

HEINONLINE

Citation: 9 J. Islamic L. & Culture 1 2004



Content downloaded/printed from
HeinOnline (<http://heinonline.org>)
Sun Dec 1 21:39:19 2013

- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at <http://heinonline.org/HOL/License>
- The search text of this PDF is generated from uncorrected OCR text.
- To obtain permission to use this article beyond the scope of your HeinOnline license, please use:

[https://www.copyright.com/cc/basicSearch.do?
&operation=go&searchType=0
&lastSearch=simple&all=on&titleOrStdNo=1528-817X](https://www.copyright.com/cc/basicSearch.do?&operation=go&searchType=0&lastSearch=simple&all=on&titleOrStdNo=1528-817X)



**VIRTUAL INTERNMENT:
ARABS, MUSLIMS, ASIANS
AND THE WAR ON
TERRORISM**

Hatem Bazian, Ph.D.

*Lecturer, Near Eastern and Ethnic Studies Departments
Adjunct Faculty of Law, Boalt Law School
University of California, Berkeley*

On December 7th, 1941, the Japanese navy and air force attacked the U.S. naval base at Pearl Harbor on the Hawaiian island of Oahu, causing heavy casualties and the destruction of the American Pacific Fleet. Pearl Harbor became the largest one-day loss of American military personnel on American soil by a foreign attack, with 2,388 killed and 2,000 wounded.¹ President Franklin D. Roosevelt addressed Congress on December 8th, 1941, calling the Pearl Harbor event “a date which will live in infamy.” This was followed by a radio address to the nation in which he declared, “Every single man, woman, and child is a partner in the most tremendous undertaking of our American history.”

In the aftermath of the Japanese attack on Pearl Harbor, President Roosevelt issued and signed Executive Order 9066, granting authority to government agents to arrest and intern persons of Japanese ancestry. Even prior to this order, the Justice and War Departments had already arrested and interned persons of German, Italian, and Japanese ancestry, as well as a few other foreign nationals. The immediate consequences of Order 9066 were the arrest and internment of almost 120,000 persons of Japanese ancestry, who mostly lived in West Coast states and who were placed in camps across the country.

One might be tempted to argue that the government was “correct” as it responded to the massive Japanese attack on Pearl Harbor and moved swiftly to secure the homeland from foreign and domestic enemies. However, Professor Tetsuden Kashima, in his groundbreaking book, *Judgment Without Trial*, points out “the decision to imprison persons of Japanese ancestry during the war was made before the attack on Pearl Harbor.”² It would be easier to accept the government’s position that it was compelled to

¹ The idea of largest one-day loss, in this context, does not take into account the loss of life among the indigenous population in America during the early years of this country as well as the period of Civil War. It is accurate to point that this was a foreign attack upon the US by a foreign army, even though the indigenous community has suffered similar losses throughout the early years of this country and rightly viewed itself under attack by a foreign enemy. My attempt is not to downplay the impact of Pearl Harbor but to direct our attention at the omitted narrative.

² Tetsuden Kashima, *Judgment Without Trial: Japanese American Imprisonment During World War II*, p. 5.

suppress citizens' rights following the attack, but Kashima's study provides the evidence that "the decision was a product of rational deliberation; it was not necessarily made in haste or because of 'hysteria,' as perhaps the general populace and some authors may believe."³ The targeting of persons of Japanese ancestry was underway before December 7th, 1941, and was undoubtedly aided by an overwhelming level of support among all sectors of the American society. In addition to the politicians, the media and Hollywood played a major role in creating the needed support for the internment. Also, in due time, the judicial branch came onboard, granting the government the needed legal cover for constitutional violations.

In 1942, Fred Korematsu, a Japanese-American living in Northern California, mounted a failed challenge to the government's forceful removal of Japanese-Americans from the West Coast into designated internment camps. In the now famous Supreme Court case, *Korematsu vs. United States*, the sitting judges "upheld the military's exclusion of 120,000 persons of Japanese ancestry-70 percent of them American citizens—from the west coast."⁴ The legal challenge was spearheaded by Ernest Besig, a lawyer from the Northern California Chapter of the American Civil Liberties Union, and resulted in the Court's 6-3 vote favoring the government's argument for internment under the rubric of military necessity. National security in time of war was a sufficient rationale for the Court to grant the government unlimited powers to violate the rights of citizens, permanent residents and foreign aliens alike, resulting in the internment of Japanese, Germans, and Italians for the duration of the war.

The subject of internment of persons of Japanese, German, and Italian ancestry remains relevant today, especially because voices have arisen after 9/11 calling for harsher measures against the "enemy" living among "us." Such calls included the publication of articles and books arguing and defending the WW II internment of Japanese Americans. Perhaps the most notorious is Michelle Malkin's book, *In Defense of Internment: The Case for 'Racial Profiling' in World War II and the War on Terror*, which re-

³ Tetsuden Kashima, *Judgment Without Trial: Japanese American Imprisonment During World War II*. p. 5.

⁴ Annie Nakao, *Overturning a wartime act decades later*, *SF Chronicle*, Sunday, December 12, 2004.

introduces already discredited notions of the threat posed by Japanese-Americans at the time of Pearl Harbor attack. In arguing for the internment, Malkin maintains that “the most damaging legacy of this apologia and compensation package has been its impact on national security efforts. The ethnic grievance industry and civil liberties Chicken Littles wield the reparations law like a bludgeon over the War on Terror debate.” For Malkin and those flooding the talk radio circuit, the Japanese internment was not only justified, but the 1988 Congressional Redress effort became the actual problem that affected American national security and the ability to use racial/religious profiling in the current war on terrorism. As it stands today, internment has been given a new life; Arab and Muslim Americans are its new subjects.

Every period in America’s history has its defining moments and contributions to an ever-expanding dictionary of words and concepts born out of unfolding events, policies adopted, and public pronouncements. Not only are power terminologies significant in discourse, but also those who oppose and resist such power contribute, in their own way, to emerging definitions that constitute a counter-usage of language. Japanese, German, and Italian internment came to symbolize the Second World War period in the United States and the massive violations of Americans’ basic civil and constitutional rights, which were sanctioned by the Supreme Court at the time.

A question presently arises whether we are experiencing a similar period of governmental sanctioning the violation of basic civil and constitutional rights through the systematic targeting of the Arab, Muslim, and segments of the Asian-American communities, thus denying citizens and permanent residents legal protection.⁵ In addition, through its actions and words of many spokespeople, the government has deliberately influenced public discourse to the detriment of the affected communities. In current public discourse, Arabs, Muslims, and Asians have been made legitimate targets of direct governmental actions such as arrests, closing down charities, and constant insinuation of existing terrorist links.

While Japanese, German, and Italian internments are accounted for in the

⁵ The subject of “illegal immigrants” and violations of their basic civil and human rights is another area altogether, and I will attempt to address it in areas of this work but it is not the main focus of this work.

history books, the current unfolding civil rights violations have yet to receive full exposure. In the aftermath of 9/11, according to the Office of the Inspector General of the U.S. Department of Justice, “the Federal Bureau of Investigation (FBI) immediately initiated a massive investigation, called ‘PENTTBOM,’ into the massive terrorist attacks.” In addition, the Inspector General reports, “the Attorney General directed the FBI and other law enforcement personnel to use ‘every available law enforcement tool’ to arrest persons who ‘participate in, or lend support to, terrorist activities.’”⁶ The assumption from the FBI and Justice Department directive is that the target of the effort was a “real terrorist,” a target that would make every American feel safe. In the aftermath of the attack and the “PENTTBOM” operations, a sizable number of Arabs and Muslims were rounded up without any charge of a crime committed, and nor given the right to legal representation. In the years since 9/11, a legal battle has ensued demanding that the government release the name of arrestees and list the charges, if any, against them. A number of Arabs and Muslims arrested in the initial response faced immediate deportation, which makes a complete accounting of what took place difficult.

When it comes to civil rights, the Second World War was defined by the massive violations of the Japanese, German, and Italian Americans’ rights, their classification as enemy subjects, and their forced relocation into internment camps. But the processes and actual locations of the internment were visible, even if some individual cases were dealt with in secret; the overall project was in full view of the public. The same cannot be said in the current period.

Virtual Internment Defined

As we move to explore this new period, a new concept must be introduced into our collective consciousness: Virtual Internment, which can best be defined as a quasi-visible but repressive, intimidating, and confining structure employed by the U.S. administration and its allies on a global scale against individuals, communities, and organizations deemed unsupportive, and

⁶ Report, Office of the Inspector General, US Department of Justice, *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*, April 2003.

possibly hostile, in their worldview toward American and “global” interests. From the Bush administration’s point of view, we can ascertain that the aim of this structure is to elicit the cooperation of members of targeted communities in fighting the “war on terrorism” and in helping weed out the “bad apples” in the mix, but the more important outcome is the collective criminalization of people: Arabs and Muslims. This approach is based on a philosophy of guilt by association, which targets whole communities as a way of, possibly, finding the “terrorist” hiding among them.

By using the term internment, I want to make apparent that there is an explicit connection being made with the Japanese circumstances and the structure employed against them during WW II. Guilt – by association supported by recurring xenophobic tendencies in the American society of that period made it possible for the internment to take place and gain wide acceptance from the mainstream, including its liberal media. It should be remembered that the Japanese internment had wide support from all sectors of public, social, economic, and legal spheres of life in America, and opposition or resistance to it was confined to few pockets around the country.

My concept of Virtual Internment is similar in that it is based on guilt by association and is very much supported by existing xenophobic tendencies in our society directed presently at Arabs and Muslims but at times inclusive of everyone possessing a darker complexion. In the case of the Japanese-American community, it was the attack on Pearl Harbor that was used as the primary reason to put forth internment as a way to secure the public from the threat of “enemy agents” in the West Coast. The link was immediately made between the actions of the Japanese government against the United States and American citizens of Japanese descent, making them one and the same in the eyes of the political leadership and fueling public expression of racism. We must take into account that American public opinion had already been highly politicized against Asians in general; it was only a matter of directing this existing reservoir of racism in a particular direction. Concurrently, there was an institutional shift toward embracing a segment of the Asian community, the Chinese in this case, as a way to balance the anti-Japanese campaign in domestic as well as international settings. Japanese-Americans were deemed guilty not because of something they had done; rather it was their racial background that determined their fate.

Why is it virtual and not simply internment? In the dictionary, the term

virtual is defined as: 1) being something in effect even if not in reality or not conforming to the generally accepted definition of the term; and 2) used to describe a particle whose existence is suggested to explain observed phenomena but is not proven or directly observable. Internment means, "the confinement of somebody regarded as a security threat in a prison, concentration camp, or other place, especially during war." As such, when we combine both terms we account for a meaning that expands and is different from the experiences of the Japanese Americans in that it initiates different modes of control and public awareness.

What is happening to Arabs and Muslims is virtual because it lacks the physical structures and the confining camps used in the Japanese, German, and Italian cases. More recently, evidence has emerged of additional secret locations where people are being held. However, on the whole, the picture emerging points to hundreds and possibly a few thousand detainees who have been imprisoned, which would not compare to the WW II internment camps. Yet, the argument advanced here is not one based on the actual numbers held behind a fence or a prison wall, rather it is the strategies deployed across governmental security agencies and modes of public discourse which affect today's targeted communities.

Also, these strategies are virtual because of the difficulty to find documentation of its systematic oppressive nature. We are often left with conflicting reports originating from the power structure or supportive media. To understand what is happening, the second meaning of virtual must be kept in mind, that is, "used to describe a particle whose existence is suggested to explain observed phenomena but is not proven or directly observable." As we attempt to argue for the validity of this concept, a lack of documentation on civil rights abuses is a major challenge confronting us. One can point to a number of individual cases whereby the government overstepped its power and violated civil and constitutional rights, but this is not sufficient evidence to warrant the assertion of a total structure which affects all levels of targeted communities. Only future researchers will be able to confirm my assertions by gaining complete access to Homeland Security and FBI files that pertain to Arab, Muslim, and Asian communities on the existence of a systematic and oppressive program.

The global scope of today's counter-terrorism strategies is yet another defining dimension that adds to its virtual nature because the ability to hide

the tracks makes it harder to trace the structure and its effects. A defining characteristic of Virtual Internment is its inclusiveness of all members of the targeted communities; thus every Arab, Muslim, and Asian, or perhaps even anyone who identifies or associates with them, is subject to its oppressive structure. Unlike the Japanese, German, and Italian internments that were directed at Americans of Japanese, German and Italian descent,⁷ the current campaign has acquired a global dimension whereby Arabs, Muslims, Asians, and anyone taking their side is deemed guilty, and various “legal” or “extra-legal” sanctions are instituted. These sanctions include detention, deportation, renditions, and forced behavioral change. The changing of behavior by means of Virtual Internment is perhaps a larger strategy than simple confinement; a mentally induced state of control is more preferable in the long run to the one crudely constructed by walls and bars. This is not to imply that prisons and camps across the world are not placed at the service of the project, but the larger scope of Virtual Internment is the desire to affect the broader targeted communities by shaping future generations. The government’s argument is couched in security, arguing for the need to change minds to prevent support for the “terrorist”-which implies that every Arab, Muslim, and Asian is construed as an incubator ready to emerge as a full-fledged “terrorist,” and only through “our intervention” can this be prevented.

The global project of changing hearts and minds in the Muslim world is but one tool among many deployed to facilitate a world Virtual Internment. The resources spent and energies expended aim to bring about a change in the targeted racial/ethnic/religious group on a global level under the all-encompassing rubric of security. As the global campaign unfolds, many sub-contractors are brought in by the government to implement various aspects of the project, thus generating vested non-governmental constituencies in the U.S. and abroad that has financial and political stakes in the campaign. These constituencies act as the public face of the campaign, providing needed distance from government agencies. It is in these groups that we find

⁷ We do have evidence of Japanese, German and Italians being interned that are not Americans and being brought to the country from outside including Peru and numbers of stranded seamen but other areas of the world did not suffer similar treatment.

members of the targeted communities who lend their services for a price and who are needed to facilitate a veneer of legitimacy.

As previously mentioned, virtual refers to a total structure directly employed against and experienced by the targeted group even when they are not physically held in prisons or subject to legal sanctions. Such a virtual state induces in the individual and the community a mode of behavior that is more reflective of that of prisoners than of free men and women. As a result, communities are being transformed into virtual prison states without leaving their homes, jobs, and friends. It's not enough that the targeted community members despise the criminals who committed the 9/11 atrocities, they are asserts to also represent that criminality. The individual sitting at home watching television, listening to the radio, or reading the newspaper must be induced to feel guilty for belonging to a now criminal class-Arabs, Muslims, and Asians-and the only way to prove otherwise is to cooperate with the authorities against one's own community. Failing to do so becomes a sure sign of harboring sympathies toward the criminal terrorists.

The virtual nature is sought as a way to keep the mainstream uninterested in what is taking place and to provide a sense of normalcy for the largest segment of the population. In the meantime, the government and its supporters continually increase the level of oppression and the employment of schemes to keep the campaign far from the eyes of ta misled public. At this juncture, a major connection can be made between the structures of oppression and the mainstream media, which actively acts to create a context so the program can become an accepted norm by the public. Thus, we see the introduction of media programs that makes oppression part of the entertainment design, which leads to the acceptance of the campaign through this indirect strategy.

In addition to the media, this virtual structure uses the legal system and immigration laws to create barriers to produce desired outcomes which include the removal of large numbers of individuals who belong to the targeted communities (over 13,000 known to have been removed) from the United States. Through the use of the legal system and immigration policies, the Administration argues that it is providing protection against possible abuses. The majority of the American public accepts this rationalization and is conditioned to respond to any critique with hostility. The U.S. government

has often manipulated the legal system to bring about control or elimination of people deemed enemies or a threat to society—our history with Mafia prosecutions is a foremost example. In this virtual mode, the government learned a lesson from the experience of the internment-out of sight, out of mind.

Virtual Internment, being less visible but perhaps more effective, is the new and improved version of the WWII internment program. We are no longer speaking of a program confined to the U.S. mainland or even territories controlled by America. Virtual Internment, as referenced earlier, is global in scope. Today, a person defined or labeled by the U.S. government as a “terrorist” is fair game across the globe, and the readiness of various nations to cooperate (in pursuit of the “terrorist”) is based on a high level of intimidation, which includes political, economic, and, possibly, military threats by the U.S. government and its allies. As such, the threat level employed against a particular state in the world corresponds to a highly racial view of the world. Thus, a Third World country is allowed less room for rejection of a threat than those in the Northern Hemisphere. The racial experiences of minorities in every city in America are also reflected at the international level whereby nation-states fit into a particular racial sphere and as such are accorded or denied certain privileges. Behavior unbecoming by one nation-state can be in vogue by another. This idea applies whenever Virtual Internment exists and the charge of “terrorism” is applied.

In our present world, the charge of “terrorism” is sufficient to create walls around individuals and their families, and their homelands. They become legitimate military targets. Facts, evidence, and the legal process are not important; a single charge of guilt is sufficient to destroy lives. An adjunct to this theme is the disdain and utter disregard held in the West for the Third World in general and Arabs and Muslims in particular during this period.⁸ Indeed, when an Arab, Muslim, African, or Asian individual speaks, his or her statement is a lie with a possibility of truth, while that of a White Westerner is true with the possibility of it being a lie. An American charge of “terrorism,” thus, produces immediate consequences because it must be true, factual and valid. Once we add the media into the mix then we are dealing with a profound global system affecting lives all over the world.

⁸The same applies for the totality of Africa and the complete disregard for all its people.

Why, though, is it an internment when we lack the camps that defined the Japanese, German, and Italians during WW II? This is a valid question, but it does not cover the totality of what has been unfolding on a global level. We do have camps and prisoners lacking rights. However, the camps are not on the U.S. mainland; rather they are present in nameless places around the world, primarily in the lands of our allies in Third World countries where the distinction between the Mafia and the legal system is a subject open for debate. The global program calls for deportation from the United States, but arrests and internment in Arab, Muslim, and Asian countries for anyone labeled as a “terrorist” by the Bush Administration. Therefore, if you are in the United States, you have a better chance of getting a measure of relative justice, so subject are renditioned.

What this produces is the idea that the United States is a better place, and if you are arrested in this country, even for “terrorism,” it would be more advantageous than in any Arab, Muslim, Asian, or African country. If given a choice – the justice system in America or Pakistan – which one would you rather face? By passing onto Arab, Muslim, and Asian countries the responsibilities for implementing the global internment program the United States can absolve itself of massive violations of its own international laws. Through this approach the United States benefits from arresting a large group of people on unfounded allegations, while someone else is held responsible for it in the long run. These countries and leaders, once they finish their tour of duty for America, often get blamed for what they did during their dutiful service; Saddam Hussein and Manuel Noriega are two such servants.

Since 9/11, scores, mainly males from Arab and Muslim countries, have been arrested by governments around the world, and the overwhelming majority are still being held without any formal charges brought against them. In the United States we know that a large number of individuals have been arrested (upward of 1,000), yet to this date the number of those formally charged is below ten and the majority are still awaiting some resolution. Here is an account of some of the methods used for arrests:

“In the hours and days immediately following [the September 11] attacks, the then 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 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* (Simon & Schuster)"⁹

The Justice Department, under Ashcroft's leadership, had complete control over the civil and constitutional rights of all those arrested, thus Arabs and Muslims as a class were deemed guilty and treated as enemies of the state. In Congressional hearings on the matter of the detention without legal recourse by the Justice Department, Congresswoman Linda Sanchez asked Ashcroft about the comment by his deputy Chertoff, who helped draft the detention strategy, that "every one of the detainees has the right to counsel, and everyone of the detainees has the right to make phone calls to attorneys." The Attorney General did not respond to the question with an answer; rather he decided to ignore it.¹⁰ We must be particularly concerned that Chertoff was confirmed as the new head of Homeland Security and was also confirmed by the Senate on a vote of 88-1 for a seat on the Third Circuit Court of Appeals (a level directly below the Supreme Court), with Senator Hillary Clinton casting the sole opposing voice, not because of the detainees, but because of his work as a lead lawyer on the Whitewater affair during Clinton's presidency.¹¹ The Congressional leadership was ready to play along and was not likely to mount any real defense of the Constitution, while heaping praise and support for the leadership at the Justice Department as they unapologetically dismantled civil rights protections.

The picture abroad does not differ much because many countries receive clear marching orders from Washington, and the general guidelines called for

⁹ Nat Hentoff, Ashcroft in Conference: "Let's Not Let them Get Johnnie Cochran on the Phone", *The Village Voice*, June 27, 2003.

¹⁰ *Ibid.*

¹¹ *Ibid.*

a dragnet on a global level never seen before. In retrospect, the same attitude which permeated the Justice Department inside the United States was also deployed globally, achieving possibly far more dramatic results, considering that the scales of justice are vastly different. However, a high level of cooperation and coordination exists between all parties concerned, so we should not be surprised that the FBI was directly involved in arrests and detentions of suspects in many countries around the globe. In country after country, the urging of the Justice Department after 9/11 provided existing despotic governments a much-needed cover to carry out massive violations of human rights and wanton arrests of those expressing opposition to their rule and to American interests. This situation was driven by a U.S. Administration ready to cooperate with anyone willing to lend a helping hand in the war on terrorism. The definition of terrorist "connection" was so wide that if taken seriously it might include all those who attend Friday prayers in any major city, town, or village across the Muslim world, just like everyone with a Muslim sounding name was a target inside the United States, on the direct orders of Aschroft himself.

Take the case of Rabih Haddad, a co-founder of a U.S.-based Islamic charity closed after 9/11, who on July 15, 2003, was deported to Lebanon and upon arrival, according to his wife, was immediately taken away for interrogation. Mr. Haddad was not charged with any crime; rather the deportation was carried out through the Bureau of Immigration and Customs Enforcement in the U.S. Department of Homeland Security on the premise of residency violations and overstaying his visa. Before the deportation, Mr. Haddad was held in jail for 19 months after his arrest on Dec. 14th, 2001, and, at the same time, the offices of his charity, the Global Relief Foundation, were raided in suburban Chicago. The accusation levied against Mr. Haddad and Global Relief Foundation was their involvement in funneling money to al-Qaida, a charge that has not been substantiated by any legal process. The deportation order, issued November 2002, also includes his wife and three of the couple's four children-the fourth had the privilege of being born in America. As can be seen from Haddad's case, he and Global Relief were not charged with any wrongdoing or terror-related crime; rather, immigration status was the instrument of choice for the U.S. government, though they were aware of the potential for his detention in Lebanon. The family applied for political asylum, but in November 2002,

the judge denied the request, ordering the family deported back to Lebanon. Haddad's wife, Salma Al-Rushaid, said: "We applied for political asylum because we feared that any government would be more than pleased to please the U.S. government and interrogate Rabih."¹² Al-Rushaid is keen in her observations that her husband would face harsher conditions abroad once the United States labeled him a "terrorist," even though he was not convicted of such a crime.

The case of Mohamed Kamel Bellahouel is yet more interesting, from a legal point of view, than that of Mr. Haddad. Mr. Bellahouel, an Algerian man, was arrested on Oct. 15, 2001, because he was a waiter in South Florida and "came under FBI scrutiny because hijackers Mohamed Atta and Marwan al-Shehhi dined where he worked in the weeks before the September 11 attacks."¹³ Using as the reason of his arrest was an aspect of the six degrees of separation theory, the Department of Justice charged him with failure to comply with conditions of the student visa he received in 1996. Mr. Bellahouel was held for five months, beginning in October 2001, during which he demanded the courts release him and make the case part of public record. In March 2002, Mr. Bellahouel was released from the Krome Detention Center in Southern Miami Dade County after posting a \$10,000 immigration bond and is currently living with his American wife in Fort Lauderdale, Florida. Since his arrest, the government has worked hard to keep his case a complete secret, so much so that even references to it were completely removed from public records after they were mistakenly included on the calendar in an Atlanta court. On January 5, 2004, the Bush administration "asked the Supreme Court to let it keep its arguments secret in this case involving an immigrant's challenge of his treatment after the Sept. 11 terror attacks."¹⁴ Mr. Bellahouel wanted the court to consider his treatment by the government and whether they violated his rights.

Currently, Mr. Bellahouel exists on the files as case M.K.B. vs. Wardern 03-6747, and no other information is available. The government filing consisted of Solicitor General Theodore Olson's one sentence that "this

¹² Sarah Freeman, Associated Press, Tuesday, July 15th, 2003.

¹³ AP, White house Asks Secrecy in post 9/11 Arrest Case, Tuesday, January 6, 2004.

¹⁴ *Ibid.*

matter pertains to information that is required to be kept under seal.”¹⁵ Responding to this unique filing, Lucy A. Dalglish, executive director of the Reporters Committee for Freedom of the Press, said “the idea that there is nothing that could be filed publicly is really ridiculous. It just emphasizes our point that we’re living in frightening times. People can be arrested, thrown in jail and have secret court proceedings, and we know absolutely nothing about it.”¹⁶ In an earlier ruling, the Supreme Court sided with the government and agreed to keep the names of all the detainees secret but now Mr. Bellahouel’s case has gained national attention and more than 23 journalistic organizations and media companies have asked for permission to join the appeal. In the Supreme Court docket, the case does not include the petitioner’s name or the names of the lower courts that managed to keep it secret. In his own petition to the court on March 31, 2003, Mr. Bellahouel mentions that the 11th Circuit panel issued a “sealed and unpublished judgment.” However, the 11th Circuit Court of Appeals itself refuses to disclose that it has decided the appeal, since the final order by them was kept sealed. The media coalition joining the case stated the following in their press release:

The Coalition members seek to become parties to the case in order to represent the interests of the public and news media in ensuring that proceedings are conducted openly, in compliance with the First Amendment...

The filing, known as a motion to intervene, is rare because, if granted, it would mean that the coalition members are added as actual parties to the case of *M. K. B. vs. Warden*, now before the high court on a petition for review. Ordinarily, parties are not added to a case once it is before the Supreme Court.

But the Coalition’s brief points out the unique circumstances justify media intervention. “Because of the exceptional secrecy surrounding this case, [the coalition members] were unaware of its very existence when it was being litigated on the district court, and

¹⁵ Ibid.

¹⁶ Ibid.

were therefore unable to move to protect their interests by intervening there,” the coalition argues.

The case reportedly arises from the government detention of Mohammed K. Bellahouel, a Florida resident who allegedly had contact with three of the Sept. 11 hijackers. Bellahouel’s challenge to the legality of his incarceration was originally kept entirely off the public docket in the U.S. District Court in Miami. Later, the case was docketed, but with 63 of the 65 entries listed as “sealed.”¹⁷

Another example is the story of a group of immigrant Tunisians. Of eight of them, who according to Bay Area attorney Ma’ad Abu Ghazala, lived and often played soccer together in San Francisco, seven were deported back to Tunis. Deportation is not the main story; rather is it that the Tunisian authorities were waiting for them in the airport and took them directly to jail without any crime or trial to determine possible guilt.

Virtual Internment Implementation Mechanisms

In the immediate period after 9/11, while walking out of the university on my way to lunch down Telegraph Ave. in downtown Berkeley, three white men a few feet ahead were talking about the events in New York, which was not surprising. However at one point they expressed happiness that an Arab co-worker who used to “mouth-off” about U.S. foreign policy was no longer doing so. One of them said “you don’t hear this M----f say anything anymore.” The sense I got from them is that they were happy his voice was silenced and they don’t have to hear him argue with them about US foreign policy. My intention was not to listen to their conversation, their voices were loud enough for those around to hear, which for me was a further indication of a general attitude prevailing in post-9/11 among the general public. The three men entered Na’an and Curry, a restaurant on Telegraph Ave. owned by Muslims serving halal food (meat prepared in accordance with Islamic precepts), and it seems they were content to eat good Pakistani food even though they would like to be served, possibly, by

¹⁷ News Release: The Reporters Committee for Freedom of the Press, Jan. 02, 2004.

a mute Muslim with no voice of his own. The words of these three men walking down Telegraph Ave. in Berkeley led me to believe that a more prevalent attitude of hostility is permeating many social groupings in the United States and to undo it would require a monumental effort.

It might seem from the lengthy discussion above that we have strayed from the main topic, Virtual Internment, which is not the case, for it reflects the implementation of particular mechanisms and how they function in daily affairs. The scope of Virtual Internment is wide; at times it involves arrests, detention, deportation, and torture, but more often it is a set of mental and psychological processes that encompass every individual in the targeted community. Virtual Internment as a mental process is even more damaging than the straightforward modes expressed earlier because it involves a larger segment of the population and also goes unnoticed and unaccounted for by the victims themselves and society at large. One person expressed to me that he was unable to have the pleasure of thinking out loud and contemplating his own thoughts in the open; another said he was unable to be honest about his own ideas when asked about them, fearing the consequences. Both have been in the country for more than 15 years. Two friends of mine, attempting to rent an apartment in Berkeley, only succeeded in convincing the landlady that they, as Muslims, had no intention of blowing up the apartment building after her daughter intervened. A Muslim man who I know in a local mosque once said to me, "I do not have the pleasure of thinking stupid thoughts [any longer]."

The domestic anti-terrorism campaign lead by the FBI and the newly formed Homeland Security Department has created fear in the Arab, Muslim, and Asian communities, with abuses running rampant and providing conditioning for public discourse relevant to the targeted groups. This approach can be better understood once we examine the case of Mr. Tarek Albasti, a restaurateur in Evansville, Indiana, who, falsely accused of belonging to a terrorist group, was arrested with eight others, interrogated, and held with no charge for one week. The FBI was not content with a mere arrest, so it paraded the group to the local press with pictures appearing in

¹⁸ Michael Moss, *False Terrorism Tips to F.B.I. Uproot the Lives of Suspects*, New York Times, June 19, 2003.

the local newspapers, yet it produced nothing as it was based on false information.¹⁸ Mr. Albasit was released after a painful week in jail, but this hardly was the end of his ordeal, for his name was added to the national crime registry, making him a marked man on an international level. 19 months after the arrest, the names of the nine men arrested continued to appear on the national registry, which meant they could not fly, apply to rent an apartment or get jobs in the local market. Help finally arrived, but not through the FBI. Resorting to the justice system, Mr. Albasit was able to get a judge to order the names be expunged from the national crime registry, which finally cleared the men of any wrongdoing. The FBI chief in Indiana, Thomas V. Fuentes, while attending a community meeting in the Evansville mosque finally expressed an apology for what happened after hearing the story from Mr. Albasit's wife.¹⁹

The extent of this new strategy extends to anyone who is a member of the targeted group. "Welcome Home: The Story of My INS Detention," was the title of a letter sent via the internet by Khalid Afsar, a friend of mine documenting his ordeal on the way back from a visit to Pakistan. The letter is instructive of what is underway in this country and hardly noticed by the majority of the American public.

"After nearly a month in Pakistan visiting my relatives, I was eager to come back home on January 24th. My Malaysian Airlines flight back was long (36 hours), and I was still recovering from a bout with the flu, so I was relieved to have finally arrived at LAX, just a short hop away from San Francisco, my final destination. As I was approaching immigration and customs, I did not give it a second thought. I had traveled internationally many times before, and I knew the bureaucratic drill. But this time was different.

I was happy to see that the line for US passports holders had just a couple of people, and things were moving fast. I got in line, holding my passport and customs declaration card, which I had already filled out on the plane.

My turn came, and I approached the female immigration officer

¹⁹ Michael Moss, *False Terrorism Tips to F.B.I. Uproot the Lives of Suspects*, New York Times, June 19, 2003.

at the counter. Upon looking at my passport, she asked me if I had a second form of photo identification, such as a driver's license. I told her that I never carried my driver's license outside the country. She insisted that I show her another photo ID. I told her I had some credit cards on me that she could check.

She then told me to stand aside and wait. Just a minute later, she asked me to follow her toward a man who wore a white shirt, holding a walkie-talkie and who seemed like her supervisor. He asked me if I had a second form of photo ID such as my California driver's license, my reply was "no, isn't the passport a photo ID?" He replied that anyone could have inserted a false photo in the passport (implying that I had tampered with the passport) and that I shouldn't be the one asking the questions.

Stunned by his reply and frightened at what was to come next, I was then taken to an adjacent holding area. There at one end of the room was a counter behind which sat an Asian woman and a white man. Both seemed like they were in their fifties. The woman repeated the same question. "Do you have a driver's license on you?" I repeated the same answer: "no, I never take my license overseas." I told her I had some credit cards with my name on it, and she took those.

She then handed me a piece of paper and told me to jot down where I worked, a phone number, and at least two names there that they could contact. I did what she asked. I was told to sit and wait. I anxiously waited for a while before being asked to come to the counter again. This time the man began asking me a series of questions: when did your stay in this country begin? What is your birth date, and your zodiac sign? What is your father's name, your mother's name? Who did you stay with in Pakistan, and what's his name? Who in your family sponsored you to become a legal resident, etc.? He wrote the answers down hurriedly on a plain piece of white paper that looked more like scratch paper than anything for record keeping. I was told to take a seat, again. I waited for what seemed like forever. I looked at my watch and it was nearly 5:45 PM. I had been detained for nearly two hours now. Again, I was asked to come up to the counter, and again the man asked me another question: "Where do you work?" at which point the woman sitting next to him interjected

that she had already called my employer and checked. The man smiled and, assuming a polite tone, asked me about how hard it was to get a job with my employer and began making light conversation, handing me back my passport. I paused for a second and nervously asked what had happened. He said that I didn't have any form of photo identification on me. When I told him that I thought the passport was a photo ID, he smiled and said, "Oh no it really isn't." I walked away with a bitter sense of alienation.

Next came customs. Here I thought, having spent two hours with the immigration folks, I would hand my customs declaration card to an officer and zoom right through. Not so.

I approached the man who was checking the declaration cards, an African-American male in his forties. He looked carefully at my face, looked at my passport, and told me to go to the inspection counter. I quickly proceeded to that counter and noticed that there was no line. There was this one Pakistani couple with one of the inspectors having their luggage opened and searched. And I saw a well-dressed white passenger talking to another inspector and filling out some forms.

A customs officer approached me and asked me to follow him to his counter. He told me to unlock my carry-on backpack, which I quickly did. He asked me where I worked and how long was my vacation as he began to look through the bag. He grabbed my personal journal from one of the outside pockets of the backpack and began to thumb through it, reading and taking in whatever was written on the pages as if reading a novel. He muttered, "Is this your personal diary?" "Yes, it is," I replied. He then spent few more minutes to slowly flip through the different pages from beginning to end.

When finished, he grabbed a book of short stories written by an Indian author, and flipping through the pages, he came across a hand-written note containing names and contacts of people I was hoping to call while in Malaysia. Next, he pulled out a white envelope with some brochures and loose pages; he inspected each brochure and piece of paper content. I told him that I had a connecting flight to catch in less than half an hour. After a long pause, he motioned for me to put everything back in the bag and began entering something on his computer.

He then turned around and said to me: "I didn't really read anything in your diary." I asked if there was a new policy requiring a second form of identification besides a passport, and he said "no." I told him that the US immigration people had told me that the US passport was not a valid photo ID. He answered: "I think they were lying to you." I barely made it on to the United Airlines connecting flight to San Francisco, soon followed by a young woman whose seat happened to be next to mine. She told me how she had been stuck in traffic and almost missed the plane. I told her I had been in transit for over 36 hours only to be detained by US immigration and customs people, whose new tactic was to harass US citizens fitting certain racial or religious profiles by questioning the authenticity of their passports, reading their personal diaries, and asking accusatory questions about whom they met on their foreign travels.

"How awful, I am really sorry," she said to me. I finally made it home and felt sick to my stomach. I began to think about what would have happened if my flight had come in just hours later, when no one would have been at the office to vouch for me. Would they have held me through the weekend? Does the mere fact that I am Muslim and have a common Arabic name give the government authorities the right to revoke my citizenship privileges and hold me without a just cause? I fell asleep wondering what was still in store for Muslims, Arabs, and South Asians in the coming phases of George Bush's war on terrorism."

Presently, the national registry managed by the FBI and the Department of Homeland Security contains thousands of mostly Arab, Muslim and Asian names. Aside from the arrests and detentions of individuals, the Immigration and Naturalization Service embarked on a massive registration program targeting all non-citizens in the country, which produced a database of all their names. The level of fear permeating the Arab, Muslim and Asian communities before, during and after the registration has had a profound impact upon the collective spirit of those affected. It seems that a clear target behind these registrations is to create an unwelcome atmosphere in this country for Arabs, Muslims, and Asians, and early indications point to some success on the domestic front. The required registration by foreign nationals affected some 113,000 persons by the end of its implementation; the two largest groups impacted were Pakistanis and Arabs respectively.

The Arab, Muslims, and Asian community as a whole, in its state of Virtual Internment, primarily a mental condition, begins to internalize the process and acts according to what is expected of them collectively. They became prisoners of their own minds, thus employing limits that are not real in the full sense of the word; rather it is a structure deployed to achieve control over them without the massive use of resources. The universal structure of oppression is built upon creating a mental process through which control and dominance can be achieved, and as such sometimes violence is deployed by the power structure against the few to bring the many back in line. In the context of Virtual Internment, the power structure has deployed its psychological tools and engaged in selective detention of members to bring about a total control of the internal and external processes within the Arab, Muslim and Asian communities, which to a large extent has been achieved. Take for example the number of Arabs, Muslims, and Asians undertaking all kinds of work to distance themselves from the crimes of Bin Laden and prove that they are worthy “Americans and also good human beings.” Consider how a big elephant can become so docile at the hands of a handler much smaller than he is through a process of conditioning which starts at a young age. Similarly, Virtual Internment brings about a conditioning of the targeted communities in such a manner that they lose all their civil and constitutional rights without even mounting an effective defense. The targeted communities began to act as if they are, collectively, responsible for what has taken place and what will take place relative to unfolding events beyond their control. Distancing oneself from Bin Laden’s crimes is not, in this regard, a mere disapproval of something that no person in their right mind can condone; rather it is a way to gain acceptance by the other who demands such an approach as a pre-condition.

What we are speaking about is the process of behavior modification employed at the individual, group, national or international levels in order to bring about a certain set of desired outcomes. The desired outcomes vary in this case, but include limiting the freedoms of communities, creating internal tension, and the development of a new breed of Arabs, Muslims, and Asians who accept a particular form of U.S. hegemony as a natural normative state of affairs and who don’t engage in opposition to it. Some have argued that it was understandable for the U.S. security forces to engage in a preemptive strategy against a possible enemy living in our mix. After 9/11, this

argument gave credence and provided a needed cover for a massive campaign of arrests targeting Muslim immigrants for no other reason than their sharing the same religion of the 9/11 attackers. Recall the Attorney General's comments cited earlier directing his agencies to go after anyone who has a Muslim sounding name, resulting in some agents seeking such information via the local phone book.

The events of 9/11 have changed the American landscape, our sense of security, and what we are able to tolerate from others, including Arabs, Muslims, and Asians living in this country. Bearing this in mind, some might contend it is important to appreciate the restraint that the Administration has operated under relative to Arabs, Muslims, and Asians in America, and that at no time this would affect the "majority". The effects of the Patriot Act, however, are not limited to immigrants and non-citizens; indeed, a number of its provisions are not limited in their scope of application. On this front, the roving wire tap, attorney-client privilege, e-mail and electronic communication intercept, library, political and religious organizations monitoring activities are not limited to non-citizens; on the contrary some of the early victims in addition to Arabs, Muslims, and Asians have been pro-choice activists and the anti-globalization campaigners in this country. Thus, what was accepted by the "majority" against a perceived threat from a minority has from the onset extended far beyond the initial scope understood by those who supported it.

The structure of Virtual Internment extends to every facet of life and responds to specific instructions from the power structure. In the realm of business, Virtual Internment takes on completely different ramifications, which include coordinated steps to limit individual and group access to the market. By now, we should be familiar with the concept of racial profiling, if not in its most recent manifestation against Arabs, Muslims, and Asians, then in its oldest form practiced against African Americans, Latinos, and others. Immediately after 9/11, the airline and transportation industry moved swiftly to curtail the rights of individuals deemed a "security threat" by the Justice Department, but no one was informed about the criterion used to determine who posed a threat. The most obvious process, highlighted above in Ashcroft statements, was through identifying individuals with Muslim sounding names, appearances, and countries of origin. Needless to say, none of the three highlighted approaches can bring about the needed

results and tend to trample on the rights of the innocent in the hope of possibly catching a few individuals.

Another item related to business activities commensurate with the Virtual Internment structure is the case of Dokhi Fassihian, an Iranian policy analyst, who writes frequently about her country she has much love for, enough that it is prominently featured in her resume. Fassihian was informed by “Monster online service that it would remove the word ‘Iran’ from her resume to comply with U.S. sanctions against that country.”²⁰ The US has ongoing sanctions against Iran, in place before the events of 9/11, but since President Bush included the country in the “Axis of Evil,” a new wave of exclusions are at play. “How can you be an Iran specialist and not have the word “Iran” on your resume?” argued Fassihian, when she became aware of Monster online service’s decision.²¹ Here we are dealing with a American citizen, who has resided in the United States since the age of three and is a holder of a master’s degree in international studies from John Hopkins University — not your typical security threat. In reflecting about what happened, Fassihian said, “I am an American. I’ve lived in this country all my life... This is the first time I am feeling discriminated against.”²² After a quick response from the Iranian community, the Monster online service issued a clarification that implied that the removal of the word “Iran” from resumes will only apply to applicants from seven countries identified by the State Department as terrorism sponsors.

The above story indicates a greater level of interdependence between the government and the business community on security and ideological matters. It is one thing if a company is owned by individuals who want to reflect their personal views in their business dealings, while it is another when companies mirror the foreign policy outlook of the government in dealing with customers. In post-9/11 airline profiling we had a complete takeover of security operations by the federal government, which led to the development of a no-fly list. In addition, a new system being tested grades the possible threats individuals pose and accordingly determines whether

²⁰ Mary Beth Sheridan, *Muslims in U.S. Feel Targeted by Anti-Terror Business Policies*, Washington Post, July 9, 2003.

²¹ *Ibid.*

²² *Ibid.*

permission or lack thereof for travel would be issued. The larger question often is not whether or not you are on a given list, but how and by what process do you get removed from such a list.

In other reports we find businesses acting to limit Arab, Muslim, and Asian access to services by asking for certain documentation that are not required by others engaging in similar transactions.²³ Banks, for example, are requesting additional information from Arabs, Muslims, and Asians when they open bank accounts or engage in electronically transferring funds to family members or business associates. At this point most of the information about what is taking place comes to us from personal accounts and stories of encounters at banks and other places of business as we lack the systematic evidence to certify its accuracy. In her *Washington Post* article, Mary Beth Sheridan writes: "In recent weeks, national Islamic groups have expressed alarm about reports of Muslims in New York, New Jersey, Massachusetts and other states facing demands by banks and credit card companies for extra information—or finding their accounts closed without explanation. The customers had been asked to provide tax and banking records, residency documentation and proof of identity, the organizations said. And some immigrants in Washington and other areas say they have been distressed by extra questioning they have faced at money-transferring institutions."

Another concern relative to the business world has to do with employment and the protection accorded to members of the Arab, Muslim, and Asian communities. Even before 9/11, the targeted communities have been under greater levels of scrutiny, and evidence of employment discrimination could be readily documented. However, under the Patriot Act, a more acceptable atmosphere of discrimination has found its way to the business arena, forcing Arabs, Muslims, and Asians at their jobs have to take a course of least resistance if they are to keep their source of income. Therefore there is the tendency among them to limit their rights to free speech for fear of retaliation from their co-workers and managers.

Muslims and Arabs no doubt will face an uphill battle in the employment arena, especially in the next few years as the country moves to "secure" itself from a dangerous enemy. I know from firsthand accounts a number of Muslims working in highly technical fields who received visits at their jobs

²³ *Ibid.*

from the local FBI office and were asked questions about terrorism and security issues, including their opinion about the Iraq war before the actual invasion. One night around 11:15pm, on my way back from an event in San Francisco, I received three phone calls from individuals seeking advice after the FBI had called to ask for a meeting with them at 8:00am. My recommendation for them was to get a lawyer immediately and go to the meeting in the FBI offices, but with the attorney present. I recall these cases and the frantic voices of individuals who have never been involved in anything other than coming and going to their jobs and occasional attendance at the local mosque.

The FBI has implemented a strategy with a core purpose, in my analysis, of intimidating the Muslim, Arab, and Asian communities into an open-ended cooperation with the agency. By instituting a blanket interview strategy targeting some 5,000 individuals, the FBI created tension points within the various communities affected by this approach. If you add these interviews to the more than 210,575 required to register with the INS, then the scope of the operation directed at the Arab, Muslim, and Asian communities becomes more clear. What is underway is an operation seeking to develop internal agents and to contain the effectiveness of community self-defense against this mandated government policy. The community has been cast as an extension of the enemy that America must be protected from. Under the current Virtual Internment, Arabs, Muslims, and Asians are portrayed as the new enemies of the state and all tools must be deployed to deal with this immediate threat. Those from the targeted communities who call wolf are to be accused of helping the terrorists since they prevent the government from carrying out its job of protecting the homeland from foreign enemies. To criticize government policies is seen as akin to treason, for it only helps the terrorists and their campaign against America. The message in Virtual Internment is clear—you are not a full American; you are an American on probation and you must demonstrate loyalty by cooperating with government agencies at their own discretion. When we speak of racism and civil rights violations, the focus is often on citizens or corporations violating an individual's or a group's rights with the assumption that the government is empowered to protect and defend all citizens' constitutional rights. In the current period, the government is the primary violator of citizens' civil rights and it always has been the case.