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Performative Aspects of Race: "Arab, Muslim, and South Asian" Racial Formation After September 11

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INTRODUCTION

Like racial commandments, Arabs, Muslims, and South Asians must demonstrate that "we are not terrorists," "we belong,"¹ "no, we are not 'foreign,'"² and "look, we are or can be 'good' Americans." These often unspoken, unconscious oaths are not new,³ but the salience of these state-

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1. This is generally the case throughout history with Latina/o and Asian American communities. Rather than being considered "American," Asian Americans often experience displacement, even while in the "homeland." See ROBERT S. CHANG, *DISORIENTED: ASIAN AMERICANS, LAW, AND THE NATION-STATE* 1-10 (1999) (articulating a thesis of Asian American identity that includes nation-building, the homeland, family, and gender); Leti Volpp, "Obnoxious to Their Very Nature": *Asian Americans and Constitutional Citizenship*, 8 *ASIAN L.J.* 71, 82 (2001).

2. The term "foreign," as it is used in the context of race and immigration connotes an automatic racially "bad" and "other" meaning. See generally Neil Gotanda, *Comparative Racialization: Racial Profiling and the Case of Wen Ho Lee*, 47 *UCLA L. REV.* 1689, 1694 (2000) (denoting "[F]oreignness is a crucial dimension of the American racialization of persons of Asian ancestry. It is at the heart of the racial profile of Chinese and other Asian Americans."). In some cases, euphemisms are used to mask the racial context of "foreign." An example of this is a school administrator who blames "international" students printing large documents to "take home with them" for rising printing fees. The reference to "home" as somewhere outside of a current location (i.e. the United States) permits any audience to associate "international" with Asian, South Asian, or Latin American students as opposed to European or white North American students. Moreover the blame associated with the comment, probably made offhandedly, may create a feeling of guilt in students and lead them to disassociate with the label "international" in the context of printing—like printing late at night when fewer students will notice their actions. To put it another way, he used the politically correct version of "the foreigners are the cause of the rise in cost."

3. The racialization of Arabs and Muslims as disloyal and threatening "terrorists" is not new. See Lubna Chaudhry, *Fragments of a Hybrid's Discourse*, in *EMERGING VOICES: SOUTH*

ments has increased since September 11.⁴ The Arab, Muslim, and South Asian communities have been subjected to government policies such as “voluntary” questioning,⁵ special registration,⁶ and airport sweeps,⁷ which in turn have led to arrests and mass deportations. This has altered Arabs, Muslims, and South Asians’ decisions to engage in these illusory nationalistic pledges.

The stakes now seem higher. Last summer I entered a building with a security checkpoint—like many other buildings in downtown New York. But when a security guard over-scrutinized⁸ my license⁹ and then said, “Well, you’re not a terrorist, are you?” I could not simply brush off the comment. My throat tightened. I found it hard to repossess my body and recapture my mind. I wanted to scream, possibly react violently.¹⁰ Racially shaken, I felt a sense of significance to his statement beyond our interaction—beyond the bodies of the security guard and myself. The stage was set for a racial performance: the pink-faced security guard waited for my response even though he had tried to make the question rhetorical; the white ACLU escort looked worried; and other people were waiting their turn in line to be subjected to security scrutiny. I had some choice(s) in reacting to the situation.

ASIAN AMERICAN WOMEN REDEFINE SELF, FAMILY, AND COMMUNITY 79, 81 (Sangeeta R. Gupta ed., 1999) (quoting headline “Hitting Back at Terrorists: Clinton Strikes Saddam; The FBI Busts an Islamic Ring” and expressing anger over the need to prove loyalty to the United States); Natsu Taylor Saitu, *Symbolism Under Siege: Japanese American Redress and the “Racing” of Arab Americans as “Terrorists,”* 8 ASIAN L.J. 1 (2001) (providing examples from various reports of airline profiling and government policies targeting Arabs and Muslims before September 11, 2001).

4. Although the focus of this paper is on Arabs and South Asians, September 11 did not only affect those communities. Latino/as and Native Americans have been “mistaken” for Muslims and thus subjected to hate crimes. Moreover, the policies encroaching on civil rights and civil liberties affect all Americans. See Kevin R. Johnson, *The End of “Civil Rights” as We Know It?: Immigration and Civil Rights in the New Millennium*, 49 UCLA L. REV. 1481, 1488 (2002) (noting the racialization of Arab and Muslims as a separate racial group before September 11, 2001).

5. See generally Tracey Maclin, “Voluntary” Interviews and Airport Searches of Middle Eastern Men: The Fourth Amendment in a Time of Terror, 73 MISS. L.J. 471 (2003) (arguing the government’s policy targeted individuals based on ethnicity rather than ties to terrorism).

6. Alisa Solomon, *Fleeing America: Post-9-11, Thousands of New York’s Pakistanis Leave the U.S. Under Pressure*, THE VILLAGE VOICE, Sept. 10-16, 2003, available at <http://www.villagevoice.com/print/issues/0337/solomon.php>.

7. Teresa Watanabe, *Immigrants’ Stories Reflect “Human Cost” of Terror Policy*, L.A. TIMES, Sept. 14, 2003, at B1.

8. People of color are constantly over-criminalized, over-policed, over-interrogated, and over-harassed. These repetitions reinforce the boundaries of what society considers racially acceptable behavior. In naming these actions as “bad,” the power of language exposes them as racial actions. See Devon W. Carbado, *(E)Racing the Fourth Amendment*, 100 MICH. L. REV. 946 (2002).

9. This is obviously a somewhat privileged narrative. Undocumented non-citizens are not even afforded the option of presenting formal identification at security check-points or office buildings.

10. Patricia J. Williams, “*Spirit Murdering the Messenger*,” in THE ALCHEMY OF RACE AND RIGHTS: THE DIARY OF A LAW PROFESSOR 78 (1991).

I could have acted indignant, rolled my eyes at him, made a sarcastic "what do you think?" comment, and threatened to file a complaint. Or, I could have politely responded with a "no," asked for my ID, and hoped he would let me pass. Another option would have been to stand silently and give him time to make his own evaluation.

As I surveyed my audience, trying to decide how to consciously react, the Arab American woman standing next in line made a choice. She laughed. I felt like someone had punched me in the stomach. My mouth went dry and I was even more shocked. She took away my wind, my voice, and my racial soul. Yet I was strangely relieved. Her three-second laugh transformed the stage and let the security guard, spectators, her, and myself off the racial hook. Three seconds changed my facial expression, body language, and breathing pattern.

Following September 11, mainstream media, perpetrators of hate violence and speech, and many activists began thinking of "Muslim-looking" Arabs, Muslims, and South Asians as a single racial group.¹¹ While much of the literature on Arab, Muslim, and South Asian racial formation¹² since September 11 focuses on the group's citizenship, loyalty, and foreignness,¹³ the actions, or reactions, of individuals within this new group remains undertheorized.¹⁴

This paper identifies and explores mechanisms that individuals use to create and interpret, re-create and re-interpret, "Arab, Muslim, and South Asian" as a racial identity through performance. This concept is important to understanding the law's interpretation and analysis of race. Considering race as performance¹⁵ is important for Critical Race Theory (CRT).¹⁶

11. Without adequate theory to decipher the relationship between national origin, religion, and race, recent scholarship uses a variety of phrases to describe the victims of post-September 11 events. See Muneer Ahmad, *Homeland Insecurities: Racial Violence the Day After September 11*, in 20 SOCIAL TEXT 72 (2002) (using "Arab, Muslim, and South Asian" to discuss post-September 11 hate crimes in the context of other groups traditionally victimized by hate crimes); Leti Volpp, *The Citizen and the Terrorist*, 49 UCLA L. REV. 1575, 1575-76 (arguing September 11 racialized people who appear "Middle Eastern, Arab, or Muslim" into a new identity category).

12. For foundational text on racial formation, see generally MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960s TO THE 1980s* (Routledge 1986).

13. See generally Susan M. Akram & Kevin R. Johnson, *Race, Civil Rights, and Immigration Law After September 11, 2001: The Targeting of Arabs and Muslims*, 58 N.Y.U. ANN. SURV. AM. L. 295 (2002); Charu A. Chandrasekhar, *Flying While Brown: Federal Civil Rights Remedies to Post-9/11 Airline Racial Profiling of South Asians*, 10 ASIAN L.J. 215 (2003); Thomas W. Joo, *Presumed Disloyal: Executive Power, Judicial Deference, and the Construction of Race Before and After September 11*, 34 COLUM. HUM. RTS. L. REV. 1 (2002); Victor C. Romero, *Proxies for Loyalty in Constitutional Immigration Law: Citizenship and Race After September 11*, 52 DEPAUL L. REV. 871 (2003).

14. Moustafa Bayoumi, *How Does It Feel to Be a Problem?*, 28 AMERASIA J. 69-77 (2002) (describing how a sign stating "we support our Arab neighbors" causes a disappointment that Arab and Muslim communities are "vulnerable by [their] appearance"); Volpp, *supra* note 11, at 1590-91 (analyzing the "interpellation" of Muslim-looking individuals).

15. One major work on identity performance is Ariela J. Gross, *Litigating Whiteness: Trials of Racial Determination in the Nineteenth-Century South*, 108 YALE L.J. 109, 112 (1998) (concluding from 68 trials of racial determination that the "law made the 'performance' of whiteness increasingly important to the determination of racial status").

CRT's mantra¹⁷ has been that race is a social construct, meaning that race has been constructed from social, cultural, historical, and political contexts within systems and institutions.¹⁸ Devon Carbado and Mitu Gulati point to a deficiency in the concept of race as a social construct at the macro level. They note that CRT often ignores the "racial productivity of the 'choices' people of color make about how they present themselves as racialized persons," and in general the race producing practices of people are often ignored.¹⁹ This paper attempts to examine the "choices" Arabs, Muslims, and South Asians make that purposefully or mistakenly produce race. Such a discussion is important for two reasons. First, it provides a lens to develop new legal strategies that take into account the nuances of identity and provides a springboard to build intra- and inter-community coalitions with other communities of color.²⁰ Additionally, an understanding of racial performance moves us toward an analysis of how individual Arabs, Muslims and South Asians choose to present themselves. With this inquiry into the process of racial formation, we can understand the role of the individual in creating racial identity. Part I of this paper presents the theoretical framework. Section B explains "performance theory" and my framework of race as performance. Section C then introduces the three categories of racial performance used in this paper: strategic passing, covering, and using stereotypes. Section D presents the theory of performance "teams." Part II explores the relationship between race as performance in both formal and informal performance situations, and analyzes the above narrative in the context of the performance theory to provide an example of the relationship between the three categories of racial performance and per-

16. CRT emerged in the mid-1970's as a response to rollbacks in the gains made in the Civil Rights era. Basic tenets of CRT include: racism is normal and not unusual in American society; culture constructs social reality and retelling reality is one way to construct a different reality; and interest-divergence questions such as whether white elites will permit advances for people of color without some self-interest. In addition, CRT uses different styles of writing and explores the intersection of other outsider identities, such as race, gender, sexual orientation, age, and immigration status. See Richard Delgado, *Foreword to CRITICAL RACE THEORY, THE CUTTING EDGE*, xiii-xv (Richard Delgado ed., 1995).

17. See Robert S. Chang, *Critiquing "Race" and Its Uses: Critical Race Theory's Uncompleted Argument*, in CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY (Francisco Valdes et al. eds., 2002). See generally Ian F. Haney Lopez, *The Social Construction of Race: Some Observation on Illusion, Fabrication, and Choice*, 29 HARV. C.R.-C.L. L. REV. 1 (1994).

18. See IAN F. HANEY LOPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* (1996).

19. Devon W. Carbado & Mitu Gulati, *The Law & Economics of Critical Race Theory*, 112 YALE L.J. 1757, 1760 (2003) (book review).

20. By squarely positioning Arab, Muslim, and South Asian people within the people of color political discourse, the possibility of coalition among people of color may become central to social justice agendas within the Arab, Muslim, and South Asian community. See Adrienne Wing, *Civil Rights in the Post-9/11 World: Critical Race Praxis, Coalition Building, and the War on Terrorism*, 63 LA. L. REV. 717 (2003); Janine Young Kim, *Are Asians Black?: The Asian-American Civil Rights Agenda and the Contemporary Significance of the Black/White Paradigm*, 108 YALE L.J. 2385, 2403-04 (1999) (arguing that Asian Americans must address how the black/white paradigm can be reconstructed, leading to possible coalition building among people of color who share the "antisubordination agenda").

formance teams. Part III presents strategic resistance efforts and everyday survival/self-preservation tactics.

PART I. PERFORMING ARAB, MUSLIM, AND SOUTH ASIAN RACIAL IDENTITY

A. *The "Arab, Muslim, and South Asian" Racial Construct*

Through individual performances of race, Arabs, Muslims, and South Asians have begun to construct the "Arab, Muslim, and South Asian" racial category.²¹ Recent scholarship has used a variety of phrases to describe the targets of post-September 11 backlash and government policies.²² I have chosen to use this term because it uses identity categories (Arab, Muslim, and South Asian) with which Arabs, Muslims, and South Asians identify themselves.²³ The self-identification that I attribute to the Arab, Muslim, and South Asian categories is significant for my discussion of racial formation from the perspective of persons within the new racial construct.²⁴

B. *The Theory of Race as Performance*

Considering race as performance²⁵ is one way to understand racial identity.²⁶ Racial performance is the idea that race is a continual process of negotiating and performing identity. Even though individuals are restricted in their choices, individuals bring race into being by acting in a particular way. Thus, identity is not only a mark of status, ("I *am* a woman" or "I *am*

21. Several essentialisms are problematic with this terminology: (1) that Arab, Muslim, and South Asian is a monolithic group and (2) that any of these three categories, standing on its own, is monolithic. I reject both; diversity in language, culture, religion, and political opinion distinguish persons within these categories.

22. See Muneer Ahmad, *A Rage Shared by Law: Post-September 11 Racial Violence as Crimes of Passion*, 92 CAL. L. REV. 1259, 1278-80 (2004) (analyzing his use of "Muslim-looking" as a new racial construct created by government racial profiling and individual acts of hate violence); Ahmad, *supra* note 11 (using "Arab, Muslim, and South Asian" to discuss post-September 11 hate crimes in the context of other groups traditionally victimized by hate crimes); Bill Ong Hing, *Vigilante Racism: The De-Americanization of Immigrant America*, 7 MICH. J. RACE & L. 441, 442-43 (2002) (describing the targets as "Muslim, Middle Eastern, and South Asian"); Volpp, *supra* note 11 (arguing September 11 racialized people who appear Middle Eastern, Arab, or Muslim into a new identity category).

23. See Ahmad, *supra* note 22 at 1261 n.1 (noting that he uses "Arab, Muslim, and South Asian" because "each of the categories . . . has a social and political salience as an identity group with which individuals self-identify").

24. In a few instances, I use the term "Muslim-looking" when describing the way someone outside of the South Asian, Muslim, and Arab racial groups perceives us. This term, though over-inclusive and based solely on perception, is useful because the victims of post-September 11 hate violence includes non-Muslim Latinos and Native Americans that have been mistaken for persons of Middle Eastern descent. To acknowledge both the breadth of persons targeted in the backlash and the difference between self-identification and "other" identification, "Muslim-looking" is appropriate as a label in some instances.

25. See Gross, *supra* note 15 (concluding from 68 trials of racial determination that the "law made the 'performance' of whiteness increasingly important to the determination of racial status").

26. See Chang, *supra* note 17. See generally LOPEZ, *supra* note 17.

South Asian”), but it is also a mark of performance or acting out of that identity (I *have* long hair, I *speak* Bengali, or I *wear* a *hijab*²⁷). These performative choices give identity social meaning.²⁸ The continuous performances of racial identity create and re-create our notions of race and ourselves as racialized individuals.²⁹ Furthermore, each of these identity negotiations are inter-related and depend on the context,³⁰ audience, and intersection of other identities such as gender, citizenship status, and sexual preference. In this section, I provide a theoretical framework, building on the work of Devon Carbado, Mitu Gulati, Nan D. Hunter, and Kenji Yoshino,³¹ for understanding performative aspects of race in the Arab, Muslim, and South Asian context.³²

Judith Butler introduced the concept of performance identity in the context of gender construction.³³ She argues that gender is not a single act, but a reiterative practice; sex is produced and destabilized in the course of reiterating acts.³⁴ This means we all reiterate, or “perform,” gender through a series of continual actions. The performances are not based on nature, but are produced and sustained by the same matrix of cultural

27. A Muslim woman’s head scarf worn to cover her hair.

28. “Racialization” considers race as “an unstable and ‘de-centered’ complex of social meanings constantly being transformed by political struggle.” MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES* 68 (1988).

29. See Delgado, *supra* note 16 and accompanying text. CRT’s “mantra” has been that race is a social construct, meaning that race has been constructed from social, cultural, historical, and political contexts within systems and institutions. Carbado and Gulati point to a deficiency in the concept of race as a social construct at the macro level. They note that CRT often ignores the “racial productivity of the ‘choices’ people of color make about how they present themselves as racialized persons” and in general the race-producing practices of people are often ignored Carbado & Gulati, *supra* note 19.

30. See Jayne Chong-Soon Lee, *Navigating the Topology of Race*, 46 *STAN. L. REV.* 747, 777 (1994) (“Since the meaning of race depends on the specific social contexts in which it is embedded, we will find as many definitions of race as there are social contexts.”).

31. See Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 *CORNELL L. REV.* 1259, 1279-81 (2000) (developing a theory of workplace discrimination that incorporates an analysis of identity performance); Nan D. Hunter, *Expressive Identity: Recuperating Dissent for Equality*, 35 *HARV. C.R.-C.L. L. REV.* 1, 9-12 (2000) (applying Judith Butler’s performative identity theory to expressive identity cases); Kenji Yoshino, *Covering*, 111 *YALE L.J.* 769, 772-73, 879-91, 925-28 (2002) (considering the intersections of race, gender, and gay identity performances).

32. This project is somewhat problematic because it risks essentializing race by claiming an “authentic” Arab, Muslim, and South Asian post-September 11 experience and thus implying that a single experience of race exists. I merely hope to make the point that a relationship exists between racialized choices and racial formation. In spite of the framework, I do not support a monolithic, “pure” South Asian, Arab, or Muslim identity. I use multiple anecdotes and narratives as examples of the performative elements of race; however, these are not meant to represent a universal experience. Overlap and fluidity exists among and between the categories; rigid distinctions are difficult to identify.

33. JUDITH BUTLER, *GENDER TROUBLE* (1990) (introducing the idea of performance creating gender identity); JUDITH BUTLER, *BODIES THAT MATTER: ON THE DISCURSIVE LIMITS OF “SEX”* (1993) (discussing further aspects of performance identity theory, namely that performances reiterate, and destabilize, gender identity).

34. Judith Butler, *Bodies that Matter*, in *FEMINIST THEORY & THE BODY: A READER* 238, 240 (Shildrick & Janet Price eds., 1999) (presenting the ways gender is constructed beyond mere ideas of sex through performance).

mechanisms that receives and interprets such performances.³⁵ For example, a woman's identity at work is based partly on her dress, hair, and makeup. The decisions to wear pants instead of skirts, short instead of long hair, and no makeup constitute a performance of her gender. Her co-workers observe her and interpret her identity consistent with or in opposition to their prior notions of gender, either reiterating a former idea of gender or creating a new idea of gender. The woman, in turn, makes her choices often knowing their import as a lawyer, construction worker, or secretary. Her understanding of various workplace environments, along with many other factors, such as age, economic status, and religion, inform her performance of gender.

Applying this analysis to race, a South Asian employee may decide to mute his accent or shave his mustache and beard. Each choice is a mechanism to control the ways in which his co-workers interpret and construct his race. They may find him more "American" and ask him to join the Monday night poker game as a result. In contrast, the same South Asian employee could decide to maintain or even exaggerate his accent, keep his mustache and beard, and wear a turban. His co-workers might choose to exclude him from group activities and become suspicious of his political beliefs. Alternatively, he may have an accent and beard but also wear a cross. This might confuse some of his co-workers because they understand him as Muslim-looking, opposite to the Christian norm.³⁶ All of these choices construct how others experience his South Asian racial identity and, within certain limitations, he has agency in how others understand him as a racialized person. Thus, while social constitution is critical to the formation of racial identity, it does not account for the individual acts that also help to constitute identity.

Building on the work of Mari Matsuda, Richard Delgado, and others, Butler's recent text further analyzes acts of speech and their ability to alter a material condition through the process of "interpellation."³⁷ This theory of interpellation is taken from Louis Althusser and contends that acts, including speech, may hail or name a person into social existence.³⁸ Hate speech not only acts upon the listener, but also contributes to the listener's social constitution. The listener is understood within a particular social position and that position permits the utterance, the hate speech, to injure the

35. Feminist legal scholars have argued for repositioning cultural notions of gender and the social and legal importance of biological sex. See Katherine M. Frank, *The Central Mistake of Sex Discrimination Law: The Disaggregation of Sex From Gender*, 144 U. PA. L. REV. 1 (1995).

36. This Muslim-looking identity presents a racial quagmire, for it is a racial descriptor, not merely a religious conflation. As Professor Ahmad posits, it is the "looking" part of the phrase that is the most important. Ahmad, *supra* note 22, at 1278-81.

37. JUDITH BUTLER, *EXCITABLE SPEECH* 2 (1997). See also Louis Althusser, *Ideology and Ideological State Apparatus*, in *LENIN AND PHILOSOPHY AND OTHER ESSAYS* 127, 170 (Ben Brewster trans., 1971).

38. BUTLER, *supra* note 37, at 2-4. See generally Althusser, *supra* note 37. See also Volpp, *supra* note 11, at 1592-94 (stating that racial profiling and other government policies call "Middle Eastern, Arab, or Muslim" identity into being by positing "[h]ey, you non-citizen!" (or terrorist or foreigner or enemy alien)).

listener. The speech is, therefore, an act that re-forms the listener into social subordination.³⁹

Though Butler is specifically referring to hate speech in her analysis, the subject of this paper is situations where a South Asian, Arab, or Muslim person reacts in a particular situation, and thus performs race. In the Introduction's narrative, I was interpellated by the guard's remark—"you're not a terrorist, are you?"⁴⁰ His statement called my racialized "Muslim-looking" identity into existence. I not only became Muslim-looking, but also everything the security guard associated with the racial group, including a potential terrorist.⁴¹ I was reconstituted in a particular social position—that of a foreign, alien terrorist.

Butler and others argue that along with the racial interpellation's influence upon an individual's social constitution, comes the potential to react.⁴² Butler specifically asks whether the constitution and social position created through hate speech is necessarily final. In other words, is the position the listener holds the only position option, given the particular circumstances?

The injurious address may appear to fix or paralyze the one it hails, but it may also produce an unexpected and enabling response. If to be addressed is to be interpellated, then the offensive call runs the risk of inaugurating a subject in speech who comes to use language to counter the offensive call.⁴³

With the security guard's question, "You're not a terrorist, are you?" came an opportunity for me to racially react, through speech, to challenge the identification of me as a terrorist and influence the Arab, Muslim, or South Asian racialization process. In turn, my potential verbal or non-verbal response and the Arab-American woman's laughter also constitute performances of race as speech acts.⁴⁴ Even a silent bearing would have qualified as a linguistic performance to the extent that silence is understood as a constitutive dimension of speech.⁴⁵ I would have preferred to present myself to the guard and observers as someone who does not permit such

39. BUTLER, *supra* note 37, at 18-19. See also, MARI J. MATSUDA, Chapter, *Public Response to Racist Speech: Considering the Victim's Story*, in MARI MATSUDA, CHARLES R. LAWRENCE III, RICHARD DELGADO, AND KIMBERLÉ WILLIAMS CRENSHAW, *WORDS THAT WOUND: CRITICAL RACE THEORY, ASSAULTIVE SPEECH, AND THE FIRST AMENDMENT*, (Westview Press 1993); CATHERINE MACKINNON, *ONLY WORDS* (1993).

40. BUTLER, *supra* note 37, at 2.

41. Similarly, other acts of hate speech bring racial identity into existence. See, e.g., Emad McKay, *Rights: U.S. Muslims Fear Government Harassment Will Worsen*, INTER PRESS SERVICE, Oct. 9, 2003, available at 2003 WL 6917481 (a woman wearing *hijab* was called a "terrorist pig" while she was stabbed in the back); Greg Frost, *Anti-Muslim Rage in the U.S. Hurts Others Too*, REUTERS, July 22, 2003 (A Massachusetts man beat and kicked a pizza delivery man while shouting, "Go back to Iraq!" and "I'm doing this for my country").

42. See BUTLER, *supra* note 37, at 2-4, 19. See also BLACK SKIN WHITE MASKS 109 (Charles Lam Markmann trans., 1967).

43. BUTLER, *supra* note 37, at 14-15.

44. See J.L. AUSTIN, *HOW TO DO THINGS WITH WORDS* (1975), at 4. ("A command might be enacted through silence, not only through explicit verbal formulation.").

45. BUTLER, *supra* note 37, at 175 n.11.

statements to go unnoticed.⁴⁶ I suggest that individual Arab, Muslim, and South Asian people should control their own presentation of self, consider their own everyday situations, and react in ways that preserve their own dignity, identity, and sense of self.

Racial performance is not only part of racial formation (through processes like interpellation), but is also part of the "ongoing political contestation and reformulation" of race.⁴⁷ This means that the security guard's thoughts on Arabs, Muslims, and South Asians may change, depending on my reaction to his statement. Moreover, his thoughts may be reconstituted by any other future instances where he is party to racial performances with South Asians, Arabs, or Muslims. The same is true for me—my ever-changing locations, audiences, and political or social situations influence the way I perform my race from situation to situation. I employ what Kenji Yoshino calls the "weak performative model" interpretation of Judith Butler's work.⁴⁸ This model suggests that identity has a performative aspect, such that one's identity will be formed in part through one's acts and social situation, rather than identity being shaped exclusively through performance.⁴⁹

I have three caveats to the theory I present. First, I am not arguing that all identity-related actions result from conscious strategizing, or that such rational decision-making is even afforded to members of outsider groups. A significant amount of identity-related actions stem from unconscious stereotypes on the part of both insider and outsider group members.⁵⁰ Second, I admit this model of race as performance essentializes and simplifies a more complex problem of racial oppression. And third, inherent in the theory I present is the assumption that strategies are available to individuals choosing to employ them. It is critical to understand in the next section that performative identity theory should be read as context-specific. An outsider's ability to perform her/his race is dependant not only on class, gender, and sexual orientation, but also on variables of context, such as geographical location, reputation in the community, and country of birth.

C. *Racial Performative Categories*

Multiple performance strategies are available to individuals negotiating identities. Here, I present categories for racial performance that are

46. See Chris K. Iijima, *The Era of We-Construction: Reclaiming the Politics of Asian Pacific American Identity and Reflections on the Critique of the Black/White Paradigm*, 29 COLUM. HUM. RTS. L. REV. 47, 55 (1997) ("In short, political resistance to racial oppression is the content of racial identity, and progressive people of color must reclaim the terms of the debate about what constitutes it.").

47. BUTLER, *supra* note 37, at 161.

48. See Yoshino, *supra* note 31, at 871. Yoshino argues Butler modifies her conception that gender is purely performative and begins thinking of sex as having a performative aspect. See *id.*

49. *Id.*

50. See, e.g., Charles R. Lawrence III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317, 327 (1987); Ian F. Haney Lopez, *Institutional Racism: Judicial Conduct and a New Theory of Racial Discrimination*, 109 YALE L.J. 1717 (2000).

modified from existing scholarship.⁵¹ Although the categories may not be exhaustive, they provide a useful framework to discuss performative aspects of race.⁵²

1. Covering

Covering takes place when a person's outsider identity is not hidden, but downplayed to "comfort" insiders.⁵³ This idea of covering comes from Erving Goffman's theory describing how individuals use "fronts" to provide observers with desired impressions.⁵⁴ His work on stigma includes the observation that even "persons who are ready to admit possession of a stigma . . . may nonetheless make a great effort to keep the stigma from looming large."⁵⁵ In other words, a person of color may downplay racial identity during various interactions to gain acceptance, negotiate other identities, or to remain psychologically intact. Racial covering includes learned bargaining, silence, acquiescence, dress, speech, distancing from the racial community, overstating or understating academic achievement, not responding to a racialized atmosphere, prioritizing other identities over race (religion or ethnicity, for example), embracing a non-activist identity, and privileging culture that is stereotypically associated with White identity instead of culture stereotypically associated with racial group identity.⁵⁶

For example, a South Asian college student may deploy covering if she believes an institution sends messages that racial diversity is not appreciated.⁵⁷ She might avoid associating with other South Asian students and instead associate with mainstream white people, join a traditionally white sorority, participate in non-ethnic school-sponsored community service organizations rather than the South Asian Student Association, announce that she has never been to South Asia and does not speak any South Asian language, say she does not like spicy foods, and exclusively date white

51. Devon W. Carbado and Mitu Gulati propose four main categories: strategic passing, comforting, using stereotypes, and an "other" category that includes discomfort, selling-out, and buying back. Carbado & Gulati, *supra* note 31, at 1299-1307. Kenji Yoshino also analyzes race, gender, and gay performance under the assimilation categories of conversion, passing, and covering. Yoshino, *supra* note 31. Peter Margules discusses three outsider identity strategies—shame, acknowledgement and engagement. Peter Margules, *The Identity Question, Madeline Albright's Past, and Me: Insights From Jewish and African American Law and Literature*, 17 LOY. L.A. ENT. L. REV. 595, 600-602 (1997). See also Hunter, *supra* note 31, at 1, 6-8.

52. The categories presented here reflect the majority of negotiations I have observed and read about before and after September 11.

53. See Yoshino, *supra* note 31, at 772.

54. See generally ERVING GOFFMAN, *THE PRESENTATION OF SELF IN EVERYDAY LIFE* 83 (1959). But see Austin, *infra* note 131, at 31 ("[G]iven the exaggerated responses of whites to black self-assertiveness and the consequences that flow from black displays of aggression and anger, blacks may not be exercising as much free choice in fronting as they may think they are.").

55. ERVING GOFFMAN, *STIGMA: NOTES ON THE MANAGEMENT OF SPOILED IDENTITY* 102, 102-04 (1963).

56. Yoshino, *supra* note 31, at 879-87. Yoshino presents a narrative of "covering" through Lawrence Mugin, an African American who lost a race discrimination case against his law firm. Based on Paul Barrett's *The Good Black*, the story illustrates each of the listed strategies. *Id.*

57. This example is modified from Carbado & Gulati, *supra* note 31, at 1301-02.

men.⁵⁸ Despite all of these strategies to perform away from her race, she is still stereotyped and seen as a racialized outsider, but, these performances permit the insider to engage in what Devon Carbado and Mitu Gulati describe as "outsider exceptionalism."⁵⁹ The insider may react with comments to signal to the outsider that she is considered "one of them," such as "I don't even see you as Indian" or "You're not one of *those* South Asians."⁶⁰ This example shows that covering was used prior to September 11, 2001 in the same form as it is used today.⁶¹

Moreover, this example of covering points out the confusing role of religion in the racial performances of Arabs, Muslims, and South Asians. For example, the woman who takes off her *hijab* to avoid identification as a Muslim woman will still be Muslim-looking to potential harassers; she has not shed her brown-skin.⁶² With government policies legitimizing the sentiment of average Americans, many persons of South Asian, Arab, and Middle Eastern descent found that their assimilation and covering tactics no longer worked. In a last ditch effort, some non-Muslim persons of South Asian and Middle Eastern descent mistakenly believed distancing and distinguishing from a Muslim identity would protect them from the onslaught of violence and bigotry. The Sikh Coalition's initial mission was to educate the public on the differences between Sikhs and Muslims.⁶³ Rajiv Malhotra, who runs the Infinity Foundation, an organization that funds projects

58. This is obviously an exaggerated scenario. Her choices are to some extent racial performance, but I am not saying that other factors did not inform her conscious decisions to perform race by covering.

59. See Carbado & Gulati, *supra* note 31, at 1302-04.

60. Cf. PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* 9, 9-10 (1991) (describing the shock and pain associated with comments comparing Professor Williams to other African American faculty). Exceptionalism is the divisive practice of elevating some members of subordinate groups above others; in essence, the white decision maker communicates to the preferred minority "you are not like the rest of them." See Tanya Katerí Hernández, "Multiracial" Discourse: *Racial Classifications in an Era of Color-Blind Jurisprudence*, 57 MD. L. REV. 97, 137 (1998).

61. Cf. Enid Trucios-Haynes, *The Legacy of Racially Restrictive Immigration Laws and Policies and the Construction of the American National Identity*, 76 OR. L. REV. 369 (1997) (describing assimilation as the underlying theme for race relations discourse in the United States, and arguing that assimilation theory continues to dominate political discourse and influence public policy).

62. As a side note, this racialization of South Asians, Arabs, and Muslims is a problematic geopolitical project. The entrenched animosity between and communalism within the Hindu and Muslim communities is an important consideration in the formation of common identities. Failure to properly discuss these historical tensions may perpetuate intra-group stereotypes and prejudices. Community activists have noted the contrast between increased tensions in South Asia since September 11 and the increased coalition efforts in the United States. See *South Asians for Unity hold Peace Summit at Emory* at <http://www.ipnatlanta.net/sa4u.org> (last visited Mar. 24, 2002).

63. See <http://www.sikhcoalition.org> (noting that Sikh's are not Muslims and providing educational materials on the Sikh religion). For reference to the need for South Asians to educate the public on their differences from Muslims, see Sindhi Xirasagar, Editorial, *A Conflict of Cultures*, N.Y. TIMES, Apr. 25, 2002, at A30 (proposing that South Asian communities must "educate the societies they live in about their value systems and culture). Cf. Florangela Davila, *Indians, Pakistanis Sidestep Conflict: Seattle's South Asians Focus on Shared Traits*, SEATTLE TIMES, June 10, 2002, at B1 ("I was born in Cincinnati, raised in New Jersey and Texas. But I don't see myself as Indian American. I see myself as more South Asian.").

focused on Indian identity, staged a campaign where his friends called Sarah Wildman, a reporter from *The New Republic* for five days, "leaving messages about how they are Indian first and South Asian never."⁶⁴ Malhotra told Ms. Wildman that "[a] lot of Hindus have suddenly started realizing they better stand up and differentiate themselves from Muslims or Arabs."⁶⁵ Wildman correctly notes in her piece that such distinctions would do little to end the backlash.⁶⁶

"America," especially immediately following September 11, has taken off its turn-of-the-century mask of race neutrality.⁶⁷ Americans finally felt comfortable to speak their minds about the "damn immigrants"⁶⁸ and all the "Osama types" in the country.⁶⁹ In fact, the "perpetual foreigner" framework created a racial duty for "Americans" to scrutinize Arabs, Muslims, and South Asians and alien-ate (make "alien" or deem un-American) them with questions about race, religion, or national origin, as well as food, music, or politics.⁷⁰ The media also played a role in unmasking the covering methods of Arabs, Muslims, and South Asians described above.⁷¹ In a widely circulated article entitled "'You Never Imagine' A Hijacker Next Door," the writer describes the covering strategies of the September 11 terrorists:⁷²

They were smart, technically proficient, and ambitious in their own peculiar way. . . . They were the kind of people who could have succeeded in America if they hadn't wanted to destroy it.

Theirs was a soft, subtle presence in this country for many months, in some cases years. They didn't blend in exactly, but they stayed out of trouble.

. . . They played by the rules

. . . [T]hey could be standoffish, and made people nervous.

". . . [T]hey acted like normal human beings, nothing abnormal."

. . . .

. . . The enemy was invisible and inscrutable.

64. Sarah Wildman, *Washington Diarist: All for One (South Asian label covers many cultures, religions, nationalities)*, THE NEW REPUBLIC, Dec. 24, 2001, at 42 (identifying tension around the term "South Asian" and racial identity in the Indian community).

65. *Id.*

66. *Id.*

67. Symposium, *First Monday – Civil Liberties in a Post-9/11 World*, 27 SETON HALL LEGIS. J. 1 (2002) (discussing the "fantasy world" people have created since September 11 that the government's policies are not racist).

68. People were making such statements prior to September 11 about many immigrant groups, including Arab, Muslim, and South Asian immigrants. My point is to recognize the extent to which such remarks became commonplace and, in many cases, completely acceptable.

69. One man living near Atlanta set up a Christmas display in 2001 that included a target practice where an Osama Bin Laden caricature was dunked into a toilet every time someone hit the bulls-eye.

70. See Leonard M. Baynes, *Racial Profiling, September 11th and the Media: A Critical Race Theory Analysis* 2 VA. SPORTS & ENT. L.J. 1 (2002). It is important to note that some Arabs, Muslims, and South Asians engaged in scrutinizing members of their own communities as well.

71. *Id.*

72. Joel Achenbach, *'You Never Imagine' A Hijacker Next Door*, WASH. POST, Sept. 16, 2001, at A1.

....

... The men changed the spelling of their names

....

... [They] didn't socialize much They spent time with another Muslim family—clannish behavior that the American neighbors assumed was normal.

....

They served pizza and Happy Meals [at a neighborhood party].

"They were very neat and very polite,"

....

... [They seemed] clean-cut, wearing slacks, dress shoes and casual shirts, and carrying dark shoulder bags. Their hair was closely cropped. They had no facial hair. In short they looked ... [u]nmenacing.⁷³

The author brings attention to the common ways Arabs, Muslims, and South Asians may cover, and equates the behavior of the September 11 hijackers with that of Arabs, Muslims, and South Asians generally. He gives the impression that the mechanisms Arab, Muslim, and South Asian individuals use to assimilate are not benign attempts to fit-in or shape their identity, but that their actions are a cover-up of terrorist identity. With these types of descriptions in newspaper headlines and on many TV's around the world, people attribute covering only to terrorist operatives when the subjects are Arabs, Muslims, or South Asians as well. "America" now has license to over-scrutinize its Arab, Muslim, and South Asian co-workers, bank tellers, teachers, students, and airline passengers.

In sum, since September 11, despite Arab, Muslim, and South Asian racial covering tactics to appear more "American" and assimilable, Arabs, Muslims, and South Asians are still considered suspicious, questionable, menacing, and un-American.

2. Strategic Partial Passing⁷⁴

Passing occurs when an outsider modifies her identity for the purpose of presenting herself as an insider, and an insider believes that the outsider is an insider.⁷⁵ For example, light-skinned Black people have passed for white throughout history. Because complete passing is rare in the context of race, partial passing is a more frequent phenomenon. An outsider attempts to be perceived as an insider and an insider believes that an outsider is almost an insider. Partial passing occurs where the outsider's status is

73. *Id.*

74. The definition of passing is taken from Kenji Yoshino's work on the intersectionality of performing race, gender, and gay identities. Passing "occurs when a lesbian presents herself to the world as strait." Interestingly, Yoshino does not discuss racial passing. Yoshino, *supra* note 31, at 772.

75. Carbado & Gulati, *supra* note 31, at 1301-02 ("Passing refers to the phenomenon of fooling insiders into believing that an outsider is one of them.").

known, but she takes actions to mute or alter the social meaning of that status to create a perception that she is more similar to an insider.⁷⁶

Strategic partial passing occurs, for example, when a South Asian Muslim presents herself as a Christian or Hindu. South Asian Hindus and Christians are not part of the typical "insider" racial group (White). However, the distinction from a Muslim identity creates in the psyche of the South Asian that she is safer and will be viewed as less "terrorist" than if her Muslim identity were known.⁷⁷ If someone assumes that a South Asian woman is a Hindu or Christian because she is not wearing a *hijab* and is carrying a Bible or wearing a cross, she may be performing racialized religion⁷⁸ in an attempt to appear less disloyal and more trustworthy. This assumes that those watching the outsider define Hindu or Christian South Asians as "good" and "loyal" when compared to a South Asian Muslim woman. If the audience's cultural literacy level is not this nuanced, the Muslim woman's attempts to pass would be in vain. She is likely to be raced as a "terrorist," or at least as a suspicious brown person, despite her attempts to alter her identity through performance.

Covering and strategic partial passing are not always easy to distinguish. As Goffman recognized, the same action could either be passing or covering depending on the knowledge of the audience before whom the action was performed.⁷⁹ A Muslim woman not wearing a *hijab* may be considered passing as a non-Muslim (especially if accompanied with holding a Bible) or covering (muting) the Muslim identity to make insiders feel more comfortable. This does not mean that the categories of performance strategies are indistinguishable. Instead, it means that one must know the performance of the actor as well as the literacy of the audience to make the distinction: where is the Muslim woman who removes her *hijab*; what is her purpose in removing the *hijab*; who is around her; and how do those persons understand and interpret (her) Muslim identity? Indeed, as Goffman, Yoshino, and others repeatedly point out, the presentations of self through racial performances are not simply an action by an agent, but rather "a dialectic between an agent and her audiences."⁸⁰

76. See Carbado and Gulati, *supra* note 31, at 1302 ("[T]he outsider's status is known, but he or she can take actions to modify the social meaning of or stereotypical assumptions about that status.").

77. However, the religious distinction has done little to protect Sikh, Christian, or Hindu persons from the September 11 backlash—Arab, Muslim, and South Asian persons are Muslim-looking to the perpetrators. See Ahmad *supra* note 22, at 1278-80.

78. I use the term racialized religion to demonstrate the way in which religion is raced in this circumstance. The primary issue, however, is race. See Ahmad, *supra* note 22, at 1278 ("Despite its expression in religious terms and its purported concern with violent activity, the 'Muslim-looking' construct is neither religion- nor conduct-based. Rather, the profile has considerable, if not predominant, racial content, and is preoccupied with phenotype rather than faith or action.").

79. Yoshino, *supra* note 31, at 772 n.5 ("A woman who refrains from holding hands with her same-sex partner may thus pass with respect to those who do not know her orientation but cover with respect to those who do.").

80. Yoshino, *supra* note 31, at 772.

3. Use of Stereotypes

In addition to strategic passing and covering, people of color sometimes use stereotypes and negative ideas of their racial group to their perceived advantage.⁸¹ One example Devon Carbado and Mitu Gulati use to describe this category of racial performance is that of a Korean American employee in a firm where collegiality is valued. The Korean American is stereotyped as hard-working, technically inclined, uncreative, lacking in leadership skills—a "drone." In a team that requires someone to do technical, uncreative tasks, the Korean American may decide to take on those types of tasks, believing that by confirming the stereotypes he will gain an advantage toward being promoted in the firm. In choosing to perform his race in this manner, he confirms stereotypes that may have an overall negative impact on his workplace characterization, even if he receives the promotion. For instance, he hurts other Korean American employees' chances of competing for promotions where leadership skills and creativity are necessary. He establishes a racial precedent in the workplace culture for the performance of his race that burdens other Korean Americans.⁸²

Arabs, Muslims, and South Asians may use stereotypes to distance themselves from the idea of being "terrorists." Sikhs and especially Hindus are publicly and privately differentiating themselves from Muslims and Arabs through performing race to prevent misidentification as Muslim.⁸³ The belief is that identification as Muslim identifies a person with "terrorist."⁸⁴ Making anti-Muslim or anti-Osama/Hussein/Taliban statements in grocery stores and in parking lots at their children's schools, these individuals perform to gain admission into white institutions, to change someone's belief that all Muslim-looking persons are terrorists. Onlookers may take in the brown person espousing anti-Osama/Hussein/Taliban rhetoric and, perhaps, the audience momentarily interprets him as a "good" South Asian. But such an identification⁸⁵ actually confirms the deep-rooted suspicions about the evil, foreignness, and disloyalty of Arabs, Muslims, and South Asians because they are predicated on a dichotomy of "good"/loyal/non-Muslim and "bad"/terrorist/Muslim.⁸⁶ Although strategic passing, covering, and use of stereotypes occurred prior to September 11 to perform race, the new Arab, Muslim, and South Asian racial category has changed the performance of race. Old tactics are exaggerated or modified, religion is increasingly racialized, and Arabs, Muslims, and South Asians constitute a new racial category.

81. Carbado & Gulati, *supra* note 31, at 1305. These advantages are illusory, however, and they come at a high cost. For example, the person must compromise her sense of self and may even feel social and psychic loss. *See id.* at 1288-1294.

82. *Id.* at 1305-06.

83. Wildman, *supra* note 64.

84. *See* Saitu, *supra* note 3, at 12.

85. *See* Carbado, *supra* note 8, at 1040-41 (using this phrase to explain the same phenomenon with African Americans and racial profiling)

86. *See* Saitu, *supra* note 3, at 11-12.

D. Performance "Teams"

While the characterization of Arab, Muslim, and South Asian as a single racial category is not new, I am interested in exploring the role of individual Arabs, Muslims, and South Asians in shaping the group's identity. Such a discussion can be understood through Erving Goffman's analysis of performative teams and the interaction of teammates.⁸⁷ A team is defined as a set of individuals, bound together formally or informally, co-operating to maintain an impression, a projected definition of the situation.⁸⁸ Moreover, a team is a grouping in relation to an interaction or series of interactions in which the definition of the situation is maintained, not a grouping in relation to a social structure or social organization.⁸⁹ Here, I apply the performance "team" and "teammate" discussion to teams of Arab, Muslim, and South Asian teammates.

Racial performances implicate members of the racial team, those persons that are part of the same performative interaction.⁹⁰ Goffman explains that any member of the team can give away the performance or disrupt it with inappropriate conduct. This means that the team members are bound by "reciprocal dependence," they depend on each other to preserve their own presentations of themselves as individuals.⁹¹ For South Asian, Arab, or Muslim racial teams, the individual teammates rely on each other to perform their race in a particular manner.⁹² For instance, in the introductory narrative, the Arab American woman standing behind me in line was my teammate. Given the situation—we were both attempting to pass through the security line—we were part of a performative moment. Because we were a team, her laughter became my response, our response to presenting ourselves to the security guard and the others watching.

When a person "insists on giving the show away or forcing it to take a particular turn, [s]he is none the less part of the team. In fact, it is because [s]he is part of the team that [s]he can cause this kind of disruption."⁹³ It thus follows that even if a racial teammate performs race in a way that

87. GOFFMAN, *supra* note 54, at 79-81.

88. *Id.*

89. *Id.* at 100-05.

90. Cliques are distinguishable from teams. In the case of racial outsiders (i.e. Latin, African, and Asian Americans), members of a racial team may find themselves thrown together to maintain a definition of the situation, but racial cliques may include those individuals of different "status" (i.e. manager and staff) who may not further the interests of the clique.

91. GOFFMAN, *supra* note 54, at 100-105.

92. Although Goffman does not particularly address racial teams, the function of teammates is central to his work. He maintains that for a teammate to present himself (or herself) in a particular way, he (or she) must rely on his (or her) performance teammates to maintain the performance and characterization. *Id.*

93. *Id.* ("Thus the isolate in a factory who becomes the rate-buster is none the less part of the team, even if his productive activity embarrasses the impression the other workers are attempting to foster as to what constitutes a hard day's work.").

embarrasses the impression other teammates are trying to foster,⁹⁴ she would still be considered part of the team.⁹⁵ In concert with this analysis, the Arab American woman standing behind me in line disrupted my performance—my undecided presentation of myself.⁹⁶

PART II. APPLYING PERFORMATIVE IDENTITY THEORY

Whether a (racial) outsider⁹⁷ engages in covering or strategic passing, negotiated racial transactions may contradict a social, political, or even aesthetic, image that an outsider has of herself.⁹⁸

In the introductory narrative, I identified three potential responses to the guard's question/statement, "You're not a terrorist, are you?" Each of my choices in reacting to the guard's question illuminates the function of racial performance in Arab, Muslim, and South Asian racial formation after September 11. The indignant "angry brown woman" reaction would have left everyone believing not only that I was one of those "over-sensitive ones," but also insensitive to America's supposedly rational fear of terrorist threats.⁹⁹ My loyalty and trustworthiness would have been in question and my racial identity would have been accentuated. The "angry brown woman" reaction could also have been interpreted as racial manipulation.¹⁰⁰ The guard and others could have thought that I was indeed a terrorist, and that I was acting defensively as a strategy to make him uncomfortable enough to allow me to pass security. If he had felt this way, would he have called for more security or prevented me from entering?¹⁰¹

If I had taken the polite route, the question would have been whether I was trying to make the security guard feel comfortable or just trying to pass security.¹⁰² Regardless, I would have sent a message to him and everyone else that I accepted his behavior as an honest racial-mistake.¹⁰³ The

94. In general, public disagreement among the members of the team incapacitates them for united action and also embarrasses the reality of the team. This is the old proverbial "don't air your dirty laundry" element. *Id.* at 86-89.

95. GOFFMAN, *supra* note 54, at 100-105.

96. When a member of the team makes a "mistake" in front of an audience, other team members act to cover up the "mistake" and suppress the immediate desire to punish the offending team member until the audience dissipates. *Id.* at 89.

97. Patricia Hill Collins, "Learning from the Outsider Within: The Sociological Significance of Black Feminist Thought," in (En)gendering Knowledge: Feminists in Academe 44-46 (1991).

98. See Carbado & Gulati, *supra* note 31, at 1288-89 (raising the example of a Black woman's choices in reacting to racialized comments compromises her political and conscious image of herself).

99. Tania Cruz, *Post-September 11 Judicial Scrutiny of National Security: Executive Restrictions of Civil Liberties when "Fears and Prejudices are Aroused,"* Seattle J. for Soc. Just. 129 (2003).

100. See Carbado & Gulati, *supra* note 31, at 1291-92 (identifying two risks to performative race behavior: that others will identify the outsider's behavior as strategic and manipulative and the steps taken to negate one kind of stereotype will activate other negative stereotypes).

101. This did happen after I asked a few questions about the "randomness" of an airport luggage search.

102. See Carbado & Gulati, *supra* note 31 (discussing racial manipulation).

103. See Carbado, *supra* note 8, at 946 (using the phrase "racial mistake" when discussing a police officer's racial profiling of African Americans).

polite response would have presented me as a “good” South Asian that could take a joke and was seemingly race-neutral. If others perceived the guard’s action as profiling, I would have been the accidental casualty, or “collateral damage,” of the security guard’s individualized fight against terrorism. This would have especially been the case if I had taken my answer a step further and said, “No, I’m not a terrorist, but thanks for asking. We need more people like you to ensure the safety of this building.” I would have affirmed his belief that his profiling was justified and that he did not violate any of my rights. After all, if those profiled do not mind and see profiling as necessary, what is so wrong with it?¹⁰⁴

My last enumerated response—silence—is also a performance of race.¹⁰⁵ If I had stood in front of the guard, racially speechless, he may have believed that he had “silenced” me. He would have taken away my racialized voice, and with it, my ability to speak and assert myself under the circumstances. One consequence could have been that in attempting to mute my racial identity, I accentuated my gender identity instead.¹⁰⁶ My polite or silent responses may reiterate the guard’s stereotyped notions of passive Asian women.¹⁰⁷ On the other hand, my silence could have been a self-preservation tactic. Using my tongue may have led to shame and a loss of dignity for both my Arab American teammate,¹⁰⁸ the woman standing behind me, and myself. Similarly, my unspeached¹⁰⁹ response could have been a resistance strategy. If I had resisted his baiting, I would have empowered my team and, hopefully, myself.

Each of the three choices would have been a performance of my racial identity. Moreover, the script that unfolded, the three-second-laugh, was also my teammate’s racial performance. It implicated my racial identity as either a covering strategy or a use of stereotypes. Irrespective of which set of “dialogue” I would have chosen, my performance would have acted as an iteration and reiteration of my racial identity, the racialized stereotypes held by those present, and the racial existence of an Arab, Muslim, and

104. Cf. Carbado & Gulati, *supra* note 31 (discussing how workplace stereotypes are confirmed and disconfirmed through performance).

105. For general ways silence is presented as “action,” see Margaret E. Montoya, *Silence and Silencing: Their Centripetal and Centrifugal Forces in Legal Communication, Pedagogy and Discourse*, 5 MICH. J. RACE & L. 847 (2000).

106. See Carbado & Gulati, *supra* note 31 at 1290-91 (describing the accentuation of other identities when performing race).

107. Cf. Tony Rivers, *Oriental Girls: The Ultimate Accessory*, GENTLEMEN’S QUARTERLY (London), Oct. 1990, at 39-40 (suggesting “oriental girls” are “great on any man’s arm” because they are pretty and quiet); Vijay Agnew, *Feminism and South Asian Immigrant Women in Canada*, in ETHNICITY, IDENTITY, MIGRATION: THE SOUTH ASIAN CONTEXT 142-163, 147 (Milton Israel & N.K. Wagle eds., 1993) (citing several print media examples of South Asian women portrayed as “silent” or “passive”).

108. *Infra* note 111 and accompanying text.

109. One of the foundations of dramaturgical analysis is the concept of “face work,” which refers to an individual’s attempts to save face and avoid the feeling of embarrassment through some avoidance or corrective process. Goffman particularly mentions these “unspeached” interactions—a mean face, a long stare, or ignoring someone. Goffman, *supra* note 54 at 12-23.

South Asian team.¹¹⁰ My individual action would influence the security guard's notion of what constitutes South Asian, Arab, or Muslim, while shaping my notions of my own racialized being.

I did not, however, have the opportunity to racially react—the Arab American woman turned my racial moment into a comical scene. Why, I asked myself, did she act on *my* behalf? The answer was that she acted on *our* behalf. As members of the same post-September 11 "Muslim-looking," South Asian, Arab and Muslim team, she was also implicated by the guard's question. But I welcomed the ability to defer the decision to my performative teammate.¹¹¹ Although similar interactions, of course, occurred prior to September 11, the performance now implicates the new Arab, Muslim, and South Asian catch-all, rather than just Arabs, Muslims, or South Asians as separate racial, religious, and ethnic groups. How do the performances of individual Arabs, Muslims, and South Asians implicate the entire team, i.e., the entire Arab, Muslim, and South Asian community? Does the team include "imagined team members" and in what way does the performance of this racial scene implicate them? This scene would have been viewed as "racial" prior to September 11, and Arabs, Muslims, and South Asians may have used covering, strategic passing, and stereotypes to perform race then as well.

The difference after September 11 is threefold. First, each individual's iteration and re-iteration of race has a magnified significance due to the newly created South Asian, Muslim, and Arab "team."¹¹² Second, the negotiation of multiple identities since September 11 has led to a discursive privileging of race over gender and sexual orientation. As a woman and a straight person who attempts to be conscious of her heterosexist privilege, I find my racial identity and racial experiences to be more interesting to people than any other identities and experiences since September 11. The challenge, then, is to remember the intersectionality and multidimensionality¹¹³ of identities within individual South Asian, Arab, and Muslim lives.¹¹⁴

110. See, e.g., DAVID COLE, *ENEMY ALIENS: DOUBLE STANDARDS AND CONSTITUTIONAL FREEDOMS IN THE WAR ON TERRORISM* (2003); Akram & Johnson, *supra* note 13; Sameer M. Ashar, *Immigration Enforcement and Subordination: The Consequences of Racial Profiling After September 11*, 34 CONN. L. REV. 1185 (2002); Chandrasekhar, *supra* note 13; Joo, *supra* note 13; Romero, *supra* note 13; Kareem Shora, *Guilty of Flying While Brown*, 17 AIR & SPACE L. 4 (2002).

111. Goffman, *supra* note 54, at 79 (defining "performance team" or "team" as "any set of individuals who co-operate in staging a single routine").

112. Volpp, *supra* note 11, at 1575 (proposing that South Asians, Arabs, and Muslims are a new racial group).

113. Multidimensionality is the concept that negotiating multiple identities is more than the points along the axis where identity meets, but identity is the constant interplay of those identities. See Darren Leonard Hutchinson, *Identity Crisis: "Intersectionality," "Multidimensionality," and the Development of an adequate Theory of Subordination*, 6 MICH. J. RACE & L. 285 (2001).

114. For some, the decision to try to pass for gay, lesbian, bisexual, or transgendered (GLBT) Arabs, Muslims, and South Asians has changed since September 11. In a conversation I had with a middle-class Hindu gay friend about racial formation, he pointed out that since September 11 he tends to assert his racial identity before his gay identity. Thus, walking away from a comment he interprets as homophobic or racist seems more problematic. He is forced to reconcile the

Third, the racial impact of these strategies is different—they often do not work. The implication of this third change is a sense of collective indignation among primarily middle and upper class Arabs, Muslims, and South Asians that the assimilation tactics are no longer effective. For working class and undocumented Arabs, Muslims, and South Asians, the heightened visibility of their daily struggle against immigration enforcement¹¹⁵ means the (in)ability to employ assimilation strategies further marginalizes them as members of the community. These factors lead individuals and performative teams to exaggerate the old methods, create new ones, and, significantly, to employ resistance strategies.

Any choice I made during my interaction with the security guard would have constituted a performance of my race. Regardless of *how* that performative moment created my race, it created race. The question, then, is not whether the interpellation was about race,¹¹⁶ but *what it signified* about race. The security guard's actions did not necessarily turn a race-neutral day into a race day—he merely established a reiterative space. Such racial spaces provide racial moments.¹¹⁷ These moments may occur at any time and are used consciously and unconsciously to shape and reshape notions of race. The objective of the preceding analysis is to provide a framework to think about everyday interactions. In doing so, individuals may gain greater agency in their audiences' interpretation of their individual and group identity.

PART III: SURVIVAL TACTICS AND RESISTANCE STRATEGIES

Introduction

Large-scale resistance strategies, primarily implemented by advocates and attorneys, assert, shape, and create Arab, Muslim, and South Asian racial identity, often on behalf of their "imagined teammates."¹¹⁸ At the same time, individual actions or performances in the everyday lives of

homophobia within the South Asian community and the racism within the queer community. Again, this anecdote is not meant to present a universal experience, but it raises interesting questions for discussing performative elements of race and its intersectionality with sexual orientation.

115. See generally Samantha Marshal, *Officials target immigrant abuse by immigrants: Fear of deportation keeps wrongdoing unreported; Difficult for Advocates to Help*, CRAIN'S, August 11-17, 2003, at 25-26 (citing increased work to protect rights of South Asians in New York City).

116. Some scholars would argue that the interaction was not about race, but some other rational, identifiable set of factors. Compare DINESH D'SOUZA, *THE END OF RACISM* (1995) (arguing that the rational mind supercedes the irrational basis of racism), with Thomas W. Joo, *What, If Not Race, Tagged Lee?*, L.A. TIMES, Aug. 15, 2001, at B13 (arguing that race was the only reason Wen Ho Lee was "the most logical suspect" to steal U.S. nuclear secrets).

117. See Austin, *infra* note 131.

118. I am borrowing from Benedict Anderson's concept of "imagined communities." See BENEDICT ANDERSON, *IMAGINED COMMUNITIES: REFLECTIONS ON THE ORIGIN AND SPREAD OF NATIONALISM* 2-4 (Revised Ed., 1991). ("[The nation] is imagined because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion. . . . [I]t is imagined as a community, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship.").

Arabs, Muslims, and South Asians also act to subvert dominant notions of race. An analysis of how individuals perform race in the context of resisting their subordination is important for several reasons. First, it places the current Arab, Muslim, and South Asian organizing efforts into an historical trajectory of oppressed people fighting for justice and equity. Prior to September 11, communities of color, including Arabs, Muslims, and South Asians, used self-preservation tactics and resistance strategies to perform race.¹¹⁹ An obvious example is the "Black is Beautiful" slogan graffitied on campuses around the country as part of the Black Power Movement.¹²⁰ This iteration asserts something about blackness—that it is beautiful; the act of speaking the statement (the performance) creates an idea about "Black" as a race.¹²¹ Second, post-September 11 organizing efforts create opportunities for cross-racial alliances.¹²² Yet, these alliances may signify something different within specific locations of resistance. Finally, this analysis suggests ways for Arabs, Muslims, and South Asians who remain within an oppressive social order to still create and re-create a new social order.

I borrow the distinction between "tactics" and "strategies" from Michel de Certeau's discussion of "consumers" following rules and social orders in everyday practices through the use of "the products imposed by a dominant economic order."¹²³ Despite the inculcation of social rules, individuals do not necessarily follow the disciplining measures disseminated in society, but instead naturally subvert them through "tactics" and "strategies."¹²⁴ "Tactics" are defined as the incorporation of subversive activities that manipulate the proper order in the rituals of everyday life (i.e., everyday actions that change the social order at a specific moment), usually within the locus of oppression. When incorporated into the rituals of everyday life, "tactics" have strength because of their irregular form, multiple-

119. See generally VIJAY PRASHAD, *THE KARMA OF BROWN FOLK* (1999) (discussing a protest march when the Indian Professional Association did not permit the New York South Asian Lesbian and Gay Alliance to participate in an India Day Parade); HARRIET JACOBS, *INCIDENTS IN THE LIFE OF A SLAVE GIRL* (L. Maria Child ed., Mnemosyne Pub. Co. 1969) (accounting the life of a woman who escaped from her master's home and hid, literally, underground for many years); Marina Carter & Khal Torabully, *Surviving Indenture*, in *COOLITUDE: AN ANTHOLOGY OF THE INDIAN LABOUR DIASPORA* 88-116 (2002) (providing excerpts of songs, escapes, religion, and use of legislative actions as examples of resistance and survival).

120. Context is important to understanding which method of performing race the actor is utilizing.

121. During the Black Power Movement of the 1960s, "[a]ntiracist activists used the language and structure of race to contest oppressive racial practices and to re-cast black racial identity in a more positive light." Darren Hutchinson, *Progressive Race Blindness?: Individual Identity, Group Politics, and Reform*, 49 *UCLA L. REV.* 1455, 1468 (2002) (emphasis added).

122. Professor Muneer Ahmad often discusses the cross-community efforts since September 11. For example, though licenses and legalization has never been seen as a South Asian, Arab, and Muslim issue, post-September 11 policies targeting persons from predominantly Muslim countries were discussed at events around the country during the Immigrant Workers Freedom Ride. See Ahmad, *supra* note 11, at 111-12.

123. MICHEL DE CERTEAU, *THE PRACTICE OF EVERYDAY LIFE* 29, 29-44 (Steven Rendall trans., 1984).

124. *Id.*

ity, and constant interaction with the power structure in which the oppressed finds herself.¹²⁵ Conversely, "strategies," defined as the visible reconstruction of the proper order, aim to reconstruct social order. The institution or people with power must be isolated, or at least known, and the strategists require a place to strategize and retreat.¹²⁶ As a comparison, a Sri Lankan domestic worker may use the tactics of taking food for herself or a work slow down¹²⁷ to manipulate the power relationship between worker/employer while a South Asian union might organize a collective bargaining effort for janitors in government buildings. The former allows the domestic worker to take advantage of moments within the daily rituals of domestic work by creatively interjecting subversive acts into her routine, resisting the tedium and disciplinary measures that normalize inequalities between employers and employees. The latter targets a known entity, the government employer, for a specific objective. The domestic worker takes advantage of her invisibility, perceived weakness, "clever tricks," knowing how to get away with things, and her location within the site of oppression to create some agency and control over her labor.

For this paper's discussion of performance of race, both the survival/self-preservation tactics and resistance strategies that Arabs, Muslims, and South Asians deploy provide another means to understand the creation of race. I use the phrase "survival/self-preservation" because the everyday interactions Arabs, Muslims, and South Asians negotiate may be considered ways to survive or even preserve their self worth and dignity. In Section B, I argue that the everyday survival/self-preservation tactics reiterate and recreate the Arab, Muslim, and South Asian racial group. In fact these everyday acts of manipulating the social order are performances of race.

Rhacel Salazar Parreñas argues that this relationship exists between a subject's "recuperation" of power and "resistance" to power because "a subject can never be completely removed from the process of its constitution."¹²⁸ This means the process of constructing identity derives elements from the racial outsider's fight to gain power. In Part 1, Section C, I highlight two resistance strategies: organizing against the policy of special registration; and the use of humor to argue that (1) the Arab, Muslim, and South Asian category is understood not only by academics and advocates but also to some degree by those at the grassroots level and (2) these post-September 11 resistance strategies often engage other people of color.

125. *Id.* at 36-37.

126. *Id.* at 37-39. See also RHACEL SALAZAR PARREÑAS, *SERVANTS OF GLOBALIZATION: WOMEN, MIGRATION AND DOMESTIC WORK* 189 (2001) (applying the "tactics" framework to Filipina women domestic workers).

127. *Infra* note 132. See generally BERNARD MOTT, *WOMEN & SLAVERY IN THE FRENCH ANTILLES, 1695-1848* (2001) (examining work slow downs of women in slavery).

128. PARREÑAS, *supra* note 126, at 188.

B. *Survival/ Self-Preservation Tactics*

Arabs, Muslims, and South Asians perform race through various survival/self-preservation tactics.¹²⁹ Examples traditionally include bilingualism,¹³⁰ "fronting,"¹³¹ work slow-downs,¹³² avoiding public transportation for fear of harassment, distancing from government or other authority, seeking citizenship, and silence.¹³³ Since they generally occur at the place of oppression, survival tactics occur at the workplace, government agency, school, and even memory.¹³⁴

Interestingly, some South Asian, Arab, or Muslim performance strategies prior to September 11 that were thought of as covering, can now be reclassified as survival tactics.¹³⁵ The distinction lies in whether an individual is "covering," or downplaying their outsider identity, for the benefit of the insider or for the purpose of making it through the day or a particular situation. For example, wearing the U.S. flag,¹³⁶ which is posted on many Arab, Muslim, and South Asian doors, lawns, shirt lapels, caps, and cars, was a form of covering, but is now often a survival strategy.¹³⁷ For exam-

129. See Terry Smith, *Everyday Indignities: Race, Retaliation, and the Promise of Title VII*, 34 COLUM. HUM. RTS. L. REV. 529, 545-46 (2003). For examples of self-preservation strategies of women, see Katharine Bartlette, *Only Girls Wear Barrettes: Dress and Appearance Standards, Community Norms, and Workplace Equality*, 92 MICH. L. REV. 2541, 2547 (1994).

130. See Madeleine Plasencia, "Suppressing the Mother Tongue": *Anti-Subordination and the Legal Struggle Over Control of the Means of Communication*, 53 U. MIAMI L. REV. 989, 991-92 (1999) (positing a worker's bilingualism is a part of her identity and a person's ability to communicate in Spanish and English is a means of liberation in the workplace); Montoya, *supra* note 105, at 853-856.

131. See Smith, *supra* note 129. "Fronting" is the idea that an outsider employee will hide her true feelings in order to mislead her white employer into believing that she accepts or has otherwise internalized her outsider, subordinate status; see also Regina Austin, *Employer Abuse, Worker Resistance, and the Tort of Intentional Infliction of Emotional Distress*, 41 STAN. L. REV. 1, 18 (1988).

132. Work slow downs, meaning workers work slower than they can, are a way to control ones body and work without losing one's job. In the context of Black slaves they were a common mechanism for a slave to survive the brutal work day while intentionally decreasing the amount of work they performed. See generally BERNARD MOTT, *WOMEN & SLAVERY IN THE FRENCH ANTILLES, 1695-1848* (2001) (examining work slow downs of women in slavery).

133. See Audre Lorde, *The Transformation of Silence into Language & Action*, in *SISTER OUTSIDER: ESSAYS AND SPEECHES* 40-41 (1984).

134. Building from Homi Bhaba's concept of memory, one ethnographer studying Pakistani Muslim women found agency in the women's ability to "strategically mobilize and deploy the various discourses that they have internalized in different contexts." Chaudhry, *supra* note 3, at 84.

135. The distinction between covering, passing, and self-preservation is not definitive. They are context-specific. In addition, the strategies discussed in the previous part are often engaged in reaction to some racial animosity or hostility, which may include some self-preservation component.

136. On the other hand, some Arab, Muslim, and South Asians believe wearing the flag is not a defensive act. These individuals often view statements such as "I love the U.S.A." in the same vein.

137. THE NEW YORKER, Nov. 5, 2001, (depicting a Sikh taxi driver behind the wheel of his taxi which is covered with American flags); *Introduction*, 28 AMERASIA J. 69-77 (2002) (including a photograph of a rally in New York City where Sikh children and South Asian men and women wave American flags with one man even draping himself in the flag). See Ahmad, *supra* note 22 (explaining the flag-waving fervor in the Arab, Muslim, and South Asian communities as "a stra-

ple, the runners in the September 22, 2001 Atlanta walk/run to raise money for India Child Relief and You (ICRY) were required to wear United States flag pins.¹³⁸ Prior to September 11, this may have been a symbolic gesture of patriotism, sending a message that “we belong,” a type of covering meant to downplay the “foreignness” of the runners. Now, such an effort is most likely a plea that “we belong,” a symbolic shield against the potential hate crimes or hate speech that 500 brown runners might face 11 days following the September 11 attacks.¹³⁹ This post-September 11 characterization of the action fits the definition of a survival/self-preservation tactic because the action of running through the streets of Atlanta takes place at the locus of oppression. It is in the streets of Atlanta that the runners fear harassment or violence. They can no longer merely cover their identity, they must safeguard it.

Another survival tactic relates to head coverings. Some Sikh men have been taking off their turbans, and even cutting their hair, to ward off attention that may lead to harassment or hate violence. In addition, Muslim women have been choosing not to wear their *hijab* in mainstream, White locations. In both instances, the intersectionality of religion and gender is apparent. When a Muslim woman chooses not to wear her *hijab*, she is also performing her gender in the context of her Muslim identity, not only her racial identity.¹⁴⁰ For many Sikh men, identity is tied to wearing a turban, and such an act might lead to intra-group ostracization. Victimized by the World Trade Center attack, in the media, as transnational community members,¹⁴¹ and in local sites (i.e. on the street, in schools and parking lots)—many Arab, Muslim, and South Asian community members felt a paralysis from grief after September 11.¹⁴² An important note about survival strategies, and fronting¹⁴³ in particular, is that the insider may not

tegic adaptation, a cultural and political accommodation” and arguing this phenomena is a forced revealing).

138. Conversation with Thomas Mampilly, 2001 Runner, ICRY, Atlanta, Georgia (notes on file with the author).

139. In fact, one runner called the flags a way of protecting themselves. *Id.* See also Ahmad, *supra* note 22.

140. Chaudhry, *supra* note 3, at 84. In a pre-September 11 context, she writes, “[m]y friend’s adoption of the *hijab* in the context of a university in the U.S. is perceived by her (and others who understand) as a strategic, creative response to what she terms as the undue emphasis on sexuality in her present environment.”

141. Transnational identities are ones that span across the borders of the nation-state. See Masao Miyoshi, *A Borderless World? From Colonialism to Transnationalism and the Decline of the Nation-State*, in GLOBAL/LOCAL CULTURAL PRODUCTION AND THE TRANSNATIONAL IMAGINARY 78, 98-99 (Rob Wilson et al. eds., 1996).

142. At the Atlanta Raksha event entitled “South Asians Facing Backlash After September 11” on September 21, 2001, many community members expressed that the event was the first time they felt safe to grieve. Members of the Arab American Anti-Discrimination Committee expressed that similar sentiments were felt in the Arab American community. See Watanabe, *supra* note 7 (describing the study to determine the everyday “human cost” September 11 had on people, including testimony from Muslim, Sikhs, and Arabs).

143. See Smith, *supra* note 129, at 545-46; Austin, *supra* note 131, at 18. Professor Austin explains, “Fronting is part of the insulation that protects black people from emotional damage at the hands of white people in authority. Choosing to mask or hide feelings makes the black per-

easily recognize the actions as a racial self-preservation tactic. This strategy therefore imparts a message of acquiescence (discussed here as covering). Although the distinctions between covering and self-preservation may blur at times, this fluidity only reiterates the context specificity of racial performance and the significance of the literacy level of the audience observing the performance.

C. *Resistance Strategies*

Since September 11, Arabs, Muslims, and South Asians have engaged in a flurry of resistance strategies, defined earlier as actions to reconstruct the social order.¹⁴⁴ Here, I will examine several themes in racial formation through two specific resistance strategies, organizing against special registration and artistic resistance in humor and theatre. Both examples illustrate how racial formation for the Arab, Muslim, and South Asian group is understood at the grassroots level and how the post September 11 efforts have brought more cross-racial alliances.

Resistance strategies were deployed to counter the United States Citizenship and Immigration Services (USCIS) policy of special registration. Special registration was a program that was implemented in October 2002, which required men from 25 predominantly Muslim countries and North Korea to register with the federal government.¹⁴⁵ It led to mass arrests, detentions, and deportations of thousands of people, often for minor immigration violations.¹⁴⁶ This policy was met with almost instant community outcry. In cities like Los Angeles, New York, and Washington D.C., community organizations partnered with attorneys to develop resistance strategies. Advocates and legal groups organized legal clinics, monitoring at registration sites, media campaigns, and public education efforts. At locations for registration, the Immigration and Naturalization Services (INS)¹⁴⁷ offices were monitored for civil rights abuses and men in each city were surveyed when they exited the offices.¹⁴⁸

These resistance strategies provide insight into the racial formation of the Arab, Muslim, and South Asian communities. Ian Haney Lopez's recent work examines the formation of "Chicano" for Mexican Americans.¹⁴⁹

son less vulnerable to emotional degradation... Fronting represents a challenge to white authority and has the potential to be the basis of transformative resistance because it is an implicit critique of, and a self-aware response to, the abusive conduct that prompts it." *Id.* at 28, 30.

144. I am not, of course, saying resistance strategies or organizing efforts began on September 11. See, e.g., Karen Isaksen Leonard, *THE SOUTH ASIAN AMERICANS* 56, 17, 88 (1997) (describing early Punjabi farmers).

145. Nurith C. Aizman & Edward Walsh, *Immigrants Fear Deportation After Registration*, WASH. POST, July 28, 2003, at A1.

146. Michael Powell, *Groups Decry Immigration Rule*, WASH. POST, Nov. 13, 2003, at A11.

147. The Immigration and Naturalization Services (INS) has now become the U.S. Citizenship and Immigration Services (USCIS) and the U.S. Immigration and Customs Enforcement (USICE).

148. See Email from Deepa Iyer, Executive Director, South Asian American Leaders of Tomorrow, to Sunita Patel (October 31, 2005, 2:30 p.m.) (on file with author).

149. IAN F. HANEY LOPEZ, *RACISM ON TRIAL: THE CHICANO FIGHT FOR JUSTICE* (2003).

He notes that the Mexican American community's heightened experiences of police intimidation and violence in the 1960's and 1970's led people to reinterpret their pasts.¹⁵⁰ Similarly, some members of the Pakistani community, which has been subjected to every deportation policy the USCIS has issued since September 11, believe the government is systematically attempting to eliminate the Pakistani community in New York.¹⁵¹ According to Lopez, this experience of perpetual intimidation and daily scrutiny foreshadows the emergence of a racialized identity. In addition, Lopez found that legal discrimination against the Mexican American community was used to confirm the non-white identity of the Chicanos.¹⁵² Arab, Muslim, and South Asian activists used the special registration program not only to identify the communities as non-White, but also to identify the communities as "Arab, Muslim, and South Asian." The Asian American Legal Defense and Education Fund (AALDEF) provided legal advice on how to address special registration to over 800 South Asian, Middle Eastern, and Indonesian individuals. In conducting follow-up surveys with 219 individuals, many specifically noted believing the policy was discriminatory on the basis of religion and ethnicity, and brown skin color.¹⁵³ These responses indicate that the racial formation of the Arab, Muslim, and South Asian category is understood at the grassroots level and is not solely a product of educated advocates, academics, or the media.

Second, the Arab, Muslim, and South Asian community is also using humor to implement resistance strategies. Comedians around the country are using laughter and jokes to resist and subvert the normative view of brown-skinned "terrorists."¹⁵⁴ These jokes include: "I went to the airport check-in counter. . . . The lady behind the counter asked if I packed my bags myself. I said yes—and they arrested me,"¹⁵⁵ "There's only one thing I've got to say about racial profiling: It's awesome. Seriously. Look at me. I got my ass kicked all through high school. And now, people are actually scared of me,"¹⁵⁶ "I'm not Iranian. I was Iranian for 23 years up until September 11th and now I'm Puerto Rican or Italian because that makes life a lot easier."¹⁵⁷ This type of humor obviously raises questions about patriot-

150. *Id.* at 153, 175-178.

151. Telephone Conversation with Saurav Sarkar, former Community Organizer, AALDEF, Washington, D.C. (notes on file with the author).

152. LOPEZ, *supra* note 149, at 175-178.

153. Sarkar, *supra* note 151; *see also*, ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND, SPECIAL REPORT ON SPECIAL REGISTRATION: DISCRIMINATION AND XENOPHOBIA AS GOVERNMENT POLICY 5, 24 (2003) available at http://www.aaldef.org/images/01-04_registration.pdf.

154. Lorraine Ali, *Laughter's New Profile: Arab-American comics have been wowing crowds—and puncturing stereotypes*, NEWSWEEK, Apr. 22, 2002, at 61; Alexandra Barsk, *Slam Poet Likens South Asian Identity to a "tide" in Convocation*, BROWN DAILY HERALD, available at <http://www.browndailyherald.com/printstory.asp?storyID=1943&dbversion=herald>; John Stossel, *Laughing Matters: Arab-American Comics Poke Fun at War, Terrorism—But is it Funny?*, ABC NEWS, May 23, 2003, available at <http://www.ABCNEWS.com>.

155. Ali, *supra* note 154.

156. Stossel, *supra* note 154.

157. Ali, *supra* note 154.

ism and being "un-American." Even so, these jokes collectivize the experiences of Arabs, Muslims, and South Asians in a way that did not occur prior to September 11. The heightened scrutiny and increased deportation has provided the back drop for many comedians' acts. These jokes imply that a collective identity exists, and reiterate the group experience each time a joke is told.

In Part III, I discussed the ways in which individual performances sometimes constitute self-preservation/resistance tactics and identified how large-scale resistance strategies also create notions of the Arab, Muslim, and South Asian racial construct.

PART IV: CONCLUSION

The scope of this paper is limited. Obvious corollary questions exist. First, if "Arab, Muslim, and South Asian" is a racial group, to what extent (if at all) is it also constitutive? For instance, are there common histories in the United States or experiences of colonialism and Orientalism? Second, what is the relationship of performing the Arab, Muslim, and South Asian identity with the racial group Asian American? Thirdly, to what extent does performing a religious identity—Hindu, Muslim, Sikh, Jewish, or Christian—problematize the performative elements of race? Finally, even though this paper suggests that some agency exists to make performative "choices" when Arabs, Muslims, and South Asians are placed in a racial scene, to what extent does this agency actually exist, especially when the layers of other identities, such as gender and age, are included in the analysis of performance identity? Each of these questions are important, but beyond the scope of this paper.