the building of political coalitions to challenge measures like the USA PATRIOT Act II.<sup>33</sup> Professor Strossen highlights positive civil rights activism, including the ACLU's "broad-based coalition resistance effort" of many politically-diverse groups, which has resulted from the serious civil rights issues raised by the measures taken by the federal government in the name of national security.<sup>34</sup> A vigorous advocate of individual rights,<sup>35</sup> Professor Strossen calls for activist coalitions to fight the federal government's assault on civil rights in the name of national security.

Activist attorney Lynne Stewart, who has represented defendants charged with terrorism-related crimes, offers a chilling first-hand account of her indictment by the Justice Department on terrorism charges related to the legal representation of Sheik Omar Rahman.<sup>36</sup> Her much-publicized arrest came at a time when attorneys were effectively denied access to Arab and

Muslim clients held in detention, and some “enemy combatants” were denied an attorney entirely.<sup>37</sup> Not long before Stewart’s indictment, Attorney General Ashcroft amended prison regulations to permit the government to eavesdrop on attorney-client conversations.<sup>38</sup> All of these actions by the federal government unquestionably chilled the attorneys representing detainees.<sup>39</sup> Stewart’s indictment could not help but strike fear into the hearts of the attorneys seeking to provide legal assistance to alleged terrorists. The federal government’s conduct placed into question the shield of the near absolute attorney-client privilege, referred to as “the most sacred of all legally recognized privileges,”<sup>40</sup> at least when the clients in question were accused of terrorism. This action showed just how far the federal government was willing to go in its war on terror. Even after the indictment, Stewart remained an outspoken advocate of civil rights.<sup>41</sup> Her courage and refusal to be cowed in her advocacy, offer inspiration to us all.

In total, these papers move us forward in thinking about the long-term civil rights impacts of September 11 and the positive consequences that might flow from the tragedy. Many of the issues are deeply troubling to a nation founded and committed to fundamental civil liberties. These papers, however, offer hope. The affected communities are not surrendering without a fight. Rather, we are seeing a new age of activism and resistance among immigrants and other communities. An anti-war movement emerged as the United States engaged in war to topple the Iraqi government.<sup>42</sup> Nascent political coalitions among Asian American, Latina/o, and other groups protested the treatment of Arab and Muslim noncitizens subject to special registration requirements imposed by the federal government as part of the “war on terror.”<sup>43</sup> The PATRIOT Act came under sustained attack and the proposed successor legislation was derailed.<sup>44</sup>

We live in a time of great danger and great opportunity. As civil liberties stand in the balance, these contributions offer ideas of what is truly at stake.

<sup>1</sup> Associate Dean for Academic Affairs, University of California at Davis, Professor of Law and Chicana/o Studies; Director, Chicana/o Studies Program (2000-01); A.B., University of California, Berkeley; J.D., Harvard University. I thank Professors Maggie Chon, Carmen Gonzalez, and the editors of the *Seattle Journal for Social Justice* for making it possible for me to participate in this issue.

<sup>2</sup> See Susan M. Akram & Kevin R. Johnson, *Race, Civil Rights, and Immigration Law After September 11, 2001: The Targeting of Arabs and Muslims*, 58 N.Y.U. ANN. SURVEY AM. L. 295 (2002); Raquel Aldana-Pindell, *The 9/11 "National Security" Cases: Three Principles Guiding Judges' Decision-Making*, 81 OR. L. REV. 985 (2002); Diane M. Amann, *Guantánamo*, 42 COLUM. J. TRANSNAT'L L. (forthcoming 2004); Sameer M. Ashar, *Immigration Enforcement and Subordination: The Consequences of Racial Profiling After September 11*, 34 CONN. L. REV. 1185 (2002); David Cole, *Enemy Aliens*, 54 STAN. L. REV. 853 (2002); Bill Ong Hing, *Vigilante Racism: The De-Americanization of Immigrant America*, 7 MICH. J. RACE & L. 441 (2002); Thomas W. Joo, *Presumed Disloyal: Executive Power, Judicial Deference, and the Construction of Race Before and After September 11*, 34 COLUM. HUM. RTS. L. REV. 1 (2002); Neal L. Katyal & Laurence H. Tribe, *Waging War, Deciding Guilt: Trying the Military Tribunals*, 111 YALE L.J. 1259 (2002); Victor C. Romero, *Decoupling "Terrorist" from "Immigrant": An Enhanced Role for the Federal Courts Post-9/11*, 7 J. GENDER RACE & JUST. 201 (2003); Leti Volpp, *The Citizen and the Terrorist*, 49 UCLA L. REV. 1575 (2002). The civil rights consequences of the war on terror have been documented in numerous governmental and non-governmental reports. See, e.g., U.S. OFFICE OF THE INSPECTOR GENERAL, *THE SEPTEMBER 11 DETAINEES: A REVIEW OF THE TREATMENT OF ALIENS HELD ON IMMIGRATION CHARGES IN CONNECTION WITH THE INVESTIGATION OF THE SEPTEMBER 11 ATTACKS* (2003); LAWYERS COMMITTEE FOR HUMAN RIGHTS, *ASSESSING THE NEW NORMAL: LIBERTY AND SECURITY FOR THE POST-SEPTEMBER 11 UNITED STATES* (2003); MIGRATION POLICY INSTITUTE, *AMERICA'S CHALLENGE: DOMESTIC SECURITY, CIVIL LIBERTIES, AND NATIONAL UNITY AFTER SEPTEMBER 11* (2003). There are relatively few academic defenders of the aggressive measures taken by the federal government in the name of security after September 11. For a sensationalistic argument on the need to close the borders in the war on terrorism, see MICHELLE MALKIN, *INVASION: HOW AMERICA STILL WELCOMES TERRORISTS, CRIMINALS, AND OTHER FOREIGN MENACES TO OUR SHORES* (2002); see also Viet Dinh, *Freedom and Security After September 11*, 25 HARV. J.L. & PUB. POL'Y 399 (2002) (describing various security measures taken by federal government); Jan C. Ting, *Unobjectionable But Insufficient – Federal Initiatives in Response to the September 11 Terrorist Attacks*, 34 CONN. L. REV. 1145 (2002) (questioning in a more balanced manner whether the United States had done enough in the "war on terrorism").

<sup>3</sup> See Akram & Johnson, *supra* note 2, at 351-55; Leonard M. Baynes, *Racial Profiling, September 11th and the Media: A Critical Race Theory Analysis*, 2 VA. SPORTS & ENT. L.J. 1 (2001); Stephen J. Ellmann, *Changes in the Law Since 9/11: Racial Profiling and Terrorism*, 46 N.Y.L. SCH. L. REV. 675 (2002-03); Samuel R. Gross & Debra Livingston, *Racial Profiling Under Attack*, 102 COLUM. L. REV. 1413 (2002).

<sup>4</sup> See, e.g., Peter H. Schuck, *A Case for Profiling*, AM. LAW., Jan. 2002, at 59; Stuart Taylor Jr., *The Case for Using Racial Profiling at Airports*, 33 NAT'L J. 38, Sept. 22,

2001, at 2877; Sam Howe Verhovek, *Americans Give in to Racial Profiling*, N.Y. TIMES, Sept. 23, 2001, at A1.

<sup>5</sup> See Kevin R. Johnson, *September 11 and Mexican Immigrants: Collateral Damage Comes Home*, 52 DEPAUL L. REV. 849 (2003).

<sup>6</sup> Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272. For criticism of the law, see Cole, *supra* note 2, at 966-74; David Cole, *The New McCarthyism: Repeating History in the War on Terrorism*, 38 HARV. C.R.-C.L. L. REV. 1 (2003); Regina Germain, *Rushing to Judgment: The Unintended Consequences of the USA PATRIOT Act for Bona Fide Refugees*, 16 GEO. IMMIGR. L.J. 505 (2002); John Whitehead & Steven H. Aden, *Forfeiting "Enduring Freedom" for "Homeland Security": A Constitutional Analysis of the USA PATRIOT Act and the Justice Department's Anti-Terrorism Initiatives*, 51 AM. U. L. REV. 1081 (2002); Jennifer C. Evans, Comment, *Hijacking Civil Liberties: The USA PATRIOT Act of 2001*, 33 LOY. U. CHI. L.J. 933 (2002); see also U.S. OFFICE OF THE INSPECTOR GENERAL, REPORT TO CONGRESS ON IMPLEMENTATION OF SECTION 1001 OF THE USA PATRIOT ACT (2003) (concluding that over 1000 claims of civil rights violations had been reported as a result of the implementation of the USA PATRIOT Act).

<sup>7</sup> See Adam Clymer, *In the Fight for Privacy, States Set Off Sparks*, N.Y. TIMES, July 6, 2003, at 1.

<sup>8</sup> See, e.g., Natsu Taylor Saito, *Asserting Plenary Power Over the "Other": Indians, Immigrants, Colonial Subjects, and Why U.S. Jurisprudence Needs to Incorporate International Law*, 20 YALE L. & POL'Y REV. 427 (2002); Natsu Taylor Saito, *Symbolism Under Siege: Japanese American Redress and the "Racing" of Arab Americans as "Terrorists"*, 8 ASIAN L.J. 1 (2001); Natsu Taylor Saito, *Justice Held Hostage: U.S. Disregard for International Law in the WWII Internment of Japanese Peruvians – A Case Study*, 40 B.C. L. REV. 275, 19 B.C. THIRD WORLD L.J. 275 (1998); Natsu Taylor Saito, *Alien and Non-Alien Alike: Citizenship, "Foreignness" and Racial Hierarchy in American Law*, 76 OR. L. REV. 261 (1997).

<sup>9</sup> See Natsu Taylor Saito, *For "Our" Security: Who is an "American" and What is Protected by Enhanced Law Enforcement and Intelligence Powers?*, 2 SEATTLE J. SOC. JUST. 23 (2003). See generally JOHN HIGHAM, *STRANGERS IN THE LAND: PATTERNS OF AMERICAN NATIVISM, 1860-1925* (3d ed. 1994) (examining influence of nativism on immigration law in early twentieth century); KEVIN R. JOHNSON, *THE "HUDDLED MASSES" MYTH: IMMIGRATION AND CIVIL RIGHTS* (forthcoming 2004) (analyzing history of exclusion and deportation under U.S. immigration laws of immigrants with dissident political views and other disfavored characteristics).

<sup>10</sup> See Saito, *supra* note 9, at 24-31.

<sup>11</sup> See, e.g., Ronald Takaki, *Strangers From a Different Shore* 29-130 (1989); Charles J. McClain, *In Search of Equality* (1994); Lucy E. Salyer, *Laws Harsh as Tigers* (1995).

<sup>12</sup> See Kevin R. Johnson, *The Antiterrorism Act, The Immigration Reform Act, and Ideological Regulation in the Immigration Laws: Important Lessons For Citizens and Noncitizens*, 28 ST. MARY'S L.J. 833, 841-69 (1997).

<sup>13</sup> See Saito, *supra* note 9, at 47-57.



<sup>14</sup> Because of growing civil rights concerns of the USA PATRIOT Act, its proposed successor, the USA PATRIOT Act II, never really had much of a chance of passage. See Nat Hentoff, *Red Alert for Bill of Rights*, VILLAGE VOICE, Mar. 18, 2003, at 29.

<sup>15</sup> See Saito, *supra* note 9, at 57-62.

<sup>16</sup> See Tania Cruz, *Judicial Scrutiny of National Security: Executive Restrictions of Civil Liberties When "Fears and Prejudices Are Aroused,"* 2 SEATTLE J. SOC. JUST. 129 (2003).

<sup>17</sup> See *Korematsu v. United States*, 323 U.S. 214 (1944). See generally ERIC K. YAMAMOTO ET AL., RACE, RIGHTS AND REPARATION: LAW AND THE JAPANESE AMERICAN INTERNMENT (2002) (studying prelude to, and context for, internment and efforts at redress); Symposium, *The Long Shadow of Korematsu*, 40 B.C. L. REV. 1, 19 B.C. THIRD WORLD L.J. 1 (1998) (analyzing the legacy of the *Korematsu* decision and the internment of persons of Japanese ancestry during World War II).

<sup>18</sup> Cruz, *supra* note 16, at 134 (footnote omitted).

<sup>19</sup> See *Hamdi v. United States*, 296 F.3d 278 (4th Cir. 2002) (addressing claims of U.S. citizen labeled an "enemy combatant," detained indefinitely without charges, and denied access to counsel).

<sup>20</sup> See *Padilla v. Bush*, 243 F. Supp. 2d 42 (S.D.N.Y. 2003) (finding unlawful U.S. government's denial of access to an attorney to a U.S. citizen who, after his arrest in the United States, was labeled an "enemy combatant" by the U.S. government and held without being charged with a crime).

<sup>21</sup> Cf. Kevin R. Johnson, *"Aliens" and the U.S. Immigration Laws: The Social and Legal Construction of Nonpersons*, 28 U. MIAMI INTER-AM. L. REV. 263, 279-80 (1997) (analyzing critically harsh treatment afforded "aliens" under U.S. immigration law and how "alien" terminology helps to justify that treatment).

<sup>22</sup> See e.g. Kevin R. Johnson, *An Essay on Immigration Politics, Popular Democracy, and California's Proposition 187: The Political Relevance and Legal Irrelevance of Race*, 70 WASH. L. REV. 629 (1995) (analyzing anti-Mexican sentiment at core of initiative campaign); Ruben J. Garcia, Comment, *Critical Race Theory and Proposition 187: The Racial Politics of Immigration Law*, 17 CHICANO-LATINO L. REV. 118 (1995) (to the same effect).

<sup>23</sup> See Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (1996); Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 (1996); Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996). For a summary of the anti-immigrant politics during this period, see Kevin R. Johnson, *Race, The Immigration Laws, and Domestic Race Relations: A "Magic Mirror" Into the Heart of Darkness*, 73 IND. L.J. 1111, 1136-40, 1144-47 (1998).

<sup>24</sup> See U.S. DEP'T OF JUSTICE, 1998 STATISTICAL YEARBOOK OF THE IMMIGRATION AND NATURALIZATION SERVICE 170 (2000), available at <http://uscis.gov/graphics/shared/aboutus/statistics/Natz98.pdf>.

<sup>25</sup> See Ricardo Alonso-Zaldivar, *Latinos Give Bush High Job Approval Rating, Poll Shows*, L.A. TIMES, Aug. 21, 2002, at A10; Matea Gold, *Rivals Go After Davis' Latino Support*, L.A. TIMES, July 13, 2002, at B12.

<sup>26</sup> See Johnson, *supra* note 5, at 866-67 (discussing negotiations).

<sup>27</sup> See Pramila Jayapal, *Standing Together: A Call for Unity in the Post-September 11 Battle for Civil Liberties*, 2 SEATTLE J. SOC. JUST. 101 (2003).

<sup>28</sup> *Id.* at 107. As with so many civil rights deprivations, those resulting from the war on terror signal to certain segments of the nation that they are less than full members of U.S. society. See generally KENNETH L. KARST, *BELONGING TO AMERICA* (1989) (analyzing efforts of different minority groups to secure full membership in the United States).

<sup>29</sup> Jayapal, *supra* note 27, at 106-08.

<sup>30</sup> *Id.* at 109.

<sup>31</sup> See *id.*; Steven Greenhouse, *Immigrants' Rights Drive Starts*, N.Y. TIMES, Sept. 25, 2003, at A16.

<sup>32</sup> See "*We Will Survive Together*": *Lessons from the Immigrant Workers Freedom Ride*, 2 SEATTLE J. SOC. JUST. 115 (2003).

<sup>33</sup> See Nadine Strossen, *Suspected Terrorists One and All: Reclaiming Our Civil Liberties in Coalition*, 2 SEATTLE J. SOC. JUST. 15 (2003).

<sup>34</sup> See *id.* at 18.

<sup>35</sup> See, e.g., NADINE STROSSEN, *DEFENDING PORNOGRAPHY: FREE SPEECH, SEX AND THE FIGHT FOR WOMEN'S RIGHTS* (1995); Nadine Strossen, *In the Defense of Freedom and Equality: The American Civil Liberties Union Past, Present, and Future*, 29 HARV. C.R.-C.L. L. REV. 143 (1994); Nadine Strossen, *Regulating Racist Speech on Campus: A Modest Proposal?*, 1990 DUKE L.J. 484.

<sup>36</sup> See Lynne Stewart, *Defending the Right to Defend*, 2 SEATTLE J. SOC. JUST. 85 (2003). For summary of the indictment, see Marjorie Cohn, *The Evisceration of the Attorney-Client Privilege in the Wake of September 11, 2001*, 71 FORDHAM L. REV. 1233, 1249-54 (2003).

<sup>37</sup> See text accompanying notes 16-21 *supra*.

<sup>38</sup> See 28 C.F.R. §§ 500.1, 501.3 (2001).

<sup>39</sup> See Deborah L. Rhode, *Terrorists and Their Lawyers*, N.Y. TIMES, Apr. 16, 2002, at A27.

<sup>40</sup> *In re Grand Jury Proceedings*, 162 F.3d 554, 556 (9th Cir. 1998) (quoting *United States v. Bauer*, 132 F.3d 504, 510 (9th Cir. 1997)); see EDWARD J. IMWINKELRIED, *THE NEW WIGMORE: A TREATISE ON EVIDENCE: EVIDENTIARY PRIVILEGES* § 6.2.4, at 471-72 (Richard D. Friedman ed., 2002).

<sup>41</sup> See John Caher, *Stewart Doesn't Heed Her Own Advice to Remain Silent*, RECORDER (San Francisco), Sept. 25, 2003, at 3.

<sup>42</sup> See Evelyn Nieves, *Antiwar Protesters Plan to Escalate; 'Direct Action' Seen as Next Step if War Begins*, WASH. POST, Mar. 15, 2003, at A16.

<sup>43</sup> See Emily Bazar, *New Battle on Civil Rights Front*, SACRAMENTO BEE, Jan. 20, 2003, at A1; Wyatt Buchanan, *Hundreds Protest INS Registration*, S.F. CHRON., Jan. 11, 2003, at A13; Chris McGann, *Protesters Accuse INS of 'Very Un-American' Registration*, SEATTLE POST-INTELLIGENCER, Jan. 14, 2003, at B1; Teresa Watanabe, *Muslim Panel Riding a Wave of Success*, L.A. TIMES, Jan. 18, 2003, at B22.

<sup>44</sup> See text accompanying notes 14-15 *supra*.