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English 1213.060

25 February 2002

### A Misguided Monument to Freedom

He was born in Washington DC, grew up in a wealthy San Francisco suburb, and turned twenty-one just over two weeks ago. In his teenage years, his parents encouraged him to “seek his own spiritual path” (Harden and Sack). In doing so, he examined Native American religions, Hinduism, and even learned some Buddhism from his mother. Finally, at sixteen years of age, he made the choice to convert from Roman Catholicism to Islam, the religion that had captured his heart.

According to Evelyn Nieves of the New York Times “he stood out at the Mill Valley Islamic Center, where most of the Muslims were Indian” (Nieves). Being in a minority was no setback for the young man as he continued to expand his knowledge of Islam. Throughout his conversion, his parents and friends were extremely proud of him, calling him very mature, smart, and directed for his age (Nieves).

The religious freedom that the United States was founded on gave this young man the chance to find his own path, the chance to question all the religions of the world, and to find one that captured his heart and his mind. The religious self-discovery of the teenage John Walker Lindh is an almost ideal message about the power American freedom has when it is used to its fullest extent. Walker used his freedom to learn about the world, to grow spiritually, and to search for truth in the world.

However, most Americans would agree that in the end, John Walker found the wrong

answers in the wrong places. His search eventually led him to support the Taliban and receive thanks from terrorist leader Osama bin Laden for his dedication to the cause. He took up arms against the Northern Alliance and was prepared to die for his cause before being captured by American forces. Although he started his fight months before September 11, in one day he became allied with a clear enemy of the United States. Even after September 11, he still remained a steadfast believer and even remarked, “the Pentagon was a good target” (qtd. in Seelye, “Judge”).

When an American was found fighting side by side with the Taliban, a great dilemma was raised for the United States legal system. However, the dilemma was much smaller for most Americans. According to a recent USA Today/CNN Gallup Poll sixty percent of Americans think John Walker should be charged with treason, and the numbers are even higher among young Americans. Seventy percent of people eighteen to twenty-nine want John Walker tried for treason in a United States court (Locy).

The United States Department of Justice, took a lighter stance against the “American Taliban,” charging him with ten counts of lesser crimes, but stopping short of accusing him of treason. A primary reason behind the government choice not to charge John Walker with treason lies in the high burden of proof necessary for a conviction on the charge. Law professor Leon Friedman outlines the difficulties:

Probably the most difficult charge to prove is treason. The crime is defined in the Constitution as “levying war” against the United States or giving “aid and comfort” to its enemies. The Constitution also requires that there be “two witnesses to the same overt act” or a “confession in open court” before a person can be convicted. (Friedman)

Treason is the only crime defined in the Constitution, and has only been used around thirty times in the history of the nation (Lewis, “U.S.”). However, according to Professor Friedman, the

crime of treason may not even apply in this case. First, it would be difficult to say that Walker levied war against the United States by fighting the Northern Alliance, and another complication could be the lack of a declaration of war against the Taliban (Friedman).

Regardless of what John Walker has been charged with, most Americans will continue to view him as a traitor. It is undeniable that his views differ very strongly from almost all Americans, whether Christian, Jewish, or even Muslim. When asked about John Walker, the residents of Longmont, Colorado had a lot to say, as reported in the New York Times. One person said, “Oh, yeah, I get upset about this. Maybe they could bring him back to New York City, let him loose and let people there take care of him.” When asked if Walker was brainwashed by the Taliban, another resident said, “I don’t think that is so. He went to learn Islam, then turned it against his country. He’s a traitor” (Janofsky).

Former President George Bush’s opinion on the matter was very similar, he said “I thought of a unique penalty, make him leave his hair the way it is and his face as dirty as it is and let him go wandering around this country and see what kind of sympathy he would get.” The former President was also careful to make clear that his son had no sympathy for Walker, apparently the phrase the President had used, “this poor fellow,” was more sympathy than Walker deserved (Seelye, “Bush”).

Attorney General John Ashcroft has been slightly less harsh on the matter. On December 6, he said that “history has not looked kindly upon those that have forsaken their countries to go and fight against their countries, especially with organization that have total disrespect for the rights of individuals” (Lewis, “Ashcroft”). Although this is not necessarily an untrue statement, it does seem to suggest that Walker’s guilt is already assumed by the nation’s top law enforcement official. A more troubling statement occurred two months later. In response to questions

about possible violations of Walker's rights, Ashcroft showed little sympathy as he answered, "The United States is a country that cherishes religious tolerance, political democracy and equality between men and women. By his own account, John Walker Lindh allied himself with terrorists who reject these values" (Johnston).

Professor David R. Dow of the University of Houston Law Center makes a very pointed response to this statement in a letter to the editor of the New York Times:

That the nation's chief law enforcement officer would imply that an American citizen can be mistreated because that citizen rejects certain values is stunning, and reflects a basic misunderstanding of the function of constitutional rights. They are needed precisely to protect those with unpopular viewpoints. As Robert H. Jackson, the Supreme Court justice, observed during World War II, the right to disagree is not limited to things that "do not matter much;" the right to differ includes the right to reject values that "touch the heart of the existing order." (Dow)

Dow's remarks are extremely relevant to the post September 11 United States. Although he was only referring to the case of John Walker in his statement, the basic argument can be seen as going much further.

Much has been said after September 11 about protecting the rights of Arab-Americans and Islamic people. However, most of what has been said rests on the assumption that these people are just as likely to oppose bin Laden and the Taliban as any other Americans. Luckily, that assumption rests firmly in fact, and has gone almost unchallenged. Had it been more in doubt, the reactions of people in the United States could have been very disturbing.

Had there been evidence that one third of all Islamic people supported bin Laden, it is not at all hard to imagine a repeat of the Japanese internment in WWII on a much larger scale. It is not at all hard to imagine the imprisonment of people based solely on beliefs and values, and not on evidence or even suspicion of criminal activity.

At a hearing to request bail for John Walker, Judge Curtis Sewell denied the request partly

because Walker was not a “loyal American” (Seelye, “Judge”). However, Judge Sewell missed the point, in order to be a citizen of the United States there is no loyalty requirement. Loyalty is not a factor that should ever come before a court of law. Freedoms granted in the Constitution and the Bill of Rights extend to all citizens the right to question the government, the right to stand up for beliefs that are held by a minority, and the right to hold any opinions or values that may differ from the norm. Rights do not extend to the murdering of innocent people or to the silencing of the voice of any minority. But, as for John Walker and in the words of his lawyer, “There are no allegations and no evidence that he ever so much as fired a shot, even at Northern Alliance soldiers” (Johnston).

The mother of Mike Spann, the first American to die in Afghanistan, said of John Walker, “Go back to the time when he was 16 years old and go through his history. What more can I say? It’s so simple, and I hope that all Americans will feel the same way that I do” (Serrano). She would imply that Walker’s history is that of a traitor, while his history is really a misguided monument to freedom. Walker used his freedom to its full extent. In the end he turned his back on it, but that does not give freedom the right to turn its back on John Walker.

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