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IST 618  
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Privacy Debate 2

***You will be arguing \*in favor of\* the motion.***

***The motion for debate is :***

The United States government should enact laws modeled on Germany's treatment of pro-Nazi speech by prohibiting language and symbols that approves of, glorifies, or justifies Salafi jihadism.

***Opening Statement:***

Arguing in favor of the motion that the US government should enact laws Germany's treatment of pro-Nazi speech by prohibiting language and symbols that approves of, glorifies, or justifies Salafi jihadism, we look toward the First Amendment. The First Amendment of the Constitution allows for free exercise of religion, speech and peaceful assembly at an overarching level. Freedom of speech is one of the founding principles of American culture. We are allowed, as Americans, the unbridled right to express opinions that may be unpopular, or against the grain of the majority, without the fear of government obstruction or consequence. Namely, we look at free speech, at its best, as a way of actively engaging in the American political climate and enacting change in cultural ideologies. The First Amendment protects American citizens who may choose not to speak (eg. silently protesting the flag or the National Anthem), those who choose to speak in an aggressive and/or controversial manner to convey a political message, or those who might engage in symbolic speech (eg. burning the flag in protest) [1]. Freedom of speech, however, is not an all encompassing umbrella with which American's can operate under without repercussions. There are limitations to the First Amendment, most notably the restrictions "to incite actions that would harm others" or "to make or distribute obscene materials" [1]. The Salafi-jihad ideology advocates a return to the early years of Islam whereby the opposing Muslim views and the

progressive nature of the western world are countered through force in hopes of replacing them with the Islamic caliphate [2]. As the nature of the Salafi-jihadist movement, of which many terrorist organizations are founded upon [3], is reflective of a violation of the very freedoms offered to us through the First Amendment, it would be legal and just to prohibit speech, be it spoken or symbolic, or an ideology that not only opposes and shows great disdain for the American way of life, but also justify the use of violence and terrorism as a means to realize their own political and spiritual objectives [14]

#### ***4 points - Jake points (4+ scattered in here)***

In order for us to truly understand the underpinnings of the motion, it is necessary for us to analyze the existing structure implemented in Germany. In modern-day Germany, it is illegal to 'produce, distribute or display symbols of the Nazi era', among other imposing sanctions/laws put into place to restrict speech and the exercising of expression related to right wing extremism [5]. Such exercises include, but aren't limited to, showing appreciation or adoration for Nazi customs, denying the Holocaust, or singing anthems popularized during the run of Nazi Germany [6]. Nazism, at its core, was an ideology that vehemently disagreed with the notions of a liberal democracy, and "incorporated fervent anti semitism, scientific racism and eugenics into its creed" [7]. Salafi-jihadism is the opposition of progressive movements in search of restoring the Islamic Caliphate. The very nature of the ideology suggests a plan of action, as 'jihad' is defined as a struggle or a fight. Those who oppose their doctrines are deemed infidels, and in the case of Muslims, that is grounds for their termination [8]. Comparing some very basic ideals of the two movements suggests that they are aligned, in that they struggle against a common progression of ideals and their ways of dealing with such opposition favors warfare on a physical/militant level. If we look at Salafi-jihadism holistically, we see it as an ideology where the ends justify the means, and violence is a just way of ensuring that the doctrines are not violated in any manner.

Because the 1st Amendment has limitations about speech that might incite actions or harm others, it is thus our opinion that the glorification of admiration in speech of the Salafi-jihad ideology is not covered under the civil liberties offered under the First Amendment as it would fall under non-absolute guarantees of Free Speech. We would thus counter than any production of dissemination of content related to the ideology commonly followed to a tee by terrorist regimes could fall under these non-absolute rights: True Threats, Fighting Words, or Calls to Illegal Action. We focus here on true threats and fighting words, as we'll move into the causality of group norm adoption in the next point. True threats are defined as a means of communication that could either directly or indirectly make one fear for their lives. If one were to voice support or recognition of an attack on America's homeland, whether it be hyperbole or metaphorical, it would not be covered under one's First Amendment rights. Fighting words happen when insults are directed in such a manner that they illicit a physical response. Because of the view that Salafi-jihadists share of western culture, it isn't beyond the realm of possibility that the expression of said views could garner an immediate provocation of the insultee. Such provocations would not be protected under the First Amendment [9]

Next, we'd like to talk about a recent study that came out that discusses tipping points for Large-scale social change, and could also be brought about as a counterargument to Streisand Effects. First of all, Streisand Effects are the phenomena where, applied to this case, a government might work so hard to try to hide or suppress the transportation of content that they incidentally raise awareness for it at a grand scale. So, hypothetically, if the government were to enact the laws presented in the motion, there could be a "psychological reactance, wherein once people are aware that some information is being kept from them, their motivation to access and spread it is increased" [10]. This makes sense, people often do what they are told not to, or things look more desirable if they are told that they can't have them. Back to the study. If we are talking about a specific subset of a population and their propensity to be radicalized,

the research shows that “When a minority group pushing change was below 25% of the total group, its efforts failed. But when the committed minority reached 25%, there was an abrupt change in the group dynamic, and very quickly the majority of the population adopted the new norm” [11]. The research wasn’t applied to pro-Salafi-jihadist content, but it is suggestive of the notion that when support of a movement, or an ideology, reaches 25%, it is likely to be adopted by the entire group. By restricting the transference of support for an ideology centered around violence as a means to achieve their vision, you could thus be limiting the exposure and potential wildfire spread of imminent glorification of those ideals, and potential radicalization of individuals. Basically, this point is centered around the idea the unconstrained access to free speech regarding support for dangerous ideologies could eventually have exposure to such a point in America that the views being expressed might potentially be adopted by the mass subset of the population. Is it reasonable to think that relatively passive support at a grand scale would remain peaceful over time? With respect to the First Amendment, and all of the freedoms we are offered underneath the entirety of the Constitution, I don’t imagine it was written with the idea of world wide web in mind, much less one that could be weaponized- “terror groups have looked to social media as a way to distribute propaganda, gaining the support “of primarily vulnerable and marginalized groups with appeals to sentiments of injustice, exclusion, and humiliation” [13]. This study becomes extremely pertinent if we account for bots on social media platforms that can be created en masse to sway public opinion.

As has been heavily discussed above, freedom of speech is not an all reaching medium with which Americans can hide under without consequence. Acting under the notion that Salafi-jihadism is clearly represented by some of the most well known terrorist organizations today, and that the ideology explicitly condones terroristic and violent tendencies in search of political gain, we look at some of the current laws in place to suppress support for terrorist organizations. “Whoever knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do

so, shall be fined under this title or imprisoned not more than 20 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life” [15]. Material support is often looked at as a tangible transference of goods, but it also has a less concrete, more abstract branch which includes support in terms of training or personnel. It can thus be argued that the willing dissemination of pro-Salafi-jihadist propaganda, be it through spoken word or digital content sharing, is done so not only to express individual support for an ideology that opposes western values, but also as a means of recruitment. The question here then becomes deciphering between the ideology as a whole, and the terrorist organizations that spawn from it. Should Salafi-jihadism be designated a terrorist organization? Their views and overall vision would lead us to believe that they share common goals.

We also invoke the idea of Clear and Present Danger, a regulation of free speech brought about during World War 1 to directly counter free speech that was found to be a hindrance of ongoing military action, or promoted the success of America’s enemies [17]. This doctrine has since been modified to reduce ambiguity, and is currently referred to as Imminent Lawless Action. Under which, “Advocacy of force or criminal activity does not receive First Amendment protections if the advocacy is directed to inciting or producing imminent lawless action, and is likely to incite or produce such action” [18]. If support of pro-Salafi-jihadism is expressed through the means of force, or with the intent of provoking some sort of violence against the American population, it would thus be a violation of Imminent Lawless Action and would not be covered under the umbrella of the First Amendment. Admittedly, this falters in situations where there is not provocations to incite an imminent or immediate response [13] as was seen in *Brandenburg v. Ohio*, where a KKK speech encouraging future, hypothetical action against the government if ‘oppression’ were to continue against the white race led to an arrest and was deemed to be in violation of the Constitution. Before the updates to the original doctrine, a case could be made that the sharing and support via spoken word

and symbolic speech may have been conceived as being advocating/promoting the success of America's enemies, particularly during the War on Terror.

#### **4 Points - Nishita:**

Ideologies can be seen as a link between thoughts, beliefs and myths to actions. The core functions of ideologies can be summarized as raising awareness, diagnosing the current situation, creating a group identity and programming an action plan (MOGHADAM, 2008). How is Salafi Jihadism an ideology? The goal of these Salafi Jihadists is to raise awareness among other Muslims that Islam is at the tide of decline in religious, political, economic and cultural terms. These Salafi Jihadists also aim at creating a new identity for its adherents and also present a program of its adherents named "Jihad", which is understood in military terms and assert that Jihaad will reverse the current state of decline and redeem members of their group from misery (MOGHADAM, 2008). Salafi Jihadism can be termed as a religious ideology instead of a religion because it invokes religion in three ways - they term themselves as well as their enemies in religious terms, they also describe their actions using religious terms and lastly, justify their actions as learnings drawn from Qur'an. From the above points it should be obvious that the United States and its allies are not facing a religion - Islam as its main enemies but a religious ideology - Salafi Jihad as an enemy. The adherents of this group use religious symbols and ideologies to advance their cause and so an approach that focuses on the corruption caused by Salafi Jihadism can have more desired effects on weakening their ideologies (MOGHADAM, 2008). Waging a battle against a religious ideology like Salafi Jihad can be a challenging task and initiating with prohibition of symbols or language that glorifies, supports or symbolizes Salafi Jihad can help the United States and its allies to prevent these Jihadists from reaching out to more individuals and misleading them into joining such groups. One such example is how ISIS reaches out to disenfranchised Muslims via social platforms like youtube and whatsapp to encourage an individual on the path of radicalization (Rogers, 2017). This could have been prevented if online platforms like Youtube and Facebook

were scanned and blocked for websites and webpages that promote or symbolize such actions.

Moreover it has been often seen that symbolism of any kind based on religion, caste, political/military preferences can lead to targeting individuals or groups that oppose or do not support some particular preferences or opinions. One such example of terrorist attack rooted between religious and political/military tension was the Rawda Mosque attack in Egypt. While the main motive of attack is believed to be the rising religious tension between the local affiliates of the Islamic State and the town residents, the attack is also seen as a revenge for the constant support of the town residents to the Egyptian military (Youssef, 2017). The fear of reprisals by Islamic militants on symbolising their oppose the town residents also refrained from being interviewed by foreign media and agreed to share their views only on the condition of anonymity. Moreover, on numerous occasions the Islamic militants were also seen sending out text messages, flyers and life threats to the town residents who followed Sufism to quit the same and return to Islam. The Islamic militants were also seen carrying the flag of Islamic States during the attacks to symbolise their power (Youssef, 2017). From this examples one can easily discern how Jihadist symbols can cause an harm to the federal institution of any country by forcing the local residents to adhere to the groups preferences and views and also hinder the right and freedom to express one's views and support without fear. Moreover many such instances have also been seen in countries like Iran and Syria.

We have also seen numerous occasions where the ideologies/teachings of Islam or from Qur'an are framed in a misleading manner and thought to the young. Similarly, if religious symbols or ideologies that Salafi Jihadism stands upon were promoted, glorifies or approved of without the right knowledge of what these terms or ideologies mean, can cause tremendous damage to our society or the US institution. One such example of misunderstood teachings from the Qur'an was seen during the Rawda Mosque attack as well, where the Islamic militants killed hundreds of individuals including women and infants (Youssef, 2017). However, based on Qur'an rules of

engagement in Jihad, innocents such as women, children or invalids should never be harmed (Islamicsupremecouncil.org, n.d.). Many such examples of misunderstood terms from the Qur'an have been witnessed till date. Moreover, an important fact to note is also that many jihadist group leaders use these terms to their own benefits to gain more adherents to their group and mission. Given these conditions, it is important to limit the use, approval, promotion and glory of any terms related to Salafi Jihadism or Islamic ideologies that these jihadists refer to for justifying their actions of jihad. If not, the unlawful and more importantly unethical use of related terms and ideologies can lead to a war of terrorism which can destroy the world peace. It is important to note that at present, Jihad is a misunderstood term from Islam, even by the Muslims and terms related to jihad should only be approved if everyone has the right knowledge on the meaning of these terms and ideologies to not be misled (Islamicsupremecouncil.org, n.d.).

Some might argue that not approving of some particular symbols could only possibly mean banning them and doing so might result into not adhering to the First Amendment Rights. However, authors argue and I agree, these symbols or ideologies are not free speech. They are monuments erected to disrupt the world peace on the name of religion. Moreover, initiative launched to defunct terrorist propaganda like "Think Again. Throw Away" are now obsolete and instead of coming up with new strategies and stories to ruin terrorist propagandas, why not make such toxic material rather difficult to find on internet or anywhere else?(Lake, 2017) One such similar approach was adopted by Alphabet in 2015, where under a pilot program - "Redirect", individuals who searched for Islamic State propagandas or related terms were returned with curated videos intended to discredit Islamic States and related organisations. Such approach can further help to reduced problems of foreign propaganda and radicalization and furthermore, can also be use to help and educate people with what is right (Lake, 2017).



***Questions for the other side:***

1. Is the unrestricted access of freedom of speech sometimes leading to psychological effects where people are unwilling to share their opinion based out of fear of targeted violence, spoken or physical?
2. We have seen numerous examples where these Jihadist have killed thousands of people based on mislead teachings from Qur'an and false ideologies and this is not restricted to just the United States, but has been seen all around the world. How would you justify promoting or glorifying any symbol, language or act that supports these Jihadist community can be of any good or advantage to any society or national institution?
3. We do agree that prohibiting use of a language or symbol may work against the First Amendment Rights, but how can you justify the use of symbols that are only designed to symbolise disruption? How do you justify approving or promoting use of words like "Jihad", "Al-harb", etc that now-a-days are only misused to motivate individuals to join terrorist organisations like ISIS, which aim at destroying world peace and pose as a threat to your own country?

***3 questions likely to be asked to us with counter args:***

See Streisand Effects noted above.

One of the main counter-arguments we see being used against our stance pertaining to this motion would be government overreach in direct violation of one's' ability to practice, or not practice, their respective religion. We counter that counter by arguing that Saladi-jihadism is not a religion, but rather an ideology. "Religion focuses on maximizing individual benefit through group participation, while ideology is intent on maximizing group benefit through individual participation" [8]. If we are talking about a religion, we are talking about a spiritual relationship with a higher power that is sought after with the intent of reaching some level of self-fulfillment, or self-enlightenment, at an individualized level. An ideology counters that, mainly because it deals more with the

group than the individual. You are explicitly trying to do things, albeit at an individual level, that will benefit the group, and the overall vision of the group, as a whole. While Salafi-jihadism might be an ideology founded on the principles of a religion, a religious ideology should not explicitly be considered a religion when referring to Free Speech.

An ideology that operates under the guise of promoting fear and explicit obedience is, in and of itself, acting to suppress clear representation of absolute rights of the First Amendment. By constituting an environment where people are to be fearful of their culture, and their values, there are chilling effects happening by not taking action. "Hindering someone's ability to challenge or defend the status quo by the force of violence is a violation of everyone's freedom" [12]. When we look back to chilling effects in regard to a mass surveillance state, we could see a situation where American's social structure might be altered, and their creative freedom suppressed, ultimately leading to a decline of conversation and communication that acts as the catalyst for change. If people are living in a society where they are fearful of expressing their own views, and engaging in their own cultures due to threat of retaliation based solely on their chosen way of living life, our very foundation, as Americans, would be uprooted.

We can look at a number of individual cases where the rights of free speech have been curtailed when talking about issues of National Security - *Dennis v. United States* and *Holder vs the Humanitarian Law Project*, specifically. According to the Supreme Court decision in the former case, the government had the right to sanction speech when "the gravity of evil.. Justifies such invasion of free speech as is necessary to avoid the danger" [13]. Being in communication or in direct support of an ideology that has terroristic tendencies, meaning they use violence as a weapon for political or spiritual gain, could constitute grounds for such sanctions. We could also look at the failings of the First Amendment in situations where the concept of Imminent Lawless Action is too narrow of a scope to allow for infringement. As was reported, one of the attackers responsible for the deaths in San Bernardino had posted pro-jihad, violent content on

social media. Because the content was not determined to be reflective of an imminent threat of impending attack, it was not flagged and reported, thus allowing her an uncontested visa application process. If the content had been flagged, and the government were to have been made aware of it, it could have been used to direct an advanced vetting process on the individual before allowing access into the US [13]. Is it possible that free speech is being exploited through the weaponization of the web? If free speech is to remain in its current form, we see the need for legislation in place that allows for common carriers (social media) to report terrorist activity on their site to the government. "Congressmen have introduced legislation that would require social media companies to report any terrorist activity on their sites to the federal government. Such legislation may be strengthened by additionally requiring social media platforms to remove such posts as well" [13]

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