

John Scanlan
American-Arab - Getting the Balance Wrong -Again!

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Abstract by Tracey Leibowitz

Professor Scanlan discusses the Supreme Court's opinion in *Reno v. American-Arab Anti-Discrimination Committee*. In Part I, the article focuses on the government's asserted statutory authority, its heavy-handed efforts to stifle political expression under that authority, and the important First Amendment issues that these efforts raise. In Part II, the author discusses why the First Amendment issues so central to the case are virtually invisible in the *American-Arab* decision. To discuss this issue further, the author explores several unfavorable early judicial opinions in the Ninth Circuit, the legal strategy of aliens facing deportation, and some important changes in the underlying substantive and procedural immigration law. Justice Scalia's opinion is also used to demonstrate the empty rhetoric of the government's hypothetical interests in alien rights cases. The article concludes by showing that this approach to governmental power and alien rights is not unique, but instead is typical of the way that the Court has dealt with immigration matters over the last two decades. The *American-Arab* decision, therefore, strikes the wrong balance between alien rights and governmental interests, clearly favoring the latter.