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“Looking Beyond 9/11: Islam in the West and
Democratic Trends in the Middle East and North Africa”

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ABSTRACT ONLY – WORK IN PROGRESS

“Islamophobia in the West: A Comparative
Legal Analysis in North America and Europe”

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After the 9/11 attacks on the United States, and consequent terrorist incidents in London and Madrid, a fear of political Islam became widespread. As a result, stereotyping Muslims became a real concern for mainstream American and European public opinion. Political Islam, Islamic terrorism, various fundamentalist movements as found in the Muslim diaspora in Europe and North America have generated widespread commentary and writings for the general public as well as more scholarly works. These books, aside from a few notable exceptions, have expressed a harshly critical view of Islam and have generally (mis)interpreted it from a crude and stereotypical perspective. These publications and mainstream media's effort to bash Islam have had a huge impact on Western public opinion creating a generally negative view of Islamic culture in general. At first glance, the main preoccupation of Western countries is to strike a proper balance between liberal constitutional principles and the toleration of Islam as a minority religion. Beneath this surface there are several unacknowledged prejudices and political ambitions that deftly generate controversy and public concerns pertaining to specific Islamic practices such as the use of the *hijab* (headscarf) by many Muslim women in public spaces, schools, and work places, or protests involving the location of mosques, visible minarets, and cultural centers. This paper calls attention to some of these hidden preoccupations by relying on a comparative method of inquiry. This approach highlights some aspects of the Islamophobia debate as it has unfolded in North America. It gives particular attention to judicial decisions that deal with Islam and Islamic practices, and seeks to determine whether court decisions on a domestic level have had a cumulative transnational and international influence beyond the particular jurisdiction. In Europe for instance, countries through judicial networking and exchanges of legal ideas seem to have established a closed circle among domestic courts. At the same time, the predominant role of the supranational human rights court, the European Court of Human Rights in Strasbourg (ECHR), has exerted a significant influence on European national court cases related to Islam. As a result of these developments at a judicial level, current legal conditions and social structures in Europe are placing strong constraints on religious freedom. Moreover, the legal remedies available to Muslim citizens and immigrants based on individual rights,

freedom of religion, protection of minority culture, and multiculturalism seem to be jeopardized in those societies that otherwise exhibit a robust commitment to the protection of human rights. The most defining symbol of Islam in Western media is a Muslim woman's headscarf. Women in Islam have usually been at the center of Islamic polemics in the West since the colonial period and are a frequent theme in Orientalist treatments of Islam. Yet, until 9/11, there was almost no international attention devoted to the Islamic headscarf in academic circles, except for a negative resonance associated with the Saudi *hijab*, the Iranian *shador*, and the Afghani *burka*. In the post 9/11 world, the image of Muslim women with a veil or headscarf served as a potent symbol of growing Islamic power. Many popular magazines and newspapers published dramatic pictures of religious Muslim women in the course of presenting journalistic accounts of Islamic terrorism and political Islam. This symbolic representation of Muslim women as an aspect of political Islam heightened tensions associated with headscarf use. As a socio-legal scholar, I intend to investigate the socio-political structure of the Islamic presence in the West. As a feminist critical legal scholar, I stress often neglected gender perspectives, which is especially evident in relation to headscarf controversy. My approach also incorporates the insights of critical race theory, especially its claim that discriminatory attitudes toward religious groups have a strong undertone of racialization.