

THE BURDEN OF FREE EXERCISE CLAUSE OF THE US  
CONSTITUTION IN THE WAR ON TERROR: A CASE STUDY  
OF AL-QAEDA TERRORIST ORGANIZATION

A THESIS SUBMITTED TO THE GRADUATE SCHOOL  
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BY

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### **3. Case Study**

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- iii. Organizational Structure of AQTO
- iv. Fatwa—Declaration of War Against USA by AQTO

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2. To Restore the Moslem Dignity
3. To submit the world under an Islamic Caliphate

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2. Supply Man Power, Logistics, and Training of Terrorists
3. Communication Clearly/ Use of Propaganda
4. Assess Enemy Strength and Weaknesses
5. Move Personnel to Great Distances
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- b. The 9/11 Attacks

- c. Burn-A- Koran day
- d. Anti-American and Anti-Semitism
- e. Religious Polarization
- f. Muslims vs. Non-Muslims
- g. U.S. Foreign Policy
- h. Mutual suspicion
- i. Al Qaeda
- j. Iraqi and Afghanistan Wars
- k. The Rule of Law
- l. Subversive Religious Doctrines
- m. Religious Fundamentalism
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- r. Political Correctness (PC)
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- a. Mormonism
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  - n. Circular and Compelling State Interest Doctrine
  - o. Clear and Present Danger Test
  - p. Antithetical Philosophy of Communism
  - q. Communism vs. Islam
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    - d. Permanent Committee on Investigations
    - e. House Judicial Committee
    - f. Historical Committees on homeland Security
    - g. Anti-Semitism
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    - i. Terrorism
    - j. Un-American Activity
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    - l. Communist Propaganda

- m. Espionage Hearings
- n. Separation of Powers
- o. Checks and Balances
- p. Constitutional Limitations on HCUA
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## **5. Conclusions**

## **6. Notes and References**

# The Burden of Free Exercise Clause of the US Constitution in the War on Terror: A case study of Al-Qaeda Terrorist Organization

## 1. Introduction

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There is a deficiency in the Free Exercise Clause. This thesis is based on the hypothesis that the Free Exercise Clause of the First Amendment is inversely correlated to Al-Qaeda terrorist activities in the United States. The research will show that the Free Exercise Clause empowers religions to proselytize doctrines that are inimical to the American values, and security. Consequently, the adherence to such subversive doctrines provides the rationale and the zeal to execute unimaginable terrorist acts in utter disregard of human life and even the lives of the perpetrators themselves.

The paper explores how the government of United States has coped with, and is coping with antithetical ideologies such as could, for instance, radicalize Muslims in United States, within the broader frame work of the Free exercise Clause. Some historical

antecedents like the Mormon polygamy and communism are introduced as historical flashbacks in section two to evaluate the current response toward Islamic radicalization in the United States and to show what changes are observable in the context of the Free Exercise Clause, while prosecuting the prevailing war on terror.

Inherent in the Free Exercise Clause is the concept of religious tolerance. However, religious intolerance, violence and discontent have been on the rise since 9/11 attacks. To illustrate this phenomenon, let's consider some recent events. Last year, 2010, there was a spate of rancorous debates and vitriol due to the quest by some Muslims to establish a Mosque and community center within the vicinity of Ground Zero—where Islamic terrorists had flown two planes into the twin-towers and destroyed many lives on September 11, 2001.

Predictably, the proposal incensed many Americans some of whom had lost their loved ones in that attack. Even though Moslems had the legal right to build the Mosque, many non- Moslems questioned the morality and decency of such a proposal given the backdrop of 9/11.<sup>1</sup> The Ground-Zero episodes, in a sense, was a public morality test of the Free Exercise Clause. It shows that when freedom derails, many will rise to oppose it.

In responding to the ground-zero controversy, President Obama pointed out that Muslims ought to enjoy similar rights as the other religions wherever the local ordinances allowed, and that opposing their right to build the Islamic center was un-American.<sup>2</sup> The President's statement, however, thrust him at the center of the debate. Among many opposing views, House Minority Leader John Boehner retorted that the decision to build the mosque was not a matter of religious freedom, but of respect.<sup>3</sup>

As the debate ensued, the ninth anniversary of the 9/11 attacks drew closer. A Florida Pastor, Dr. Terry Jones planned to declare the anniversary as a *burn-a-Koran* day charging that “Islam is a religion of the devil and [they needed] to burn the books of the devil.”<sup>4</sup> His plan was widely condemned from around the world.

Most pastors in Gainesville, Florida and around the United States, NATO, and European Union, US police, Interpol, Middle Eastern leaders, Pope and the US President publicly denounced the pastor’s intent and warned him to refrain from burning the Koran on the anniversary of 9/11. Meanwhile, in Pakistan, more than 180 lawyers and civil society activists in a show of anger, burned a U.S. flag in the central Pakistani city of Multan, and demanded that the US government stopped the plan to burn the Koran.<sup>5</sup>

Other Muslims in Afghanistan and elsewhere in the middle east took to the streets and were televised burning the US flags and chanting "Death to the Christians," “Death to America” in protest of the plan to burn the Koran.<sup>6</sup>

Throughout, the pastor (Terry Jones) maintained that he had the constitutional freedom of speech and that “what [they were] doing [was] long overdue," he said. "We are revealing the violence of Islam that is much, much deeper than we'd like to admit."<sup>7</sup> There was a worldwide hysteria as the infamous burn-a-Koran day approached. In the end, the campaign was cancelled. Public uproar and disapproval had paid off, albeit momentarily, to stop what many perceived, and was asserted by the president, as a “dangerous stunt.”<sup>8</sup> All the hullabaloo begs the question, albeit respectfully: what is so dangerous about burning a book?



The panic that the *burn-a-Koran* generated around the world was not simply because of reverence of the Koran, but of the well informed likelihood of a bloody backlash by Muslims the world over, as was articulated by a Supreme Court Justice Stephen Breyer, who took the hype to a different pedestal by comparing the Koran burning to the unconstitutionality of shouting “fire in a crowded theatre.”<sup>9</sup> Thus questioning the legality of burning the Koran in a brazen challenge of the First Amendment’s right of free speech. Justice Breyer later recanted his statement, albeit after being castigated by the people. According to Bridgett Gabriel (2008), this level of panic or complacency emboldens the radical Islamist as well as terrorist organizations.<sup>10</sup>

After seemingly backing out of the plan, on March 20 2011, the Pastor finally burnt the Koran on the grounds, among other mock charges, that “ [Koran promotes] terrorist acts and “the death, rape and torture of people worldwide whose only crime is not being of the Islamic faith.”<sup>11</sup> And what everyone feared came to pass.

On April 1, 2010, some reprisal attacks were carried out in Afghanistan starting with the United Nations building and killing at least eight UN workers and four Afghans.<sup>12</sup> While the Pastors actions were provocative, the deaths that resulted from a harmless action hardly generated the buzz.

The irony is not that bibles and churches were being burnt and desecrated while the Koran burning brouhaha ensued, but it is the seeming media oblivion of the former, and the fervency with which it covered the latter. This mentality to a large extent confounds the populace of the seriousness and danger of not decisively addressing the

issue of radical Islamism before it gains an unstoppable momentum. I will elaborate on this point in the final analysis section.

Section two of the thesis reviews extant literature on the subject of Free Exercise Clause of the First Amendment. Relevant concepts such as toleration, political correctness, and religion are defined in the broader realities of terrorism. A brief analysis of other antithetical ideologies or security threats to the United States was reviewed.

Section three of this thesis deals with the case study. Al-Qaeda Terror Organization (AQTO) was chosen not only because of its organizational and administrative capabilities in the larger context of public administration, but to strive to understand its interaction or correlation with the Free Exercise Clause. How does the Free Exercise Clause impact the existence of terrorist organizations in the in the United States and the global community at large?

The thesis will attempt to address the above question via a comprehensive analysis of the literature review and the case study in section four.

In conclusion, the thesis asserts that the Free Exercise Clause of the United States Constitution burdens the war against radical Islamic terrorism and Al-Qaeda because of its one directional protection of religion against the state.

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## 2. Literature Review

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This section covers the relevant literature and concepts for the general purposes of this thesis.

In her book, *God vs. the Gavel: Religion and the Rule of Law*, Marci Hamilton holds the government partly culpable for the crimes and injuries caused by religious institutions due to some questionable exemptions granted religious organizations. She argues that anyone who injures another in the cause of religious practice ought to be governed by the established laws that govern everyone else and that nobody, under any guise, needs be made a sacred cow.

Ms. Hamilton explained how religious bodies circumvent the constituted laws by constructing a “fortress” around religious practices that violate or harm others, and make it very difficult to be prosecuted on despicable conducts such as child abuse by clergy, medical neglect of children by faith healers, commandeering of neighboring properties under zoning laws, suspicion of terrorism, and other socially reprehensible behaviors (Hamilton, 2005).

According to Ms. Hamilton, “Religious entities have the capacity for great good and great evil...”<sup>13</sup> and therefore letting religious practitioners get away with atrocious behaviors in the name of “religious liberty” is to turn the “First Amendment on its head.”<sup>14</sup> While her work is considered a worthy call on the judicial system to subject religious entities to the duly enacted laws, in order to preserve the larger public good, this paper takes a different approach. The paper contends that anything that must be done to address religious discrepancies at the root is not the domain of the Court, but of the people.

In *Wrestling with God*, Patrick M. Garry (2006) explained how the Court wrongly interpreted the First Amendment cases and aberrantly placed the Free Exercise Clause under the Establishment Clause to the extent that they conflicted with each other; with the Exercise Clause “conferring benefits on religion and the establishment clause imposing burdens.”<sup>15</sup> He argues that nearly two hundred years after the ratification of the First Amendment, beginning in the 1960’s and 1970’s the Supreme Court began to misinterpret the Establishment Clause and has ostensibly employed it as a building block to erect the wall of separation between the church and state.

There are inherent deficiencies in Mr. Garry’s central thesis, and these involve the extensive utility of court decisions to address the controversies surrounding the proper applicability and interpretation of the Free Exercise Clause. This approach befogs the underlying causes of such controversies.

The Free Exercise Clause is deficient in and of itself. The disputes surrounding it would be better served if the focus were shifted from the symptoms (court cases) to the

root of the problem (Free Exercise Clause). The paper contends that the controversies are the symptoms of an inadequate law that is in need of a legislative review.

To depend on the Court processes as Garry and most experts do, contradicts the well acknowledged fact that the Free Exercise Clause is highly contentious, perhaps because the Constitution gives religion too much latitude while depriving itself of the power to curtail the excesses that result from the status quo.

Therefore, it is not the domain of the Supreme Court (or activist Judges) to fill in the blanks or radically decide what the law should be because the Court is only one arm of the government whose function is predominantly interpretative. Its rulings and interpretations are shaped by precedents, textual and contextual analysis of the relevant law, and the judicial philosophies of the judges (O'Brien, 1997).

Because the Founding Fathers could not have foreseen religious evils like large scale terrorism, the Free Exercise Clause of the First Amendment, unfortunately, fails to preempt inhumane and subversive religious teachings that run in stark contrast with the rule of law and the spirit of justice which it sought to promote. Many of these crimes, such as, terrorism were not prevalent in the United States at the time of its establishment.

It is hardly a controversy that the founding fathers promulgated the Establishment Clause to prevent the newly formed federal government from establishing and enforcing a particular national religion as the English had done with the Anglican Church (Garry, 2006). His central thesis was that Supreme Court rulings regarding the First Amendment cases are inconsistent with the American history. He argues that it is "unimaginable" for

the separation between the church and state to hold sway in colonies founded by people who sought to live where they could freely express their religious belief without the government's interference, and use those beliefs as corner stone's of their society, and to induce self governance, thus making it unlikely that a strict separation was intended.<sup>16</sup>

Martin S. Sheffer (1999) argues that the Supreme Court decision making has caused more legal problems than supplied real legal solutions. He recognizes that any effort by society to attempt to delineate between the "realm of God" and the "realm of Caesar" will inevitably be onerous and that if the law is made in the interest of a free society, then, it must recognize the changes that society undergo over time. Sheffer's argument revolved around the Free Exercise Clause.

He asserts that religious practices that violate valid criminal law are not constituent in the freedom espoused by the Free Exercise Clause of the First Amendment. Many scholars (Hamilton, 2005; Garry, 2006; Sheffer, 1999) make similar argument without considering the potential for cases, like the Jones Town Massacre in 1978<sup>17</sup> that could produce the most sinister outcomes. Not doing anything to prevent "clear and present dangers" would inevitably reduce the legal and law enforcement apparatuses of United States to a perpetual hide and seek redundancy—where all that is done by the society is combating the manifestations of a deep problem and doing nothing to "stop [it from] emerging in the first place."

The focus in this thesis is not on apprehending minacious culprits and bringing them to justice, although it is imperative, but many times, the law enforcement arrives a little too late. According to Vexen Crabtree (2009), "The cure [for religious crimes]

cannot be to deal with the errant groups as they emerge, but to stop them emerging in the first place.”<sup>18</sup>

Sheffer (1999, p 124 & 126) contended that “[r]eligion is human behavior; and as such ought to be given by society the freest possible latitude to develop”<sup>19</sup> and be given “the widest possible enlargement of religious freedom...”<sup>20</sup> The assertion might be politically correct, but in the current scheme of things where religion has proven to be, and still is a potential instrument of some of the most extreme vices known to man, the “wide-latitude” argument which many people are still upholding would only stand if religion were, indeed, as Hamilton (2005, p.7) puts it, “an endless Good.” Most of Sheffer’s arguments, not unlike authors with similar interests like Hamilton and Garry above, revolve around court decisions and interpretations. Thus, they depend on the judicial system that has no real power, constitutionally, to reach the religious preconditions—opinions—that engender anti-social behaviors and violence.

Unlike the other studies, this thesis shifts the focus from the symptoms, to the root causes of abnormal social conditions. It argues that the academia and the administrative entities may be served better if resources were channeled toward understanding the root causes of terrorism and the conflicts that emanate from the Free Exercise Clause. Such understanding should inform policy makers on what needs to be corrected in the system. The argument is based on the premise that if the rules were redefined, then, more desirable outcomes could be expected in regards to the scope of the Free Exercise Clause.

### **Definition of Relevant Concepts:**

## **Text of the First Amendment**

### Amendment I

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Both the Establishment and the Free Exercise Clauses were created out of necessity to prevent the Government from establishing an official religion as it was in England, and using it as a tool for the oppression of those in the minority religion, and to encourage the minority religions to worship freely if they so desire(d).

The idea to call for the protection of the minority religions was the Founding Fathers’ response to the rampant religious persecution that characterized most of the 18<sup>th</sup> century. The Founding Fathers were wary of dabbling into any condition that was remotely close to the English religious quagmire.<sup>21</sup>

The Anglican Church was the official state religion in England and persecuted non Anglicans. The Fathers understood that for absolute freedom to reign, it was imperative that there was no state endorsed religion as such would threaten the free society model that they emigrated to found in the United States.

Furthermore, the Free Exercise Clause was inspired by hostility and suspicion toward the Anglican Church of England because the United States was religiously diverse and did not want the official Church of England to control the peoples’ beliefs



especially since the colonies of Virginia, Carolina and Georgia had adopted the Anglican Church as the official State religion with bishops that were loyal to the Crown and Church of England.<sup>22</sup>

In effect, the model of freedom that the Founding Fathers sought was already being practiced in the Constitution of New York State which had established that:

“The free exercise and enjoyment of religious ... worship, without discrimination or preference shall forever ... be allowed ... to all mankind.” (WEAL, v. 5, p. 37) However, the same constitution cautioned that “the liberty of conscience, hereby granted, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.” The New Hampshire Constitution of 1784 similarly provided that “[e]very individual has a natural and unalienable right to worship God according to the dictates of his own conscience, and reason; and no subject shall be hurt ... in his person, liberty or estate for worshipping God” in a manner “most agreeable” to those dictates, “provided he doth not disturb the public peace.” (WEAL, v. 5, p.37).<sup>23</sup>

This can be taken on the face value as the prerequisite for the enjoyment of the Free Exercise Clause. Clearly, the Free Exercise Clause was designed to protect religion from the state but not the other way round. Today religions that hurt people and disturb the public peace go unquestioned.

### **Political Correctness (PC)**

Although the US presidents have emphatically declared that the War on Terror does not include or suggest a war with Islam,<sup>24</sup> many Americans still harbor fears about Islam; similarly, many Muslims express fear of being marginalized or unfairly targeted.

While the Presidents: Bush and Obama have publicly declared Islam a “religion of peace” and drew the curiosity of many around the world, the Catholic Pope Benedict XVI expressed reservation and stated that: “[He] would not like to use big words to apply to generic labels... [And that such declaration]...certainly contains elements that can favor peace, it also has other elements: We must always seek the best elements.”<sup>25</sup>

Herein lays a fundamental concept in this study: Political Correctness (PC), especially in the bridge building efforts amongst the various religious groups, and in the broader political culture. The Pope didn’t see any reason to declare Islam a religion of peace.

PC is a debilitating factor in the interaction between the Freedom of Religion and Islamic radicalism because it is practiced at all levels—nationally and internationally. PC has been defined as the amoral disposition of relegating all thoughts, cultures, religions and beliefs as relatively inconsequential and merely dependent upon one’s personal orientation or predilections.

PC is the tendency to speak or do only the things that represents all parties or interests regardless of any known or established truths and moral codes. It inadvertently crushes or censures the truth mostly in the righteous bid to be as nice as possible to others for fear that the reality or the truth may hurt them. The Urban Online Dictionary defines it as a “powerful form of censorship.”<sup>26</sup>

According to Derber and Magrass (2008), since PC first emerged in the 60’s and 70’s, it has remained more or less an amorphous left and right wing paradigm of choice

to criticize each other. There is no consensus among scholars on its definition. There is not a school, an organization, or a tangible entity called PC. Yet many publications exist on the subject. Derber and Magrass discuss PC as “Immoral Morality.” They viewed PC as “more than just politically fashionable language or routine conformity to the norms of society. It seeks power by controlling thought and morality, and it does so typically in the name of lofty values or God”<sup>27</sup>

They argue that even when PC might appear harmless, the concept still is immoral because it tries to suppress or “place limits on the range of acceptable thought and morals,”<sup>28</sup> PC forecloses the advancement of an honest debate about social phenomena, norms and values and usually does so, albeit surreptitiously, in the name of fairness and morality. It is oxymoronic to attempt to use immoral means to promote moral values which makes most instances of political correctness immoral. “When we lose our desire or ability to think differently than the prevailing wisdom or ruling authority, we have lost our humanity.”<sup>29</sup>

In respect to the Free Exercise Clause conflicts, Political correctness tries to cover up serious religious rivalry with rhetoric that lacks the essential truth and honesty to foster a lasting understanding. PC is getting the best of religious conflict and debates.

## **Toleration**

As was expressed above, toleration is an intrinsic element of the Free Exercise Clause. Toleration is the virtue of exhibiting benevolence toward something you do not

agree with or “of what is not actually approved.”<sup>30</sup> It is the “permission by law, of the exercise of religions other than an established religion.”<sup>31</sup> It can only be exercised when one is actually in a position to disapprove and the other in the minority.

According to the Encyclopedia of Philosophy (2011), the middle ages literature about toleration focused mostly on the conflict between a dominant and minority religion; but in contemporary writings, it has been broadened to include ethnic and political cleavages, separation of church and state, homosexuals, civil rights, and general respect for human liberty.<sup>32</sup>

The concept of toleration can be traced back to the injunctions given to Moses by God in the Old Testament book of Exodus (22:21): “You shall neither vex a stranger, nor oppress him: for you were strangers in the land of Egypt.” Many more biblical verses: 1 Peter 3:8-11, 15; Mathew 7:1; Ephesians 4:2, John 8:7; support this premise. Benevolence and tolerance for the less powerful minority have been sought using these scriptures as foundation by the Founding Fathers.<sup>33</sup>

Paramount in this discussion is the New Testament Parable of the weed in the Grain: the central idea was rather than jeopardize the good grain, to allow the weed to grow along with the grain until harvest when the master shall separate the weed from the grain which is then destroyed at that time (Mathew 13:24-30).

According to a presentation by Mark Noll (2006): "*The King James Version* of the Bible ... has been ubiquitous in American history as the prime source of language for literature, politics and popular culture, as well as for religion..."<sup>34</sup> (Library of Congress, 2006).

This thesis does not argue against religious diversity and tolerance. The greater concern, as some pundits and scholars have tried to espouse, is not exactly of tolerance in the sense of respecting other people's religion. In fact it is of danger posed by extremist ideology which leads to radicalism and terrorism. Where do you draw the line between religious toleration and self preservation? To what extent should you tolerate without compromising your safety while respecting religious diversity? This thesis focuses on exploring such dangers that mere or blind toleration cannot wish away.

In his work on toleration, Michael Walzer (1997) questioned the sanctity of "tolerating the intolerant" (p.80). He argued that many minority religious groups that enjoy the vast cooperation and tolerance of the majority religion are themselves, albeit ironically, somewhat intolerant. The tolerated minorities ought to be more tolerant themselves or "at least to behave as if they possessed this virtue,"<sup>35</sup> he retorted.

Karl Popper (1997) and John Rawls (1971) agree that the society's right to self-preservation is a higher moral imperative than the need for tolerance. John Rawls insisted that "While an intolerant sect does not itself have title to complain of intolerance, its freedom should be restricted only when the tolerant sincerely and with reason believe that their own security and that of the institutions of liberty are in danger."<sup>36</sup>

According to Socrates, "commitment to tolerance is part of epistemological faith in the autonomy of reason. We each must discover the truth for ourselves by way of disciplined, modest, and tolerant dialogue."<sup>37</sup>

However, Popular criticisms about toleration have been expressed in terms of moral relativism—the concept of morality which claims that right and wrong are both

relative to cultural orientations and therefore subject to individual prerogative. In this mode of thinking, people are more at liberty to pick and choose what to, or what not to believe as there are no universal truths. Pointedly, moral relativism makes no recognition of absolutes because it tends to view life as ultimately meaningless, and as such, anything goes. The belief that certain things ought to, or should be, is viewed as a matter of ordinary preference. Thus it treats ethical questions neutrally.<sup>38</sup>

The idea of toleration bodes well with moral relativism because it is believed to be self-undermining as the requirement to convince anyone of your beliefs or preferences are doused with toleration. If we will not seek the ultimate truth then there is no yardstick to measure that toleration is good [except, perhaps, in the short run].<sup>39</sup>

According to Ronald Dworking (2006), “minorities must bear with the criticisms and insults which are [intrinsic] part of the freedom of speech in an otherwise tolerant society.”<sup>40</sup> Considering the current religious dilemma, Dworking questioned if the United States is “a tolerant secular” state or is it reinventing itself as a “tolerant religious” nation owing to the recent surge of religious interjections in the political arena. In the final analysis, he opted for the former option but admonished those who opt for the “tolerant religious” model to express their position with greater consideration and caution.<sup>41</sup>

Sam Harris (2004) in the *End of Faith* declared that no one should have to tolerate unjustifiable or irrational religious doctrines about morality, human origins, governance, and most importantly, beliefs that promote violence and insecurity.<sup>42</sup>

## Jihad

Jihad is a sacrosanct obligation that is required of every Muslim. The 9/11 attack was an act of Jihad. The Islamic holy book—*the Koran*, ascribes great importance to jihad and has made the reward of the martyrs and the fighters a splendid one. Only those who have acted piously and who have modeled themselves upon the martyrs in their performance of jihad can partake in this reward. Furthermore, *Allah* is believed to have specifically honored the Mujahedeen—holy warriors of Islam—with certain exceptional qualities, both spiritual and practical, to benefit them in this world and the next. Their pure blood is a symbol of victory in this world and the mark of success and felicity in the world to come.<sup>43</sup>

In context, the Koran is replete with commands of Jihad. Here are some of the verses I adopted from a website on the subject of Jihadism; Koran: 002:178-179, 190-191, 193-194, 216-218, 244; 003:121-126, 140-143, 146, 152-158, 165-167,169, 172-173, 195; 004:071-072, 074-077, 084, 089-091, 094-095,100-104; 005:033, 035, 082; 008:001, 005, 007, 009-010, 012, 015-017, 039-048,057-060, 065-075; 009:005, 012-014, 016, 019-020, 024-026, 029,036, 038-039, 041, 044, 052, 073, 081, 083,086, 088, 092, 111, 120, 122-123; 016:110; 022:039, 058, 078; 024:053, 055; 025:052; 029:006, 069; 033:015, 018, 020, 023, 025-027, 050; 042:039; 047:004, 020, 035; 048:015-024;049:015; 059:002, 005-008, 014; 060:009; 061:004, 011, 013; 063:004; 064:014; 066:009...<sup>44</sup>

These are actual verses in the Koran, the reproduction of which would derail this thesis. An understanding of the quest for Islamic Jihad will further the understanding of

the underlying modus operandi of the Al Qaeda Terrorist Organization, hitherto referred to as AQTO, and the real factors that lead to 9/11, while alluding to the ineptitude of the Free Exercise Clause to really preserve the religious liberty that it sought to promote, because Jihad is a sacrosanct religious duty of the Moslems. This fact is incontrovertible.

*The more the US government is at odds with the underlying realities and dangers of eternally, diametrically opposed socio-political and religious ideologies; the more the intolerance and violence will not cease. Likewise, the more politically correct the US polity gets, the more insurmountable the war against religious radicalism and terrorism becomes.*

### **Making Sense of Religion in the Free Exercise Clause**

The United States is home to people of various religions. According to a recent study conducted by the CIA World Facts Book in 2007, it found that the major religions in USA are distributed as follows: Protestant 51.3%, Roman Catholic 23.9%, Mormon 1.7%, other Christian 1.6%, Jewish 1.7%, Buddhist 0.7%, Muslim 0.6%, other or unspecified 2.5%, unaffiliated 12.1%, none 4% (2007).<sup>45</sup>

Religion is often intertwined with culture and politics, and is a strong social force where from mans most sacred, or core values and actions emanate in an attempt to fulfill his spiritual obligations in exchange or hope for the blessings and promises of God. In the article, Can Science explain religion; Allen Orr (2010) states that "... Religion may be imperfect, but it has, [as Robert] Wright emphasizes, taken us a considerable moral distance."<sup>46</sup>



The 9/11 attack by Al-Qaeda had a religious undertone and represents religion at its worst extreme. The suicide terrorists were reported to be worshipping Allah as they flew the jets into the twin towers chanting “Allah is the greatest.”<sup>47</sup> Religion can also be used as a tool for the brainwashing of unsuspecting victims. For instance, Jim Jones was said to have brainwashed 918 people in a mass murder as was recorded in Jones town in 1978.<sup>48</sup>

In a survey of 1504 adults, with a three plus or minus margin of error, conducted between February 22 and March 1, 2011 by the Pew Research Center about the likelihood of Islamic religion to encourage more violence among its adherents than other religions and vice versa, Pew found that 40 percent of the respondents agreed that Islam is more likely to encourage violence, while 42 percent disagreed.<sup>49</sup>

In the same survey, when respondents were asked how much they knew about the Muslim Religion, 9 percent answered a great deal, 35 percent said somewhat, 30 percent not very much, and 25 percent knew nothing.<sup>50</sup>

This thesis argues that religious teachings and claims that might pose security risk be investigated in respect of the spirit of the Free Exercise Clause. To appreciate the inadequacy of the latter, one must evaluate the theological soundness of the various religions, specifically when it is called for, in order to obtain a fairly comparative knowledge of the conflicting belief systems so as to determine its objectiveness and reasonableness, and to ensure that no one is hurt.

Failing to assess the objectiveness of some religious claims, beliefs and the threats posed by subversive religious teachings will lead to nothing but political correctness which inadvertently emboldens terrorist organizations like the AQTO.

In regards to the contemporary religious conflicts and radicalism, the differences between Christianity and Islam are patently irreconcilable although both lays claim the Almighty God. The fact is that both of the claims made by Islam and Christianity, about Jesus and God for example, cannot both be true. Either they are both lies or one of them is a lie because both religions contradict each other at the most fundamental tenets of the beliefs (Anonymous, 2010).

The politically correct attitude of presuming that everyone is entitles to their own truths, albeit reasonable in some cases, is far from sensible because truth is universal and the same for everyone. Thus, no one can claim the ownership thereof. For example, the sun would rise in the east every day. This is an irrefutable true regardless of what anyone thinks. Similarly, touching a red hot plate will burn the finger. This assertion is likewise true for everyone. Efforts must be made to identify the truth in very important but conflicting situations (Anonymous, 2010).

The point in this paper is that when the beliefs of a religious group is seen to be a threat to the peace, then it must forfeit its Freedom to Exercise it or bring it in line by means any means necessary.

According to James Arlandson (2005), while Free Exercise Clause encourages diversity and toleration, the Sharia—Islamic law— prescribes death for Muslims and possibly non-Muslims who criticize Muhammad, the Quran and even the Sharia law.<sup>51</sup>

For example, in 2005, British Muslims succeeded in passing religious hate speech law in the British Parliament.<sup>52</sup> This law has been criticized on the ground that it stifles free speech. Similarly in 2005, based on Australia's vilification law, Muslims succeeded in having two pastors convicted for criticizing Mohamed.<sup>53</sup> In 1989, the supreme leader of Iran issued a fatwa—Islamic edict by a Muslim cleric—to assassinate Salman Rushdie for portraying the work of Mohamed and Koran as satanic in his book *The Satanic Verses*.<sup>54</sup>

Scholars argue that these intolerant behaviors and “censorship testifies to a lack of confidence in one's position and message.”<sup>55</sup> The truth needs not fear, just as a clear conscience fears no accusation. Why does the supreme word of Allah need all these bodyguards and threats to protect it? Or prevent inquiring minds from satisfying their hunger for the truth? Arlandson (2005) asked, “how confident was Muhammad (and today's Muslims) in his message that he had to rely on violence and force to protect his message, besides reason and persuasive argumentation?”<sup>56</sup>

The God of the bible grants man/woman the freedom of choice, yet holds them accountable for their choices [by himself] and not by his followers. Christian theologians assert that the Jews had expelled God and began to rely on themselves in a manner similar to the contemporary concept of secularism—the belief that government and religion should function separately [and never mix].<sup>57</sup> This condition has been viewed by Christian theologians as an express invitation to Satan.

The United States recognized God at the most important stage in her history; the Declaration of Independence in July 4, 1776: it recognized the “Law of Nature” and “

Nature's God..." that "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness"; followed with a clear desire to keep evil at bay; these same Ideal found expression in the Free Exercise Clause but with no attempt to ensure that evil does not hijack the goodwill entrusted in the various religions. Law enforcement cannot stand in the gap because it is drawn in only after a crime has been committed (Anonymous, 2011).

The First Amendment states that, *Congress shall make no Law in respect to the establishment of religion or prohibiting the free exercise thereof*, thus, separating the church and state, on the presumption that religion poses no threat save in the hands of the government. It is not surprising therefore that, misconceptions and cultish religious dogmas go unquestioned even in the face of mounting evidence that some religious beliefs are antithetical to the nature of God, and threatening to virtue of tolerance and peaceful coexistence.

According to a Pew Research Center for the people and press conducted between February 22 and March 1, 2011 of 1504; 58% of those under 30 say Islam does not encourage violence any more than other religions while 31% affirmed that it does; conversely, 45 % of those over 50 say Islam is more likely to encourage violence.<sup>58</sup> (See Table 1).

Table 1.

<b>Public Remains Split Over Whether Islam Is More Likely to Encourage Violence</b>						
	<b>Mar 2002</b>	<b>July 2003</b>	<b>Aug 2007</b>	<b>Aug 2009</b>	<b>Aug 2010</b>	<b>Mar 2011</b>
<i>Islamic religion ...</i>	%	%	%	%	%	%
Is more likely than others to encourage violence	25	44	45	38	35	40
Doesn't encourage violence more than others	51	41	39	45	42	42
Other/Don't know	<u>24</u>	<u>15</u>	<u>16</u>	<u>16</u>	<u>24</u>	<u>18</u>
	100	100	100	100	100	100

PEW RESEARCH CENTER Feb. 22-Mar. 1, 2011. Figures may not add to 100% because of rounding.

Source: Pew Research Center. 2011. *Pew Global Attitudes Project*. PewForum.org.

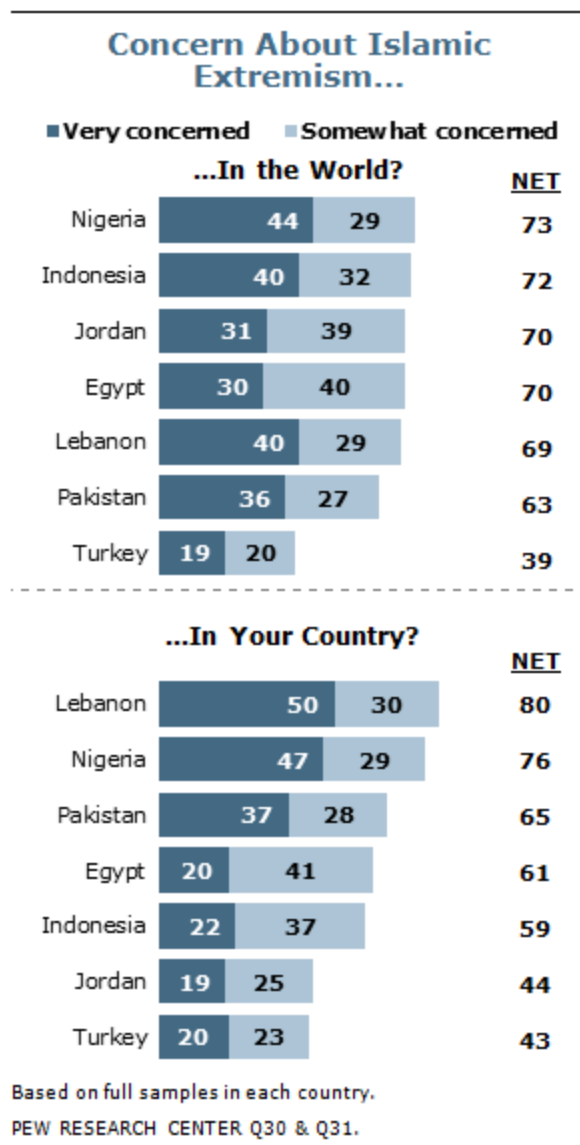
In response to this trend, Stephen Prothero in his New York Times bestseller: *Religious Literacy: What Every American Needs to Know—And Doesn't*, he argued that although the United States is one of the most religious countries of the world, “most Americans know nothing about religion - their own or the religions of others.” The lack of foundational religious knowledge in the polity makes it difficult to engage politician who use religion for political purposes. Without the requisite knowledge about religion, journalists, scholars and the public cannot effectively take on such politicians nor have a meaningful dialogue.<sup>59</sup>

Moreover, Mr. Prothero argued that the US foreign policy had been impacted by religious illiteracy and he doubted that we had any appreciation of the fact that Iraq for instance is a place where people are primarily and fundamentally motivated by their religious beliefs.<sup>60</sup>

Pew went further to conduct a worldwide survey of “Concern about Islamic Extremism” and found that Islamic fundamentalism constitute a serious concern in the nations with significant Muslim Population.<sup>61</sup> Based on full sample in each of the following countries: Nigeria, Indonesia, Jordan, Egypt, Lebanon, Pakistan and Turkey; the Pew Research found that with the exception of Turkey where only 39% are concerned, the rest which similarly had roughly 50% or more Muslim Population in their respective countries were very or somewhat concerned about the rise of Islamic extremism around the world; with 73 percent concerned in Nigeria and 63 percent in Pakistan. The Average of the more concerned countries is 69.5 percent.<sup>62</sup>

Further, Pew surveyed the “Concern about Islamic Extremism” within their individual countries and found that many has similar worries about their countries, particularly in Lebanon where about 80% total including 90% of Christians, 82% of Shia and 67% of Sunnis expressed some concern. In Nigeria, three-in four expressed concern with a total of 76% including 83% of Muslims and 68% of Christians.<sup>63</sup>

Almost 65% of Pakistanis express concern about Islamic extremism in their country, but fears have reduced since last year, when 79% shared that view. About six-in-ten in Egypt (61%) and Indonesia (59%) and more than four-in-ten in Jordan (44%) and Turkey (43%) are also concerned about extremism in their countries.<sup>64</sup> (See table 2 below).



Source: Pew Research Center. 2011. *Pew Global Attitudes Project*.  
PewForum.org.

In the nations that Islamic population is up to 50% of total population, Pew research found that the Islamic section of the country overwhelmingly welcome the influence of Islam in their counties politics. E.g. 91% of Muslims in Indonesia welcome the idea of a large Islamic influence in political matters.<sup>65</sup> Similarly Egypt, Jordan and Nigeria share similar views. Egypt and Jordan have roughly 90% Muslim Population and

about 5-10% Christian minorities. But Nigeria is divided in half between the Muslims and the Christians. In 2000, 12 of the states in the northern States of Nigeria suddenly imposed Sharia law in the midst of the Christians that live among them and in violation of the Constitution of the Federal Republic of Nigeria. When the Christians tried to march in protest, they massacred them.<sup>66</sup>

According to Allen Orr (2008), “religion is simply too important to be spared hard questions.”<sup>67</sup> Rhys Williams concluded that religion is so prevalent in “the empirical world that to ignore it is to miss much of what is happening...”<sup>68</sup> Therefore, an understanding of and a content analysis of some religious teaching will enable policy makers and public administrators to understand the real motivation behind intolerance and terrorism and other relative conflicts.

### **Historical Antecedents (Flash Backs) of the Case Study**

This portion of the paper was considered relevant because a brief recap of history of subversive ideologies and the government policy toward such revolutionary ideologies is necessary to evaluate the contemporary policy on contemporary similar circumstance which in this case is the threat of radical Islamist movement which includes AQTO. This review cannot be over emphasized in the light of 9/11 attacks; the potential for home grown terrorists; and the ongoing threat of terrorism by Islamic fundamentalists and AQTO.



## **Mormonism**

The term “Mormonism” is a derivative from the Latter Day Saints (LSD) scripture—which includes the book of Mormons in conjunction with the Bible. Early followers of the founder were called Mormons and belief in the religion is called Mormonism.<sup>69</sup>

Those who use(d) religious grounds to argue for uncivilized practices such as polygamy, violence, and other anti-social religious beliefs always do so by pointing to the Free Exercise protection of the First Amendment (Hamilton, 2005). They are right to point to it! It is an arguable constitutional right.

By giving religion the widest latitude as Sheffer (999) advocates, you basically encourage everything from satanic cults to hateful ideologies and evil practices all operating in “diversity” and having freedom to espouse and proselytize anything. For instance, not suggesting that Mormons are evil, the former Mormon polygamist teachings were arguably a tool for the oppression and repression of women and therefore inconsistent with the tenets of a civil society. Oppression cannot be a sacred religious duty because it promotes degradation of other humans.

Elizabeth Hammer-Dionne (1998) argues against the manner in which the United State dismantled the Mormons Polygamous theology. She regrets that not only may the law meddle with theologies but that it could actually alter them.<sup>70</sup> “For the doctrine of free exercise to have substantive meaning it must account for this fact...”<sup>71</sup> I couldn’t

agree more. It will always be difficult to address issues that border on belief because of the supposedly sacrosanct origins of belief systems.

In perspective, let's consider a land mark response to Mormonism in the case of *Reynolds v. United States*, 98 U.S. 145 (1878)—which is regarded as one of the greatest trials because it essentially tested the Free Exercise Clause.

George Reynolds, a polygamist member of the Mormon Church was indicted in the District Court for the 3rd Judicial District of the Territory of Utah under sect. 5352 of the Revised Statutes, which ruled that

“[e]very person having a husband or wife living, who marries another, whether married or single, in a Territory, or other place over which the United States have exclusive jurisdiction, is guilty of bigamy, and shall be punished by a fine of not more than \$500, and by imprisonment for a term of not more than five years.”<sup>72</sup>

He challenged the federal anti-bigamy statute by invoking his Constitutional right to freely exercise his religious beliefs. Further, he demanded that if the jury found that his polygamous life style was a legitimate religious duty, then, they must acquit! But the trial court rejected his argument and instructed the jury to determine if he willfully married a second wife in violation of the anti-bigamy law regardless of his religious belief. After the deliberations, he was found guilty in the Utah District Court; on appeal to the Utah Territorial Supreme Court, his conviction was upheld.<sup>73</sup>

The Court had to contend with the question of whether the federal anti-bigamy statute violated the Free Exercise Clause of the First Amendment since plural marriage was a part of the Mormon religious practice. In a unanimous decision, Chief Justice

Morrison R. Waite in behalf of the Court ruled that “Congress was deprived of all legislative power over mere opinion, but had power to reach actions which were in violation of social duties or subversive of good order.”<sup>74</sup>

Thus, criminal activities could be punished without regard to religious beliefs and that the rule of law trumps religious practices that constituted criminal intent. “Those who practice polygamy could no more be exempt from the law than those who may wish to practice human sacrifice as part of their religious belief.”<sup>75</sup>

In deciding the case, the court delved into the history of religious freedom in the United States and found a letter in which Thomas Jefferson had made a distinction between religious belief and the actions that flowed from it and concluded that the legislative powers of the government may reach actions but not mere opinions. Would Jefferson have held the same position had 9/11 occurred in his life time? That we would never know the answer, but I doubt that the founders remotely imagined anything in the scale of 9/11 or global terrorism because this paper could not find any data to support the opposite.

The court further stated that if it condoned polygamy as a religious freedom right, it won't be long before someone claimed that human sacrifice was their right as well, thereby leading “every citizen to become a law unto himself.”<sup>76</sup> In context, if any religion was indeed found to have human sacrifice as part of the religious obligations, will the legislative and law enforcement agencies seat and wait until that belief was fully consummated before it would act?

In another case, the court upheld the principle in *Reynolds v. U.S* and ruled that the government may not interfere with “mere” religious beliefs, and opinion, but that they may with religious actions and practices (*Smith*, 494 U.S. at 879). A supreme Court Justice Anthony Scalia recognized in *Reynolds* that “to give full force to the Free Exercise Clause would negate the rule of law” (*Fronzuto III*, 1996).

Many non-Mormons viewed the church’s founding doctrines and practices as politically and culturally subversive. These doctrines included abolitionism—polygamy and its theocratic aspirations both of which have been discontinued by the current mainstream faith. The only element we wish to illuminate here is the sub culture of polygamy. Joseph Smith propagated doctrines that were antithetical to the rule of law in hoped to use the free exercise to defend those beliefs. The people stood up to what they believed were undermining and immoral principles.

The important fact here is that when the United States decided that some aspects of Mormon teaching were inconsistent with the duly enacted laws, the Mormons adjusted their doctrines—they reformed and expunged such teachings that debased civility. Some Mormon fundamentalist however still believe in the practice of every aspect of their original teachings. But the main line members of the Latter Day Saints (LSD) have since renounced and desisted from polygamy.<sup>77</sup>

## Communism

This section reviews communism with a central focus on how the United States responded to the socialist movement—a threat to free market capitalism and democracy—in the twentieth century. The term communism is both a political and economic philosophy propounded by Karl Marx and Friedrich Engels and codified in the *Communist Manifesto* which was first published in 1848.

Many theories have been advanced about communism and socialism, but this thesis' focus will be limited to the Marxist-Leninist conceptualization of the communism that led to the socialist revolutions of the 20<sup>th</sup> century. Unlike earlier socialists who believed in a rather slow process of social evolution toward socialism and communism, Marxism-Leninism advocated for a swift overthrow of the capitalist order and immediate assumption by society of a communist system.<sup>78</sup>

Theoretically, Karl Marx and Frederic Engels in *Communist Manifesto* argue that the only way to rid class conflict and other problems within the capitalist society was for capitalism to give way to socialism by overthrowing the ruling or capitalist class (bourgeoisie) and dismantling of private property by the working class (proletariats) in order to end inequality and replace the society with communism.<sup>79</sup>

At the onset of Cold War in the 1950's and as part of response to communist threat, a US senator Joseph McCarthy accused 205 employees of the state department of being "card-carrying members of the communist party."<sup>80</sup> The fear of communism in the United States spurred *McCarthyism*—the practice of bringing accusations of treason,

subversion, and disloyalty without following due process or backing it up with proper evidence. It encouraged unwarranted investigations and infringements of the rights of persons suspected of following communist ideologies.<sup>81</sup>

The communist threats culminated in a nearly 50 year's Cold War between USA and USSR (former) starting in the early 1940's. A very close call in the cold war was the Vietnam which is viewed as a proxy war between the anti-communist forces of the United States in South Vietnam and the Communist allies of the Northern Vietnam in a bid to contest whose Ideology would survive. In the end, the communist influence prevailed in the Northern Vietnam; while the United States succeeded in forestalling its spread to the south.<sup>82</sup>

The totalitarian ideals of communism were in stark violation of fundamental human rights and freedoms and a threat to the Western democracy. After WWII, the world polarized between the two remaining super powers: USA and USSR which triggered an arms race and stock piling of nuclear weapons and competition in space exploration between the super powers. Each strove to promote its social political and economic system. All these exacerbated the cold war.

Communism has been widely criticized both theoretically and in practice. Most critics make no clear distinction between the theory and the practicality of Marxism in the communist-state policies. The generally agreeable fact among western scholars is that communism is an anti-thesis and a mortal danger to the western capitalist system.<sup>83</sup> Thus, it was systematically condemned, fought ideologically and kept away from the American shores by all the necessary means—economically, socially, militarily,

politically, and philosophically—because there was a “circular and compelling state interest” at issue and a “clear and present danger” also.

In *God vs. The Gavel*, (Hamilton, 2005, p.5) reiterated that “communism did not survive in Eastern Europe and has not lead to true freedom for the people in other countries in part because of its inability to incorporate religious belief into its social structure.” The propositions here is not to expel, *McCarthy*, black-list or infringe on anyone’s right based on anybody’s religious belief but to elevate the consciousness and discourse toward religious toleration and more specifically to roundly condemn ideologies that aid and abate socially harmful conducts.

Some Islamic scholars have argued that Islam and communism have nothing in common because communism is purely based in materialism, and tangible relations using the sense organ without any recognition of esoteric matters. While some western scholars have argued that Islam and Communism are similar save that the *Manifesto of the Communist Party* was replaced with the Koran and the state replaced with Allah. Both arguments are agreeable in this paper. In Marxism, "The mode of production of the material means of existence conditions the whole process of social, political and intellectual life. It is not the consciousness of men that determines their existence, but, on the contrary, it is their social existence that determines their consciousness.”<sup>84</sup>

As part of the strategy against communism, In 1947, Truman addressed the Congress in a speech popularly believe to be directed at Stalin and the Soviets, which

then formed the basic framework of the foreign policy popularly known as the Truman Doctrine.<sup>85</sup> [He] said,

“I believe that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures. I believe that we must assist free peoples to work out their own destinies in their own way. I believe that our help should be primarily through economic and financial aid, which is essential to economic stability and orderly political processes.”<sup>86</sup>

~President Harry Truman, 1947~

Thereafter he formed three national agencies: the department of defense—to reconcile the activities of the various branches of the armed forces; the Central Intelligence Agency (CIA)—charged with gathering intelligence on Americas enemies; and the National Security Council (NSC)—to coordinate the military and diplomatic policies—all in the effort to tackle communism.<sup>87</sup> Although there were scandals about some covert activities of these national security agencies, hardly any one disagrees that fighting the spread of communism was not a worthy cause.

### **The House Committee on un-American Activities (HCUA)**

This committee was enacted to diligently root out communism within the borders of United States. The power of Congress to establish investigative committees has been discussed at length elsewhere.<sup>88</sup> Only the points deemed necessary for this thesis would be discussed.



The United States Congress formed the House *committee on un-American activities* (HCUA) to investigate allegations of domestic communist infiltrations.<sup>89</sup> In the aftermath of Pearl Harbor in World War II, suspicion about espionage and communist infiltration thickened. The 9/11 attack was reminiscent of the Pearl Harbor attack where belligerent foreign combatants killed large number of Americans in sudden and unprovoked attacks. In response, a committee similar in function to the current committee of homeland security was established, and then known as the House Committee on un-American activities.

The Committee consisted of nine members whose function is similar to the present day Committee on Home Land Security, which generally focus on, and act upon intelligence in regard to hostile activities that dare to thwart the democratic system established by the US Constitution and other threats to the security concerns of the United States.

At different stages of the last 20<sup>th</sup> century, such committees have been formed to prosecute real or imagined threats to the US national security and democratic system. Example of such committees were: Over man Committee (1918), Fish Committee (1930), Special Committee on Un-American Activities (1934-1937), Special investigation committee (1938–1944) and HCUA (1945-1975)—to counteract communism.

Historically, the Congress have established investigative committees for three main purposes: first, in search of information, facts and data to enhance wise legislations; second, to oversee and coordinate the security agencies and armed forces in

order to ensure coherence in the law enforcement; and third, to raise the citizens awareness in a bid to champion the public opinion and cooperation.<sup>90</sup>

According to Robert Carr (1951, p. 600) the HCUA had attempted to formally explain what constitutes “subversive” or “un-American” activity and thereby [setting] standards of American thought and conduct with respect to orthodoxy and heresy in politics”<sup>91</sup> The establishment of the committees were deliberate attempts to channel by necessity the administrative and judicial sector in order to regulate the public policy in regard to subversive activities.

Robert Carr points out it can be challenging to conceive “wise and workable” statutes to regulate such “specific and traditional” forms of anti-social activities as “espionage, sabotage, sedition and treason” [and religious radicalism/terrorism]. “But when it comes to defining by exposure and illustration the norms of proper thought and conduct in a democratic society, the undertaking, the results of which are almost certain to be unfortunate, becomes an almost hopeless one.”<sup>92</sup>

Further Mr. Carr argued that to give a blank slate to a committee to scout for activities that are subversive or un-American and to monitor the extent, character and the artifacts of communist propaganda that is inspired from both within and without the United States is “to give it a virtually impossible task.”<sup>93</sup> This of course lead to indiscriminate abuses including the monitoring of all available media up to school textbooks and holly wood film content, TV, radio and any avenue through which information could be disseminated. But in the processes “patterns of American, as against un-American activity were established which in turn influenced the overall outcome of

the Cold War because of the peoples solidarity. While religion can be very personal, freedom and safety command a higher moral imperative.

In defense of the HCUA at the last phase of Espionage Hearings in 1948, a US congress man Herbert clarified that it was not the committee's duty to "apprehend criminals" but he cosigned the idea that it was "charged with the responsibility of bringing to the attention of the proper authorities the fact that a crime has been committed."<sup>94</sup> The idea of a committee acting as police, the jury, private investigator, the judge and the state all in one simply did not bode well with the safeguards that separation of powers were intended to provide by the US Constitution.

Other scholars, Goldhagen (1996) and Bartoletti, (2005), believe that anti-Semitism culminated in the holocaust.<sup>95</sup> While anti-Semitism—hatred toward the Jews—persists especially among Muslims, anti-America is similarly on the rise. Are we to assume that words have no influence on the human psyche? It is common knowledge that even the most ridiculous of lies if repeated often enough would assume a life of its own. Such distortions may have, wasted many lives via suicide missions. Also the entire anti-American posture by Muslims around the world makes terrorism attractive because for one you are fighting the "big Satan" and two; there is no real avenue, prima facie, to air their frustration with US-Mid-East foreign policy.

A truly democratic system must contend with the fundamental fact that democratic principles alone, sometimes, are not sufficient to preserve democracy from external threats. According to the Columbia Law Review, (Vol. 47, No. 3 Apr., 1947, pp. 416-431) on Constitutional Limitations on the Un-American Activities Committee:

“the very existence of democracy implies two contrary stresses, which at times come into sharp conflict. One is derived from the practical desire of governments to protect themselves against overthrow by forces inconsistent with their fundamental political principles. The other rests upon the existence, as a fundamental principle of democracy, of the right to advocate changes which some may deem so basic as to destroy democracy itself.”<sup>96</sup>

The activities of the HCUA was faced with the above dilemma in regard to congressional utility of powers that were constitutionally separated for the bench mark checks and balances erected to prevent abuse of power. Although the HCUA may have overstepped its boundaries and the guiding principles of democracy, and encountered a good deal of legal and political hitches, the 1947 Hearings on *Constitutional Limitations on the Un-American Activities Committee* asserted that:

“ It is apparent that any solutions in this field must avoid both of two possible extremes: a democratic government should not be deprived of its privilege of self-preservation; nor should that privilege be used as a pretext for indirectly sterilizing the right of individuals to advance ideas not acceptable to those in authority.”<sup>97</sup>

The question that was posed then, which this paper poses now is “[i]n an effort to protect the nation from threats to the stability of its political institutions [or values, through harmful religious ideologies] , can Congress give to a congressional committee an unlimited power to investigate, a power unhampered as to subject matter or scope of the specific inquiry?”<sup>98</sup>

### **3. Case Study: Al-Qaeda Terrorist Organization (AQTO)**

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The purpose of case study is to examine the origins and various organizational components and processes of AQTO. The 9/11 Terrorist attacks did not occur from a vacuum; rather it was the outcome of a concerted administrative system that functions like any other organization in the public or private sectors. The AQTO is somewhat unique because by being an enemy clandestine organization, many of the facts about its operations may not be readily obtainable. Also the known facts are not easily verifiable. However, it embodies the rudiments of administration. According to Prof. John Rouse (2009), administration can be defined as “[the interaction of] people to accomplish tasks.”

This case study will begin with a preamble of the events that launched AQTO, albeit with a grandiose impunity, into the worlds consciousness—specifically the 9/11 attacks. An understanding of Al Qaeda’s organizational tenets and its ideological bloodline will hopefully add to the strategy to bring about, not only its demise, but of other similar organizations.

An enormous amount of human intelligence, financial resources, leadership, and organizational skills were mustered together to execute the 9/11 and the other terrorist

acts by AQTO. This case study will shed some light on the ubiquity, operation, unity of purpose, finance, support system, and elusiveness of AQTO operators. It is important to note that with the recent capture and execution of Osama bin Laden on May 2, 2011, the case study will be limited to his leadership as new trends may yet be unfolding.

September 11, 2001 attacks or 9/11 (pronounced as "nine eleven"), refers to a series of Coordinated suicide attacks by Islamic terrorists under the AQTO's network upon the United States on September 11, 2001. Early that fateful day, a team of 19 AQTO terrorists hijacked and crashed four commercial passenger jet airliners.<sup>99</sup> Two of the four jets were deliberately used as precision bombs to destroy the New York Twin Towers of the World Trade Center and mass murdered everyone on board, including workers at the twin buildings and many officials—police and fire fighters—that responded in the emergency to rescue the victims of the attack.<sup>100</sup>

A total of 2,753 deaths were recorded, including 404 firefighters and police officers who were killed when the remnants of the Twin Towers suddenly disintegrated to rubbles.<sup>101</sup> The third airliner was crashed into the Pentagon—the headquarters of the United States Department of Defense, located in Arlington County, Virginia; and the fourth crashed prematurely after the passengers and crew got information about the attacks, they struggled to retake control of the flight thereby crashing into a field around Shanksville in rural Pennsylvania as the hijackers had redirected it toward Washington. It was speculated in the 9/11 commission's report that the third flight was intended either for the Capitol Building or the White House.<sup>102</sup> Details of the 9/11 Commission Reports are proliferated all over the internet via Google.

The United States under President G.W. Bush responded by launching a War on Terror by leading a United Nations coalition to invade Afghanistan and overthrow the Taliban regime which had harbored AQTO. The USA Patriot Act was enacted by Congress and signed into law by President on October 26, 2001. The “USA PATRIOT Act” is an acronym for “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.”<sup>103</sup>

The Act is designed to simplify the process that all agencies within the United States may be required to undertake in order to assist security and intelligence officials with any vital intelligence—such as email accounts, telephone or banking record—deemed vital in prosecuting the war against terrorism. The Patriot Act expanded the authority of law enforcement and immigration officials to detain and deport immigrants suspected of terrorism.<sup>104</sup>

As pressure to counter the 9/11 attackers mounted, for the first time in history, the NATO council invoked article 5—which stipulates that an attack on any NATO country is an attack on the rest. Article 5 was an allied stratagem designed to preempt or respond to an attack by the Soviet Union during the cold war.<sup>105</sup>

In November 27, 2002, the *National Commission on Terrorist Attacks upon the United States*, aka, 9/11 Commission was established by an act of Congress and signed into law by President G.W. Bush. The Commission was tasked to prepare a comprehensive report of the 9/11 attack detailing the circumstances that lead to the attack, the preparedness for responding to a similar or worse attack, and to make recommendations to preempt future attacks.

On July 22, 2004, the Commission published its final report after having interrogated over 1,200 people in various countries and analyzed about 2.5 million pages of documents.<sup>106</sup> Many of the data in this Case study would be adopted from the 9/11 Commission Report.

### **How Free Exercise Clause Enables Terrorism**

Free Exercise-→Subversive Religion Teachings-→AQTO

The Free Exercise Clause furthers the ability to teach the doctrines that precede the recruitment of Muslims into the AQTO's network. The teachings of Islam are not unconnected to the activities of AQTO and other radical Islamists, because the Koran is satiated with fighting and violent injunctions in the name of jihad. That is precisely what AQTO is doing irrespective of its grievances.

AQTO is known because of 9/11 and its sworn mission to attack Americans. The Grievances while seemingly legitimate are questionable because the rest of the Muslims are likewise wreaking havoc all over the world: Germany, France, UK, Sudan, Egypt, Nigeria, Pakistan, Afghanistan, Indonesia, and wherever the demography permits such impunity. Therefore, the issue of terrorism is ipso facto deeper than AQTO. That is why this paper focuses on the understated causes of terrorism—the religion of Islam.

The Free Exercise may have outlived its usefulness if the law encourages subversive teachings to continue unfettered until a crime—terrorism—occurs. The context in which the First Amendment was established has been replaced with a new context. The old law



(to save religion from the state) is not sufficient for the new context (To protect the State from religion).

AQTO cannot be utterly defeated as long as the law protects the tree while fighting its fruits. I argue that Jihad, which is what most terrorist organizations are embarked on, and the freedom to practice and proselytize the religion that breeds the radicals is not remotely what the Founding Fathers Intended.

Free Exercise Amended-→ Religion Reformed-→ AQTO Brand of Religion  
Outlawed-→End of Terrorism

### **The nationality of the Attackers**

On September 27, 2001, the FBI released photos of the 19 hijackers, and asserted that fifteen of the hijackers were from Saudi Arabia, and the rest from United Arab Emirates, Egypt and Lebanon respectively.<sup>107</sup> After the most comprehensive investigation in the history of FBI, the US government concluded that Osama bin Laden and AQTO were irrefutably linked to the attacks of September 11, 2001.<sup>108</sup> Nonetheless, the Governments of Germany and the United Kingdom separately arrived at a similar conclusion.<sup>109</sup>

Previously, on February 26 1993, a plot similar to the 9/11 outcome was attempted in the *World Trade Center bombing* when a truck laced with explosives detonated below the North Tower of the World Trade Center in New York City.<sup>110</sup> According to the FBI investigation on the attack, the terrorists had intended to knock the North Tower down from its foundation to fall into the South Tower and collapse the two

Towers and most assuredly kill thousands of people in the buildings.<sup>111</sup> Fortunately, the plan failed, but unfortunately, six people were killed with thousands of injuries.<sup>112</sup>

The attackers had connection to Khalid Sheik Mohammed who would later identify himself as the mastermind of the 9/11 attacks. They were all Muslims and evidently linked to Al Qaeda. Prior to the *World Trade Center Bombing*, the ring leader Ramzi Yousef, born in Kuwait and trained with AQTO in Afghanistan made a series of demands from the US government through various New York news papers and demanded as follows: that United States ends all aid and diplomatic relations with Israel; and that she ends its interference with the Middle Eastern countries.<sup>113</sup> Similar reasons were given by AQTO in the 9/11 attacks.

In 1998, Osama Bin Laden issued a fatwa—an Islamic religious decree normally issued by a Muslim religious leader or *Ulema*—calling for a holy war against the United States. He demanded Muslims to make no distinction between civilians and the military.<sup>114</sup> The fatwa demanded that Americans be killed until it ended its support for Israel, sanctions against Iraq, and its troops withdrawn from Saudi Arabia.<sup>115</sup> He then went on to use Islamic verses to prove that the Fatwa was sacred and to incite violence against United States, its interests and allies.<sup>116</sup> Bin Laden quoted the Prophet Muhammad as banning the "permanent presence of infidels in Arabian Peninsula."<sup>117</sup> Further he stated that:

“For over seven years the United States has been occupying the lands of Islam in the holiest of places, the Arabian Peninsula, plundering its riches, dictating to its rulers, humiliating its people, terrorizing its neighbors, and turning its bases in the Peninsula into a spearhead through which to fight the neighboring Muslim peoples...”<sup>118</sup>

Other political analysts have postulated additional motives to the ones stated by Al Qaeda to include comparative backwardness of the Middle East especially due to the disparity engendered by globalization.<sup>119</sup> Yet others assume it might have been a conspiracy to provoke a wider war against Islamic nations in order to win more allied support for Al Qaeda.<sup>120</sup>

## **AQTO**

As with many political concepts, there is no universal definition of terrorism as its definition remains a controversy among scholars. However, the definition by Robert Jervis (2002, pp. 37-38) is sufficient for our purposes. According to Jervis, terrorism is “the use of violence for political or social purposes that is not publicly authorized by leaders of recognized political units, including acts that are sponsored and supported by states, but not publicly avowed.”<sup>121</sup>

There is a tendency to confuse AQTO with its many affiliates and the entirety of radical Islam. Both are not the same, but suffice it to say that they all are ostensibly anti American, anti Semitic and pro Islamic Jihad. The 9/11 attack was executed by various groups of Islamist extremists, but it was coordinated by Osama bin Laden under the AQTO’s Umbrella.<sup>122</sup>

## How it Started

The name Al-Qaeda comes from the Arabic noun *qa'idah* which means basis or foundation as in a military base or foundation. The prefix *al-* is the Arabic definite article *the*, thus, *the base*.<sup>123</sup> In Bin Laden's own words during a video interview with an Al-Jazeera television journalist in October 2001: "The name 'al-Qaeda' was established a long time ago by mere chance. The late Abu Ebeida El-Banashiri established the training camps for our *mujahedeen* against Russia's terrorism. We used to call the training camp al-Qaeda. The name stayed."<sup>124</sup>

AQTO is a global clandestine militant Islamic organization that was founded by Osama bin Laden in 1988. The group originated from the exigencies of the Soviet Union Invasion of Afghanistan in 1979 when many young Muslims from around the world, including a wealthy Osama bin Laden volunteered as jihadists—holy warriors—to fend off the Soviets. After defeating the Soviets in the late 1980's, Bin Laden used his financial affluence and contributions in the struggle to assemble these volunteer guerilla warriors as a vanguard force to wage Jihad against those that Bin Laden and his principals viewed as enemies of Islam and the Muslim world.

In 1989, the Sudanese regime invited Osama bin Laden during the regime's war against the Southern Separatists. Bin Laden sent a team of warriors as well as money to support the war and subsequently moved to Sudan in 1991. In exchange for his support, he was allowed to establish businesses and develop the AQTO's terrorist infrastructure.<sup>125</sup>

Soon after, by 1992, he started to inveigh about the United States support of Israel and apostate Muslim leaders—or regimes that fall short of strict Islamic standards<sup>126</sup>

AQTO operatives used employment positions in Bin Laden's businesses as a cover to obtain the necessary materials such as explosives, weapons and logistics to execute terrorist attacks. While in Sudan, most of its operations were centered on fund raising, acquisition of weapons, support, and training of attackers from allied organizations.<sup>127</sup>

Because of a failed assassination attempt of the Egyptian President Hosni Mubarak, and growing pressure and accusations by the United Nations that Sudan was harboring terrorists such as that tried to kill Mubarak, AQTO and Osama bin Laden were forced to leave Sudan leaving behind the businesses and causing a temporary setback for the organization.

In May 1996, Bin Laden moved back to Afghanistan where he reached an accord with the Taliban regime. Bin Laden and the Taliban found a common ground in the desire to establish a purely Islamic state and follow the Sharia law in toto.

In February 23, 1998, the leaders of AQTO and the Egyptian Islamic Jihad—another terrorist organization—operating as a merger published a fatwa to “kill Americans and their Allies.” It called on all Muslims, as a matter of their religious duty, to disregard age and gender and kill all American and members of the military whenever the opportunity availed itself.

There is no known formula to determine how AQTO orders its priorities, but it characteristically uses: Islamic religious symbols; scriptures and quotations from the

Koran; the relative socio-political and economic disparity between the Middle East and the West; and the United States foreign policy positions to incite jihadists to support and participate in their cause.

**AQTO Mission Statement:**

Whereas its statement is not written in stone these statements have been declared by the AQTO leadership:

1. To use Terrorism to influence and dissuade the government of United States from its Mid- Eastern foreign policy preferences; mainly: its continued presence in the Persian Gulf; and its support for Israel.
2. To Restore the Moslem Dignity and
3. To submit the world under an Islamic Caliphate.

**Operational Abilities:**

According to the 9/11 Commission Report, prior to September 11, 2001, AQTO possessed:

1. Leaders able to evaluate, approve, and supervise the planning and direction of a major operation.
2. A personnel system that could recruit candidates, indoctrinate them, vet them, and give them the necessary training.

3. Communications sufficient to enable planning and direction of operatives and those who would be helping them.
4. An intelligence effort to gather required information and form assessments of enemy strengths and weaknesses.
5. The ability to move people great distances.
6. The ability to raise and move the money necessary to finance an attack.

(The above list was adopted from the 9/11 Commission Report).

**Core Grievances:**

1. Blasphemous Military Presence of the United States in the Arabian Peninsula where some of Islam's holiest sites are located.
2. Blinded bias toward Israel and continued persecution of the Palestinian brethren.
3. Support for corrupt regimes in the Middle East e.g., the Saudi Royals.
4. Destruction and now enslavement of Iraq. Iraq was viewed as a regional power which America intentionally pruned in order to perpetually subjugate the Middle East.
5. Overall Subordination of Moslem world
6. Unfair oil trade that forces oil producers to sell at artificially low prices.
7. America's likelihood to treat Muslim lives with levity or aid in Moslem deaths.

## **Leadership of AQTO**

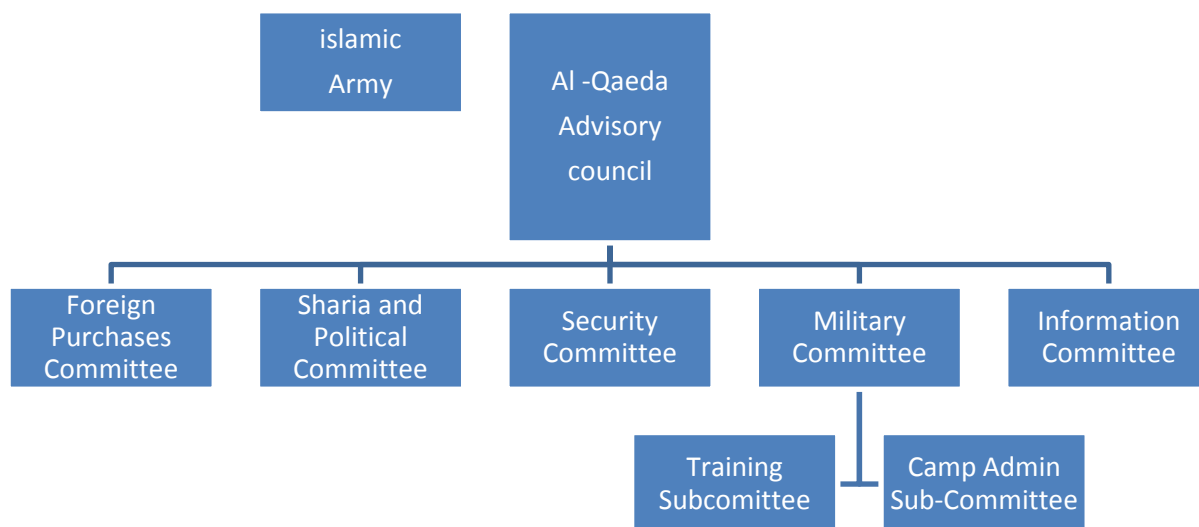
Until his death, Bin Laden was the Supreme Commander and Chief of Operations of AQTO. On June 16, 2011, the former Deputy Operations Chief, Ayman al-Zawahiri was reported to have replaced Bin Laden. As the leader, Bin Laden was advised by a group of twenty to thirty senior AQTO members known as the Shura Council. The entire parts and parcel of AQTO was built from the ground up as a clandestine organization that liaise with all the leaders in its global network, but if needs be, the individual units in the vast network can collaborate as an integral part of the umbrella organization to achieve a specific objective.<sup>128</sup>

Unlike a typical organization with a definitive hierarchy, AQTO operates a multi facet structure to enable it carry multiple functions individually, simultaneously and collectively. The Control mechanism is highly decentralized. The allied units conform to the overall objectives and guidelines set forth by the various committees of AQTO and these units are capable of executing a specific terrorist act following general guidelines.

The organizational structure is not design as a bottom top or top down flow of authority per say, rather it functions as a means for coordinating activities and providing material support to further specific agenda.<sup>129</sup> Once it determines a particular mission, a carefully selected secrete terrorist cell is assigned to fulfill the mission under the supervision of a senior AQTO operative who reports directly to Bin Laden.



### A Structural Chart of AQTO



Source: *Staff Statement No. 15*, by the National Commission on Terrorist Attacks upon the United States. [Globalsecurity.org](http://Globalsecurity.org)

Most of the AQTO plots in the western hemisphere are carried out by two categories of terrorists: the sleeper cell and the hit Squad. Various descriptions persist about the sleeper cell but the dominant theory is that sleeper cells comprise of terrorists who are resident in the target areas and often ready to act; while the hit squad refers to when a specific group of terrorists infiltrate an area prior to an impending attack.<sup>130</sup> The 9/11 attackers fit the sleeper cell mode because most of them, except five, were residents of the United States.

The Advisory Council or Shura is the highest decision making body of the AQTO net work. It is in charge of directing the overall strategy of the organization. A special political committee is responsible for issuing fatwa. The Information Committee is responsible for disseminating propaganda. Bin Laden's soft spoken oratory and charisma are leadership qualities, that endeared him, albeit perversely, to the hearts and minds of many Muslims.

### **Financing**

The finance committee is in charge of fund raising and concealment of assets. According to the 9/11 Commission's estimate, AQTO spent about \$500, 000 to execute the 9/11 attacks. This Includes:

1. Over \$270,000 by the operators in United States which includes but not limited to travel expenses, passports fees, visas, air travels to the united state and within the United States.
2. Monies and fee spend by the facilitators of these travels outside the United States.
3. Expenses Incurred by those who were trained to participate in the hijacking of planes but ended up not participating.
4. The operators and their leaders make extensive use of the banking system. With billions of transactions on a daily bases on the world market it is difficult to trail terrorist finance which fits well into the grand scheme of the organizations covert financial operations.

5. According to the report, a pre 9/11 annual budget was estimated at \$30 million. The monies are donated by Muslims financiers, business conglomerates and sympathizers of the AQTO mission.

### **Training Camps**

The training camps are overseen by the military committee who is responsible for the day to day running of the camps and planning of targeted terrorist missions. The training camps are an intrinsic part of the terror organization. The camps supply the line and staff of the organization and ensure steady supply of manpower and skills necessary for terrorist operations. Most of the trainees are prepared in the use of conventional warfare weapons and explosives. Also, training in the use of unconventional means such as the “Christmas day underwear bomber” or “the shoe bomber” is undertaken at the camps.<sup>131</sup>

Most of the terrorist attacks are suicidal. The volunteers and suicide jihadists are driven by Islamic religious doctrines of Jihad and the belief in martyrdom and ascension to paradise for dying for the cause of Jihad; hence their capacities to carry out terrorist acts without regard for their own lives. This condition creates the incentive for the volunteers to faithfully carry out suicidal mass murders,<sup>132</sup> because they believe that in death, they are consoled with paradise.

According to Gunaratna, (p.34) [AQTO] see itself as a religious-[political] missionary organization that seeks to promote its own understanding of Islamic teachings and using religious propaganda to condemn the regimes that it believes are either corrupt or un-Islamic.<sup>133</sup> Such propaganda generally raises the consciousness of Moslems around

the world, and influences the behavior of other Islamists and independent terrorist organizations, thus, making them more intolerant of secularist states and Western values.<sup>134</sup>

#### **4. Observations/Analyses**

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*“There is no sensible way to reach an agreement with the non-sensible....”* Eric Woods (2010).

This section of the thesis is an attempt to apply the concepts discussed in the literature review (section two), to the facts and findings of the case study. A closer analysis of the concepts reviewed in this study would affirm their applicability and operation in AQTO. A coherent knowledge of the AQTO will empower policy makers and administrators with valuable information on how to counteract the terror network.

The pillars of the Free Exercise Clause of the First Amendment, is shaken by subversive religious teachings which, in the absence of intervention, exacerbates terrorism. The 9/11 attacks were executed by foreign nationals who were residents of the United States. This trend drastically altered the military landscape. The conventional territorial and border defense by the military have all but evaporated since 9/11, at least to a significant degree, with globalization and the potential for home grown terrorism all the more apparent.

As I stated earlier, the Founding Fathers designed the First Amendment to safeguard religion from the whims and caprices of the government, so that religion is not hijacked by the government. But that ideal has been thwarted because while enjoying the protection that the Free Exercise Clause intended for the various religious groups, the radical Islamist terrorists have exceeded those boundaries, by safely using Free Exercise as a cover to indoctrinate and radicalize Muslims in the United States and around the world. Such a cover favors the methodology of AQTO and enables the terror cells to thrive with little or no detection.

Like minds attract. One of AQTO's core missions is to establish a purer form of Islam and establish strict Islamic governments. These were the ideals that united Osama Bin Laden (AQTO) with the Taliban regime in Afghanistan and the vast majority of radical Islamist terrorist organizations. They are predominantly hooked by religious piety which makes the subject of religion indispensable in the war on terror. But with Free Exercise Clause operating as-is, it would be virtually impossible to institute a legal inquiry in the very aspects of the religion of Islam that provide the justification for terrorism. Such justifications ought not to be tolerated within the United States because they pose security risks and fit well with the "Clear and Present Danger Doctrine" mentioned earlier in this thesis.

As we saw in Marci Hamilton's (2005) argument, whenever religious concerns or conflicts arise, the First Amendment is quickly invoked. If First Amendment provides such cover for the spread of doctrines that are antithetical to the existential interest of the

US Constitution, then, a deficiency exists. Therefore it begs the need for a Constitutional review.

The review is imperative because while shielding the religions from undue interference, the Koran dictates that the infidels be subjugated and *jihad* waged against them as a matter of principle. Obviously, not all Moslems are violent, or even remotely interested in waging a jihad, but that's not the issue. The very fact that such commands are found in Koran constitutes a threat and a violation of the Constitution where from its freedom emanates. AQTO is ostensibly a Jihadist organization.

Free Exercise, as evidenced by *Reynolds*, grants religion the freedom to believe what they want, but not to act as they like, but it is irrefutable that the religion of Islam is not limited to mere belief. It also has militants to terrorize and enforce their beliefs on infidels especially in Moslem countries, in order to intimidate non-Muslims into subservience or to extract compliance to such overbearing doctrines. This trend is implied in the AQTO's mission to bring the world under an Islamic rule.

The Courts have rigorously contended with the textual and contextual meanings of the free exercise clause. However, Justices are bound by the US Constitution without regard to personal predilections. Therefore, their decisions are limited to the texts of particular laws which make it *ultra vires* to exceed the boundaries erected by those texts. Thus, getting to the roots of the problem of subversive religious teachings is not the domain of the Court which is why the use of court cases was very limited in this thesis. According to Sheffer (1999, p. 13), if the Courts were to stretch the Free Exercise Clause

to reach religious actions, then “it must [of necessity] define religion, and to define religion is to arbitrarily impose an orthodoxy”<sup>135</sup>

Toleration was described as the virtue of exhibiting benevolence toward something you do not agree with or approve of. The Constitution permits minority religion in the midst of the dominant religion. This virtue was adopted so that mutual respect and peaceful coexistence may flourish among peoples of different faith. But when Islam have injunctions other than to tolerate or love your neighbor, thereby exceeding the intrinsic tenets of toleration e.g., warning infidels to convert to Islam in advance before terrorism is initiated, thus, turning the concept of toleration on its head. While being a clandestine organization, AQTO operates as a religious vanguard with the most extreme of Islamic fundamentalism which it views as a purer form of Islam.

Since it is the sacred mission of all Muslims to wage jihad, (K: 5: 9; 2:191-193) use intrigue and terrorism against the infidels. Such injunctions clearly conform to the definition of terrorism, to use less than holy means to achieve socio-political and religious ends. Therefore AQTO is a product of Islamic teachings and not by any means subversive of Islamic doctrines.

According to the Koran, all Muslims are called to jihad as was documented in the over 150 verses of Koran referenced above. Koran mandates Muslims to kill the Jews and Christians (9:5; 9:29). Then it goes further to create the incentive to compel obedience to these commands as seen in promises of earthly reward in a successful jihad or paradise in the uneventful demise of the jihadist (9:111).



As we stated in the Mormon Church literature, the Mormon sect had some socially reprehensible doctrines, chiefly the belief in plural marriage. These antisocial doctrines were practiced with impunity by the Church founders and their followers, who had hoped to quickly invoke the Free Exercise Clause at the slightest objection, as was demonstrated by *Reynolds*. Because a loop hole existed in the Free Exercise Clause, Congress moved and passed the Morrill Anti-Bigamy Act in 1862, specifically to circumvent, punish and discourage the practice of Polygamy.<sup>136</sup>

The Act was further strengthened by the Edmunds Anti-Polygamy Act of 1882 which then made polygamy a felony, revoked the rights of polygamists to vote, serve in the jury or hold political office. Many scholars argue that their First Amendment rights were violated, but by precedent, the Court has consistently ruled that neutral laws that coincidentally impinge on some religious practices are legally permissible.<sup>137</sup>

Therefore it should be possible to enact laws against religious doctrines that encourage the physical abuse of others, but this would not be possible, except, of course, if the Free Exercise Clause were amended specifically to address subversive or violent contents in the religious books.

This thesis is not suggesting that the origins of any religion be investigated, but to analyze the content and rationale of certain elements that are shocking to the soul of people and antithetical to the “natural laws of nature” and “nature’s God” as was recognized at the Declaration of Independence of the United States in 1776.

What the people fought against was a specific doctrine—polygamy—that clearly was un-American and uncivilized. Just because some people might be offended is never a justification to tolerate something that may debase the society's foundation. Toleration should not cause anyone pain, fear, harm, suffering or anxiety. But this precisely is what the religious apologetics are lobbying for. The AQTO derives its guts and fellowship from the Jihadist injunctions enumerated in the Koran.

As we found in the Mormon literature review, when the United States decided that some aspects of Mormon teaching were inconsistent with the duly enacted laws the Mormons adjusted their principles, reformed and expunged such teachings that violate the spirit of the US Constitution. The main line members of the Latter Day Saints (LSD) have since renounced and desisted from polygamy because the practice was met with zero tolerance. This is the only way to root out AQTO from the source in conjunction with the ongoing efforts.

The religion of Islam has many commands that starkly violate the United States Constitution just as the Mormon Polygamy once did. By comparison, the Islamic religion contains a lot more outrageous doctrines than the Mormon Church ever recorded. The religion of Islam has in fact, caused so much more collateral and psychological damage than could ever be said of the Mormon Church. Islamic doctrines were paramount in convincing 19 AQTO hijackers and the rest of suicide bombers the world over, to embark on nefarious acts because such acts are permissible in a Jihad—holy war.

Whereas Muslims from the Middle East are able to emigrate to the rest of the world and are allowed to practice their religion freely, others from the rest of the world

are not similarly tolerated and risk their lives by being non-Muslim in predominantly Muslim countries. This uneven handedness begs for serious evaluation by the US government. Experts have argued that such disparity emboldens radical Islamists at the expense of a compliant West. It specifically conforms to the stated goal of AQTO to establish Islam as the world's religion.

Islamic religious practices are more prevalent with increased population, power and resources as the Pew surveys indicated above. While other religions might have these and remain tolerant, Islam strikes whenever the logistics are in its favor, as the cases of Egypt, Jordan, Sudan, Indonesia and Nigeria reveals. Christians are regularly slaughtered in these countries. The attempt to erect a mosque at Ground Zero is a rather subtle attempt to symbolize its increasing power. Many analysts have interpreted the Ground-Zero mosque attempts as a sign of victory and standard practice in Islam whenever Muslims prevail in a jihad. In this sense, the victory was 9/11 attacks.

The AQTO is waging an ideological warfare against the United States in hope to twist her foreign policy. It does not have the military wherewithal to engage the United States in a frontal combat, assuming the AQTO had a real face or station. That is why it is necessary to fight the war on terror at all levels, including ideologically and militarily. As long as the ideology of AQTO/radical Islamists is unchallenged, terrorists may never cease to emerge because the ideology is what sustains suicide missions and terrorism.

Therefore, USA will never decisively win the war on terror. An endless war is bound to cost more in all aspects. The ideological warfare should seek to openly question the many irrational beliefs of the jihadists. For example, that those who fight to death in

jihads are rewarded with paradise with virgin girls or that Sharia with its rampant abuse of women and excessive punishments like amputation for theft is the will of a ‘merciful’ god.

Because the AQTO engages the USA in a game of chess, or hide and seek, using intrigue, propaganda, terror cells, hit squads and all manner of tactics, it is necessary to advance their tactics inversely, in order to foreclose their ability to recruit terrorist using government policies that can check mate such tactics.

Communism and Islam share many similarities, e.g. both depend on either socialist revolutions or Jihad—to bring about forceful socio-political/economic and religious changes and United States as the common target. While such revolutionary principles were vehemently resisted in Communism as the literature shows, why are the same principles relatively tolerated under a religious cover? We selected communism as part of the case study to show that there is a systemic complacency and a significant degree of naiveté in the polity. Communism sought to overthrow capitalism by using historical materialism to posit socialist principles as superior to the other modes of production.

According to the *Manifesto of the Communist party*, communism must be forcefully brought about by a socialist revolution aimed at overthrowing the capitalist class. From analyzing the countries like former USSR, Cuba and China, where socialist revolutions had succeeded in the 20<sup>th</sup> century, it was found that communism thrive[d][s] on repression, corruption, and infringement of inalienable human rights such as freedom

of speech, press and conscience. While the United States capitalism might have its own flaws, despotism is not one of them.

Rampant subjugation and violation of human rights are very common in Islamic countries especially where Sharia is the law of the land. The Sharia Law is more obtrusive of human rights than the communist manifesto especially in respect to women rights, freedom of speech, conscience and excessive punishment for offenders. For example, Sharia prescribes stoning to death for adultery and amputation for theft. Yet communism was vehemently and decisively resisted.

Communism voiced their intentions the same way the Muslims voice their Allah given mandate to bring the universe under Islam. Yet the US government seems to overlooks these threats because it would be politically incorrect to take religious threats seriously. Nations that adhere to Sharia Law are likely to finance and Support Terrorism. And as long as nations are sponsoring terrorism and not held directly accountable, the United States forces will be perpetually over burdened.

According to the Koran, infidels are to be terrorized until the whole universe submits to Allah (9:5). Terrorism is a form of Jihad. Many Moslems have referred to Osama Bin Laden as a Holy Warrior. While communism depends on socialist revolution to dominate the world, Islam uses the sword, terrorism, and jihad to spread its faith, thus, following in the tradition of its founder—Mohamed.

The world has literally shrunk as a result of enormous advancements since the beginning of the twentieth century in regards to: communication, transportation, banking,

and warfare—herein known as globalization. It is now possible to reach the ends of the earth within the course of a day through telecom, air travel, and the internet. This development is the reason the administrative conditions as it were at the 1791 ratification of the First Amendment has changed drastically. The proliferation of suicide bombers and readily accessibility of assorted explosives and sophisticated weaponry make it all the more imperative to rethink how much of these changes were factored into the ratification of the First Amendment.

The strategy of the United States to focus on catching culprits and making them pay for their crimes leaves much to be desired. Rather than assume that religion is an endless good, the government should investigate some of the underlying theologies that are juxtaposed to the duly enacted laws of the United States within the broader context of exploring why some religions are inherently more volatile than others. As Vexen Crabtree (2009) asserts, “the cure [for religious crimes] cannot be to deal with the errant groups as they emerge, but to stop them emerging in the first place.”<sup>138</sup>

True freedom of religion will likely thrive in a democratic system where human dignity and liberty comes first. But because of the political culture of Islam where no real distinction is made between the church and state, not only will Islamic countries harbor and raise terrorists; globalization makes it the more easily transportable around the globe. And such was the polity wherefrom the AQTO emerged.

According to a report by *WorldNet.com*, the Catholic Pope contends that the religion of Islam is incompatible with democracy because a radical interpretation of the religion

would be essential, which is farfetched “because it is against the very nature of the Koran—[eternal word of god]—as it’s understood by Muslims.”<sup>139</sup> In contrast he remarked that “there is inner logic to the Christian bible, which permits it to be adapted and applied to new situations.”<sup>140</sup>

Further, Sandro Magista (2011) argues that’s that the overall US strategy in the war against AQTO and terrorism is predicated on the development of democracy among Muslim countries and that an Islam reconciled with democracy would foster their integration as immigrants in other European democracies, but “an Islam incapable of distinguishing between God and Caesar would trap them in a state of alienation.”<sup>141</sup>

Beyond AQTO, there is a proliferation of terrorist organization, that either act alone or in concert with AQTO to execute a specific terrorist project. Therefore terrorism has risen to the level of a menace especially in the Middle East where more than ninety five percent of the population is Moslem. To foist a circular approach (democracy) on a situation that has deep religious components is at best a guess work. Would a democratic constitution eradicate the Sharia Law which is an integral component of the Islamic religion as established by the “eternal and unchangeable word of Allah? Or does the United States presume that Muslims would yield some of the Islamic injunctions in exchange for democratic peace? These conditions must be reconciled to root out AQTO and terrorism.

The persistence and the resolve that procured the victory in communism is now being taking for granted when compared to the overall reaction of US in the war against

radical Islamists. It cannot be a coincidence that most of the terrorist are Muslims. To look at AQTO in isolation without the source of its overall organizational agenda would confound and obfuscate any knowledge that is gathered in isolation. AQTO will only cease to exist when the Ideology that propels its organization is intercepted.

The belief that Allah is the absolute supreme deity, and the Koran and Mohamed his eternal word and messenger, whether true or false, is a viable threat to the entire world peace because Muslims have an open ended eternal injunction to kill infidels (Koran 2:191-193; 2:244; 2:216; 3:151; 4:74; on and on). AQTO draws from these injunctions. That is not to suggest that all Muslims are terrorists or even bad at all. But those who dare to follow the complete teaching of Islam—Islamic fundamentalists—do exactly that, especially since there is no distinction between political and religious Islam. Both are one in the same. Most political conflicts turn to religious wars ostensibly because many Muslims kill in the name of Allah.

The religion of Islam and the operations of AQTO are inversely related to communism not in terms of materialism or divinity, but in terms of control method. Both have the blue print to control the most fundamental of human freedom—thought and conscience. In communism all your being and thought belongs to the state while in Islam you are not allowed to doubt or test Mohamed's claims or to freely leave the faith if you please. Dissenting from the faith—apostasy—is punishable by death (Koran 4:89; 9:11-12; 2:217; 9:73-74; 88:21; 9:66). It is such seizure and control of the mind that ensures that irrational practices and doctrines are not questioned which ultimately calls the Free Exercise Clause to question on the one hand and breeds terrorism on the other.



The 9/11 attacks were reminiscent of the Pearl Harbor attacks by the Japanese in 1941. Both attacks were unprovoked because they occurred without any warning or direct conflict. Pearl Harbor was intended to prevent United States from interfering with the Japanese empire's military actions. The next day, the United States declared war against Japan. Again this thesis is trying to show a systemic shift in the response to threats and deeds against the United States. The United States responded swiftly and decisively because there was a clear and present danger.

The entire military apparatus has been reduced to chasing a few Islamic miscreants. While some will be captured in the act of terrorism, the Ideology that propels terrorism is untouched and lives on. The question is: are we going to continue to live under the threat of Islamic terrorism forever? Where is the Pearl Harbor urgency? All the wars in Iraq and Afghanistan are a distraction from the real problem-Islam.

As was described above, Political correctness is the amoral disposition of relegating all thoughts, cultures, religions and beliefs as relatively inconsequential and merely dependent upon one's personal orientation or predilections. It is the tendency to speak or do only the things that represents all parties or interests regardless of any known or established moral codes. It inadvertently crushes or censures the truth mostly in the bid to be as nice as possible to people or views you may not really agree with.

In respect to religious intolerance and conflicts, Political correctness tries to cover up serious religious rivalry with rhetoric that nearly always lacks the essential truth and honesty to foster a lasting understanding. The danger that it poses is the likelihood of correcting serious wrongs and dangers when the consequences are yet not far reaching.

PC buys time for the adversary. As Derber and Magrass (2008) said, our common humanity is lost when speaking the truth becomes intolerable.

The differences between Muslims and Christians are patently irreconcilable. The fact is that both of the claims made by Islam and Christianity about Jesus cannot both be true. Either they are both lies or one of them is a lie. The politically correct attitude of presuming that everyone is entitled to their own truths is far from sensible because truth is universal and the same for everyone. Thus, no one can claim ownership thereof. For example, the sun would rise in the east every day. This is true regardless of what anyone thinks. Similarly, touching a red hot plate will burn the finger. This assertion is true for everyone.

Therefore, based on the contradictions stated in this thesis, either the Christian faith or Islamic faith is a false religion especially since Islam lays claim to the same Christian God of Abraham, Isaac and Jacob. Whichever account is the truth, cancels out the other. Believing falsehood regardless of how many people you are able to convince will never change the truth.

Granted, the judiciary has a duty to interpret the law, but not to usurp the legislative function. The concept of absolute religious freedom is theoretically appealing, but one loophole may render it completely ineffectual, and perhaps, turn it on its head and produce unintended catastrophic results of the magnitude of 9/11 or greater. This thesis argues that the First Amendment has a loophole. While lavishing freedom on religion, no real safeguards were directly built into it to prevent its abuse. This explains why it is difficult for the Congress or Courts to reach subversive religious doctrines that

are wholly and completely incompatible with our democratic system and a most fundamental value—freedom. That loop hole is the ultimate essence of this thesis as I shall detail in the coming sections.

This thesis takes a different approach. Rather than focus on the outcome of “bad” religious practices, the target should be on the ideology that engender actions that are in conflict with the criminal law. Let’s consider a simple analogy. In the United States, the war on drugs is fought at different levels some of which includes banning the growth, possession, consumption, and transportation of illegal substances. At the social level there are programs geared toward rehabilitation of drug addicts, children of convicted drug felons are taken away and protected by the government.

Further, parents found to be under the influence of drugs may lose the custody of their children in order to protect them from such subversive influence and potential danger. Places are marked “no drugs” allowed. Athletes and employees are checked to verify that individuals are not under the influence of illegal drugs. The entire drug law administration is for the common good and to protect the citizens. Drug menace and religious threats both constitute a “legitimate secular interest” as well as a “clear and present danger” doctrine discussed in *Sheffer* (1999, p. 10).

The drug war is about society coming to terms that drug addiction is a menace that does not deserve toleration. This understanding in turn inspired various aspects of the social order to do everything within its legal power to fight drug abuse and addiction. Whether or not it has succeeded is a whole different story. The important element here is

that society is not apathetic, inept or oblivious of the dangers of drug menace and are doing what it can—making policies and enacting laws to prosecute it.

In perspective, less number of people, arguably, has died on drug related crimes than on religious crimes. While efforts are made by the Department of Homeland Security to protect the citizenry, such efforts need to include the underpinnings of terrorism rather than focus on superficial intelligence that suffices in the short run. Serious attention needs be paid to religious teachings that encourage harming or killing others for any reason whatsoever. The government should investigate and question injurious religious ideas and beliefs that pose a potential threat to the public good if it must live up to its commitment to protect its citizens from harm. We selected Mormonism as the first case to show that irrational religious ideologies cannot be treated as sacred cows.

The 12 year attempt by the 57 Islamic countries of the OIC to protect religions from defamation testifies to “a lack of confidence in one's position and message.”<sup>142</sup> As was said before, the truth needs not fear, just as a clear conscience fears no accusation. Why does the supreme word of Allah need all the ‘bodyguards’ and threats to protect it? Or prevent inquiring minds from satisfying their hunger for the truth? The rest of the world does not have to suffer for anyone’s religious insecurity.

It is important to decipher who is saying what in the major debates of our time, because some humans, albeit unintentionally, demonstrate a high degree of naiveté when serious national security issues are concerned. For example, radical Islam does not deserve any measure of secular approach because they constitute a “clear and present

danger that requires Islam to be specifically probed. A secular or neutral approach plays in to the blue print of radicalism which in this case makes secularism inadvertently evil.<sup>143</sup> For example, the 1978 mass murder of 900 people in the Peoples Temple, Jones Town, Guyana is an instance of false theology, inspired by Satan that inevitably lead to mass death.<sup>144</sup>

Some apologetics have hypothesized that it is not the Islamic religion that propels terrorism; rather it is the United States foreign policy positions. To test their hypothesis, they ran a content analysis of the AQTO leader's statements. They found that out of a combined total of 15, 597 words (100%) from Osama Bin Laden's video speeches prior to and after 9/11; 9.9% (or 1550 words) were related to Islamic religion, while 45.4% (or 7,084 words) had to do with United States foreign policy grievances.<sup>145</sup>

However, no mention was made about countries like Nigeria where Muslim terrorist and extremists' burn churches with whole congregants locked in it. Moslems kill, maim, and decapitate Christians and other non-Muslims with unimaginable impunity in countries with large Muslim population. Once you use other countries with up to 50% or more Muslim population as control for the analysis that found that terrorism was a result of policy grievances, the hypothesis will not bear out because it is not in bin Laden's word that terrorism originates, but in the injunctions of Mohamed and Islam against the infidels.

In an article, *Conflating History with theology*, the author contends that people are inertly intolerant and violent and armed with religious piety they become even more deadly.<sup>146</sup> Some apologetics have argued that the nature of bloodletting found in Islam is

not unlike those found within the Christian history especially in the medieval period of crusades—the religiously authorized wars to restore the holy sites of Jerusalem by the Catholic Church and the Roman Empire.<sup>147</sup> However, the critics of the crusades hardly explain the antecedents of the crusades.

The crusades did not erupt from a vacuum. In fact, it was in response to the unbearable spreading of Islam by sword, the slaughter and conquering of the Jews and Jerusalem by the Muslims in 637AD. No matter what happened, one thing is irrefutable: the crusades were not based on the teachings of Jesus Christ who admonished his disciples to "love your enemies, bless those who curse you, do good to those who hate you, and pray for those who spitefully use you and persecute you" (Matt 5:44). Inversely, Jihad is an eternal command of Allah in the Koran.

Considering the former premise that man is inertly violent. If the Catholic Church, who Jesus commanded to love even your enemies, embarked on a crusade, how much more can be expected from Muslims who being man—intolerant and violent, now have a scriptural injunction to kill, plunder, intrigue, and wage jihad on the infidels?

The history of Islam is the history of conquest. Beyond human violent tendencies, Muslims further practice what Allah commands. The moderates and the fundamentalists of Islam operate in two distinct camps of the Islamic religion. Whereas the terrorist's functions as the Koran dictates for the Mujahidin, the moderates who clearly aren't following the full teachings of Islam faithfully sit back and make apologies on behalf of the extremist claiming that their activities are un-Islamic, perhaps, to confound the not-well informed.

All the roles are found in the Koran. It is no secret that the early writings of Mohamed in the beginning of Islam were rational and seemingly reasonable. Such was the case because at its founding in 622AD. , the religion was fragile and could not start off being violent or face the potential for annihilation. But once it gained recognition and grew substantially in power and population, the later part of the Koran was littered with violence and the command thereof (Jihad).

It is the distinction drawn between the apologetics or the moderates and the extremists that make it absolutely difficult to deal with the core violent teachings of Islam. The enemy you can identify is better than the angel you cannot. The moderate Muslims make it impossible to take a decisive and comprehensive line of action to eschew the potential for radicalism and home grown terrorism. Rather than chase the radical fundamentalist terrorists endlessly, the United States would be better off, as was said earlier, '[stopping] them emerging in the first place,' by attacking the ideological underpinnings of religious violence.

The moderates not unlike the fundamentalists have always asserted and insisted that the Koran is the indivisible, unchangeable, absolute, complete, and eternal word of God, revealed divinely and miraculously to Mohamed. Koran contains over 150 "eternal" verses commanding Muslims to Fight, kill, and be killed until the infidels submit to Islam (9:5).

If the moderate Moslems were genuinely concerned about radicalism, then, they should lead a movement for reformation, but that might never happen since they constantly remind you that Koran is the eternal word of Allah. If both the moderates and

the extremists believe in the absolute word theory, then the only possible distinction between the two classes of Muslims would be active for the terrorists (jihadist) and non-active Muslims (or the pacifiers). It is disingenuous to believe something in theory and then deny or reject it in practice. And if you do not believe it, then you shouldn't have a problem reforming it.

America is slowly getting inoculated with moderate Muslim syndrome which consistently tries to confound the entire population about the true teachings of Islam. The moderates, with the government complacency, make the war on terror very tedious and impossible because the extremists hide among the moderates and First Amendment illicit that we carefully tolerate and be more considerate of each other's feeling. But when both the moderates and the radicals are mixed in, how do we concretely distinguish between the two camps without going through some tedious intelligence which is bound to be uncertain. A policy consisting of merely attempting to search out the extremist is like searching for a needle in a haystack. It is also an inverse acceptance of defeat.

The identity of past attackers shows that the Muslim middle class and educated that are more likely to become terrorists e.g. the 9/11 pilots and the Christmas Day Underwear Bomber. So the issue cannot be that they were radicalized by anyone. They can read and unquestionably comprehend what the Koran orders. Due to rampant equivocation about Islamic teachings, the American clerics need to call for a reform for what they, themselves, absolutely believe despite that they all agree that Koran is the absolute and eternal word of Allah.



The effort to forestall congressional hearing on radical Islam as was displayed by a Muslim Congress man<sup>148</sup> begs the question: what is the allegiance? While our shores are yet under threat by radical forces, the power to defend must correspond with the danger at hand. Muslims should be equally interested in getting to the bottom of terrorism rather than focus on being marginalized. We are obviously at war with radical Islam and all necessary intelligence must be deployed to keep America safe. It is the duty of the Congress and the President under the current circumstances to learn everything knowable about the causes of Islamic radicalization. Religious violence, home grown terrorists, intent to dominating the world, and jihad needs to be eschewed from the American polity because these represent “clear and present danger” and are the most unmistakable antithesis of the United States Constitution.

As we stated earlier, a truly democratic system must contend with the fundamental fact that democratic principles alone, sometimes, are not sufficient to preserve democracy from external threats. According to the Columbia Law Review, Vol. 47, No. 3 (Apr., 1947), pp. 416-431 on Constitutional Limitations on the Un-American Activities Committee:

“the very existence of democracy implies two contrary stresses, which at times come into sharp conflict. One is derived from the practical desire of governments to protect themselves against overthrow by forces inconsistent with their fundamental political principles. The other rests upon the existence, as a fundamental principle of democracy, of the right to advocate changes which some may deem so basic as to destroy democracy itself.”<sup>149</sup>

The activities of the HCUA was faced with the above dilemma in regard to congressional utility of powers that were constitutionally separated for the bench mark checks and balances erected to prevent abuse of power. Although the HCUA may have overstepped its boundaries and the guiding principles of democracy, and encountered a good deal of legal and political hitches, the 1947 Hearings on *Constitutional Limitations on the Un-American Activities Committee* asserted that:

“ It is apparent that any solutions in this field must avoid both of two possible extremes: a democratic government should not be deprived of its privilege of self-preservation; nor should that privilege be used as a pretext for indirectly sterilizing the right of individuals to advance ideas not acceptable to those in authority.”<sup>150</sup>

The question that was posed then, which this paper poses now is “[i]n an effort to protect the nation from threats to the stability of its political institutions [or values, through harmful religious ideologies] , can Congress give to a congressional committee an unlimited power to investigate, a power unhampered as to subject matter or scope of the specific inquiry?”<sup>151</sup>

The breadth and scope of congressional investigation into un-American activities made it possible to rampantly trample on the civil rights of individuals. The contemporary dangers of terrorism that is skillfully embedded in the holy scriptures needs not to be fought with guns and war fare, yet these are imperative to preempt and the defend a physical attacked; rather it needs to be fought in the same method it is presented—first through a counter ideology that is strong enough to withstand the far

reaching convictions of those who subscribe to subversive religious doctrines and then by force.

For a religion to suggest in its books that they are superior to others and have a duty to subject others to their belief is wholly and completely inconsistent with the preamble to the American constitution which declares that all men are equal and free to pursue happiness. That liberty and the pursuit of happiness is what make America great. But it is also true that freedom does not come free. The civil war of 1861 is a case in point. The need for the collective safety of all Americans, by all standards, trumps the need to preserve subversive religious doctrines. What is the primal duty of the government?

Many have suffered and died because of Islamic thirst for power. We owe it to posterity to rid some aspects of Islam just as was done in the case of Mormon Polygamy. Religious freedom is important within the context of the First Amendment, but not beyond it. The lesson of *Korematsu*<sup>152</sup> does not arise here because no one has suggested anything remotely similar to quarantining the Muslims. You cannot respect a lion that is intent on devouring you.

AQTO has altered the life and business of everyone on the planet including the US bureaucracy, security systems, banking, airports, morbid fear, death of thousands of civilians and soldiers, material and economic resources and billions of dollars. To minimize the war on terror to the chasing of a few “misguided” culprits is laughable, yet not funny at all. Islam has wreaked far too many horror that fail to make it to the

mainstream media beyond the shores of United States. America is great when it can call a spade a spade, and not baptize a spade with a politically correct nomenclature.

Because of the very nature of the war against communism, the HCUA had to show greater interest in the utility of public awareness and opinion because communism was an ideological instrument aimed to destroy the capitalist order and not unlike the multiple declarations by the Iranian president at the UN summits about a new world order in which the entire universe shall be brought under one theocracy—Islamic Caliphate.<sup>153</sup> And in fortifying this [un]holy agenda, it has become a common mantra in the Middle East to shout death on the Jews, death to America, death to Christians and so on. And school children are raised on these hateful ideologies. How should the United States respond?

A counter ideology is intrinsic to the success of the war on radicalism. But any such would immediately be challenged under the establishment clause because Congress shall make no law in respect of the establishment of a religion....” We can’t be fighting a war without the full support of the law to win. In this regard, the first Amendment is self destructive because it fails to erect any defense against its own demise. That is why fighting Islamic fundamentalists and terrorist within United States would remain a long coming success.

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defend a physical attacked; rather it needs to be fought in the same method it is presented—first through a counter ideology that is strong enough to withstand the far reaching convictions of those who subscribe to subversive religious doctrines and then by force.

The Patriot Act in its entirety ignores the real source of terrorism and focuses on the symptoms thereof. An understanding of terrorism is the study of Jihad. An understanding of Jihad cannot be without understanding Islam. The greater war is largely ignored. The war against the teachings that engender terrorism is conspicuously missing in the strategies to prosecute War on Terror.

Recent history, especially of jihadist Islamic bombers, is a testament that religion is becoming a social menace. Therefore, why is it uncharacteristically getting far less policy attention than communism and polygamy both of which were considered a threat to the American norms and values? The recent and ongoing spate of intolerance and extremism between the Muslims and non-Muslims across the United States and around the world since 9/11 is a tip of the iceberg. On the brighter aspect, action can be taken to contain its deadly tendencies before it is too late.

Most authors: Sheffer (1999); Hamilton (2005) and Garry (2006); look to the legal system in the matters concerning the free exercise and establishment clauses. Although the courts are very important, the real issue of religious intolerance does not quite reside in the domain of the law courts. The courts are only able to rule on the symptoms of the problem. For example, if a physician has a patient who is suffering from intense nausea associated with cancer. The physician would first run a diagnosis to

find that the root cause of the nausea is cancer. Similarly, the root causes of terrorism and religious violence deserve to be on the table for diagnosis.

No religion ought to be able to teach or propagate doctrines that are irrational or barbaric such as polygamy, rape, child abuse, terrorism, amputation and what have you. Such irrational literature if found to be a motivation for any form of criminal activity ought to be questioned and put on trial no matter how holy its adherents deem it. Irrational and nefarious injunctions are simply incompatible with the nature of God. And society needs to come to grips with that.

Sheffer rightly points out that the government may not be able to effectively interfere with religion without becoming a “leviathan”<sup>154</sup> (p.122)—precisely what the First Amendment was intended to prevent. However doing nothing to counteract bad ideologies does not remotely preserve the First Amendment. History has showed that where there is a will, there will always be a way regardless of the nature of the problem.

It is clear that Islam is the most violent and volatile religion on the surface of the earth, e.g. Google Pope Benedicts critique of Islam and the Danish cartoon scandal, or the burn-a- Koran standoff and countless more. At the slightest question or criticism or even a joke about Mohamed, they resort to violence and senseless killing instead of dialogue. The only reason Moslems seem calm in United States, for now, is because there pollution is 0.6%. A meager population relegates the American Muslim to the initial writings of Mohamed as the only practicable creed until such a time when they shall gain significant leverage, power and voice, in the American scheme of things. A stitch in time saves nine.

As seen from over 150 verses prescribing jihad for the Muslims above, it is apparent that Jihad is a sacred eternal duty of Muslims until “everyone” submits to Islam. The terrorist’s jihadists are on the job plotting steadfastly to compromise the United States. The nature of extremist religious ideologies that feed radical Muslims and al-Qaeda into terrorism demands a countervailing force to chart its resistance as was done in the case of communism. The Christians who happen to be easily targeted and slaughtered by Islamic fundamentalist do not have the requisite ideology to propel an adequate defense against the overbearing terror of Islam because while Allah and Mohammed commands his followers to ambush infidels (in jihad) Christians are commanded to love and show kindness even to ones enemies (Mathew 5: 44).

In sum, Islam is a religion in which Allah sends his sons to die for him while Christianity is one in which God sends his son to die for the world. It is on this premises that the two coexisting as diversity is eternally incompatible. But a reformation of Islam will resolve this discrepancy. Under the present circumstance, Christianity lacks the wherewithal to fight Islam except but to have faith in God to defend them from jihad.

However this option is not plausible because as was in the case of the ancient Jews, a people must roundly accept the supremacy of God in their affairs to be able call on Him. Diversity and polytheism—belief in multiple gods—may likely not pull the hand of God because his very first command in the Ten Commandments is that [you shall have no other gods but Him]. According to the bible, while speaking to Solomon, God said: “If my people, which are called by my name, shall humble themselves, and pray, and

seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land” (2 Chronicles 7:14).

To recognize Allah and the God of the Jews and Christians in one locality is probably a recipe for the absence of God as implied from the above verse. Therefore, only a concrete secular approach to religious conflict is hitherto, proper and feasible. You can't kick God out with strict expulsion in the guise of separation of church and state and do nothing—or expect divine providence and benevolence. This scenario begs the question: in what way shall US build its solidarity against radical Moslems many of whom live among us, without alienating all of them altogether? The illusion that American Muslims don't support the rest of the hate filled Muslims in the middle east must be seen for what it is: a myth, because they are hardly seen to condemn the activities of Muslims around the world.

As was stated in the literature review, because the Founding Fathers did not foresee religious evils like terrorism and clergy-child abuse, the First Amendment, unfortunately, fails to render protection against tyrannical religious organizations that run in stark contrast with the rule of law and the spirit of liberty which they sought to promote. Many of these crimes like outright terrorism were not prevalent at the time of its ratification. Therefore, it deserves to be reviewed through a constitutional conference, or a referendum, in order to bring free exercise to par with the current scheme of things—globalism.

Although no constitution is perfect, the constitution of the United States recognizes a God, inalienable human rights—life, freedom of speech, worship, pursuit of



happiness, equality, and the general dignity of man; both in theory and practice.

Therefore, under no circumstance should the Sharia law or the slightest portion thereof be tolerated within the legal parameters of the United States. If we believe in the preamble of the US Constitution, that “all men are created equal... [Including women], then the Koran and Sharia are wholly and completely at variance with our constitutionally granted liberties, and more so with the United Nations stipulations of universal human rights.<sup>155</sup> The Sharia violates all the United Nations fundamental Articles of Universal human rights. (See Articles 1, 2 and 3 of the UN declaration of human rights).<sup>156</sup>

Since the Koran and Hadith—narrations concerning the words and deeds of the Islamic prophet Muhammad—are the eternal words of Allah and his messenger, to rely on Muslims to lead a reformation of its religion is unrealistic because such a reformer would first have to be an apostate, and held in contempt of Sharia and perhaps killed no sooner than immediately his intentions are known. But doing nothing or pretending that Islam is not a problem will only lead to the most sinister outcome. We can either face the issues now or face it when it would be most formidable. The United State should lead a campaign with other non-Muslim nations and device a comprehensive law to pressure Islam to join the age of enlightenment and reason by any means possible. Toleration of the status quo is not an option.

The display of public opprobrium by Pakistanis<sup>157</sup> and a large group of Muslims in UK<sup>158</sup>, a close ally of the US, at the wake of the execution of Osama Bin Laden testifies to the unreformed Islam’s eternal hatred and eternal incompatibility with the United States and every non-Muslim because of the foregoing facts in this thesis and

more so because if they can exhibit that level of support for a mass murderer and rain curses at United States for doing justice to Bin Laden, then we must all see them for who they truly are? They are not hiding it; we just refuse to accept what we see.

## 5. Conclusion

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The exegesis of the selected cases, data and extant literature in this thesis points that Free Exercise Clause of the US Constitution burdens the war on terror and inadvertently enables terrorist organizations such as AQTO to operate undetected with the borders of the United States. Not having the legal power to inquire into religious practices hinders the war on terror.

AQTO functions like a normal organization that coordinates all its resources to achieve a common goal. From the structural arrangements in the case study, the paper found that AQTO while being a clandestine organization is still able to fulfill the goals of the organization by combining various resources and liaising with subsidiary terror organizations for the purpose of fulfilling specific terrorist goals.

Religious intolerance has been on the rise since 9/11 attacks and is exacerbated by the uncanny desire of people to be politically correct. The Constitution is patently violated by the religion of Islam. The war on terror has recorded ample successes in the disrupting and capturing suspected terrorists, but the minimization of the target to the exclusion of either an ideological onslaught or a push for the reformation of Islam makes the dangers of terrorism insurmountable.

Combating AQTO while ignoring the ideological underpinnings that breeds it is tantamount to going after the symptoms of a sickness in the hope that the causes will heal its self. Such a dismal failure in treatment will cause the symptoms to overwhelm the remedy. Terrorism will not stop unless political correctness gives way for the root causes, Islam, to be exposed and addressed.

No one needs look far beyond the Koran to understand what the underlying issue is. It is about eternal domination of the world by Islam. Even if they were peaceful today and the United States were to delink from Middle East, it will never change the eternal Quest of Islam to conquer the world in obedience to the eternally unchanging word of Allah. AQTO is a small fraction of the whole. The way to thwart this unwelcomed conquest is to have an eternal agenda to defeat, or radically reform Islamic teachings.

Laws like the Free Exercise Clause are made for the good governance of the society. If the good intended to provide by the law is not in the vicinity, then it is incumbent on the powers that be to recall that law and review it. The facts about terrorism and radicalism show that Islam is the most feared and violent religion in our contemporary world. This trend is not so because people are Islamophobic, although some might be, or that extremists hijacked the religion, rather it is because the religion hijacked the extremists, because it was fashioned after its founder, Mohamed, who ostensibly spread his gospel by the sword. After he died, his followers continued in his footsteps. This legacy has since transpired to the present generation. Terrorism and violence are therefore intrinsic to Islam. The countries with large populations of Muslims are a testament that Muslims are still

lynching non-Muslims all around the World e.g., Egypt, Pakistan, Jordan, Lebanon and Nigeria to mention a few.

Adherents of Islam strive to be like Mohamed, just as the followers of Christ strive to be like Jesus. Therefore, the narrative by some politicians that a group of miscreants have hijacked Islam is misleading because, actually, the reverse is the case. Islam has the potential to justify the most nefarious deeds because most conflicts with a non-Muslim population by default becomes a Jihad which hardens them to inflict the most barbaric terror known to man (e.g., al Qaeda terror network). If they kill you they are rewarded in the present life by Allah; if they die, their reward is paradise.<sup>159</sup> Who wouldn't fight if they would never lose? This is precisely the reason members of AQTO are willing to fight to death or go on suicide missions.

What would make 19 men to be willing to die in such a gruesome manner while chanting "Allah Akbar" (meaning Allah is the greatest) on 9/11? The facts speak for itself: there is a clear and present danger in the polity. Islam demands Jihad. It is tricky to fight religious ideology with secular political policies. Yet secular policy remains the best option but not without a countervailing ideology that's loud and clear. AQTO terrorist would not have committed suicide if it were not for the teachings of Islam.

The 9/11 attacks indubitably proved that religion can be an extremely lethal force with full capacity to destroy and alter a peoples way of life. It irrefutably brought about drastic changes in the administrative state of USA in all its ramifications and around the world. Yet many of the Islamic fundamentalists and jihadists believe it is a sacred duty, the fulfillment of which may secure paradise for the faithful.<sup>160</sup> Radical Islamists remain

steadfast in Jihad until the word of Allah is fulfilled and until it becomes apparent to the whole world that the Koran is the truth.<sup>161</sup> (Surat al-Fussilat (41), ayah 53)

As was said in the Mormon Experience, “[o]ppression cannot be a ‘sacred’ religious duty because it breaks the law and promotes indignation of other humans in contrary, albeit arguably, to the minimum nature of God—love. Oppressive doctrines merit no toleration. *Reynolds v. United States*, 98 U.S. 145 (1878) showed that religion cannot be made a sacred cow if it subverts a secular social interest and that religious actions, but not opinions, may be visited upon by the long arms of the law.

The United States rejected some aspects of Mormon teachings which were offensive and inconsistent with the duly enacted laws and in the end the Mormons adjusted their principles, reformed and expunged such teachings that not only debased civility but violated the bigamy law against knowingly marrying more than one wife. The Mormon Church has moved on without polygamy because the state took action against irrational religious doctrine.

Likewise America must openly reject the militant-jihadist aspects of Islam. Here we are confronted with religious opinions that are evidently turning young men into suicide warriors, terrorists and simultaneously promoting hatred and intolerance in the polity. This is certainly an aberration of the free exercise clause. No sane society will allow such teaching to thrive in the first place. Our collective safety commands a higher moral imperative than the need to remain politically correct. Here is a suggestion:

First, as was stated earlier, an honest debate and willingness to dialogue must be established among all the religions. Then Congress should form a committee specifically

to conduct an inquiry into the nature of religious teaching that scotches the hearts of men in that their souls are completely severed before their flesh follows in a suicide mission—the likes of suicide bombers and extremists killers. This committee should comprise of religious intellectuals of very high integrity chosen from among the various religions in the United States.

Their job is to import reason into religion in search of general reasonableness of the various beliefs that directly incite or call for violence that, prima facie, violates the rule of law. While toleration is important, it is bound to be counterproductive in this particular circumstance because your very existence is unequivocally and eternally under threat of radical Islam and you will never be able to get to the bottom of terrorism. The terrorists by Islamic paradigm are holy warriors or jihadists whose reward is splendid. Misapplication of systemic tolerance only confounds the war against radicalization by sending the wrong signals to actual and potential terrorists.

The commission shall look for open ended commands that violate the United States Constitution, such as commands to kill or wage war against unbelievers. A secular society should simply not tolerate any degree of threats in writing or deed. If any deity is serious enough and has power, let it kill those who don't comply. Man should resist such barbaric delegation from any god. To proceed, they must all attempt to define God and harness a minimum agreeable definition of God and find what attributes they all share.

Then, they should decide the likelihood that the minimum agreeable definition of God might order his sons to kill, kill, kill, or maim, maim, maim. If they decide that God would order his sons to kill, then, they shall recommend accordingly; but if the open

ended kill-kill commands are found to be inconsistent with the commonly agreeable nature of God, then they shall recommend accordingly. Enlightenment and reason must pervade the search to restore America's safety, freedom, and dignity.

The members of the committee should all be well versed in religion, history and philosophy and current affairs. All the religious texts shall be interpreted literally. Since 90 and 70 percent of Americans, according to Pew, believe that both God and Satan (consecutively) exist, then, it is imperative to investigate, literally, a realm that overwhelmingly influences the society. If you can recognize a tree by its fruit, so also can you recognize the gods by their commands with the aid of reason and of course, presuming that the gods are rational.

Thousands of American lives have been lost since 9/11 attacks. So much money resources and manpower have been expended in the fight against terror. The cost can be drawn down if a wiser and smarter approach is deployed. The practice of being at war but having no direct target sets the US on a very vulnerable path to logistical disasters, demoralization, or at best weakens the US armed forces to the extent that a fundamentalist Islamic nation like Iran might end up with nuclear arsenal and further widen the scope of the threats we now face.

Further, for as long as religion remains a significant source of identity and motivation; and holy books propagating subversive doctrines that command its adherents to harm or kill others, then, religious intolerance, violence, terrorism and executions will only get worse. The Free Exercise Clause of the First Amendment is systematically divorced from the actual freedom and protection it was intended to provide.



Consequently, we have a polity satiated with fear. This fear inadvertently manifests as intolerance at best and actual terrorism and counter terrorism at worst.

While efforts are made by the Department of Homeland Security to protect the citizenry, such efforts need to include the underpinnings of terrorism rather than focus on superficial intelligence that only suffices in the short run. In the absence of a full reform of the Islamic religion, efforts should be made to see that the Jihadist ideology is not spreading within the American borders. The United State government is failing to hold Islam accountable. Ignoring the rampant killings and burning of churches and congregants around the world and hoping that such traits will not infiltrate the United States is delusional.

It is not mans domain to dwell in a fight for a god whom they believe is all knowing and all powerful. Where is the power? And what is the evidence? Let the gods punish their critics if they can. Let Caesar be Caesar; and let god be god. When a spirit god clearly decides to cross over and violate the human realm, then it is inevitable that man should respond. The basis and the only reason we can inquire into religion in this manner, irrespective of First Amendment, is because it constitutes a destabilizing threat to the secular social order with intolerance, militancy, radicalism and terrorism; all of which have roots in a spirit's command to fight the holy war.

No doubt that the Enlightenment teaches tolerance, but it also teaches critical thinking and reasoning. Sharia and Islam cannot stand up under scrutiny which explains the reason every possible roadblock is erected by Islam and entrenched by the OIC member states to censure any question or criticism of Islam as has been, and was

demonstrated in the effort to twist the United Nations into passing a law against criticizing religion. The Sharia law is intolerant and excessive to a questionable degree. The Chaotic behavior of the AQTO can be traced back to the Koran.

Islam is intertwined and inseparable with politics to the extent that it sought to control and dictates the socio-economic and political behavior of its adherents. The Sharia law is a component of the Koran which essentially subjugates women in Muslim nations. Based on the facts in this thesis, the trajectory of Islam is antithetical to the First Amendment. The same reason that America was founded to escape the England's religious persecution is slowly but surely being reversed by the Free Exercise Clause to where a religious sect is commanded to eternally dominate the world. And all their activities around the world are bearing out this command.

There is nothing in the antecedents of the Free Exercise Clause that suggests the toleration of a violent jihadist religion such as Islam. It is on this note that a constitutional amendment conference is imperative. Other suggestions would be to make the idea of violence in religion an extremely expensive project for perpetrators of religious violence.

In other words, the onus should be on religion and authorities to take steps to bring extremism to order and not on our military to be on an eternally perpetual wild goose chase. All the killings in the Middle East are permissible by their governments and justice is hardly ever done in such cases. Non-Moslems get killed while the governments look the other way. When *Lockerbie* occurred, Gaddafi was indicted. When catholic priest molested children, the Catholic Church was held accountable. Now the teachings of

Islam among many deaths are responsible for 9/11, but no similar class action has been taken against the religion itself. The only way forward is to hold Islam fully accountable.

In sum, the trajectory of Islam is clear and easily deductible from other Muslim nations where at least half of the population is Islam. All the facts and threats alluded to in this thesis are in full swing in Muslim populated nations. America will inevitable suffer similar faith, perhaps much worse, since it is No. 1 enemy, through a coordinated homegrown terrorism or in time with increased population. Reform Islam now and preserve the future or get ready to face a more formidable Islam when it would be nearly too late. A stitch in time saves nine.

Thesis asserts that the Free Exercise Clause of the United States Constitution burdens the war against radical Islamic terrorism and Al-Qaeda because of its one directional protection of religion against the state, thereby excessively tasking the security, military and law enforcement apparatuses of the United States especially by failing to recognize, that isolating terrorism, as hard as that might be, without inquiring into the ideological underpinnings that propel the radical Islamic militancy is redundant.<sup>162</sup>

Whereas the First Amendment forbids Congress from making laws recognizing the establishment of a religion or the free exercise thereof, it is deficient in establishing the proper tenets under which evil religious teachings can be apprehended before they become full blown actions.

## 6. Notes and References

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<sup>153</sup> Rosenberg, Joel. 2010. "Ahmadinejad Asks Allah To Hasten Coming Of The Twelfth Imam And Bring Islamic "Victory": How should we respond?"(Washington, D.C., September 24, 2010) — Iranian President Mahmoud Ahmadinejad made an inflammatory speech to the U.N. General Assembly on Thursday. He began by praying, "O God, hasten the arrival of Imam al-Mahdi and grant him good health and victory and make us his followers and those who attest to his righteousness."

Imam al-Mahdi is another name for the "Twelfth Imam" or the "Hidden Imam." Shia Muslims believe this Islamic messiah will come at the End of Days to destroy Judeo-Christian civilization as we have known it, force infidels to convert or be executed, and will set up a one-world Islamic government known as the "caliphate." Ahmadinejad believes the way to "hasten" the Twelfth Imam's coming is to annihilate the U.S. and Israel. This would bring about the "victory" that Ahmadinejad prayed for on American soil.

Excerpted from: <http://vusafptfs9346.wordpress.com/2010/09/26/ahmadinejads-5th-un-speech-brings-his-fourth-prayer-for-al-mahdi-to-come-and-by-force-establish-islamic-justice-worldwide-and-that-911-was-done-by-the-us-govt/> (April 24, 2011).

<sup>154</sup> Sheffer, Martin S. 1999. *God versus Caesar belief, worship, and proselytizing under the First Amendment*. (Albany, N.Y State University of New York Press).p.122

<sup>155</sup> United Nations. 1948. *The Universal Declaration of Human Rights*.

<http://www.un.org/en/documents/udhr/> (April 27, 2011).

1. [quote]: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.
3. Everyone has the right to life, liberty and security of person.
4. [Art. No. 5] No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The religion of Islam and Sharia practices are in direct breach of these.

<sup>156</sup> Ibid.

<sup>157</sup> Azhar, Saeed. 2011. *Pakistan's most influential Islamist party urged its followers to hold mass protests on Friday to demand their government withdraw its support of the U.S. war on militancy after U.S. commandos killed Osama bin Laden near Islamabad*. Reuters. <http://www.reuters.com/article/2011/05/05/us-binladen-pakistan-protest-idUSTRE74414N20110505> (May 7, 2011).

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<sup>158</sup> Daily Mail Reporter. 2011. *I will lead a funeral prayer for Bin Laden': Hate preacher plans protest against killing outside U.S. Embassy in London*. Read more: <http://www.dailymail.co.uk/news/article-1383681/Osama-Bin-Laden-dead-Hate-preacher-Anjem-Choudary-plans-protest-London.html#ixzz1LfnqJ71d> (May 7, 2011).

<sup>159</sup> Nathan, Yoel. (n.d.) *164 Jihad Verses in Quran*. [http://www.answering-islam.org/Quran/Themes/jihad\\_passages.html](http://www.answering-islam.org/Quran/Themes/jihad_passages.html). (April 27, 2011).

<sup>160</sup> Al-Banna, Hasan. (n.d.) *Jihad*. Online Library. [http://web.youngmuslims.ca/online\\_library/books/jihad/](http://web.youngmuslims.ca/online_library/books/jihad/) (April 29,2011).

<sup>161</sup> Ibid.

<sup>162</sup> Ensalaco, Mark. 2008. *Middle Eastern terrorism: from Black September to September 11*. Philadelphia, Pa: University of Pennsylvania Press.