

THE AMERICAN TRADITION OF RACIAL PROFILING.

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Introduction

Undoubtedly, the internment of approximately 120,000 men, women, elderly, and children of Japanese descent, some two-thirds of them U.S. born citizens,¹ was an appalling example of racism in our nation's history. Unfortunately, it wasn't the only example, as illustrated by the current treatment of Arabs, Arab Americans, and others of Middle Eastern descent (and those who look the part)² in the War on Terrorism. This parallelism begs the question: Is it a coincidence that Arabs and Arab Americans are being discriminated against in the aftermath of the September 11 attacks, just as people of Japanese descent were discriminated against in the aftermath of the attack on Pearl Harbor? The answer to this question is simply *no*. Not only is the occurrence of these two instances of racism not a coincidence, they are evidence of a longstanding American tradition of using racial profiling in order to subordinate and control the threatening menace of the "other."

Though it might sound strange to label something as heinous as wholesale discrimination among the likes of "apple pie," racial profiling for ulterior motives certainly qualifies as something white Americans continuously turn to in order to uphold the status quo and protect privilege from those unprivileged. In order to facilitate such racial profiling, of course, it is necessary to vilify or dehumanize the targets of racial profiling in order to justify the use of disparate treatment towards those targets. America had done just that during the Japanese internment by labeling Japanese individuals "foreign" and "unassimilable," and is currently doing just that in the aftermath of September 11 by labeling Arabs and Arab Americans "terrorists."

Though the respective categorizations of Japanese and Arab individuals differ, both come to represent the “other,” something opposite to and alien from the majority of white America. Regardless of what particular categorization is utilized, the result remains the same: the dehumanization of an entire group of people in order to effectuate what would otherwise be considered unconstitutional acts. Because the “other” is defined as what “American” is not, such acts aren’t unconstitutional since these “others,” as “others,” do not have constitutional rights. It is in this sense that the act of creating the “other” is a time-honored practice, a custom utilized by those in power to keep their power, and to keep the “other” out of power.

Part I of this paper will discuss the background of the Japanese internment camps. It will lay out the hostile atmosphere that Japanese individuals endured in America before and after the implementation of the internment camps. Part II will then question the assertion that the Japanese internment camps were implemented for national security reasons. It will explain that because of Japanese and Japanese Americans’ inferior place in the American social hierarchy, it was easy for Americans to accept the socially constructed image of Japanese and Japanese Americans as untrustworthy foreigners since Americans have been buying this image of Asians immigrants for many years. It will show that this image was socially constructed in order to manipulate public opinion so as to garner support for the internment camps, which were simply vehicles to contain the perceived threat that the Japanese posed to the American economy, to the national image of America as a white country, and to the image of whites being a racially superior in general. Part III will then outline the connection between this social construction and the Japanese internment. Specifically, it will explain that the Japanese internment was justified by labeling the Japanese foreign and untrustworthy, and therefore undeserving of constitutional rights, like “real” Americans. In support of this proposition, Part III will point out how Germans

and Italians were able to escape the treatment afforded to the Japanese, with the only explanation being that Germans and Italians were not a non-white race that posed a cultural threat to white racial purity.

Part IV of the paper will thereafter discuss the aftermath of September 11. In particular, it will detail the post-September 11 Arab “containment” policies. Part V will then explain that, like the Japanese internment camps, the post-September 11 Arab containment policies occurred without objection by most Americans. This was due in large part to the longstanding fear of Arabs and Arab Americans as terrorists. Like the Japanese, Arabs and Arab Americans were seen as a non-white race that threatened the status quo through their dominant position regarding oil. Also like the Japanese, Arabs and Arab Americans were depicted as one-dimensional “others” who could not be trusted and who were a danger that needed to be contained. Part VI will thereafter explain the connection between the social construction of Arabs and Arab Americans and the Arab containment policies. In particular, it will show that the vilification of Arabs and Arab Americans allowed the government to carry out unconstitutional policies by making such policies seem not only justified, but necessary. Part VI will then point out the various ways in which the War on Terror campaign has succeeded to influence the American psyche, and in effect to duplicate the dangerous racist attitudes that permeated the Japanese internment days. As stated earlier, these attitudes paved the way for public acceptance, and in turn implementation, of wholesale discrimination against an entire race of individuals.

Part VII will then discuss the connection between the current situation with Arabs and Arab Americans and the past treatment of the Japanese. It will argue that just as there was no public outcry against the Japanese internment camps as unconstitutional, there has been no

outrage against the Arab containment policies as unconstitutional, thus showing the success that racial profiling continues to enjoy due to the stereotypical depictions of perceived “others.”

The paper will conclude by suggesting a per se approach to racial profiling...namely, that racial profiling should be deemed per se unconstitutional.

I. The Japanese Internment Camps

The bombing of the military base in Pearl Harbor on December 7, 1941 by the empire of Japan heightened an already hostile environment for Japanese individuals in America.³ Before the bombing, Japanese American communities had been under surveillance by federal agencies and it had been concluded that the Japanese government was more likely to use “occidentals”⁴ than “its own people” as operatives.⁵ Further, many Americans feared fellow citizens of Japanese descent because they considered them “incurably foreign.”⁶ Such sentiments were echoed by influential government officials like Lieutenant General John L. DeWitt, the head of the Western Defense Command and the chief proponent of the internment of Japanese Americans at the time.⁷ In his report recommending the internment, DeWitt stated that “racial affinities are not severed by migration. The Japanese race is an enemy race and while many second and third generation Japanese born on United States soil, possessed of United States citizenship, have become ‘Americanized,’ the racial strains are undiluted.”⁸ DeWitt reasoned that the Japanese in America were “a large, unassimilated, tightly knit racial group, bound to an enemy nation by strong ties of race, culture, custom and religion.”⁹ DeWitt also claimed that “those of Japanese descent could never assimilate and had strong ethnic allegiance to Japan,”¹⁰ and that “[w]e must worry about the Japanese all the time until [the Japanese are] wiped off the map.”¹¹

Frightening though they are, DeWitt's sentiments show the intense racism that clouded many individuals' attitudes towards Japanese individuals at the time of the internment. This racism undoubtedly put the wheels in motion for a mass violation of the constitutional rights of Japanese Americans: even though military and civilian intelligence services concluded that the Japanese American community did not pose a threat to national security, on February 19, 1942, President Franklin Delano Roosevelt signed Executive Order 9066, which authorized "the immediate evacuation of Japanese Americans from the 'militarily sensitive' coastal areas of California, Oregon and Washington states and rendering the remainder of their rights 'subject to military edict.'"¹² Shortly thereafter, Lieutenant General DeWitt ordered the evacuation of "all persons of Japanese descent, alien and non-alien" on the West Coast.¹³

Thus, nearly 120,000 men, women, elderly, and children were "forced to abandon their homes, farms, and businesses; to store or sell their possessions on a few day's notice; and report for removal with only what they could carry."¹⁴ They were ushered by armed guards into "assembly centers," which were in effect old racetracks that were hastily converted into holding facilities where Japanese individuals were to be housed in horse stalls or makeshift barracks.¹⁵ From there, they were shipped to "ten concentration camps, euphemistically designated 'relocation centers,' ...where they were held for the duration of the war."¹⁶

Life in the camps was difficult as the internees had to endure "the desert heat, cold, and dust storms in hastily constructed wooden barracks with no privacy, poor food, inadequate health care, and very little in the way of meaningful activity, surrounded by barbed wire and armed guards."¹⁷ To make matters worse, the interned Japanese were seen as the enemy and an inferior race by a majority of the armed camp personnel,¹⁸ even though two thirds of the internees had been born in the United States.¹⁹

All of this took place “without the declaration of martial law...and without individualized determinations of guilt or disloyalty.”²⁰ President Roosevelt, citing the twin dangers of espionage and sabotage and implicitly disloyalty concerns, justified the internment camps as a military necessity.²¹

II. The Social Construction of the Japanese and Japanese Americans

Thus, it was insisted that the internment wasn't about race, but rather about national security. Indeed, in *Korematsu v. U.S.*,²² Justice Black stated as much in his oft-quoted preemptive defense against possible accusations of prejudice:

Our task would be simple, our duty clear, were this a case involving the imprisonment of a loyal citizen in a concentration camp because of racial prejudice. ... To cast this case into outlines of racial prejudice, without reference to the real military dangers which were presented merely confuses the issue. *Korematsu* was not excluded from the Military Area because of hostility to him or his race. He *was* excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures, because they decided that the military urgency of the situation demanded that all citizens of Japanese descent be segregated from the West Coast temporarily, and finally, because Congress, reposing its confidence in this time of war in our military leaders – as inevitably it must – determined that they should have the power to do just this. There was evidence of disloyalty on the part of some, the military authorities considered that the need for action was great, and time was short. We cannot...now say that at that time these actions were unjustified.²³

So was it as Justice Black claimed in the *Korematsu* opinion? Were almost 120,000 Japanese and Japanese Americans' lives disrupted and altered forever in the name of military necessity, and not racial prejudice? The grim answer to this question is no.

In 1982, approximately forty years after the Japanese internment was put into motion, the congressionally appointed Commission on Wartime Relocation and Internment of Civilians concluded that the internment was not motivated by military necessity, but rather “race prejudice, war hysteria, and a failure of political leadership.”²⁴ Furthermore, the *Korematsu* opinion was vacated (though not overturned) when new evidence was discovered in the early

1980s which revealed that “government officials had deliberately altered, destroyed, and suppressed evidence that the military’s allegations of disloyalty and espionage on the part of Japanese Americans were false.”²⁵ Indeed, by war’s end, there was “not a single confirmed incident of espionage or sabotage involving Japanese Americans.”²⁶ Moreover, the sincerity of Justice Black’s assertion that the “evidence of disloyalty on the part of some” was a central reason for the internment is belied by the fact that “[e]ven before President Franklin D. Roosevelt authorized the internment in February 1942, [California attorney general Earl] Warren called for internment on racial grounds without seeing any evidence of disloyalty.”²⁷ Thus, “military authorities in charge of the internment clearly treated racial identity alone as sufficient evidence of disloyalty. *Evidence of Japanese American sabotage or espionage (falsified or not) was beside the point.*”²⁸ (emphasis added)

Thus, the justification of national security was merely a subterfuge used to disguise the real reason behind the Japanese internment: the perceived social threat that Japanese individuals posed to American society. To contain this perceived threat, Japanese Americans were portrayed as a perpetually foreign enemy in order to bring about a wrong on an entire class of individuals based solely on their race. Coupled with the inferior status of Japanese individuals in the American social hierarchy, this plan of action was, unfortunately, very successful.

a. The Social Hierarchy During the Japanese Internment Era and the Reasons Behind It

As stated above, the Japanese internment was not a proposition that was difficult to support for many white Americans. The ease with which white Americans dismissed the rights of Japanese Americans stems from a social hierarchy wherein Japanese Americans were deemed inferior to white Americans. For example, if the United States was so concerned with sabotage

and espionage, and felt that internment was the only way to address these problems (as it had with the Japanese), why was internment not an option for German individuals in America, given the fact that the Germans posed a threat – not to mention a more likely one – of sabotage and espionage?²⁹ The reason is because Germans were considered white and thus superior in the social hierarchy. Because Japanese individuals did not enjoy such an elevated place in American society, they were not so lucky.

This social hierarchy with Japanese individuals on the lower rungs of society came about as a result of years of racism against people of Asian descent, as well as a growing but strong belief that Japanese Americans were a threat to white America. Many laws were enacted to contain this perceived threat. For example, “the Naturalization Act of 1790, which provided for the naturalization of ‘any alien, being a free white person,’ was held to prohibit any Chinese immigrant from becoming an American citizen – a prohibition that was assumed to extend to the Japanese.”³⁰ “The Supreme Court later sanctioned this assumption in *Ozawa v. United States*, which interpreted the Act to prohibit the naturalization of any non-Caucasian,” including Japanese individuals.³¹ This law and others that will be mentioned below belie a social hierarchy that was created and maintained as a response to the growing viewpoint among Americans that the Japanese, American or not, was a non-white race that threatened the established social order. Japanese Americans were in effect reminded of their place in society over and over again by unjust laws that denied them their basic rights as American citizens, all because Japanese Americans were deemed a threat to the American economy, to the image of America as a white country, and to the image of whites as a superior race in general.

i. The Japanese and Japanese Americans as an Economic Threat

When Japanese immigrants began to settle on the West Coast in the early 1900s, “West Coast farm and labor organizations began to regard the Japanese as an economic threat.”³² Those “who may have been appreciative of the agricultural skills of immigrant Japanese as long as they were laborers, looked upon them with increasing suspicion and distrust as they climbed the labor ladder from laborers to sharecroppers to tenant farmers, and, finally, to farm owners in direct competition with those who had formerly been their employers.”³³ White farmers thereafter agitated against Japanese immigrant farmers, playing on the public’s economic fears to garner support.³⁴ This agitation against the Japanese led to the passage of unjust laws that eliminated Japanese individuals altogether from various industries.³⁵ For example, one such bill introduced by California state legislators was designed to “remove the Issei from the tuna-fishing industry in San Diego and San Pedro.”³⁶ In due course, this economically motivated anti-Japanese movement led to restrictions in immigration in 1906 and ultimately in laws prohibiting Japanese immigrants from owning land.³⁷

Thus, “anti-Japanese media, opportunistic politicians and small-to-medium agriculturalists...combined to [draft] what eventually became the 1913 California Alien Land Law,”³⁸ one of the first Alien Land Laws. Under these laws, “aliens not eligible for citizenship” were prohibited from owning property.³⁹ The term “aliens ineligible for citizenship” was a “disingenuous euphemism designed to disguise the fact that the targets of such laws were first-generation Japanese immigrants, or ‘Issei.’”⁴⁰ In other words, the purpose of the Alien Land Laws was to attack the Japanese agricultural community within California.⁴¹ “Touted by white small farmers who pleaded for an economic monopoly in the name of white racial purity, the [Alien Land Laws] were intended to push Japanese farmers out of the production of strawberries, sugar beets, green vegetables, and fruits and nuts, where they had begun to make a comfortable

living.”⁴² Similar licensing laws “prevented Asian immigrants, as aliens ineligible for citizenship, from becoming ‘attorneys, physicians, teachers, pharmacists, veterinarians, hairdressers, cosmetologists, barbers, funeral directors, peddlers, and hunters.’”⁴³ These laws were passed “to discourage further immigration of Japanese aliens to California and to call to the attention of Congress and the rest of the country the desire of California that the ‘Japanese menace’ be crushed.”⁴⁴ More fundamentally, however, the objective of the laws was to “prevent racialized ‘others’ ...from asserting the ‘right to own,’ a fundamental stick in the proverbial ‘bundle of sticks’ U.S. property regime.”⁴⁵

“[T]he import of the Alien Land Laws are evident on a symbolic level – the creation and maintenance of a class unable to hold land unambiguously sends a message about the status of members of that class as less than worthy.”⁴⁶ “The Alien Land Laws ideologically affirmed the ‘foreign-ness,’ and hence, ‘disloyalty’ of the Issei and their American citizen children, positioning them to be racial scapegoats in the wake of Pearl Harbor.”⁴⁷ Thus, anti-Japanese sentiment resulting from the economic success of Japanese individuals helped paved the way for a social hierarchy that ultimately aided in the implementation of the Japanese internment camps.

ii. The Japanese and Japanese Americans as a Threat to the National Image of America as a White Country

The Japanese were seen as “threats to the American body politic” from within that body politic to the extent that “stereotypes once attached to the Chinese (i.e. unfair competitors and ineradicably foreign) were easily transferred from one group of immigrants to another.”⁴⁸ In other words, “[p]rejudice against the ethnic Japanese had its roots in bias against their predecessor Chinese immigrants.”⁴⁹ “It was fear of the ‘yellow peril’ – a term with obscure origins which envisioned an unchecked influx of Asian immigrants, fueled by high birthrates,

that would overwhelm whites in California and on the West Coast generally – that provided the foundation for anti-Japanese sentiment in the United States.”⁵⁰ “Japanese military victories against Russia in the early 1900s exacerbated this fear.”⁵¹

As a result of this “yellow peril” fear, restrictive immigration laws were passed whose sole purpose was to prevent the development of Asian families in America.⁵² These laws belied an anti-Japanese nativist thinking, for “[p]rotecting the racial purity of one’s territory or neighborhood provides...justification for hostility towards Asian Americans who ‘invade’ the ‘turf’ of another racial community.”⁵³ “The stereotype of foreignness animates this territorial response.”⁵⁴ “Because Asian Americans are different, and because this difference is conceived as foreign – not in a cosmopolitan sense, but in the aberrant, un-American sense – they are denied the respect granted fellow members of our national community.”⁵⁵

Thus, just as the Chinese were discriminated against because they were seen as “culturally distinct, inferior, unassimilable, and potentially degrading to white society and the white race,”⁵⁶ so too were the Japanese. In short, Japanese Americans were not deemed “real” Americans because of the racist attitudes that pervaded American thinking for years before any Japanese individual even set foot on American soil. Because Japanese Americans did not fit in with the national image of America as a white country, their presence was unwelcome as a threatening prospect.

iii. The Japanese and Japanese Americans as a Threat to the Image of Whites as Racially Superior

Not only were the Japanese seen as a threat to the American body politic from within that body politic, they was also seen as a threat from without.⁵⁷ The defeat of Russia by a “militarily and economically ascendant Japan...had racial reverberations within the United States because it

was the first time in the history of European colonialism when a ‘colored’ nation bested a ‘white’ empire.”⁵⁸ “Japan’s growing industrial strength, its imperial military aspirations in the Pacific and the [aforementioned] defeat of Russia in 1905, collectively enticed American politicians to inscribe on Japanese immigrants an image of disloyalty and allegiance to a threatening foreign military power.”⁵⁹ “[The Japanese in America] were portrayed as an imminent fifth column threat within the United States waiting to be activated at the emperor’s command – the plowshares of Japanese immigrant farmers transforming themselves into swords at the whim of a foreign power.”⁶⁰

The perception of Japan as a threat is further illustrated by American writer Jack London’s articulation that though Japan “might have been able to industrialize rapidly and acquire formidable military might,” the Japanese “lacked a certain integrity, sympathy and comradeship and warm human feel, which is ours, indubitably ours, and which we cannot teach to the Orientals as we would teach logarithms or the trajectory of projectiles.”⁶¹ Moreover, during Japan’s ascent, U.S. writers and politicians depicted all Asians as “inferior, unassimilable, willing to work inhuman hours at low wages, and loyal to foreign despots.”⁶² This need on the part of white writers and politicians to depict the Japanese as cold, robot-like entities shows that the Japanese were seen as a threat whose success needed to be rationalized and whose people needed to be differentiated from whites. In other words, the threat of the rise to power by the Japanese menace needed to be contained.

b. The Image of the Japanese and Japanese Americans and its Construction

As stated above, the congressionally appointed Commission on Wartime Relocation and Internment of Civilians came to the same conclusion in 1982 that many Japanese Americans came to long before: “the internment was not motivated by any genuine military necessity, but

was instead the result of ‘race prejudice, war hysteria, and a failure of political leadership.’⁶³ So how could something that seems so obviously wrong to us in this day and age seem so obviously right while it was occurring? In this case, there are many reasons, all of which boil down to the harsh fact that Japanese Americans were portrayed as the “other,” a group of people who were opposite to and different from what it meant to be “American,” a group of people who, no matter how “Americanized” they were, would never *be* American. Because of their status as “other,” Japanese Americans were seen as people whose loyalty was questionable at best, and who did not have a legitimate claim to constitutional rights like other Americans. The following subsections will lay out the various images of Japanese and Japanese Americans and will explain how these images were constructed.

i. The Image of the Japanese and Japanese Americans

A myriad of stereotypes imputed to Japanese Americans worked to facilitate the image of Japanese Americans as “other.” American popular culture depicted Japanese Americans as foreign and disloyal, “and therefore an enemy.”⁶⁴ Indeed, Japanese Americans, as the Oriental “other” du jour, were deemed “everything the United States was supposedly not: treacherous, sneaky, cruel, bloodthirsty, fanatical, suicidal, scheming, fatalistic, non-Christian, etc.”⁶⁵ This view of the Japanese as different from and opposite to white Americans is depicted in the citizenship cases wherein Asian immigrants, including Japanese immigrants, endeavored to become naturalized citizens. The predominant argument against naturalization of Asian immigrants was that they were not “free white citizens” as required by the naturalization acts.⁶⁶ In denying naturalization, the courts relied on arguments differentiating Asian immigrants from white Americans. In *Ozawa v. U.S.*, for example, the court stated simply that the term “free white citizens” encompassed Caucasian individuals, and since *Ozawa*, a Japanese individual, was

“clearly of a race which is not Caucasian,” he is obviously not eligible for citizenship.⁶⁷ The same court went beyond simply dismissing an individual as clearly not white to saying in *U.S. v. Thind* that “[w]e venture to think that the average well informed white American would learn with some degree of astonishment that the race to which he belongs is made up of such heterogeneous elements [as Hindus, Polynesians, etc.]”⁶⁸ The government in that case argued that “the privilege of naturalization should be open only to those who belonged to ‘white civilization,’ as that term was generally understood.”⁶⁹ It reasoned that the petitioner belonged to a race that was “alien to the white race and part of the ‘white man's burden.’”⁷⁰ The *Thind* court apparently agreed with this line of reasoning as it held against naturalization and stated that “because of their physical characteristics, Indians would always be looked upon as being different, no matter how successful they or their descendants were at adopting American ways”⁷¹ and that “it cannot be doubted that the children born in this country of Hindu parents would retain indefinitely the clear evidence of their ancestry.”⁷² Though the *Thind* case did not deal with a Japanese petitioner, it elaborates on the train of thought the *Ozawa* court, the same court in *Thind*, was following when it denied Ozawa his right to naturalization: that Japanese individuals were antithetical to what it means to be an American, and that to think otherwise is preposterous and contrary to common sense.

ii. *The Construction of the Image of the Japanese and Japanese Americans*

So how was the image of Japanese Americans constructed in order to perpetuate the structural inequality that allowed Americans to devalue Japanese American lives? According to Gwyn Kirk and Margo Okazawa-Rey in their book “Women’s Lives: Multicultural Perspectives,”

Classifying and labeling human beings, often according to real or assumed physical, biological, or genetic differences, is a way to distinguish who is included and who is

excluded from a group, to ascribe particular characteristics, to prescribe social roles, and to assign status, power, and privilege. *People are to know their places.*⁷³ (emphasis added)

This system of classification was used to categorize the Japanese as the “other” by ascribing upon them characteristics, such as foreign-ness and disloyalty, that would distinguish them as everything white America was not, and to prevent them from finding a place in America...regardless of whether or not they *were* American. Indeed, Kirk and Okazawa-Rey go on to argue that “social categories such as gender, race, and class are used to establish and maintain a particular kind of social order,” and that the classifications are “socially constructed through history, politics, and culture.”⁷⁴ For the Japanese, including Japanese Americans, their race dictated their place in the social order, i.e. as outsiders. This social order was in turn encouraged through the history of anti-Asian sentiment in America,⁷⁵ the governmental approval of treating Japanese Americans as outsiders,⁷⁶ and the dominant popular culture that worked to depict the Japanese as outsiders.⁷⁷

Also working to devalue Japanese Americans was the fact that, in this system of classification, “there is one group of people deemed superior, legitimate, dominant, and privileged while others are relegated...to the position of inferior, illegitimate, subordinate, and disadvantaged.”⁷⁸ In other words, it is an “us v. them” dynamic. The classification of the “other” was imputed on the Japanese and justified the internment of American citizens of Japanese descent since regardless of their citizenship, Japanese Americans were relegated to the position of “inferior, illegitimate, subordinate, and disadvantaged” in contradistinction to white Americans’ position as “superior, legitimate, dominant, and privileged.”⁷⁹ Once the Japanese were firmly entrenched as this inferior “other,” it wasn’t difficult to treat them as such, even if they were American citizens who were just as deserving of their constitutional rights as other

American citizens. The ease at which Americans could dismiss Japanese Americans' rights as citizens was due in part to the fact that if one is labeled "foreign" because of one's race (an immutable characteristic), nothing one could do, not even being born on American soil, would erase one's foreign-ness, for "[o]ne cannot be both racially 'foreign' and American."⁸⁰

Similarly, the "other" label justifies the exploitation of the subordinated group, its exclusion from the benefits that society has to offer, and the violence committed against it.⁸¹ It suggests that they are "less deserving of equal rights and privileges" and that they "have an inherent loyalty to Asian countries and disloyalty to the United States."⁸² As stated above, actual American citizenship makes no difference, because "loyalty is perceived as inherited and innate."⁸³ In the case of Japanese Americans during World War II, the internment of American citizens occurred without individual consideration. This was because Japanese Americans were deemed to be incurably foreign and not real American citizens, and thus not deserving of the full panoply of rights due to American citizens.

Maintaining a system of inequality like the one Kirk and Okazawa-Rey describe requires the "objectification and dehumanization of subordinated peoples."⁸⁴ One effective way of doing this is by appropriating the subordinated peoples identities.⁸⁵ This is effective because it "defines who the subordinated group/person is or ought to be."⁸⁶ One example of appropriating identities is stereotyping, which involves "making a simple generalization about a group and claiming that all members of the group conform to this generalization."⁸⁷ The various vehicles that were used during World War II to dehumanize and subordinate people of Japanese descent, including stereotyping, will be discussed in the next subsection.

iii. The Vehicles Used to Construct the Image of the Japanese and Japanese Americans

The media was a major outlet in which Japanese Americans were successfully depicted as the “other” during World War II. Not surprisingly, Hollywood played a hand in classifying Japanese Americans as the “other” by producing propaganda movies like “Little Tokyo, U.S.A.”⁸⁸ The movie portrayed people of Japanese descent as “uniformly uncooperative, disloyal and easily capable of espionage against the United States.”⁸⁹ A perhaps surprising source of Anti-Japanese propaganda, on the other hand, was Dr. Seuss, best known as an author of whimsical children’s books such as “The Cat in the Hat.” In one of his editorial cartoons, Seuss wrote: “Round them up and throw away the key,” in reference to Japanese Americans who were interned during the war.⁹⁰ This is surprising not only because Dr. Seuss was, well, Dr. Seuss, but also because Seuss has been described as “way out on the left” and has been said to be “so good on black and white issues” and “on anti-Semitism.”⁹¹ In Seuss’ defense, historian Richard Minear, who authored the book “Dr. Seuss Goes to War,” says that though the depiction would be considered racist today, it must be looked at in the context of the time because “it was a reflection of who we were as a society.”⁹² Indeed, though many Americans’ actions at that time were racially motivated, many did not see their acts as “wrong” because of the overpowering influence of popular culture’s depiction of the Japanese as an outsider, an enemy, a feared “other.” In other words, as stated in the previous subsection, the categorization of the Japanese as “other” justified treating them in inhuman ways because to white Americans, they *were* inhuman.

Japanese Americans were depicted as the “other” not only by direct suggestion via media outlets like films and editorial cartoons, but also through comparison to other, more favored, racial groups. A case in point is how “wartime denunciations of Germany tended to focus on Hitler and always left open the idea of the ‘good German,’” while “anti-Japanese propaganda

tarred all Japanese as subhuman or fanatical.”⁹³ For example, in John W. Dower’s book, “War Without Mercy,” a cartoon is shown that compared Nazi atrocities in Czechoslovakia with Japanese massacres in the Philippines.⁹⁴ The cartoon “showed Hitler standing over Czechoslovakia and a gorilla with Japanese features in the Philippines.”⁹⁵ This portrayal seeks to show that all Japanese, unlike other races, are inhuman. It justifies internment by showing that no one of Japanese descent can be trusted because of this inherent inhumanity. In effect, it shows that there is no possibility of a “good Japanese,” allowing the wholesale discrimination of all persons of Japanese descent, regardless of their legitimate U.S. citizenship.

A similar depiction of Japanese “otherness” is the “Kamikaze” stereotype of Japanese pilots who were trained to make suicidal crash attacks during World War II. The stereotype was construed to be “evidence of the lack of value placed on individual human life by the Japanese – hence, their inhumanity.”⁹⁶ This stereotype revolved around unfavorable characteristics such as fatalism, fanaticism, and disrespect for human life, and inscribed these characteristics on the Japanese “other,”⁹⁷ making them exclusively Japanese characteristics that were completely lacking from any white Americans. From this rationalization was born the thinking that “if the Japanese don’t value their own lives, why should [Americans] value [Japanese lives]?”⁹⁸ The deliberateness of this “other-ing” of people of Japanese descent is made obvious when one takes into consideration the fact that immediately prior to the attack on Pearl Harbor, the movie “They Died With Their Boots On” was a popular film in U.S. theatres. The film, about General George A. Custer’s suicidal “Last Stand” at Little Big Horn, was a “glorification of fighting to the death.”⁹⁹ This film, like many others, “valorized white heroism in the face of non-white brutality, treachery, savagery, and cruelty.”¹⁰⁰ This shows the strong influence that the label of

the “other” allows: even with *glaring evidence to the contrary*, the Japanese “other” is not American and is nothing like Americans.

Besides using comparison to other racial groups to show how Japanese individuals fit into the category of “other,” other stretches of the imagination were used, including: claiming that they couldn’t be trusted because, ironically, past discrimination against people of Japanese descent in America caused them to be resentful against white Americans;¹⁰¹ that the more assimilated Japanese Americans looked to be, the likelier they were just being deceitful;¹⁰² that there were no cases of espionage, sabotage, or treason because they were holding back on their attacks until just the right time;¹⁰³ and that the Japanese couldn’t be assimilated, especially since they chose to segregate themselves from other Americans (as shown by their enrollment in Japanese language schools).¹⁰⁴ These assumptions seem almost laughable now, but because Americans during that time so completely bought into the popular stereotypes of the Japanese, they felt completely justified in relying on them as proof of Japanese Americans’ “otherness,” regardless of American citizenship.

III. Connection Between Social Construction and the Japanese Internment (find better name)

The social construction of Japanese individuals in America created public support for the internment by dehumanizing the targets of the internment. Instead of forcing bona fide Americans – Americans deserving of the full panoply of constitutional rights due all Americans – into internment camps against their will and in effect robbing them of the freedom and dignity that they are entitled to as Americans, the government was justifiably seen as containing a very clear and present danger to American society: an entire class of inassimilable and unpredictable foreigners loyal to a foreign power. By feeding images to the American public that depicted

Japanese individuals as sneaky and untrustworthy, the government and the media manipulated public opinion in order to garner support for unconstitutional policies that otherwise would not have been supported. Put simply, the social construction of Japanese individuals in America successfully put forth the notion in every man, woman, and child in America that the “Yellow Menace” needed to be contained by any means necessary.

In support of this, consider the treatment of Germans and Italians. Like the Japanese, Germany and Italy played pivotal roles during World War II. One would thus expect the same treatment of the Japanese to befall Americans of German and Italian descent. No such treatment occurred, however. Unlike the Japanese, internment was never an option for German and Italian individuals in America. Also unlike the Japanese, there was a significant and proven threat of German espionage and sabotage as shown by “an active German American Bund that promoted Hitler throughout the Midwest and boasted thousands of members, German U-boats shelling the Atlantic coast, and German agents actually being captured on U.S. soil before they could carry out their missions.”¹⁰⁵ Despite these strong reasons to address German sabotage and espionage, however, “German Americans...were deemed to be dangerous only in extreme individual instances and internment was thought to be impractical.”¹⁰⁶ Indeed, though German nationals were arrested and incarcerated without trial during the war, these confinements did not involve U.S. citizens and were “carried out on the basis of individual hearings.”¹⁰⁷ So why was internment only an option for people of Japanese descent? The answer to this question is simple: Germans and Italians were able to escape internment because they are of a “white” race and thus did not pose the same kind of threat to the American national identity as a white country. In other words, they were not racialized “others.”

The gravity of the social construction of the Japanese image is even more apparent when one considers the fact that anti-Japanese sentiment was so pervasive that it affected the minds of government officials whose roles were critical at the time of the bombing of Pearl Harbor,¹⁰⁸ many of whom believed that “Japanese Americans were loyal to Japan and not the United States.”¹⁰⁹ As stated earlier, Lieutenant General DeWitt was among the more vociferous supporters of the internment who didn’t leave his obvious bias to anyone’s imagination.¹¹⁰ Another government official who supported the internment was future Chief Justice Earl Warren, who “stated that Japanese American organizations were heavily involved in seditious activities even though no solid evidence existed to prove these activities.”¹¹¹ President Roosevelt, the person who put the wheels of the internment in motion by signing executive order 9066, held deep anti-Japanese feelings himself.¹¹² He believed that “every Japanese American posed a threat to national security.”¹¹³ Thus, racist imagery, the social hierarchy, and the perceived threat by the Japanese combined to facilitate what is considered one of the most detrimental government sanctioned atrocities in American history: the Japanese internment. Unfortunately, the severe aftereffects of this atrocity weren’t enough to prevent future atrocities like it. Specifically, the post-September 11 Arab “containment” policies.

IV. Arab Containment Policies After September 11

Like with the Japanese, the long-standing and unreasonable fear of Arab individuals was elevated to outright discrimination by a tragic event: September 11. That one phrase, September 11, says more than any singular phrase could ever say: tragedy, death, destruction, unite, patriotism, fear, regret, anger, terrorist, Arab. That the word “Arab” is intimately intertwined with the word “terrorist” in the minds of most Americans needs little explanation: we’ve been programmed through the years to immediately think of a dark skinned person with lots of facial

hair and a turban when we hear the word “terrorist.” And it works both ways: we’ve been programmed to think of the word “terrorist” when we *see* a person who “looks” Arab.

Like how the bombing of Pearl Harbor exacerbated an already hostile environment for Japanese Americans, September 11 intensified the by-then commonplace stereotypes of Arabs being terrorists. Almost immediately, the September 11 attack made officially legitimate the Arab/terrorist stereotype and a cloud of anti-Arab sentiment settled over America. “[O]ver 1100 individuals, almost all of whom were immigrants from the Middle East and Central or South Asia, were rounded up and held in U.S. jails and detention centers, supposedly in connection with the antiterrorism investigation.”¹¹⁴ These people were held for weeks or months without charges and they did not have access to lawyers.¹¹⁵ In many cases their families weren’t apprised of their whereabouts.¹¹⁶ Almost none of those detained were found to have been engaged in terrorist activity and very few were charged with crimes.¹¹⁷ Nonetheless, “the Justice Department sought interviews with an additional five thousand men, most of whom were Arab or Muslim between the ages of eighteen and thirty-three, who had come to the United States on non-immigrant visas since January 1, 2000.”¹¹⁸ There was no evidence that any of them were involved in terrorist activities.¹¹⁹

Even more troubling than the detentions themselves was how the U.S. government rounded up these individuals. “[T]he arrest of foreign nationals from Muslim countries did not appear to be based on an official policy of racial profiling but upon private citizens, engaging in racial profiling themselves, who phoned in tips to law enforcement agents about Muslims or Muslim looking individuals living in their communities or places of work.”¹²⁰ Thus, law enforcement personnel “acquiesced in the practice of racial profiling by picking up those whom citizens had identified.”¹²¹ This act of sanctioning racial profiling on the part of everyday

citizens is dangerous not only because it targets individuals based solely on their race, but also because it encourages everyday citizens to believe that a person's race equates to evidence of criminal activity. Because the targets of such racial profiling will be deemed guilty before any charges are even brought, citizens are likely to "take matters into their own hands" and commit hate crimes based on the thinking that they are only protecting their country.

Perhaps even more egregious, individuals suspected of having "terrorist connections" have been labeled "enemy combatants" and have, as a result of that label, been detained without being charged and without access to an attorney or a court.¹²² These individuals have included American citizens.¹²³ Since there has not been a federal court ruling on the rights of enemy combatants because the United States government has until now strategically evaded one,¹²⁴ the judicial system has unofficially sanctioned the use of the label of "enemy combatant" as a way to indefinitely detain those suspected of terrorist ties without probable cause and with minimal due process obligations. The discretion of whom to designate an enemy combatant lies fully with the commander-in-chief.

V. The Social Construction of Arabs and Arab Americans

Like the Japanese internment, the aforementioned "containment" policies focusing on Arabs and Arab Americans were perpetrated without objection by most Americans. The reason for this is simple: Arabs and Arab Americans have for a long time been viewed as outsiders by Americans, and with the help of biased media depictions of them, they are seen as much more: terrorists.

a. The Social Hierarchy Pre- and Post-9/11 and the Reasons Behind It

Similar to the social hierarchy wherein Japanese Americans were deemed inferior to white Americans, Arabs and Arab Americans have had a long history of being on the lower

rungs of the American social hierarchy because of their assumed inferiority and foreignness. “Those within the American public who object to Arab American and Islamic culture fear the Arab world and Islam as an evil empire, characterizing its people as violent, barbaric, sex maniacs who are constantly plotting a violent takeover of the United States.”¹²⁵ “[T]his presumption has been the basis for numerous hate crimes against Arab Americans and Muslims, as people see the need to protect America against the enemy.”¹²⁶ This presumption has also led to systematic discrimination against Arabs and Arab Americans. “Arab-Americans [have] faced problems in the voting rights arena and were often disenfranchised in the South.”¹²⁷ Similar to the experience of Japanese Americans, “many Arabs were often subjected to racism and were not allowed into the facilities that were exclusively white.”¹²⁸ Today, racism against Arab-Americans continues, as “Arab-Americans are often viewed as being racially distinct and different from dominant white culture.”¹²⁹

This social stratification of Arabs and Arab Americans is a result of a perceived threat to the status quo by Arabs and Arab Americans...specifically, to America’s need for oil. Chandra Muzaffar, in her article “The Real Issue in the Cartoons Controversy,” argues that the bias in the Western media against Arabs and Muslims is motivated by the West’s desire for oil:

It is significant that it was when certain Muslim states began to exercise control over their oil from the early Seventies onwards, thus challenging the Western grip over this vital commodity, that pejorative portrayals of Arabs and Muslims became rife in the mainstream Western media.¹³⁰

Indeed, Iraq has “one of the largest oil reserves in the world.”¹³¹ It has “112 billion barrels of crude – some of the best quality in the world; the second largest reserve in the Middle East, maybe in the world; except for Saudi Arabia.”¹³² If the U.S. were to obtain control over these 112 billion barrels, it would be worth over three trillion dollars and would be “the biggest oil grab in the history of the world.”¹³³

Illustrative of America's dominant attitude of entitlement regarding this precious resource is how "[e]xploration concessions were made by the Iraqi government to Russia, China, France, Brazil, Italy, and Malaysia," yet the U.S. "has made it known that having done away with the Saddam government, it feels no obligation to honor these previous agreements."¹³⁴ This attitude betrays an American sense of dominion and superiority over the Middle East's precious resources, and thus a disregard of any right that Middle Eastern states may have regarding them.

Thus, just as Americans' attitudes towards people of Japanese descent were colored by a struggle to maintain power and keep power from those threatening to take it, the American attitude towards Arabs and Arab Americans are colored by the threat to the status quo that Arabs wield through their superior position regarding oil. As a result of this perceived threat by Arabs and Arab Americans, the image of Arabs as "other" was created. This image and its creation will be discussed in the next sections.

b. The Image of Middle Easterners and its Construction

i. *The Image of Middle Easterners*

As stated earlier, Americans have had a long history of fearing people of Arab descent. A full decade before the September 11 attacks, a poll for ABC News during the 1991 Gulf War found that "forty-one percent of Americans had a low opinion of Arabs...fifty-nine percent of respondents associated Arabs with terrorists, fifty-eight percent with violence, and fifty-six percent with religious fanatics."¹³⁵ Even before the Gulf War, people irrationally feared Arabs and Arab Americans. "[I]n the immediate aftermath of the 1995 bombing of the Oklahoma City federal building, 'experts' concluded that the bombing bore the 'hallmarks' of Middle Eastern terrorism and suspicion focused on Arabs and Muslims."¹³⁶ Consequently, "220 incidents of

hate crimes against Arabs and Muslims were reported nationwide and several Arab and Muslim men were detained before Timothy McVeigh, a white man, was identified as the bomber.”¹³⁷ Moreover, as far back as the 1950s, many Arabs were subjected to racism and discrimination, with terms such as “camel jockey” and “sand nigger” being added along the way to the American lexicon.¹³⁸ Even more telling of the American knee-jerk association of Arabs with terrorism is how “[t]he Merriam-Webster Thesaurus in 1978 defined synonyms of Arab as ‘vagabond,’ ‘peddler,’ ‘bum,’ ‘derelict,’ and ‘tramp.’”¹³⁹ These incidents illustrate how the stereotype of the terrorist Arab has been ingrained in American thinking over the decades, resulting in a “common sense” assumption that all Arabs are terrorists.¹⁴⁰

ii. *The Construction of the Image of Middle Easterners*

Like with people of Japanese descent during World War II, the American opinion of Arabs and Arab Americans is facilitated through the failure of the media to show their humanity. Through his study of how Arabs are portrayed in the movies, Dr. J.G. Shaheen has discovered that the “Arabs’ humanity and culture is all erased. Instead of focusing on images of commonality, films are focusing on the differences between us.”¹⁴¹ Thus, Arabs and Arab Americans, like people of Japanese descent, are seen as an “other” who is opposite to what it means to be “American.” This is exacerbated by the lack of personal contact with Arabs and Arab Americans as well as the lack of any counterbalancing media depictions of normal, everyday Arabs and Arab Americans. “The hatred and the fear of the Arab world...does not...come from personal contact...we are taught to hate them. It comes from the fictional bombardment of media images. It comes from what our media teaches us.”¹⁴² In short, “[w]e are equating the actions of a lunatic fringe with 1.2 billion people...because we never see their humanity.”¹⁴³

Indeed, like a vicious cycle, not only are Arabs deemed “other” because of these stereotypes, but these stereotypes of Arabs have been created as a conglomeration of the archetypal “other.” Ronald Stockton, a prominent scholar who studies Arab Americans, argues that “images of Arabs cannot be seen in isolation but are primarily derivative, rooted in a core of hostile archetypes that our culture applies to those with whom it clashes. The roots of these archetypes lie in ancient conflicts or cultural teachings that go back centuries or even millennia.”¹⁴⁴ Thus, the stereotypes imputed to Arabs and Arab Americans apply to all people of Middle Eastern descent, as well as those who just look the part. Moreover, like the Japanese “other,” “Arabs are often viewed as backward, treacherous, warlike, oversexed.”¹⁴⁵ The similarities between the Japanese “other” and the Arab “other” demonstrates once again that the “other” is just a convenient label for those threatening the status quo, regardless of their race.

i. *The Vehicles Used to Construct the Image of Middle Easterners*

As stated earlier, Americans’ knee-jerk association of Arab individuals with terrorists is a result of how “Arabs and Arab-Americans are consistently portrayed as fanatics, violent terrorists, and murderers in television dramas, cartoons, advertisements, news accounts and motion pictures.”¹⁴⁶ In this section, I will outline the various outlets that influence the American attitude toward Arab individuals. Specifically, I will discuss how films, the media, and even school textbooks have been used to perpetuate the stereotype of the Arab terrorist.

Like how the Japanese were depicted as one-dimensional “others” during World War II, Arabs and Arab Americans are rarely depicted as “having full lives, families, personalities, or emotions.”¹⁴⁷ In films like “Rules of Engagement,” Muslims are “portrayed as simplistic, illiterate, one-dimensional, angry, hateful, untrustworthy and, of course, dirty.”¹⁴⁸ In “Rules of Engagement,” Samuel L. Jackson as Colonel Terry Childers tells his marines “to waste those

motherfuckers.”¹⁴⁹ Those “motherfuckers” turn out to include hate filled Muslim women and children who are hungry to spill American blood.¹⁵⁰ In the film, “Arab children are shown only as hateful and murderous.”¹⁵¹ Similarly, in “Indiana Jones and the Last Crusade,” a scimitar wielding Arab attacks Indiana Jones by doing a “saber-foo” but is thwarted when Jones reaches out for his “good old-fashioned American revolver and drills him.”¹⁵² These films are just two examples of how Arab individuals are depicted in the movies as bloodthirsty (and inept) militants.

Animated children’s movies, it seems, aren’t free of tired stereotypes of Arab individuals, either. In the popular Disney movie “Aladdin,” a lyric in the opening song says it all: “Oh I come from a land, from a faraway place, where the caravan camels roam, *where they cut off your ear if they don’t like your face. It’s barbaric, but hey, it’s home.*”¹⁵³ (emphasis added) Moreover, “[t]he two main characters, Aladdin and Princess Jasmine, are Anglicized, while the other Arabs are caricatured.”¹⁵⁴ In concert with non-animated action movies, the Arabs in the movie are depicted as abhorrent types and Islam is shown as a brutal religion.¹⁵⁵ Apparently, you’re never too young to learn that Arab individuals are “barbaric.” It should be noted that these films were released prior to September 11, showing that the terrorist/Arab stereotype proliferated well before September 11.

Films aren’t alone in presenting biased depictions of Arab individuals. The media, as well, have been guilty. “Tonight Show” host Jay Leno, among others, made derogatory jokes about Arabs in the aftermath of September 11.¹⁵⁶ One of his “jokes,” for example, involved Arabs having sex with camels.¹⁵⁷ Moreover, political cartoons have also displayed Arabs in unflattering lights. The Los Angeles Times ran a political cartoon on “rising petrol prices that depicted a woman in a black hijab¹⁵⁸ breastfeeding two infants.¹⁵⁹ The caption read: ‘Oil, the

mother's milk of international economics.'"¹⁶⁰ Similarly, a political cartoon in a major U.S. newspaper recently depicted Palestinian leader Yasser Arafat as "dirty with flies buzzing around his head."¹⁶¹

The news media, perhaps the most influential vein of the media, has also played a hand in biased representation of Arab individuals. For example, some have complained that the media portrayed Muslims and Arab-Americans as being unsympathetic after the September 11 attacks.¹⁶² One instance is how Salwa Shelby, a grocery store manager, was interviewed after September 11 by a television station.¹⁶³ Though Shelby expressed grief for the victims of September 11, "the broadcast only included her saying that business had stopped for three days, not the grief she felt for the victims."¹⁶⁴ Thus, though it could easily depict Arabs and Arab Americans in accurate ways, the media chooses not to. Moreover, though the acts of terrorism on 9/11 were caused by radical groups who "hijacked" Islam, Western media simplistically depicted the acts as "Muslim terrorism,"¹⁶⁵ conflating terrorism with the religion itself.

Not only are stereotypes of Arabs perpetuated through the media, they are also perpetuated in the educational setting. Historically, negative portrayals of Arabs thrived in textbooks.¹⁶⁶ A study conducted by the National Association of Arab-Americans found that textbooks used in 1980 all depicted Arabs negatively with obvious stereotyping.¹⁶⁷ Another textbook study in the 1970s found that "Arabs were portrayed as primitive, backward, desert-dwelling, nomadic, war-loving, terroristic, and full of hate."¹⁶⁸ "Studies performed by the Middle Eastern Studies Association and the Middle East Outreach Council have found stereotyping in both history and geography textbooks used in schools."¹⁶⁹ "When discussing Arabs, the focus in the textbooks is on camels, Bedouins, and deserts."¹⁷⁰

Thus, the social construction of the Arab terrorist abounds in all sorts of media, leading to a detrimental and dangerous assumption that all Arabs are terrorists.

VI. Connection Between Social Construction and Policies

In order for the U.S. government to proceed with unjust policies that would in effect deprive Arabs and Arab Americans of their rightful civil liberties, it was necessary to vilify them in order to gain public acquiescence. By classifying Arabs and Arab Americans as likely terrorists in the War on Terror, the government was able to play on the fear of terrorism that continues to permeate the American public after September 11. Instead of government overreaching, the Arab containment policies are seen as not only justified, but necessary.

Unfortunately for Arabs and Arab Americans, the campaign to vilify them as terrorists has been successful: the actions of a handful of extremists on September 11 were immediately imputed upon all people of Arab descent. Moreover, shortly after the September 11 attacks, a nationwide poll asked: “In response to the terrorist attacks, do you think the United States should put Arabs and *Arab-Americans* in this country under special surveillance, OR that it would be a mistake to target a nationality group, *as was done with Japanese-Americans after Pearl Harbor?*”¹⁷¹ (emphasis added) The results, sadly, are predictable: “nearly one-third of respondents stated that the government should increase surveillance.”¹⁷² Other polls, as well, speak to the reality that nothing has changed since the Japanese internment: “thirty-five percent of respondents said that since September 11, they had less trust in Arabs living in the United States. Nearly half the persons surveyed said they would favor ‘requiring Arabs, *including those who are U.S. citizens*, to carry a special ID,’ and over half would favor ‘requiring Arabs, *including those who are U.S. citizens*, to undergo special, more intensive security checks before boarding airplanes in the US.’”¹⁷³ (emphasis added) Once again, it proves easy for Americans to

forfeit the rights of some because they associate them with being an “other” who constitutes a danger that must be dealt with, regardless of American citizenship.

VII. Connection Between Current Situation with Arabs and Arab Americans and Past Treatment of Japanese

As the aforementioned poll results illustrate, Americans are still willing to forfeit the rights of those they deem “others.” Just as there was no outcry when Japanese and Japanese Americans were deprived of their freedom and dignity during the internment days, there is no outcry now that Arabs and Arab Americans are being deprived of their freedom and dignity after September 11. In both situations, the implementation of unjust policies are seen as not only justified, but necessary. They are seen as necessary because the targets of such policies are portrayed not as fellow Americans with the same rights and liberties as every other American, but rather as untrustworthy and foreign outsiders that stand for everything that America is not. Indeed, “the post-September 11 experience of ‘Muslim-looking’ people bears a striking resemblance to the racialization of Japanese-Americans during World War II, and recalls the persistent tropes of disloyalty and perpetual foreignness that have long been associated with Asian Americans.”¹⁷⁴ In other words, the racism that persisted during the Japanese internment days did not end with the end of the internment camps. It lives on today through the Arab containment policies, policies that wrongly deprive fellow Americans of their deserved rights based solely on the color of their skin.

VIII. Conclusion

The ramifications of the Japanese internment and the Arab containment policies are clear: persons of Japanese and Arab descent have had to endure racist attitudes that developed as a result of socially acceptable stereotypes, they have had to deny their heritage for fear of

persecution,¹⁷⁵ and they have had to give up their freedom because of who they are. Moreover, instead of gaining valuable allies who could provide helpful information to aid in defeating the actual enemy, racial profiling alienates and creates distrust between non-white Americans and the government.¹⁷⁶ Perhaps the most important and certainly the most lasting effect of the Japanese internment is the fact that the internment cases, *Korematsu v. U.S.* prominent among them, remain “good law,” for though the decisions were vacated in coram nobis proceedings, they were never officially overturned.¹⁷⁷ Justice Murphy, in his dissent in the *Korematsu* case, ominously predicted the plight of Arabs and Arab Americans after September 11 when he stated that to give constitutional sanction to the inference that “examples of individual disloyalty prove group disloyalty and [to] justify discriminatory action against the entire group...is to encourage and open the door to discriminatory actions against other minority groups in the passions of tomorrow.”¹⁷⁸ Indeed, Arabs and Arab Americans have had to pay the price for the inability of Americans to rectify the problems of the past. Once the Japanese internment was sanctioned, unofficially by the then-existing public sentiment in support of it, and officially by the fact the Supreme Court has failed to overturn the internment cases, other incidents of unmerited racial profiling was inevitable. The only factor required to trigger the racism that permeated Japanese Americans’ lives during World War II was an event that would allow for grave infringements on civil liberties in the name of national security. Unfortunately for Arabs and Arab Americans, that event happened on September 11, 2001.

There is no easy answer when it comes to instances of unmerited racial profiling such as have plagued Japanese and Arab Americans. When longstanding prejudice of a race and a catastrophic event like the bombing of Pearl Harbor or the September 11 attacks combine, the likely result is irrational fear among everyday Americans. The problem occurs when this fear is

taken advantage of in order to subordinate those that pose a threat to the American social order, like Japanese and Arab Americans. Unfortunately, this has turned out to be an easy task to accomplish, and shown by the Japanese internment camps and the Arab containment policies.

What is to be done, then? How can you possibly deal with a problem based on prejudice that goes back for decades?

We cannot cure the prejudice that is ingrained in American society. Racism is so deeply embedded in the minds of Americans that this suggestion is more of a fantasy than a realistic plan of action. Taking into consideration the fact that racism runs deep in America's roots, as well as the fact that racial profiling will always be subject to the racist agenda of certain individuals, a more realistic approach would be to acknowledge that there is no way for racial profiling to be implemented without it turning into racism. Thus, we cannot change the way we think, but we can address our reactions to the way we think and make racial profiling per se unconstitutional.

Though racial profiling may begin with a "common sense" assumption that if you're looking for suspects, it would make sense to target those who fit the "profile" of people who usually commit crimes like the one in question,¹⁷⁹ it ends with discriminatory practices that hurt more than they help. Moreover, racial profiling, aside from the fact that it leads to discrimination, is ineffective. Far too often does it occur that the "real perpetrators" look much different than what we originally anticipated: the dark skinned, middle eastern-looking man with lots of facial hair ends up looking like the American Taliban or the Oklahoma City bomber, both of whom turned out to be white Americans.

Racial profiling, no matter what the intent and no matter what the reason, will always end up becoming a tool to perpetuate racism. Nothing we can do can eliminate this fact, as racism is

inherent in human nature. Once we acknowledge this facet of our existence, we must acknowledge that racial profiling can never be a part of American jurisprudence because to allow racial profiling is in effect to sanction racism. The true test of human progress is whether we have the wisdom to see our faults and the strength to acknowledge them. Until we admit that racial profiling can never work, we will never progress from the days of the Japanese internment.

¹ Natsu Taylor Saito, *Interning the 'Non-Alien' Other: The Illusory Protections of Citizenship*, 68 Law & Contemp. Prob. 173, 178 (2005)

² Hereinafter described as “Arabs and Arab Americans.”

³ 68 Law & Contemp. Prob. at 176.

⁴ “Occidentals” as in people who were firmly entrenched in American society; as opposed to Japanese nationals.

⁵ 68 Law & Contemp. Prob. at 176

⁶ Arvin Luga, “*In Defense of Internment*”: *Why Some Americans Are More “Equal” than Others*, 12 Asian L.J. 209, 212 (2005).

⁷ Frank Wu, *Profiling in the Wake of September 11: The Precedent of the Japanese American Internment*, 17 Crim. Just. 52, 53 (2002).

⁸ *Id.* (quoting Lt. Gen J.L. DeWitt, Final Report, Japanese Evacuation from the West Coast 1942, at 34 (1943))

⁹ Margaret Chon and Donna Arzt, *Walking While Muslim*, 68 Law & Contemp. Prob. 215, 226 (2005).

¹⁰ Huong Vu, *Us Against Them: The Path to National Security is Paved by Racism*, 50 Drake L. Rev. 639, 671 (2002).

¹¹ *Id.*

¹² 68 Law & Contemp. Prob. at 178.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 178-179.

¹⁷ *Id.* at 179.

¹⁸ 50 Drake L. Rev. at 665.

¹⁹ 17 Crim. Just. at 52.

²⁰ 12 Asian L.J. at 213.

²¹ 50 Drake L. Rev. at 664-665.

²² Upholding the internment of Japanese Americans.

²³ *Korematsu v. United States*, 323 U.S. 214, 223-224 (1944).

²⁴ 12 Asian L.J. at 214.

²⁵ *Id.*

²⁶ 68 Law & Contemp. Prob. at 178.

²⁷ 34 Colum. Human Rights L. Rev. at 31.

²⁸ *Id.*

²⁹ 17 Crim. Just. at 56.

³⁰ Lawrence Kent Mendenhall, *Misters Korematsu and Steffan: The Japanese Internment and the Military's Ban on Gays in the Armed Forces*, 70 N.Y.U.L. Rev. 196, 199 (1995).

³¹ *Id.*

³² 70 N.Y.U.L. Rev. at 201.

³³ Keith Aoki, *No Right to Own?: The Early Twentieth-Century “Alien Land Laws” As a Prelude to Internment*, 40 B.C. L. Rev. 37, 53 (1998).

³⁴ 70 N.Y.U.L. Rev. at 201.

³⁵ *Id.*

³⁶ *Id.*

³⁷ 34 Colum. Human Rights L. Rev. at 17.

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- ³⁸ 40 B.C. L. Rev. at 55.
- ³⁹ Benjamin Ringer, *“We the People” and Others: Duality and America’s Treatment of Its Racial Minorities* 726-755 (Tavistock Publications 1983).
- ⁴⁰ 40 B.C. L. Rev. at 39.
- ⁴¹ *Id.* at 56.
- ⁴² Benjamin Ringer, *“We the People” and Others: Duality and America’s Treatment of Its Racial Minorities* 726-755 (Tavistock Publications 1983).
- ⁴³ Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 Calif. L. Rev. 1243, 1258 (1993).
- ⁴⁴ *Id.* at 1293.
- ⁴⁵ 40 B.C. L. Rev. at 39-40.
- ⁴⁶ *Id.* at 62.
- ⁴⁷ *Id.* at 67.
- ⁴⁸ 40 B.C. L. Rev. at 46-47.
- ⁴⁹ 70 N.Y.U.L. Rev. at 201.
- ⁵⁰ *Id.* at 201-202.
- ⁵¹ *Id.* at 202.
- ⁵² 81 Calif. L. Rev. at 1297.
- ⁵³ *Racial Violence Against Asian Americans*, 106 Harv. L. Rev. 1926, 1933 (1993).
- ⁵⁴ *Id.* at 1934.
- ⁵⁵ *Id.*
- ⁵⁶ Angela P. Harris, *Equality Trouble: Sameness and Difference in Twentieth-Century Race Law*, 88 Calif. L. Rev. 1923, 1945 (2000).
- ⁵⁷ 40 B.C. L. Rev. at 47.
- ⁵⁸ 4 UCLA Asian Pac. Am. L.J. at 34.
- ⁵⁹ 40 B.C. L. Rev. at 47.
- ⁶⁰ *Id.*
- ⁶¹ 4 UCLA Asian Pac. Am. L.J. at 34.
- ⁶² Richard Delgado and Jean Stefancic, *Images of the Outsider in American Law and Culture: Can Free Expression Remedy Systemic Social Ills?*, 77 Cornell L. Rev. 1258, 1271 (1992).
- ⁶³ 12 Asian L.J. at 214.
- ⁶⁴ Natsu Taylor Saito, *Symbolism Under Seige: Japanese American Redress and the “Racing” of Arab Americans as “Terrorists,”* 8 Asian L.J. 1, 9 (2001).
- ⁶⁵ Keith Aoki, *“Foreign-ness” & Asian American Identities: Yellowface, World War II Propaganda, and Bifurcated Racial Stereotypes*, 4 UCLA Asian Pac. Am. L.J. 1, 38 (1996).
- ⁶⁶ *Ozawa v. U.S.*, 260 U.S. 178, 192 (1922).
- ⁶⁷ *Id.* at 198.
- ⁶⁸ *U.S. v. Thind*, 261 U.S. 204, 211 (1923).
- ⁶⁹ Charles J. McClain, *Tortuous Path, Elusive Goal: The Asian Quest for American Citizenship*, 2 Asian L.J. 33, 48 (1995).
- ⁷⁰ *Id.* at 48-49.
- ⁷¹ *Id.* at 49.
- ⁷² *Id.*
- ⁷³ Gwyn Kirk and Margo Okazawa-Rey, *Women’s Lives: Multicultural Perspectives*, 54 (McGraw-Hill, 2003).
- ⁷⁴ *Id.*
- ⁷⁵ 4 UCLA Asian Pac. Am L.J. at 39. (“Anti-Japanese propaganda during World War II was not created out of thin air but worked with and amplified pre-existing and well-defined racial stereotypes that had deep historical roots.”)
- ⁷⁶ 50 Drake L. Rev. at 672-673.
- ⁷⁷ See *Supra*.
- ⁷⁸ Gwyn Kirk and Margo Okazawa-Rey, *Women’s Lives: Multicultural Perspectives*, 54-55 (2003).
- ⁷⁹ *Id.*
- ⁸⁰ 34 Colum. Human Rights L. Rev. at 18.
- ⁸¹ Gwyn Kirk and Margo Okazawa-Rey, *Women’s Lives: Multicultural Perspectives* 56 (2003).
- ⁸² 34 Colum. Human Rights L. Rev. at 20.
- ⁸³ Gwyn Kirk and Margo Okazawa-Rey, *Women’s Lives: Multicultural Perspectives* 56 (2003).

⁸⁴ Gwyn Kirk and Margo Okazawa-Rey, *Women's Lives: Multicultural Perspectives* 55 (2003).
⁸⁵ *Id.*
⁸⁶ *Id.*
⁸⁷ *Id.*
⁸⁸ John Kafentzis, *Filmmakers fine without White House*, Spokane Spokesman Review, Nov. 23, 2001, at B6.
⁸⁹ *Id.*
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⁹⁸ *Id.*
⁹⁹ *Id.*
¹⁰⁰ *Id.*
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¹⁰² *Id.*
¹⁰³ *Id.*
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¹⁰⁵ 17 Crim. Just at 56.
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¹⁰⁹ *Id.*
¹¹⁰ *Id.* at 673.
¹¹¹ *Id.* at 672.
¹¹² *Id.*
¹¹³ *Id.*
¹¹⁴ 34 Colum. Human Rights L. Rev at 37.
¹¹⁵ 12 Asian L.J. at 215.
¹¹⁶ *Id.*
¹¹⁷ *Id.*
¹¹⁸ 52 DePaul L. Rev. at 878.
¹¹⁹ *Id.*
¹²⁰ Thomas M. McDonnell, *Targeting the Foreign Born By Race and Nationality: Counter-Productive in the "War on Terrorism"?*, 16 Pace Int'l L. Rev. 19, 28 (2004).
¹²¹ *Id.*
¹²² Richard A. Serrano, *Judge Rules Terror Suspect Must be Charged or Freed*, Los Angeles Times, March 1, 2005, Pg. A19. (Note that if a person is labeled an "enemy combatant," probable cause is not required to detain them, as it would be required for a regular detainment. Moreover, the detainee may be detained indefinitely without being charged and with minimal due process obligations by the government. The decision to label someone an enemy combatant is at the discretion of the commander-in-chief.)
¹²³ *Id.*
¹²⁴ Richard A. Serrano, *Judge Rules Terror Suspect Must be Charged or Freed*, Los Angeles Times, March 1, 2005, Pg. A19. (Prior to going to trial, the U.S. government declared the case moot and thus avoided a ruling [and henceforth avoided possibly favorable precedent for enemy combatants] on enemy combatant's rights.)
¹²⁵ 12 Asian L.J. at 61.
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- ¹³⁹ *Id.*
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- ¹⁴¹ James Marrison, *Arabs Not the First: To Be Blown Away By the Movies*, Afterimage, March 1, 2004, No. 5, Vol. 31, Pg. 14.
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- ¹⁵² *Id.*
- ¹⁵³ Michael Paulson, *The Usual Suspects When Hollywood Needs Villains*, The Boston Glode, November 25, 2001, Pg. L9.
- ¹⁵⁴ *Id.*
- ¹⁵⁵ *Id.*
- ¹⁵⁶ Ros Davidson, *Turban Myths*, The Sunday Herald, November 4, 2001, Pg. 7.
- ¹⁵⁷ *Id.*
- ¹⁵⁸ The headscarf worn by Muslim women, sometimes including a veil that covers the face except for the eyes.
- ¹⁵⁹ Ros Davidson, *Turban Myths*, The Sunday Herald, November 4, 2001, Pg. 7.
- ¹⁶⁰ *Id.*
- ¹⁶¹ *Id.*
- ¹⁶² Ben Winograd, *Chicago's Muslim Community Responds to Public Support, Alienation*, University Wire, October 3, 2001.
- ¹⁶³ *Id.*
- ¹⁶⁴ *Id.*
- ¹⁶⁵ *Media Over-Simplistic in Reporting Muslim World-Conference*, BBC Monitoring International Reports, November 14, 2005.
- ¹⁶⁶ Rachel Saloom, *I Know You Are, But What Am I? Arab-American Experiences Through the Critical Race Theory Lens*, 27 Hamline J. Pub. L. & Pol'y 55, 67 (2005).
- ¹⁶⁷ *Id.*
- ¹⁶⁸ *Id.*
- ¹⁶⁹ *Id.*
- ¹⁷⁰ *Id.*
- ¹⁷¹ 52 DePaul L. Rev. at 878.
- ¹⁷² *Id.*
- ¹⁷³ *Id.*
- ¹⁷⁴ 92 Calif. L. Rev. at 1284.

¹⁷⁵ 50 Drake L. Rev at 670.

¹⁷⁶ *Id.*

¹⁷⁷ 68 Law & Contemp. Prob. at 173.

¹⁷⁸ *Korematsu v. U.S.*, 323 U.S. 214, 240 (1944).

¹⁷⁹ Though, this proposition itself is problematic since not all persons of a particular race commit particular crimes. More often than not, people of a particular race are *believed* to commit particular crimes since they are more often than not charged with such crimes (due to the inherent racial bias of the American justice system), but this does not necessarily make it true that people of that race *do* commit particular crimes.