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Asians and Post-9/11 “Security
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National Entry-Exit Registration System: Arabs Muslims and Southeast Asians and Post-9/11 “Security Measures”

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“In the hours and days immediately following [the September 11] attacks, Attorney General John Ashcroft . . . directed that FBI and INS agents question anyone they could find with a Muslim-sounding name . . . in some areas . . . they simply looked for names in the phone book Anyone who could be held, even on a minor violation of law or immigration rules, was held under a three-pronged strategy, fashioned by Ashcroft and a close circle of Justice Department deputies including criminal division chief at the time Michael Chertoff, that was intended to exert maximum pressure on these detainees . . .” (From a summary of Ashcroft strategy sessions contained, in further detail, in Steven Brill’s After: How America Confronted the September 12 Era)¹

January 10, 2003, was a seemingly normal day by all the standards used to measure ‘normal’ in America. Across the country, people went about their day as usual rising early, eating breakfast, going to work, grabbing a coffee, reading the comics and sports sections, checking email, keeping track of the stock market, listening to music, or watching a favorite show on television, and sports fans were looking forward to the weekend and the National Football League playoffs to commence. The reality is that all was not as average or familiar as it seemed. January 10, 2003, marked the second date for Special Registration, a procedure requiring certain non-immigrants to report and register with the United States Immigration and Naturalization Services (INS) mandated by the Patriot Act. The INS’s program was initially put into effect on November 15, 2002, in a little publicized Special “Call-In” Registration that required men and boys with visas from Iran, Libya, Sudan, Syria and Iraq to report to the INS to be fingerprinted, photographed, and interrogated or else face criminal prosecution and deportation. In the aftermath of 9/11, a concern had emerged regarding the possibility of a large number of Arab and Muslim sleeper terrorist cells operating in the US, who were deemed to possibly be considering a future attack; thus a method had to be introduced to deal with this ‘real’ threat. Considering the extent of the 9/11 attacks, one can understand the level of fear permeating the society and the responsibilities of the national leadership to protect citizens from impending threats, but the security instruments chosen alarmed civil rights and immigrant advocacy communities. The question of how to provide security while guaranteeing civil and human rights protection was and still remains the key issue confronting American society.

On June 6, 2002, in a response to increased public discussion of the perceived threat, Attorney General John Ashcroft announced the National Entry-Exist Registration System (NSEERS) by stating the following:

In this new war, our enemy’s platoons infiltrate our borders, quietly blending in with visiting tourists, students, and workers. They move unnoticed through our cities, neighborhoods, and public spaces. They wear no uniforms. Their camouflage is not forest green, but rather it is the color of common street clothing. Their tactics rely on

*evading at the border and escaping detection within the United States. Their terrorist mission is to defeat America, destroy our values, and kill innocent people.*²

Attorney General Ashcroft painted a very dreadful and frightening image of “enemy platoons” having infiltrated the country that moved about in “our cities, neighborhood and public spaces.” Not only had they made it into the country, but also they appeared dressed in normal clothing so much so that it would be difficult to detect them or their whereabouts. The logic of Ashcroft’s statement, if one were to accept its premises, calls upon society to use extraordinary measures to secure the country from this ‘new enemy’ deemed to be hiding and lying in wait all over the country. For the average citizen confronting a 9/11 type of an attack, the arguments and the threat are made to appear real, thus the prescription of what is required as a remedy to such threat becomes acceptable in the face of a very deceptive enemy hiding in “our cities, neighborhood and public spaces.” One may also derive from Ashcroft’s statement the real possibility that society is being asked to turn a watchful eye on those among us who are to be held indirectly responsible for the 9/11 attacks, Arabs and Muslims. In this regard, the Department of Justice’s registration program; rather than going after those responsible for the attacks, opted for cementing the idea of Arabs and Muslims as collectively guilty for the 9/11 events.

The government’s answer to the “real threat” of sleeper cells was the implementation of the National Entry-Exist Registration System targeting individuals from 25 Arab, Muslim and South East Asian countries. The result of this registration is a twofold approach; one directed at visitors coming into and leaving the country, while the other impacted those already in the US. As far as visitors entering the US, the NSEERS mandated those arriving from certain designated countries to be “fingerprinted, photographed and interviewed by an INS inspecting office.”³ During the Special Registration, non-immigrants entering or already in the country were subject to photographing, fingerprinting and questioning. Under the directives of Attorney General Ashcroft, the Special Registration was made requirement for:

1. Male citizens or nationals of Saudi Arabia and Pakistan with a deadline of March 21, 2003.
2. Male citizens or nationals of Bangladesh, Egypt, Indonesia, Jordan or Kuwait were given a deadline of April 25, 2003.
3. Male citizens or nationals over 16 years of age from Iran, Iraq, Sudan, Syria, and Libya (Group 1) and Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, United Arab Emirates the deadline was January 10, 2003.

All of the countries included in the registration are pre-dominantly Muslim with the one exception, North Korea, which was added due to its inclusion in Bush’s “Axis of Evil” category during the State of the Union of Speech in 2002. Another country, Armenia was included for a 24 hours period, but then immediately removed as a result of heavy lobbying and political pressure directed at Congress, which acted swiftly to expunge any reference to it in the INS program.⁴

As a policy, the INS Special Registration has been on the books since 1996, and it applies to all foreign visitors, however the Department of Justice “has put it into effect only for men from 25 countries, all but one of them Arab or Muslim nations.”

Susan Sachs in a Feb 21 article in the New York Times points out that “of the 32,000 men who have registered so far at immigration offices around the country, according to INS officials, more than 3,000, face deportation.” One has to consider the impact of such a policy on the Arab, Muslim and South East Asian immigrant populations and whether this in reality, was directed at reducing their numbers in the US. In commenting about Special Registration, Jeanne Butterfield, Executive Director of the American Immigration Lawyers Association, observed that “if your goal is to make tens of thousands of Muslims males easily deportable, then you may be accomplishing that.”

The case of Ejza Haider, a visiting Pakistani scholar in the Washington based Brookings Institute, who was arrested outside his office and taken into custody under the NSEERS program, is a case in point. In an editorial, *Wrong Message to the Muslim World*, published in the Washington Post February 5, 2003, Mr. Haider explained what happened to him:

On Jan. 28, two agents from the U.S. Immigration and Naturalization Service (INS) arrested me outside my office at the Brookings Institution. In a matter of moments I was transformed from research scholar at a venerable Washington think tank to suspect, from a person with a name and a face to a "body," a non-person. I was put in a car, taken to a detention center, locked in a cell, and stripped not just of my belt and shoelaces but of my pride and dignity -- all because of my nationality. As a visiting scholar from Pakistan, where I am an editor, I had visited the State Department and attended functions with senior U.S. officials. But as far as the Justice Department was concerned, I was someone to be stalked and brought in by burly federal agents. I am only one of hundreds of victims, from Pakistan and elsewhere, who have suffered such indignities under the absurd new policy that requires foreign nationals from numerous Muslim countries to register with the INS: the National Security Entry-Exit Registration System. Many have fared far worse than I.

For more than a century, people from all over the world have come to the United States to escape repression and enjoy its freedoms. Perhaps for the first time in American history, we are witnessing the spectacle of families migrating from the United States in search of safety. It is argued that this policy is meant to increase security for the United States. A worse way of doing so could hardly be imagined. The policy is an attempt to draw a Maginot line around America. Not only is it likely to fail in securing the homeland, it is creating more resentment against the United States. Does America need a policy that fails to differentiate between friend and foe? Not only has the Justice Department designed such a policy, it has authorized the INS, arguably the most inefficient of the bureaucratic organizations, to implement it. The argument that, as a Brookings scholar, I should have known or did know about the registration policy is wrong.

On Oct. 22, 2002, I was registered at the airport. I was told to return for a second interview on or before Dec. 2. But before that date I learned that Pakistan was not on the INS list of countries. So I checked with the INS help line and was told that I did not need to go in for a second interview. Later in December, Pakistan (along with Saudi Arabia) was put on the list and the INS issued another deadline for registration, sometime in February. But even then, the registration requirement related only to Pakistani nationals who had entered the United States before Sept. 30, 2002.

I did not know I was in violation of the INS policy. Brookings did not know I was in violation. My friends in the State Department did not know I was in violation. And if -- even after following the policy closely and calling the INS for information -- we could not understand the law, what hope can there be for the cabdriver or the restaurant worker who doesn't have the leisure to discover the letter and intent of INS policies?

The Justice Department's job is not foreign policy, of course, and part of its duty is to prevent both American citizens and legitimate visitors from doing or suffering harm in this country. The INS should keep a watchful eye on potentially dangerous foreigners, but it must do a much better job of distinguishing them from the vast majority of foreign nationals in this country who seek only to work, study and obey the law. Moreover, the law itself must be clear and fair for those to whom it applies.

As matters stand, the policy draws on the "us vs. them" syndrome. The very question of "why they hate us" is begotten of the binary logic of terrorism and does incredible damage by removing the distinction between the U.S. government and America, between the official United States and American society. The irony is that confusing these two distinct categories is the big achievement not of "terrorists" but of the U.S. government itself. There are many people out there who may not, and do not, agree with U.S. policies, but neither do they hate America. Mere rhetoric about Islam's being a great religion or the fact that the war on terrorism is not a war on Islam or even that registration is not about racial and religious profiling will not do. People out there are neither stupid nor intellectually challenged. It does not serve any purpose for the United States to test their intelligence.⁵

To many Americans, the new security measures implemented post 9/11 were welcomed and viewed as providing much needed comfort after a blazing attack that undermined the sense of normalcy in a society bruised upon its own continental soil for the first time.⁶ Often the security measures instituted did not extend beyond cosmetic measures, but nevertheless for an angry and frightened population, anything seemed a welcome reprieve from the onslaught of the foreign terrorist. In a memorandum to the FBI and law enforcement agencies, the Attorney General called for the use of "every available law enforcement tool" to bring to justice anyone who "participate in, or lend support to, terrorist activities."⁷ The real problem confronting law enforcement agencies is how to identify the people who might be involved in any aspect of "terrorism."

In this context, the Department of Justice measures were within the range of "acceptable" responses to a clear and present danger, while some within the American society argued for even harsher measures. The target of the security measures were arguably those who were the weakest in defending themselves, the new immigrants and those occupying the economic bottom within the American society. In addition, race and color plays a role in the acceptability of the institution of new security measures. Since Arabs, Muslims and South East Asians are all non-whites, a campaign against them falls within the rational discourse of race relations in the American context. The INS and security measures fits into the racial matrix governing the societal structure, allocation of resources and accordance of rights in the American system, and is normative and not an exception. When a crime is committed in America, the likely suspect is a "Black" even before any details of what occurred are conveyed, and the same pertains to terrorism. Thus, the first to be

thought of as being a terrorist is Arabs, Muslims and South East Asians for they fit the existing institutionalized profile.

The registration program was born out of these dynamics and no resistance or discussions occurred prior to its implementation. In addition, the main stream news did not have much coverage of the registrations prior to the deadline and, other than in passing, the focus was on an attempt to rationalize the measures. Prior to the date of the registration, since a number of those who carried out the attacks entered the US legally then, the news coverage maintained that the government should have a way to prevent others from coming into the country and also to make sure that sleeper cells were accounted for. No historical context, no counter arguments and no real face to those affected by this massive targeting of a community based on its religious and national origins were offered. The level of hostility on right wing radio and television programs was so high and considerable segments within the society wanted raw blood, not caring whom it belonged to as long as it has an Arab, Muslim or South East name to it.

The long lines in INS offices provided dramatic imagery of the new security era unfolding across the nation with minor attention, if any, paid to these events by the main stream. However, this all changed as news of what was unfolding in the Los Angeles INS offices. Over 500, mostly Iranian immigrants, were arrested as they responded to the new mandatory requirements to register. One cannot be sure whether this was a mistake on the part of the INS officers at the Los Angeles branch or a possible approach to demonstrate the seriousness of the Department of Justice in implementing the new policy, but it brought much needed attention to the Justice Department program.

In response to this massive arrest, the Los Angeles Iranian community, which has been mostly apolitical on the domestic front since the early years of the 1979 Iranian Revolution, was quick to respond and a large demonstration outside the Los Angeles INS offices provided images for the whole world to observe. As to the role of the media, the large and quick turn-out by the Iranian community has much to do with the influence and the role of the ethnic media which provided live coverage by a popular Persian language radio station, which adjusted its programming to deal with the crisis at hand. The radio station focused on events as they unfolded at the Los Angeles INS office, including live interviews, including victims' families, mothers, fathers, and wives who provided a much needed narrative for an otherwise omitted story from the main stream press. The radio station was then followed by the Los Angeles based Iranian community television and a massive protest emerged in a rather short time.

"A breaking story" out of Los Angeles was the headline on CNN and all the major networks had live images of hundreds and possibly thousands of people besieging the INS office and real stories filled with drama found its way across the nation and the world. In retrospect "the story" was born out of the response to the policy implementation and not the registration policy itself. Had it not been for the massive turn-out, the story would have not made it to the headlines even with a large amount of arrests that had taken place. The arrests caused the radio station to shift its coverage from its daily routine, to become a voice for the Iranian community at a critical time and people responded to the call by coming out in large numbers thus creating visibility and the story broke nationally. What is impressive is that it was not the INS or the liberal main stream media that made the difference; rather an 'old fashioned' community response aided by its own ethnic mass communication medium that caused a crisis.

The story in Los Angeles did not only affect the Iranian community, but included a diverse array of people from the targeted nations. Emad Takleh, a businessman from

Claremont, California, of Syrian origin, who had lived in the United States for 18 years was required to register. In a town hall meeting Takleh said: "I knew my papers were in order, and thought I should have nothing to fear. I entered a room before the interviewer knew anything about my case; I was informed that I would be detained. My work authorization is in order-it doesn't expire until October of 2003." Entering the room was the beginning of a process that included a few hours of interrogation and demanded proof of his marriage. It seems Takleh came to the US as a foreign student and after college remained in the country, but in the early 1980's he allowed his visa to lapse. However, at the time of his registration Takleh's records indicate that he was granted full legal status as a result of a green card lottery, but the INS investigator "wouldn't listen" stating "You are illegal." After being interrogated for hours, Takleh was "packed into a cell with 50 other people and over the next few days was moved from Los Angeles to a facility in Lancaster approximately at 3:00 am in the morning." "If this would have happened in Syria, I would have expected it, but to have it happen in the United States – well it's just unbelievable to me."⁸

A similar story is that of Yasser Tair, a resident of the United States for 21 years. His wife Zohor said: "he followed the law, he went there and then soon called to say that he had been detained. They put him in jail, and he doesn't know why. We still don't know why and they are treating him like a criminal. My husband sells real estate. We came here to make a good life for our children. My husband is the only one in the family who works and I have no other relatives here. We don't know when he will come back to us."⁹

Another Syrian man, Mohammed Tabboa, who lived with his wife and two children in Pasadena, went to the INS building in downtown Los Angeles early Monday morning to register and it was not until 11:00 pm on Thursday he was released, but not in Los Angeles rather from Lancaster, California. Tabbos said about his immigration status: "I am here on a visa. I've had a case with the INS dating from 1989, so for 14 years I've been in the US, working and paying taxes. My children are Americans. If the INS asks to see me, I come. What I don't understand is why they detained me. They asked me how I entered the US, who my parents and siblings are, and where they live today. Then they sent me to 'processing' where they took my picture, fingerprints, and told me to empty all of my personal belongings into a bag." After processing, Mohammed was taken into the basement holding cells shared by 50-80 men and boys placed in six small rooms with two small toilets and washbowls. "Some of the detainees had trouble breathing. There was only little space under the door to let in fresh air. We were so tight in the rooms that we didn't even have room for our prayers."¹⁰

INS offices across the country dealt with the registration in a variety of different ways with most using their own discretion by choosing not to arrest those coming in to register and being content with providing a way for the person either to post bail or promise to appear in court to begin the removal from the country procedure. As a result of the Los Angeles arrests, a national debate ensued about the wisdom of such registration; asking if it was causing a rift with those who might be helpful to "us" in fighting terrorism, and whether it is reflective of long held American values concerning the treatment of immigrants in the country. The debate provided an opening for a greater segment of the American public to engage, but this was quickly overcome and other more pressing items captured the headlines; Osama Bin Laden, Saddam Hussein and weapons of mass destruction won the day.

*A DAY AT THE INS: A JOURNEY TO SAN FRANCISCO REGISTRATION
PROCESS*

On January 10, 2003, the first date for the Special Registration, I walked into the Immigration and Naturalization Services building in San Francisco to meet with the acting director, a member of delegation representing the Arab and Muslim community, academics, civil rights lawyers, and union leadership. After the meeting, Hiba Nimar a volunteer lawyer with American-Arab Anti-Discrimination Committee San Francisco office, suggested a tour of the various areas of the building where people were going through the registration process. We traversed several floors of the building and I was sick and saddened by what I saw on this visit. No, it was not torture or people receiving a physical beating that was sickening and saddening; rather the sight of Arabs, Muslims, and South East Asians young men sitting, watching and waiting not knowing what would happen to them next. On the eighth floor, I ran into M.A., a man in his late 30's. I had known M.A. for about eight years at the time from Oakland Islamic Center where I had occasionally attended the Friday sermon and he often stopped me afterward for some personal questions. I greeted him with the Muslim salutation and greeting of peace "al-salam alaikum" and he in return responded with "wa alaikum al-salam." Witnessing M.A. in this situation became personal. I felt responsible and at the same time sad for him. As part of my community, this '30 something' man, who owned a small store in Oakland, whom I had seen on occasion in the wholesale market, seemed powerless during the INS registration process. M.A. was not a citizen in the US, and had opted to hold onto his Yemeni citizenship instead, which was a cause for him to appear for this registration. I was told by the lawyers that people on the eighth floor were waiting for investigation of their cases, and that they may be required to post a \$5,000 bond otherwise they would be kept overnight for a possible deportation hearing. He said jokingly "it must be my Yemeni passport that is causing all this trouble for me!" I told him the reason for our visit at INS, checked up on him and then parted company. Before we separated he asked me in a low voice for a du'aa (supplication) to which I responded with words of comfort and patience in this ordeal. I held back my own emotions of sadness from this man, wanting him to seek strength in our short exchange together, aware that nothing we could do at that moment would change his situation. When I left him, my mind was drawn to thoughts of his wife and children in Oakland wondering what running through their minds waiting for their father and husband to return, while not knowing if he ever would. While waiting for the elevator to take us to the next floor, I recalled the many times M.A. brought his six year old daughter with him to Friday prayers, always asking her to greet me in Arabic to which I responded back by kissing her on top of her head before she left. M.A. was a victim of terrorism, and through the INS registration he was cast as a marked man belonging to some master list of "potential" threats that the government would keep watch on in the foreseeable future. Terrorism has many victims both seen and unseen, and while the focus is always on those physically injured through violence and attacks, M.A. carries a silent scare and is a moving target every time he travels or has any law enforcement contacts.

January 10, 2003 was anything but a normal day in America, and our next stop on the fifth floor and the sights we encountered served as proof of that. What I witnessed was so shocking to me that the only other comparable example I can recall, was when I as a Palestinian, waited to cross the bridge into occupied Palestine. We entered the fifth floor from a small door and we could see one young man in his twenties standing there and four others sitting on chairs inside an opening on the other side of the hallway. However, when

we stepped inside what I thought was a very small area turned out to be a long L shaped extension with two facing rows of chairs filled with young men at each side all sitting in wait. Not a single chair was empty and there was no space to add another. All eyes, momentarily lacking the sparkle of young age, were fixed on us at the entrance. Despair and humiliation was written on their faces and I felt each one of them looking back at me as if to say “do something” and beckoning us to identify ourselves and our role in the building that day. The eyes conveyed more than words at that moment.

As far as I could discern, none of the young men in the room appeared to be above 25 years old. As we greeted the room, I recognized a number of those waiting as worshipers at the Islamic Society of San Francisco on Jones Street. I witnessed a group of about 40 or more young men, all sitting, with something in their eyes that struck me as fear, uncertainty, bewilderment, and a plea for help knowing that we could do nothing to change what they were going through. No one should have to witness such a look in the face of young men full of life and energy. By this time I was fighting back tears, but this was not the time for it. These young men needed hope even though I did not know what was ahead for them. I wished I could do something to change their condition, but all I could do was offer words of comfort. There was an unmistakable fear permeating the air, thick and heavy. The young men were just sitting and waiting for their number to be called through a five foot by five bullet proof window casting the only bright light in the area. The controlled lighting seemed to say, the light of hope for you will only come from this direction. The window was the bulletproof kind utilized by banks and gas stations as a form of protection, with a small opening to talk and pass paper work through. One man said that he had been sitting continuously in the same chair for over seven hours, and had been asked the same question over and over a number of times by different people during various time intervals. Another, sitting right next to him, said the person manning the window was not helpful and did not provide them with any real information. All of the young men were waiting for their magic number and name to be called in an unfair game between the hunter and the hunted with the prey already trapped in the cage surrendering. This is not sufficient, however, for the hunter knowing that he has complete power and domination over his prey that sit in wait before him surrendering to what comes next.

In our meeting with David Stills, the Acting Director of Northern California INS, he mentioned that “people who have assets in this country were more likely to be released without having to post bail.” Hearing this I thought we were talking about money, real state and businesses, but when he made reference to it again in passing it became clear to me what he meant. “Assets” in INS language does mean money, employment and an address, but more importantly includes family, a wife and children. I realized that what we had here was language as a tool for dehumanization. A wife and children were “assets” used in the same context with non-living objects and someone would be called upon to make a determination about them (i.e. if they were good enough to warrant keeping one in America). A wife and children served as the most important “assets” for immigration cases and they had to be citizens for one to be released without having to post bail. By definition, a wife and children were good “assets” if they were Americans, but if they were not then the entire family was subject to deportation proceedings (i.e. they were a liability). From this, one can understand the way language and words were used to dis-empower and humiliate, all an important part of a concerted policy. Our discussion with Stills focused on the actual implementation of the law and the apparent differences between what happened in Los Angeles and San Francisco. The Los Angeles office chose to arrest a large number of people, who came to register, which caused such a negative public response. On the other hand, the Northern California

INS office elected not to arrest people and opted to give a “Notice to Appear” in court to many of those who showed up. From all personal indication, Stills appeared to be a very nice person, sociable, sensitive to people needs and able to discuss all kinds of immigration issues, but he was still implementing an unjust law. This made me question how someone who from all indications appears to be a ‘good’ person, can with conscience agree to be part of such an unjust undertaking. In retrospect, as a nation we look back in history and speak of what happened to the Japanese in America and the suspicion surrounding them during the war and their internment and are very clear regarding the wrong done to them, yet the government engages in similar types of programs as we speak.

We left the fifth floor on our way to the second floor, which was a large room bustling with people, endless counters, flashing numbers on electronic boards calling upon individuals. Muslims, Arabs and South East Asians abounded and I could discern the various dialects spoken in the hall. If one did not know otherwise, one would think they were at an Arab market someplace in the Arab World. Next to the door two Yemeni men stood drinking coffee passing the time talking to each other possibly providing comfort to one another. I heard them complaining about the process and listing all the paper work they had to bring to the INS as a way to prove their worthiness of being allowed to continue to live in America. These two men appeared to be in their late 40’s. I looked in the corner of the room and immediately recognized one of my students, M.T., who graduated from the University of California, Berkeley a year before, sitting next to an Asian man. I left the group and headed straight towards him to greet and embrace him. I knew that M.T was a foreign student and since his days at Berkeley was seeking to get married to a Muslim woman, but it seems that up to this point he was unable to find someone. In our conversation M.T did not want to share the details of his case with me and I understood that he was guarding his privacy and so I did not ask any questions. As a way to lighten the moment, I suggested to him to get married as the best way to deal with this issue. He responded in gest, “where are they? I am ready if you have someone and I have been looking as you know.” The Asian man sitting with him was a volunteer lawyer, who used to work with the San Francisco Asian Law Caucus who came forward to offer his help to anyone needing it.¹¹ He also informed us that the Asian Law Caucus did not have an immigration lawyer on staff at the time, otherwise they would have been there and since he worked with them he felt compelled to come and help. In addition, M.T informed me that his lawyer was willing to offer financial help in case a bail was needed. We spent a few minutes talking with the Asian lawyer, exchanged business cards and before going our separate ways we complained to one another of the inherent racism in this INS mandatory registration.

We stood by the entrance surrounded by attorneys who were working with a number of clients and on almost every floor any gathering turned into a processing moment and the human need to vent and share painful experiences. In general, lawyers are not viewed highly in American society as far as character, nevertheless, the many who were present on the scene were the saviors of the day acting as legal advisors, therapists, family, financial advisors and possibly the only witness to an arrest of their own clients.

In the goliath waiting room I knew I could not speak to everyone. The men passed time by talking to one another, drinking coffee or huddled with their lawyers. The room was big and spacious, but the feeling of gloom and despair was very thick in the air and made it feel like a small closet. I imagine our group was experiencing similar emotions that day. Hiba Nimar, the volunteer lawyer, looked tired, angry, frustrated, defiant, merciful and you could sense the pain she was feeling behind every word she uttered. I did not talk much with her, but she guided us through the tour informing us of every aspect of the INS and it seems that

she spent the countless days, weeks or months in these halls and floors. In the elevator, Nimar mentioned the number of “blonde wives” coming to look for their Tunisian husbands who were arrested. Obviously, Nimar had seen and listened to countless stories first hand and she moved and spoke with all the narratives fresh in her mind and weighing on her conscience. As one listened to the stories, saw the young men come and go, witnessed arrests and detentions, helped post bail for some, answered the questions of wives and family members, at the end of the day how were you expected to feel normal? Imagine if this was done to your own people, someone you know, relatives of yours, friends you call upon, fathers, sons, husbands, nephews etc. Nimar was a witness to history in the making, not as a mere observer, but as a single participant attempting to heal the wounds of racism.

We moved from the second to the eleventh floor since Nimar did not know what was occurring up on that floor and needed to investigate as a number of people in the past few days had been taken up there. In the elevator, one person said “it feels like a 007 movie” going up to the eleventh floor to find out what was taking place and the sense of mission. It was a way to lighten the moment after the sight on the second floor. We arrived at the eleventh floor and were greeted by one of the lawyers who immediately informed us that due to the large number of investigations underway, they needed more space and INS investigators have been using rooms on that floor. I believe he said they had ten rooms in use and that sometimes they used the cafeteria in addition to the others. We asked how long he stayed the previous day and he responded “I left the INS at 12:05 am after the last case I represented finished.” We inquired about the cases he is dealing with. He responded that the day before he had 17 cases in total and all but three were given an NT while each posting a \$5,000 bond and three were detained. NT is short for a “Notice to Appear in Court” for INS proceedings and possible removal from the country, which means that all of those released were officially placed in a deportation process and the real ordeal had just begun. The lawyer presented us with the numbers, seventeen the day before, fifteen that day, and eleven the first day. To us they were nameless and faceless, yet each must have had a story to tell, how and why they came to America, why they came to register and whom they left behind before coming to the INS that day.

Outside the INS building in San Francisco, a number of community groups set up volunteer teams. The volunteers worked long hours from 6:00 am to possibly midnight in order to keep records of who went into the INS to begin the registration process and who emerged afterward. Most of the volunteers outside were young and highly dedicated individuals from local universities and the community. Clip boards in hand, young men and women spoke to everyone before they went inside, asked if they had a lawyer, took down their contact information, employment and family member contact and provided a hand-out, prepared by the civil rights community, describing the INS registration process.

After the INS tour and meetings, I spent some time speaking to the volunteers outside of the building and a number of individuals who just finished the registration process. One volunteer, Noura Erakat, a first year Boalt law student at the University of California, Berkeley, was immediately in front of me as I exited the INS building and I stopped to ask about the number of individuals she had on her list for the day. She replied “I have about 300 names on my list from this door.” I asked her about the hours she has been keeping at the INS office and she responded “the last two days I have been arriving at 6:30 AM and getting home around 12:00 midnight.” The response from the community groups, volunteers and activists, imperfect and lacking in resources and overall structure, seemed to make a difference. They were able to organize, provide legal help and contacts, arrange or

help with funds and for many they were the only other human beings they could reach out to about what they were experiencing.

I also ran into four young men from the mosque who had just finished one part of the process and were told to come back the next day. We greeted each other with Islamic salutations of peace. One of them said that it was his “third day coming to the INS for this registration” and he was told to return with another set of papers. The other three had completed the registration and it was reflected in their joyful demeanor. One could see a sense of relief in some and frustration by others due to the ongoing ordeal even among a group of friends. In my mind I also needed answers to some critical question: did America become more secure with this registration? Were any “sleeper cells” caught through this registration? How secure did our country become when someone who walked voluntarily into an INS office to register was arrested?

My day was anything but normal on January 10, 2003 and for a long time will not be, for we are living in a new period of ‘good-old American exclusion once again utilizing immigration policies. It was not a normal day for Muslims either because it was a Friday, the day people from all walks of life gather at the masjid (mosque) to meet, greet each other, listen to the sermon, pray and then usually rush back to work, school, or home. On Fridays, I usually deliver a talk in one of the areas masjids and at least twice a month my assignment is at the Islamic Society of San Francisco, a major center in the downtown area, frequented by a large immigrant population. On January 10, 2003, I was at ISSF and my sermon focused on the differences that exist between first generation immigrant and American born Muslims and how best to develop unity through recognizing and appreciating the diversity of our backgrounds.

After the prayers, we informed people of a protest taking place in front of the INS offices in downtown San Francisco and encouraged everyone to attend. The protest was a community wide response to the INS mandatory registration requirements and had many local politicians, activists and religious personalities.¹² Even though the protest had wide representation on the speaker list, in terms of San Francisco and the Bay Area it was not big and the turnout was not impressive at all. Thinking about the protest, the turnout for me indicated a lack of concern or comprehension of this issue at hand from the various sectors of the Bay Area progressive and liberal communities. I questioned if, beyond a core of progressive activists in the Bay Area who relate to the Arabs, South East Asians and Muslims as real people, much of “the movement” see them as objects to be dealt with when it is most convenient but not real allies. The anti-terrorism campaign is a difficult issue for many because it also involves a sense of fear related to 9/11, and includes the possibility of other “terrorists” in the country that might conduct similar acts in the future. Thus, this feeling permeating society, even in “the movement,” results in closeness, but at the same time distance in a relationship when dealing with the Arab, South East Asian and Muslim communities on this and other important issues. Orientalism, if I may remind all, is not limited to the right wing; rather it is a construct impacting many layers of the society; liberal and progressive included. The turnout and the over-all response in the Bay Area would have to be deemed dismal pointing to some weakness in the collective work. Not to dwell on the negatives, the Asian and Latino communities, Japanese, Koreans and Central Americans were in the forefront, they understand the issue well and reached out to the Muslim and Arab communities immediately after 9/11 and continue to do so at every juncture. Above I might sound a little too harsh on the “movement” however the reality of how minorities are treated in the progressive camp only reflect the dominant society and as a friend often

reminds me that we have an empire with a big “M” on the right and one with a small “m” on the left.

POLITICS OF BLAME AND FEAR: THE IMPACTS OF THE INS REGISTRATION PROGRAM

Jalil Mirza, a Pakistani national residing in the state of Virginia with his wife and seven children, is symbolic of the period Muslims, Arabs and South East Asians immigrants find themselves in this country and I maintain on an international level as well. Mirza, facing the INS special registration requirements, opted to pack his bags and headed north to Canada. After a long “16 hour bus ride from Virginia with his wife and seven children, he arrived at the Canadian border”¹³ in the hope of beginning another life as a second time immigrant. Since the INS instituted the special registration, many immigrants in the US from 25 designated countries without residency permits or those who had overstayed a tourist visa who were confronted with arrest and a possible deportation, have made their way to Canada in hope of gaining political asylum. What Mirza found was a closed border and a notice to come back in two weeks. The Canadians had experienced a flood of people, but in particular Pakistanis, seeking asylum from an increasing repressive immigration policy treating all Muslims, Arabs and Southeast Asians as a suspect class deemed a threat to national security. Not being permitted into Canada, Mirza returned to the US side of the border, however, lacking legal residency he and his two teenage sons were promptly arrested and placed in deportation proceedings. His wife and the rest of the family, who had documents and were legal, were stuck at the icy cold border area with nowhere to go. The number of those who decided to leave is not yet clear, but some estimates were as high as 10,000 if not more, however a systematic study is lacking and it is something that deserves further future attention. I have presented cases that show outcomes of those who went to the INS to register and another case (Mirza) of those that chose to leave the country altogether to find an alternative home for themselves

A third group of cases are those of immigrants that decided not to register at all and take their chances by going underground. The rationale behind their decision is the fact that 13,434 of those who registered are facing deportation even though they went to the INS on their own. On the streets and in apartments at the heart of the inner cities a large number of Arabs, Muslims and South East Asians are living an underground life with limited movement and avoiding contact with all aspects of government structures including basic healthcare services. Ali is one of the people who decided not to register, gave the reporter only his first name, is a highly educated Egyptian who “gave up a prestigious job teaching aviation engineering in Cairo”¹⁴ and moved to the United States. “I came here not to hide,” Ali informed his interviewer but “it’s very hard to decide what to do.”¹⁵ Another person opting for the same approach is Mohammed, a 35 year old man from Yemen, who said “the only time he leaves the house is to walk the five blocks to and from the small grocery store where he works.”¹⁶ Fear is running rampant in the Arab, Muslim and South East Asian communities and as San Jose lawyer Saad Ahmad noted that “the sad thing is that many of these immigrants did have valid remedies available, but many people never took advantage of it because they were scared and because they were afraid of being caught, and this was even prior to 9/11.”¹⁷

This particular INS registration is a process of shifting the blame and finding a scapegoat that can be assigned responsibility for what happened in New York on 9/11. We are years removed from 9/11, yet no real investigation has taken place, the Congressional

Committee has not taken anyone to task and doubtful if it will ever do so. The report issued with the 28 pages that were kept away from the public eye did not demand any real changes at the top and mostly offered cosmetic recommendations. Critical questions need to be asked of the “intelligence” community regarding their knowledge concerning 9/11 and if they had no knowledge, why? Why should they continue to be on the job? Immigrants, Arabs, Muslims and Southeast Asians are an easy target, they produce immediate results, good photo opportunities, especially with lines stretching blocks around INS building, and it brings satisfaction to those xenophobic forces in American society. As a nation, we have previous encounters with this approach; the Japanese, Chinese, and Mexican immigrants all have tasted this cup of poison before and are familiar with the winds of racism and selective use of law as an instrument of coercion. The dragnet security approach is a coercive tool often deployed by despotic regimes in place of real systems of justice based on guilt and proof. Since the Federal government lacks any evidence to cause the arrest of any individual, they resorted to the dragnet approach, in this case directed at the Arabs, Muslims and Southeast Asians, carried out under the guise of immigration enforcement.

If it is immigration issues that are of concern then why not apply the law to everyone and ask all male visitors to register? The law is racially and religiously directed at people from specific countries. Why do we say it is racial and religious even though no race or religion is mentioned in the law itself? Politicians, specially the racist ones among them, think they are sharp and smart by using nation-state as a way to avoid the race and religion issue when passing a law dealing with immigration. If it is not race or religion, then why are all of the countries subject to this new policy with the exception of one, pre-dominantly Muslim countries? Should we assume this to be a mere oversight? Should we think that nation-state in this context is different than the exclusionary practices directed at Asians and Chinese in particular? If you ask a child in the street of any Muslim country he/she would inform you of the intent of this law. Come to think of it, is not the case that the law should be considered for its intent and not only by the wording used. Let’s be clear for the purpose of honesty and history, the intent of the Patriot Act and the INS registration is to target Muslims, Arabs and Southeast Asians as a group in response to the events of 9/11. The legal system or what is left of it in post 9/11 does not and should not accuse a group for the crime of one or a group of individuals, even if they belong to a given racial or religious group. Innocent until proven guilty is the standard for an individual in the American legal system and the same applies for a group. It is understood that only a person who commits a crime or a person who assists them in doing so is to be charged and taken to court to be presented with the evidence against them. In our case, the whole Muslim, Arab, and Southeast Asian world is guilty as charged and the discussion is centering on the kind of sentence to be handed down. Justice by fiat carried out by the powerful. One is guilty because of their religious belief and background. The argument goes something like this; Osama Bin Laden and the terrorist with him are Muslims, thus all Muslims belief the same way as Osama, he carried out an attack against our country thus he is guilty of a crime and all those who share his belief likewise are guilty.

In the context of this logic, the guilty party is the Arabs, Muslims and Southeast Asians as a group, which warrant their treatment as a guilty party excluding them from entry and participation in the affairs of the country. The logic is a faulty one and cannot stand the test of time, nevertheless what is giving it legs is the sense of fear created in the aftermath of 9/11 by politicians and public figures who have agendas pertaining to legal and constitutional reforms targeting immigration and civil liberties. Yes, those who carried the attacks were Muslims and they have committed a crime that they should pay for it, but to

make all Muslims and their countries guilty is beyond pale. Also, since those who carried out the attack came to the US through student or visitor visas does not make all such individuals guilty and subject to deportation proceedings. I argue that someone had to be strung up on the tree to satisfy the public mob and the immigrant Arabs, Muslims and Southeast Asians are the logical choice in this period.

A larger issue is the whole question of immigration; the “legal” and “illegal” aspect of it. The US population is getting older and has been doing so for some years, while the economy is in constant need of young, vibrant and able bodies to fill the ranks in hotels, restaurants, factories, sweatshops, and farms. Legal immigration addresses but a small portion of the economies real need, which is left for the massive influx of “illegals” to fill. Politicians and “concerned racist citizens” will scream aloud about “illegal” immigration, however at the end of the day their rational economic interests overtakes all other, since everyone of them will go out to eat, shop, sleep, buy produce and travel at a reduced rate due to the “unwanted” workers. The massive hunts, dragnets and racist speeches about the “illegal” immigration are created for public consumption because if they were principled positions then our economy would collapse without these workers. What I am pointing out is the utter hypocrisy of the immigration policies for a society calling for legal immigration but at the same time cannot do without the “illegals” in the day to day operations of the economy. What the system is saying is-we stand for principle when our interests are concerned and we disregard our principles when our interest is at hand; a true mark of hypocrisy.

Another dimension of the response to the INS registration is the rarely addressed intra-Muslim attitudes toward this unfolding crisis. When examining this closer one comes to find the gaps existing between the immigrant Muslim and Arab communities and their African American and Caucasian counter parts. In regards to the history of exclusion, the African American and Native American communities have written the book on the subject and continue to shoulder the legacy and the current reality of racism and discrimination in America. Immigrants who make it into the US come to the country with an already developed racial matrix that places the African American community at the bottom while attempting to find its way into the top where the Caucasians are to be found. In this racial structure, immigrants who adopt this view continuously strive to be part of the ‘superior’ race while looking down distancing themselves from those whom they perceive to be below them. Malcolm X spoke of the differences between the “house Negro” and the “field Negro.” The same can be said for the immigrant communities, however the only difference is that most among the immigrant population want to be in the master’s house instead of the field, and many have come to this country attracted by its allure.

While intra Muslim and Arab coalition was lacking, the same cannot be said about other communities. A side effect of the INS registration was the development of an extensive network among a number of diverse community organizations representing various ethnicities impacted by the program. The ordeal brought about coordination among volunteers, immigration workshops, fact sheets, and development and sharing of resources among community organizations that otherwise would have remained distant and separated from one another. This topic of emergence of cross-ethnic cooperation among organizations in the San Francisco Bay Area is a subject unto itself which calls for independent work beyond the scope of this paper, but it is important to celebrate the development of real alliances in the middle of such an important civil rights battle. Some in the civil rights community managed to cross the bridge and take a real interest in the Arab,

Muslim and South East Asian causes, which is also an area needing further research and systematic documentation.

The INS Special Registration placed heavy stress on Arabs, Muslims and South East Asian communities and stretched their internal capacities and financial resources. Since its inception the program managed to register more than 113,000 individuals and deport 13,400 people while others were still working their way through the system at the time of writing this paper. Having unleashed this massive program, the INS did not claim a single success case of uncovering a sleeper cell in this country; rather it managed to disrupt the normal life of hard working immigrants who committed no crime other than being born in a country that happens to be on their new list.

On December 1st, 2003, the Department of Homeland Security announced that it was scrapping the Special Registration Program. Asa Hutchinson, the then Homeland Security undersecretary for border and transportation security, said the move “freed up resources to target more effectively terrorist based on individuals and not geographic factors. It was a significant resource commitment to handle these re-registrations. These resources could be better used in implementing real security measures not founded upon nation or ethnic profiling.” In reality, the reason for scrapping the program is its failure to provide any national security leads, which was the specific intent of the program when it was first set-up and announced to the public. However, the Department of Homeland Security did not want to admit the obvious, the failure of this program in its time and resources. The Arab, Muslim and South East Asian communities, disparately impacted by the Registration, welcomed the news though it was a bittersweet victory after the deportation of some 13,400 members of its communities. In a press release issued, Nihad Awad, the executive director of the Council on American Islamic Relations, welcomed the change and advised that “any new screening procedure should not be based on religion, ethnicity or national origin, but instead reflect the American values of equal justice and religious freedom.” We continue to be hopeful that Nihad’s recommendation of transparency and accountability remains the standard; however, recent revelations of NSA programs in spying and communications monitoring of all Americans make such efforts even more difficult as violations of basic constitutional rights continue to be trampled upon.

ENDNOTES

¹ Nat Hentoff, Ashcroft in Conference: ‘Let’s Not Let them Get Johnnie Cochran on the Phone’, *The Village Voice*, June 27, 2003.

² Attorney General John Ashcroft, Prepared Remarks on the National Security Entry-Exist Registration System, June 6th, 2002.

³ United States Department of Justice, June 6, 2002.

⁴ INS, Special Registration Procedures, 2002.

⁵ The writer is news editor of the *Friday Times* and foreign editor of the *Daily Times*, both Lahore-based publications. He is a visiting fellow at the Brookings Institution.

⁶ The indigenous community in America has suffered a full-scale genocide over a period of 500 years and the notion of this being the first external attack has to be contextualized and referenced of a particular reading of history.

⁷ Memorandum from Attorney General John Ashcroft to United States Attorneys entitled, “Anti-Terrorism Plan,” September 17, 2001, and quoted in The Office of the Inspector General Report, September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks, April, 2003.

⁸ Testimonies in a public meeting held in Buena Park, California, October 20th, 2002, and organized by a Coalition that included Council on American Islamic Relations (CAIR), ACLU, the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), the Orange County Asian and Pacific Islanders Community Alliance (OCAPICA), the Iranian American Lawyers Guild, the National Lawyers Guild, the South Asian Network (SAN) and the Coalition of Women from Asia and the Middle East (CWAME).

⁹ Ibid.

¹⁰ Ibid.

¹¹ For privacy purposes I did not include the name of the lawyer or the student.

¹² Asian Week, Thousands Across the Nation Protest INS Special Registration, January 17, 2003.

¹³ Susan Sachs, Crackdown Sets Off Unusual Rush to Canada, New York Times, Feb. 21, 2003.

¹⁴ Anastasia Hendrix, Fear Keeps Immigrants in Hiding: After 9/11, many Live Underground Rather Than Register, San Francisco Chronicle, Sunday, August 3, 2003, p. A26.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.