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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Mohamed Sabra; and Council on  
American-Islamic Relations of Arizona,

Plaintiffs,

vs.

Maricopa County Community College  
District; and Nicholas Damask, in his  
official and individual capacity,

Defendants.

No. 2:20-cv-01080-PHX-SMB

**DEFENDANTS' MOTION TO  
DISMISS**

**(Oral Argument Requested)**

OSBORN  
MALEDON

A PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

Plaintiffs' Complaint seeks to "judicially censor" the content of a college-level World Politics class because Plaintiffs find a portion of its contents—discussing terrorism, premised on professed Islamic beliefs—offensive to Mr. Sabra's personal views and in conflict with CAIR-AZ's mission of "promot[ing] a positive image of Islam and Muslims in America."<sup>1</sup> While it is understandable that Plaintiffs may be upset by discussion of views that they consider to be "radical" or outside the "mainstream" of Islam, censoring academic speech is dangerous, wrong, and antithetical to academic freedom—a "special concern" under the First Amendment.<sup>2</sup> Indeed, Plaintiffs' Motion for Preliminary Injunction failed to cite even a single case that has accepted their argument, making it—literally—unprecedented.

Plaintiffs' claims are fatally deficient as a matter of law and must be dismissed for several, independent reasons:

1. Plaintiffs are precluded from seeking any declaratory or injunctive relief (preliminary or otherwise) because their claims are moot—Mr. Sabra is no longer enrolled in the allegedly offending course.
2. Plaintiffs lack standing because they cannot allege an "official policy" of MCCCCD causing their alleged constitutional injuries.
3. Plaintiffs fail to state Establishment and Free Exercise Clause claims as a matter of law.
4. Plaintiffs' claims against Dr. Damask in his individual capacity fail because he is entitled to qualified immunity.

## BACKGROUND

Plaintiff Mohamed Sabra is a former student of an online World Politics course at Scottsdale Community College ("SCC"). (Compl. ¶¶ 1, 7.)

**The World Politics Course.** The World Politics course focuses on "the principles and issues relating to the study of international relations," and is broken down into six modules, each consisting of: a PowerPoint lecture, supplemental reading materials, and an online quiz. (Compl. ¶¶ 7-9; Ex. D. to Compl., Course Syllabus.)

<sup>1</sup> CAIR-AZ, WHO WE ARE, available at <https://cair-az.org/about-us/who-we-are/>.

<sup>2</sup> *Regents of the Univ. of Mich. v. Ewing*, 474 U.S. 214, 226 (1985).

As explained in the syllabus, the goals of the course include evaluating “the political, economic, national, and transnational rationale for international interactions.” *Id.* at 1-2. Direct communication between students and the course professor relating to course content is also encouraged. (Ex. D. to Compl. at 5.)

**The Terrorism Module.** One of the topics addressed in the course is international terrorism. Although the materials in this module discuss a broad variety of terrorist groups throughout history, the unit focuses on “Islamic Terrorism,” given that the vast majority of groups currently designated as foreign terrorist organizations claim a religious foundation in Islam.<sup>3</sup>

The PowerPoint lecture associated with the terrorism topic provided: (1) a general definition of what terrorism is and how it is distinguished from other forms of political violence, along with a brief history of terrorism (“Defining Terrorism”); (2) theories relating to the rise of, and justification for, terrorism within Islam specifically (“Islamic Terrorism: Definition”); and (3) an analysis of how different political schools of thought approach solving the problem of terrorism by those professing a belief in Islam (“Islamic Terrorism: Analysis”). (Compl. ¶ 10; Ex. A to Compl.; Ex. A, Full PowerPoint, at Slide 1.)

In the Defining Terrorism section, the PowerPoint lecture first explains theoretical motivations behind terrorist acts by several groups, including the early religious Zealots (Jewish), Assassins (Islamic), and Thuggees (Hindu). (Ex. A at Slides 14-16.) The presentation also discusses “nationalist/right-wing terrorism” (e.g., Nazis (Germany), KKK (U.S.), hakki ichiu (Japan)) and “communist/left-wing terrorism” (e.g., People’s Will (Russia); Red Army (Germany), Provisional Irish Republican Army (Northern Ireland), Weather Underground (U.S.), Sendero Luminoso (Peru), and the

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<sup>3</sup> See Department of State, Foreign Terrorist Organization, *available at* <https://www.state.gov/foreign-terrorist-organizations/>. The few non-Islamic organizations on the list are generally either functionally defunct or not international in nature.

1 Khmer Rouge (Cambodia) in the nineteenth and mid-twentieth centuries. (*Id.* at Slides  
2 17-19.)

3 The “Islamic Terrorism: Definition” section of the PowerPoint lecture discusses  
4 what it describes as Islamic terrorism in some detail. (*Id.* at Slides 22-36.) When read in  
5 context of the topic being analyzed—*Islamic terrorism*, as distinct from *Islam in*  
6 *general*—it becomes clear that none of the references to Islam seek to endorse or inhibit  
7 belief in the religion in any way. (*Id.*) For example,

- 8 • Slide 25 explains that “[a]ll *Islamic terrorists* sanctify their actions through pious  
9 references to the Quran and the traditions of the Prophet Muhammad.” (*Id.* at 25)  
10 (emphasis added).
- 11 • Slide 23 discusses the “theological mandate for jihad” but clearly does so from  
12 the perspective of terrorists seeking justification for their actions. (*Id.* at 23.)
- 13 • In describing the “efforts” required in jihad, Slide 22 states that they are  
14 “physical, not simply prayer or introspection.” (*Id.*) Notably, the statement does  
15 not preclude prayer and introspection. Moreover, there are many forms of  
16 physical action that do not involve terrorism, including potentially self-defense  
17 or actual warfare. Thus, when Slide 22 goes on to state that “jihad is a  
18 religiously-justified, communal mobilization of the resources and capabilities of  
19 the Muslim population for war against unbelievers,” it is decidedly not stating  
20 that the Muslim population generally condones terrorism. (*Id.*) It is simply  
21 explaining the justifications offered by those in Islam who do support terrorism.

22 Contrary to Plaintiffs’ repeated refrain throughout its brief and in the Complaint,  
23 nowhere in any of the course materials is it *ever* stated that: “Muslims have a  
24 ‘theological mandate’ to kill Non-Muslims”<sup>4</sup> or that “Islam is terrorism.”

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28 <sup>4</sup> (Comp. ¶¶ 48, 68.)

1 Other statements in the slides that Plaintiffs claim to be offensive are statements  
 2 with citations to sourced facts and statistics regarding terrorism by some who profess to  
 3 believe in Islam, including those on Slides 21, 25, 33.<sup>5</sup>

4 **Mr. Sabra is offended.** After taking the quiz associated with this topic, Mr.  
 5 Sabra emailed Dr. Damask to let him know that he was offended by some of the  
 6 questions, which he considered to be “in distaste of Islam” and caused him to “feel  
 7 disgust.” (Compl ¶ 53; Ex. E to Compl., April 29-30 email exchange.)

8 **Dr. Damask’s efforts to clarify.** Dr. Damask promptly responded to Mr. Sabra,  
 9 explaining that: no offense was intended; “the course isn’t ‘for’ or ‘against’ anything”;  
 10 and the materials and quiz questions focused on views of Islam expressed by terrorist  
 11 groups—which “may be quite wrong” or may be “twisted ... from a kernel of truth into  
 12 something horribly misguided.” (Ex. E to Compl. at 2-3.). Moreover, consistent with the  
 13 course’s goals, the content related to this topic “aim[ed] to explain international  
 14 politics,” including the “phenomenon of terrorism in international politics” as well as  
 15 the use of terrorism by some “in a way that amounts to carrying out their own foreign  
 16 policy according to their deeply held religious beliefs.” (*Id.*).

17 Mr. Sabra then asked Dr. Damask to review the three questions Mr. Sabra found  
 18 offensive and explain them further:

19 9. Where is terrorism encouraged in Islamic doctrine and law? -Medina verses.

20 12. Who do Islamic terrorists strive to emulate? -the Prophet Muhammad.

21 20. Terrorism is \_\_\_\_ in Islam. -justified within the context of jihad.

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23 <sup>5</sup> Although Defendants disagree that Dr. Damask should be required to provide source  
 24 citations for all of the cited facts in the slides, much of the information in these slides  
 25 can be found in the following locations. *See* INSTITUTE FOR ECONOMICS AND PEACE,  
 26 GLOBAL TERRORISM INDEX (2017), *available at*  
 27 <http://visionofhumanity.org/app/uploads/2017/11/Global-Terrorism-Index-2017.pdf>;  
 28 UNIVERSITY OF MARYLAND, GLOBAL TERRORISM DATABASE, *available at*  
<https://www.start.umd.edu/gtd/>; HANNAH, HASSELL, ET. AL., TERRORISM, Published  
 online at OurWorldInData.org (2013), *available at*  
<https://ourworldindata.org/terrorism#all-charts-preview>.

(Compl. ¶¶ 38-53; Ex. B, Quiz, at 9, 12, 20.)

Dr. Damask promptly responded, providing context on the questions, much of which had already been provided in his PowerPoint lecture, and reiterated that “interpretations [of the Quran and other religious writings] by the terrorists may be quite wrong-headed. But try not to think about whether the terrorists’ beliefs are ‘right’ or ‘wrong’ or ‘true’ -- you should approach the discussion thinking simply, ‘what beliefs motivate them no matter how wrong they may be.’” (Ex. E to Compl. at 6-7.)

**Mr. Sabra’s appeal to social media.** In the meantime, before receiving Dr. Damask’s reply, and instead of engaging with Dr. Damask further or discussing with SCC administration, Mr. Sabra posted the quiz questions on social media—without any of the context provided in the lecture or from Dr. Damask’s emails. (Compl. ¶ 54.)

**Response to social media backlash.** The decontextualized response from social media included death threats to Dr. Damask. SCC initially responded by issuing a hasty apology. (*See* Ex. F to Compl.) On May 11, 2020, upon a more careful review of the matter in context, however, MCCCCD subsequently issued a public statement, explaining that the three quiz questions “were taken out of context from a unit examining violent political and social movements, and the subject they addressed – the reliance of certain violent groups on religious texts as a justification for their actions – was within the scope of the course.” (Ex. C., MCCCCD Statement.) Consistent with upholding requirements of academic freedom, the statement further affirmed: “[W]e expect our students and faculty to engage fully with the ideas and perspectives of others, even when they disagree with each other.” (*Id.*)

**No other action by MCCCCD or SCC.** Plaintiff asserts that SCC “knew or had constructive knowledge that this module was going to be taught in this class” but then cites an MCCCCD administrative regulation providing only that “a copy of the course syllabus must be submitted to the division/department office at the college no later than the end of the first week of class.” (Compl. ¶¶ 57, 70.) But, neither this nor any other MCCCCD administrative regulation requires any approval by the division or department,

much less by SCC or MCCCCD leadership. The Complaint alleges no curriculum review or substantive oversight by MCCCCD or SCC, but instead simply concludes that Dr. “Damask as the division/department chair . . . [is] the final policymaker, [and] Damask’s actions are attributable to SCC.” (Compl. ¶ 71.)

**Mr. Sabra completes the course and files suit.** After completing the course, Mr. Sabra filed this lawsuit with CAIR, claiming that Defendants violated the Establishment and Free Exercise Clauses of the First Amendment, not only because of the three quiz questions but because, in their view, Dr. Damask’s “primary message is the disapproval of Islam.” (See Compl. ¶ 65.)

## ARGUMENT

### I. Plaintiffs lack standing.

By constitutional mandate, a federal court’s jurisdiction is limited to live “cases” or “controversies.” U.S. CONST. art. III, § 2. The doctrine of standing is “an essential and unchanging part of the case-or-controversy requirement of Article III.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). “A plaintiff must demonstrate constitutional standing separately for each form of relief requested.” *Davidson v. Kimberly-Clark Corp.*, 889 F.3d 956, 967 (9th Cir.), *cert. denied*, 139 S. Ct. 640, 202 L. Ed. 2d 492 (2018). Here, Plaintiffs lacks standing for two, independent reasons: (1) their claims are moot, thus precluding any declaratory or injunctive relief, and (2) they have alleged no “official action or policy” to provide standing to support a claim against MCCCCD or Dr Damask in his official capacity.

#### A. Plaintiffs’ claims are moot and preclude prospective injunctive or declaratory relief.

Plaintiffs’ claims seeking prospective or injunctive relief are now clearly moot and should be dismissed because Mr. Sabra has completed, and is no longer enrolled in, the World Politics course.

Mootness is “the doctrine of standing set in a time frame: the requisite personal interest that must exist at the commencement of litigation (standing) must continue



throughout its existence (mootness).” *United States Parole Comm’n v. Geraghty*, 445 U.S. 388, 397 (1980). A claim becomes moot when the issues presented are no longer “live” or the parties lack a legally cognizable interest in the outcome. *E.g., Lindquist v. Idaho State Bd. of Corrections*, 776 F.2d 851, 853-54 (9<sup>th</sup> Cir. 1985); *American Tunaboat Ass’n v. Brown*, 67 F.3d 1404, 1407 (9<sup>th</sup> Cir. 1995); *see also Lee v. Schmidt-Wenzel*, 766 F.2d 1387, 1389 (9<sup>th</sup> Cir. 1985) (“Generally, an action is mooted ‘when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.’”) (quoting *Murphy v. Hunt*, 455 U.S. 478, 481 (1982)). “If an event occurs that prevents the court from granting effective relief, the claim is moot and must be dismissed.” *American Rivers v. Nat’l Marine Fisheries Serv.*, 126 F.3d 1118, 1123 (9<sup>th</sup> Cir. 1997).

Here, there is simply no continuing harm to Mr. Sabra, or by association CAIR, that the Court can redress. Courts have consistently dismissed as moot claims brought by former students for injunctive relief. *See Board of Sch. Comm’rs of Indianapolis v. Jacobs*, 420 U.S. 128, 129 (1975) (dismissing as moot former student’s claims challenging the constitutionality of school rules regulating the student newspaper); *Doe v. Madison Sch. Dist. No. 321*, 177 F.3d 789, 797 (9<sup>th</sup> Cir. 1999) (en banc) (dismissing as moot former student’s First Amendment claim based on prayers at graduation ceremony); *Ahmed v. University of Toledo*, 822 F.2d 26, 28 (6<sup>th</sup> Cir. 1987) (dismissing as moot former student’s claims challenging constitutionality of a university policy requiring students to carry health insurance).<sup>6</sup>

Likewise, Plaintiff CAIR lacks organizational standing. “An organization may sue only if it was forced to choose between suffering an injury and diverting resources to counteract the injury.” *La Asociacion de Trabajadores de Lake Forest v. City of Lake Forest*, 624 F.3d 1083, 1088 n.4 (9<sup>th</sup> Cir. 2010); *see also Fair Employment Council of Greater Washington, Inc. v. BMC Mktg. Corp.*, 28 F.3d 1268, 1277 (D.C. Cir. 1994)

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<sup>6</sup> No mootness exception is applicable because there is no “reasonable expectation that the plaintiff[] will be subjected to the same action again.” *Am. Rivers v. Nat’l Marine Fisheries Serv.*, 126 F.3d 1118, 1124 (9<sup>th</sup> Cir. 1997), *as amended* (Sept. 16, 1997) (citation omitted).



(standing is not based solely on “diversion of resources from one program to another, but rather on the alleged injury that the defendants’ actions themselves had inflicted upon the organization’s programs.”). Any action that CAIR took *after* Mr. Sabra completed the World Politics course was, by definition, not something that CAIR was compelled to undertake because there was no longer an ongoing injury. *See Am. Diabetes Ass’n v. United States Dep’t of the Army*, 938 F.3d 1147, 1154 (9th Cir. 2019) (finding parts of organization’s claims moot because there was no longer an ongoing injury, and finding no organizational standing for other claims without diversion of resources related directly to the alleged injury).

Because Mr. Sabra’s alleged constitutional injuries are not continuing, Plaintiffs’ claims are moot and their request for injunctive and declaratory relief must be dismissed.

**B. Plaintiffs’ failure to allege an “official policy” precludes standing to sue MCCCCD or Dr. Damask in his official capacity.**

Plaintiffs cannot establish Article III standing against MCCCCD for the additional and independent reason that they allege no official action or policy leading to their alleged injuries.<sup>7</sup>

When asserting claims against a local government entity under 42 U.S.C. section 1983, plaintiffs must establish standing based an “official ... policy” of the local government entity—not just the action of a single employee. *See e.g., Miller v. City of St. Paul*, 823 F.3d 503, 507 (8th Cir. 2016) (quoting *Monell v. Dep’t of Soc. Services of City of New York*, 436 U.S. 658, 691 (1978)); *Nunez v. City of Los Angeles*, 147 F.3d 867, 874 n.10 (9th Cir. 1998) (“[T]o sustain a § 1983 action against a municipality, a plaintiff must demonstrate that a governmental policy or custom has caused him injury.”) (citation omitted); *An v. City of New York*, 230 F. Supp. 3d 224, 229 (S.D.N.Y. 2017) (“The official policy requirement for a plaintiff to have standing is critical

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<sup>7</sup> Plaintiffs’ failure to allege an official policy also provides a basis to dismiss their claims under Rule 12(b)(6).

here.”); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir.1989) (“There is no respondeat superior liability under section 1983.”) (citations omitted).

Under *Monell* and its progeny, plaintiffs must allege that “the municipal custom, practice, or policy was the ‘moving force’ behind the employee’s violation of the plaintiff’s constitutional rights.” *Doe v. Dickenson*, 615 F. Supp. 2d 1002, 1007 (D. Ariz. 2009).<sup>8</sup> Plaintiffs must also allege actions that were “sufficiently imbued with the state’s authority to constitute state endorsement of religion.” *Canell v. Lightner*, 143 F.3d 1210, 1214 (9th Cir. 1998); *see also C.F. ex rel. Farnan v. Capistrano Unified Sch. Dist.*, 654 F.3d 975, 987 (9th Cir. 2011) (noting that cases finding Establishment Clause violations related to curriculum “challenge *systemic* actions such as state laws and school district policies rather than parsing individual teachers’ classroom discussions”) (emphasis in original).

Plaintiffs fail to allege any official action by MCCCCD giving rise to their injuries. The sole allegations as to MCCCCD are that (1) it has an administrative regulation requiring professors to submit “a copy of the course syllabus . . . to the division/department office at the [relevant] college” (not MCCCCD) and (2) it “has publicly defended Damask, and stated that despite their intent to ‘investigate’, the investigation will not involve Damask and . . . he is not at risk of losing his job.” (Compl. ¶¶ 57, 61.) Nothing in the first allegation suggests official action or policy by MCCCCD approving any of Dr. Damask’s World Politics materials, and the second

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<sup>8</sup> “Official municipal policy includes the decisions of a government’s lawmakers, the acts of its policymaking officials, and practices so persistent and widespread as to practically have the force of law.” *Connick v. Thompson*, 563 U.S. 51, 61 (2011). “Municipal liability attaches only where the decisionmaker possesses final authority to establish municipal policy with respect to the action ordered.” *Pembaur v. City of Cincinnati*, 475 U.S. 469, 481 (1986). “The fact that a particular official—even a policymaking official—has discretion in the exercise of particular functions does not, without more, give rise to municipal liability based on an exercise of that discretion.” *Id.* at 481-82. “The official must also be responsible for establishing final government policy respecting [the activity underlying the alleged injury] before the municipality can be held liable.” *Id.* at 482-83.

1 occurred after Mr. Sabra had completed the course, and therefore could not have  
 2 contributed to his alleged injuries. Further, the May 11, 2020 MCCCCD statement to  
 3 which Plaintiffs refer expressed no final conclusions on either “the student’s concerns  
 4 [or] the faculty member’s rights,” and announced an “independent investigation of the  
 5 facts related to this situation.” (Ex. C., MCCCCD Statement.) Such actions do not support  
 6 direct liability claims against local government entities like MCCCCD.

7 Plaintiffs also fail to allege any official action by Dr. Damask in his official  
 8 capacity, or by extension SCC, giving rise to their injuries. All of Plaintiffs’ allegations  
 9 related to Dr. Damask focus on his work as a professor or as chair of the Political  
 10 Science Department, and under Arizona law,<sup>9</sup> a professor or department chair does not  
 11 “speak with final policymaking authority for [MCCCCD or SCC] concerning the action  
 12 alleged to have caused the particular constitutional or statutory violation at issue”; he  
 13 therefore had no authority to establish a policy or official “message” of “disapproval of  
 14 Islam.” (Compl. ¶¶ 68-69.) *Jett v. Dallas Indep. Sch. Dist.*, 491 U.S. 701, 737 (1989);  
 15 *see also Canell v. Lightner*, 143 F.3d 1210, 1214 (9th Cir. 1998) (officer’s actions  
 16 “were not sufficiently imbued with the state’s authority to constitute state endorsement  
 17 of religion”); *Saifullah v. Albritton*, 15-CV-05600 LHK (PR), 2017 WL 6558719, at  
 18 \*12 (N.D. Cal. Dec. 21, 2017) (noting that “[c]ase law is clear that there must be  
 19 evidence that the State endorsed or ratified defendants’ actions” for Establishment  
 20 Clause violations).<sup>10</sup>

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23 <sup>9</sup> Whether Dr. Damask was a final policymaker as to the actions underlying Plaintiffs’  
 24 alleged injuries is a purely legal question decided under Arizona law. *City of St. Louis v.*  
 25 *Praprotnik*, 485 U.S. 112, 112 (1988) (“The identification of officials having ‘final  
 26 policymaking authority’ is a question of state (including local) law, rather than a  
 27 question of fact for the jury.”). Nothing in Dr. Damask’s course material suggests he  
 28 created an official stance on Islam even for his course, and nothing in Arizona law  
 suggests that a professor or department chair has the authority to create an official  
 stance on a world religion for a community college or community college district.

<sup>10</sup> Notably, we have located no cases in which professors or department chairs have been  
 held to be final policymakers on behalf of colleges.

1 Plaintiffs fail to establish standing against MCCCCD or Dr. Damask in his official  
2 capacity because they allege no official policy or action giving rise to their claims.

3 **II. Plaintiffs' Establishment and Free Exercise Clause claims fail as a matter**  
4 **of law.**

5 Even if Plaintiffs' claims were not fatally deficient for mootness and lack of  
6 standing, they fail to state either an Establishment Clause or Free Exercise claim under  
7 Rule 12(b)(6). Courts may properly dispose of such claims at the motion to dismiss stage.  
8 *E.g., Parker v. Hurley*, 514 F.3d 87, 107 (1st Cir. 2008) (affirming dismissal of  
9 Establishment Clause and Free Exercise Clause claims); *Freedom fr. Religion Found. v.*  
10 *Hanover Sch. Dist.*, 626 F.3d 1, 15 (1st Cir. 2010) (same); *Bauchman v. W. High Sch.*,  
11 132 F.3d 542, 557 (10th Cir. 1997) (same). Indeed, the Ninth Circuit has held that "it is  
12 appropriate to test the viability of [a plaintiff's] claim under *Lemon*, even at th[e] early  
13 stage" of a Rule 12 (b)(6) motion. *See e.g., Vasquez v. Los Angeles County*, 487 F.3d  
14 1246, 1255 (9th Cir. 2007); *Am. Family Ass'n.*, 277 F.3d at 1121-22. In doing so, courts  
15 are not "required to accept as true allegations that contradict exhibits attached to the  
16 Complaint or matters properly subject to judicial notice, or allegations that are merely  
17 conclusory, unwarranted deductions of fact, or unreasonable inferences." *Daniels-Hall v.*  
18 *Nat'l Educ. Ass'n*, 629 F.3d 992, 998 (9th Cir. 2010).

19 **A. Plaintiffs fail to state an Establishment Clause claim.**

20 Government action satisfies the Establishment Clause if it: (1) has a secular  
21 purpose; (2) does not have the principle or primary effect of advancing or inhibiting  
22 religion; and (3) does not foster excessive entanglement with religion. *Lemon v.*  
23 *Kurtzman*, 403 U.S. 602, 614 (1971); *Catholic League for Religious & Civil Rights v.*  
24 *City & County of San Francisco*, 624 F.3d 1043, 1054-55 (9th Cir. 2010) (holding that  
25 "*Lemon v. Kurtzman* remains controlling on Establishment Clause [alleged] violations,  
26 subject to subsequent emendations as the 'endorsement' and 'neutrality' principles have  
27 developed.").

1 Plaintiffs do not dispute the first and third elements. Plaintiffs instead assert that  
 2 the course content fails the second prong of the *Lemon* test because it allegedly  
 3 “disapproves” of Islam. (Compl. ¶ 69.) But, “[t]here has never been any reported case  
 4 holding that a teacher violate[s] the Establishment Clause by making statements in the  
 5 classroom that were allegedly hostile to religion.” *C.F.*, 654 F.3d at 986. And, even  
 6 accepting as true those allegations that are not contradicted by the documents referenced  
 7 in or relied upon in Plaintiffs’ Complaint, their claims cannot survive as a matter of law.

8 **1. The primary effect standard requires an informed and objective**  
 9 **observer and does not categorically prohibit all disapproval of**  
 10 **religion.**

11 As a fundamental matter, Plaintiffs cite no authority to suggest that teaching  
 12 anything other than the purported “mainstream” views of a religion, or not specifically  
 13 calling out every possible viewpoint on a religious practice or doctrine in a college class  
 14 about politics, constitutes “disapproval” of a religion. As Dr. Damask explained: the  
 15 course content “is not ‘for’ or ‘against’ anything, but aims to explain international  
 16 politics.” (Ex. E to Compl. at 2-3.) The fact that the content may not correspond with  
 17 Plaintiffs’ views of Islam does not mean that the course, Dr. Damask, or MCCCCD  
 “disapproves” of Islam.

18 Regardless, “public schools are not required to delete from the curriculum all  
 19 materials that may offend any religious sensibility.” *Florey v. Sioux Falls Sch. Dist.*, 619  
 20 F.2d 1311, 1318 (8<sup>th</sup> Cir. 1980); *id.* at 1317 (“It would literally be impossible to develop  
 21 a public school curriculum that did not in some way affect the religious ... sensibilities  
 22 of some of the students or their parents.”). Consistent with this practical recognition,  
 23 *Lemon*’s second prong affirms that governmental action is constitutional unless it has the  
 24 “*principal or primary* effect of advancing or inhibiting religion.” *Lemon*, 403 U.S. at 612  
 25 (emphasis added).

26 Moreover, the primary effect of a challenged practice is not a subjective analysis,  
 27 but is considered under a “reasonable observer standard,” where the hypothetical observer  
 28 is both “informed” and “reasonable,” and “we assume that he or she is familiar with the

history of the government practice at issue.” *Brown v. Woodland Joint Unified Sch. Dist.*, 27 F.3d 1373, 1378 (9th Cir. 1994) (citation omitted); *id.* at 1379 (“If an Establishment Clause violation arose each time a student believed that a school practice either advanced or disapproved of a religion, school curricula would be reduced to the lowest common denominator, permitting each student to become a ‘curriculum review committee’ unto himself or herself.”). In addition, “when determining the purpose or primary effect of challenged religious content, courts ... consistently have examined the entire context of surrounding the challenged practice, rather than only reviewing the contested portion.” *Wood v. Arnold*, 915 F.3d 308, 314 (4<sup>th</sup> Cir. 2019) (noting that “context is crucial” and also dictated by “common sense”); *California Parents for Equalization of Educ. Mat. v. Torlakson*, 370 F.Supp.3d 1057, 1081 (N.D. Cal. 2019) (“context ... [is] essential in assessing the primary effect”).

Under this objective standard, even where the government practice reflects “some disapproval” of religion, this alone is not enough to run afoul of the Establishment Clause. *California Parents for Equalization of Educ. Mat. v. Torlakson*, 370 F.Supp.3d 1057, 1079 (N.D. Cal. 2019) (“[E]ven if there is some evidence by which a reasonable person could infer some disapproval of Hindu religious beliefs ..., that is not enough to conclude that the primary message ... is disparagement.”); *id.* at 1081 (affirming that Plaintiff’s interpretation of *Lemon*’s second prong “would read the word ‘primary’ out of the primary effect test and render any conceivable disapproval a constitutional violation. That is not the law.”).

**2. Plaintiffs fail to sufficiently allege Dr. Damask’s course materials had the primary effect of advancing or inhibiting religion.**

The PowerPoint lecture, incorporated by reference into Plaintiffs’ Complaint, provides the specific context for its discussion of Islam at Slide 25: “All Islamic terrorists sanctify their actions through pious reference to the Quran and the traditions of the Prophet Muhammad, and by extensive use of longstanding Islamic legal doctrines.”

1 A reasonable and informed objective observer, in the context of a politics class  
 2 studying terrorism motivated by Islamic ideologies, would view the materials as having  
 3 the primary effect of providing an analysis of the Islamic texts, traditions, and legal  
 4 doctrines by which terrorist organizations justify their actions.

5 Rather than relying on allegations that view the materials from the perspective of  
 6 a reasonable and informed objective observer, Plaintiffs instead resort to “making up”  
 7 and attributing to Dr. Damask comments that he never said and conclusions that he has  
 8 never drawn, including Plaintiffs’ oft-repeated and falsely attributed assertions that:  
 9 “Islam ‘mandates’ terrorism and the killing of Non-Muslims,” (Compl. ¶ 67); “Islam is  
 10 terrorism,” (Compl. ¶ 48); and Dr. Damask’s “message is the disapproval of Islam.”  
 11 (Compl. ¶ 69.).

12 These stray allegations are contradicted by the documents referenced in Plaintiffs’  
 13 Complaint, which actually say that: Islamic doctrine contains a “theological mandate *for*  
 14 *ji*had,” (Slide 23 (emphasis added)); that jihad does “not simply [encompass] prayer and  
 15 introspection,” but also requires “physical ‘efforts,’ (Slide 22); that such physical efforts  
 16 may be read to include justifying acts of “violent struggle” such as defensive war (e.g., to  
 17 protect from invaders), or offensive war, or based on interpretations of some Quranic  
 18 verses and historical precedent, “the use of terror,” (Slide 24).<sup>11</sup> While the materials  
 19 explain how terrorism may be justified through reference to Islamic texts, traditions, and  
 20 doctrine, nowhere does the material state that Muslims are prohibited from living  
 21 peacefully with their non-Muslim neighbors, much less that “Islam ‘mandates’ terrorism  
 22 and the killing of Non-Muslims”; “Islam is terrorism”; or Dr. Damask’s “message is the  
 23 disapproval of Islam.”

24 None of Plaintiffs’ allegations, when considered in the context of the materials  
 25 they reference, support a conclusion that the primary effect of Dr. Damask’s World  
 26

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27 <sup>11</sup> Plaintiffs acknowledge that Islamic texts and doctrine are in fact “accepted” and  
 28 “espoused” by some within Islam as justifying terrorism. (P.I. Mot. at 12; Complaint ¶ 68.)



Politics course materials advanced or disapproved of religion, and their Establishment Clause claim must be dismissed. *See e.g., Am. Family Ass'n.*, 277 F.3d at 1118-20 (upholding dismissal under Rule 12 (b)(6) of Establishment Clause claim brought against a resolution condemning a series of anti-gay advertisements religious groups had placed in newspapers because “read in context as a whole, [the resolution was] primarily geared toward promoting equality for gays and discouraging violence against them”); *Vasquez*, 487 F.3d at 1257 (upholding dismissal under Rule 12(b)(6) of Establishment Clause hostility claim).

**B. Plaintiffs fail to state a Free Exercise claim.**

As with Plaintiffs’ Establishment Clause claim, Plaintiffs fail to state a Free Exercise claim because they do not sufficiently allege that any of Defendants’ actions “substantially burden[ed] a religious practice.” *Am. Family*, 277 F.3d at 1123; *see also Parker*, 514 F.3d 87; *Cal. Parents for Equalization of Educ. Mats. v. Torlakson*, 267 F. Supp. 3d 1218, 1226 (N.D. Cal. 2017).

The fact that the material in the World Politics course was apparently offensive to Mr. Sabra does not provide the basis for a Free Exercise challenge.<sup>12</sup> *See e.g., Torlakson*, 267 F. Supp. 3d at 1226 (“At its core, Plaintiffs’ Free Exercise argument seems to be that the public school curriculum conflicts with their religious beliefs. The Ninth Circuit has held that this alone does not violate the Free Exercise Clause.”); *Am. Family*, 277 F.3d at 1124 (upholding dismissal of Free Exercise claim where plaintiffs failed to sufficiently allege a substantial burden on practicing their religion).

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<sup>12</sup> *See e.g., Parker*, 514 F.3d 87; *Brown v. Li*, 308 F.3d 939, 953 (9<sup>th</sup> Cir. 2002) (student may be required to write a paper from a particular viewpoint, even if the student disagrees with that viewpoint); *see also Lee v. Weisman*, 505 U.S. 577, 597 (1992) (noting that it is an inevitable fact that “[p]eople may take offense at all manner of religious as well as nonreligious messages, but offense alone does not in every case show a violation.”); *Brown v. Woodland Joint Unified Sch. Dist.*, 27 F.3d 1373, 1379 (9<sup>th</sup> Cir. 1994) (“If an Establishment Clause violation arose each time a student believed that a school practice either advanced or disapproved of a religion, school curricula would be reduced to the lowest common denominator, permitting each student to become a ‘curriculum review committee’ unto himself or herself.”).

1 Plaintiffs' Free Exercise claim should be dismissed because they fail to plead an  
2 essential element—a substantial burden on Mr. Sabra's ability to practice his religion.

3 **III. Plaintiffs' claims against Dr. Damask are barred by qualified immunity.**

4 Regardless of mootness or standing, Plaintiffs' claims against Dr. Damask,  
5 personally, are precluded as a matter of law under principles of qualified immunity.

6 Governmental officials, such as Dr. Damask, "generally are shielded from liability  
7 for civil damages insofar as their conduct does not violate clearly established statutory  
8 or constitutional rights of which a reasonable person would have known." *Deorle v.*  
9 *Rutherford*, 272 F.3d 1272, 1285 (9<sup>th</sup> Cir. 2001) (quoting *Harlow v. Fitzgerald*, 457 U.S.  
10 800, 807 (1982)). Courts regularly determine the applicability of qualified immunity at  
11 the motion to dismiss stage. *Keates v. Koile*, 883 F.3d 1228, 1235 (9<sup>th</sup> Cir. 2018)  
12 (citation omitted); *Friedman v. South*, 92 F.3d 989, 989 (9<sup>th</sup> Cir. 1996) (upholding  
13 dismissal on qualified immunity grounds of free exercise claim "because the law was  
14 not clear"); *Smith v. Arizona*, CV 11-1437-PHX-JAT, 2012 WL 3108818, at \*7 (D.  
15 Ariz. July 31, 2012) (finding qualified immunity at the motion to dismiss stage because  
16 the "[p]laintiff has not pointed to any specific actions by Defendants that obviously  
17 violated a clearly established right under the Establishment Clause or to any cases  
18 indicating that a college level Ethics course cannot be taught with reference to a specific  
19 religion and, thus, the Court cannot find that the Individual Defendants would have been  
20 aware that their conduct was in violation of a clearly established constitutional right").

21 **A. Dr. Damask's conduct is not prohibited by clearly established law.**

22 **i. No clear Establishment Clause violation.**

23 As the Ninth Circuit has recognized, there are no cases holding that content  
24 critical of religion in a college course violates the Establishment Clause. *C.F.*, 654 F.3d  
25 at 987 (noting that existing caselaw finding violations of the Establishment Clause in  
26 the "educational context involve claims that school officials were *promoting* religion  
27 rather than expressing hostility toward it, and challenge *systemic* actions such as state  
28 laws and school district policies rather than parsing individual teachers' classroom

discussions”). In *C.F.*, the Ninth Circuit rejected a claim that a high school Advanced Placement history course teacher violated the Establishment Clause by promoting hostility to religion. *Id.* The Court noted that “[t]he Supreme Court has long recognized the importance of protecting the ‘robust exchange of ideas’ in education, ‘which discovers truth out of a multitude of tongues.’” *Id.* at 988 (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)). As the Court noted, “teachers must . . . be given leeway to challenge students to foster critical thinking skills and develop their analytical abilities. . . . [W]e must be careful not to curb intellectual freedom by imposing dogmatic restrictions that chill teachers from adopting the pedagogical methods they believe are most effective.” *Id.*

Because there is no clearly established case law, statute or regulation that would have informed Dr. Damask that his PowerPoint presentation, course materials, and quiz on terrorism were in violation of the Establishment Clause, Dr. Damask is entitled to qualified immunity, and this claim must be dismissed. *See id.* (holding that “without any cases illuminating [the demarcation] between permissible and impermissible discussion of religion in a college level history class, we cannot conclude that a reasonable teacher . . . would have been on notice that his actions might be unconstitutional”); *Smith v. Arizona*, CV 11-1437-PHX-JAT, 2012 WL 3108818, at \*7 (dismissing Establishment Clause claim in part based on qualified immunity).

#### **i. No Clear Free Exercise Clause Violation.**

As with Plaintiffs’ Establishment Clause claim, there was no existing caselaw at the time that Mr. Sabra took the World Politics course that would put Dr. Damask on notice that his PowerPoint presentation, course materials, and quiz would violate the Free Exercise Clause. Based on existing caselaw, for Dr. Damask to have even approached a violation of the Free Exercise Clause, there would need to be caselaw suggesting that any of his actions “substantially burden[ed] a religious practice.” *Am. Family*, 277 F.3d at 1123; *see also Parker*, 514 F.3d 87; *Torlakson*, 267 F. Supp. 3d at 1226. And there is no caselaw suggesting that it was a substantial burden to Mr. Sabra’s

1 ability to practice his religion when he reviewed the Islamic terrorism material or took  
2 the associated quiz. Under these allegations, the Court must dismiss claims against Dr.  
3 Damask personally, because he is entitled to qualified immunity. *Friedman*, 92 F.3d at  
4 989.

5 **CONCLUSION**

6 For the foregoing reasons, Plaintiffs' Complaint should be dismissed.

7  
8 DATED this 26th day of June, 2020.

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*Attorneys for Defendants*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Mohamed Sabra; and Council on  
American-Islamic Relations of Arizona,

Plaintiffs,

vs.

Maricopa County Community College  
District; and Nicholas Damask, in his  
official and individual capacity,

Defendants.

No. 2:20-cv-01080-PHX-SMB

**DECLARATION OF TRAVIS C.  
HUNT, ESQ., IN SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS**

I, Travis C. Hunt, declare and state as follows:

1. I am an attorney at the law firm of Osborn Maledon, P.A., and counsel of record in this matter.

2. **Exhibit A** is a true and correct copy of the "Islamic Terrorism" PowerPoint presentation prepared by Dr. Nicholas Damask for his World Politics course at Scottsdale Community College, a partial copy of which was attached as Exhibit A to Plaintiffs' Complaint (Doc. 1-1).

3. **Exhibit B** is a true and correct copy of the online quiz prepared by Dr. Damask as well as Mr. Mohamed Sabra's results on that quiz, a different version of which was attached as Exhibit C to Plaintiffs' Complaint (Doc. 1-4).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of June, 2020.

2

Table of Contents

- Exhibit A:** PowerPoint Presentation on Islamic Terrorism
- Exhibit B:** Terrorism Quiz with Mr. Mohamed Sabra Results
- Exhibit C:** May 11, 2020 Press Release issued by Maricopa County Community College District Interim Chancellor Dr. Steven R. Gonzales



# **EXHIBIT A**

# Islamic Terrorism

## Subtopics:

- I. Defining Terrorism
- II. Islamic Terrorism: Definition
- III. Islamic Terrorism: Analysis

# I. Defining Terrorism

1.) **what is terrorism?**: Terrorism is *the unlawful and intentional initiation of violence against civilians by groups seeking a political goal.*

The theory guiding the terrorist is that his attacks on civilians will instill fear (“terror”) throughout society – this terror, in turn, will manifest itself in popular opposition to governmental policies, specifically those policies the terrorist wishes to alter. In the best case scenario, the people will embrace the terrorists.

The victims of the terrorist are therefore a means to an end: the terrorist desires the publicity his acts will attract. *Every terrorist needs an audience* meaning, therefore, that terrorism is a form of “political theatre.”



The 2<sup>nd</sup> plane

# I. Defining Terrorism (cont.)

Ironically, terrorists hope to both intimidate and romance their audience.

Media coverage gives the terrorists a social forum or stage to deliver their message, compelling his audience to discuss his ideas and to take sides, for and against.

Some in the audience will be cowed (“terrified”) – but others would view the attacks romantically, inspiring sympathy with the terrorists and their cause, secretly applauding their courage, and converting them to the terrorists’ agenda.

Popularized by 19<sup>th</sup> century Russian and German anarchists, who termed such audience-targeted spectacular attacks that compel the general attention of society, **propaganda of the deed**.



Palestinian hijacker holds a TWA pilot at gunpoint, Beirut, Lebanon, 1985

# I. Defining Terrorism (cont.)

“One act may make  
more propaganda  
than a thousand  
pamphlets.”

-- Russian anarchist  
Petyr Kropotkin, 1880





# I. Defining Terrorism (cont.)

Terrorism is distinct from **conventional warfare**, which is openly conducted by states against other states. Among the characteristics of conventional war:

- it is conducted by states against one another on fields of battle, often involving large numbers of troops and equipment, and usually lasts no longer than a few days but, rarely, can last months or a few years
- the target of conventional war is the adversary state's military targets, along with civilian targets having substantive military value
- soldiers of conventional armies wear distinctive clothing/markings, do not conceal arms/weapons, and are subject to a recognizable chain of command with ultimate command authority being a government
- modern conventional war is rare and when it occurs, it usually is of limited scope and duration because of its costs and risks



HRH Harry, Prince of Wales, serving with the British Army in Afghanistan

# I. Defining Terrorism (cont.)

**Guerrilla warfare** (alternately, *unconventional warfare* or *irregular warfare*) is distinct from conventional warfare in that *irregular warfare is employed by non-state actors against states*.

Guerrilla/irregular forces usually do not wear uniforms, likely will hide weapons, have a very informal command structure, and conduct hit-and-run campaigns instead of conventional war on a field of battle.

But they generally confine their fighting to the security forces of the enemy power, to its political command structure, and to civilian targets having military value.

Terrorist groups might superficially resemble guerrilla/irregular forces in that they do not appear as conventional soldiers but they differ from guerrillas in that terrorists purposefully target civilians precisely *because they are not military targets and cannot defend themselves*.



Nicaraguan anti-communist  
*contra* guerrillas, 1980s



# I. Defining Terrorism (cont.)

Like guerrilla war, terrorism also is a form of political violence that is **asymmetric** in nature. Asymmetric political violence is a form of warfare, unusual in that it is waged by a state/group that is inferior in terms of power to the state/group against which it is waging war. In other words: *the attacker is less powerful than the side it is attacking.*

Terrorism is evidence of weakness: terrorists have so little military power that they are incapable of sustaining even insurgency or guerrilla warfare. They have made the calculation that their only recourse for victory is the intentional targeting of civilians.



William Ayres in 1968, a founding member of the Weather Underground

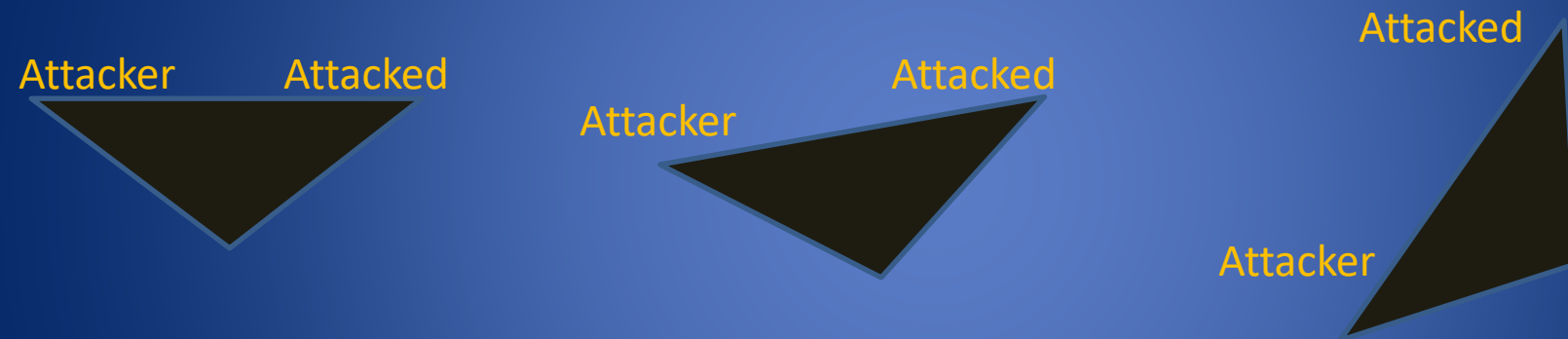
✓ *No terrorist actions, even sustained over time, have ever resulted in the collapse/overthrow of a government.*

# I. Defining Terrorism (cont.)

Conventional War

Guerrilla Warfare

Terrorism



Relative balance of power between attacker and attacked

# I. Defining Terrorism (cont.)

Recent speculation suggests that terrorist groups have the potential to redress this imbalance of power by use of WMDs.

Termed the **new terrorism**, and developed by terrorism scholar **Walter Laqueur**, this speculation theorizes that a “new” form of terrorism could incorporate the use, or the threat of the use, of WMDs by even relatively small groups lacking conventional power to destroy cities or to blackmail concessions from states.

Terrorists have no moral restraints about using WMDs and the technical difficulties in using them can in theory be overcome.



1/3 scale depiction of a Hiroshima-sized atomic blast in New York City



# I. Defining Terrorism (cont.)

Terrorist groups cannot operate outside of localized regions without a **state sponsor**. A state sponsor of terrorism gives financial, military, logistical, and diplomatic assistance to terror groups – without this support, international terrorist groups cannot meaningfully function.

Further, state-sponsorship gives the terrorist group a *force multiplier* effect: with greater resources, the terrorist group is capable of increasingly sophisticated types of attacks, thereby making relatively small and ineffective groups capable of a wider array of spectacular attack.

The U.S. State Department currently designates three countries as state-sponsors of terrorism: the Sudan, Iran, and Syria.



Russian *spetsnaz* operators in Bosnia, c.1994: during the Cold War the Soviet Union increasingly committed itself to sponsoring international terrorism as a way to undermine Western democracies and their allies – it was the main state sponsor of terrorism for over 25 years.

# I. Defining Terrorism (cont.)

2.) “**the devil made me do it**”: Terrorism is often portrayed as a violent act that is the consequence of some *root cause* as opposed to simply being a strategy of war. The search for root causes of terrorism often focuses on the alleged poverty, oppression, or some other socio-economic “suffering” that the terrorist has previously experienced – the goal being to resolve the root cause and thereby eliminate the motivating factor of terrorism.

This “root cause” discussion is distracting and implausible in several ways:

- it ignores the justifications for their acts by the terrorists *themselves*, assuming, therefore, that terrorists do not possess *agency*
- most terrorists led comfortable, even prosperous lives prior to engaging in terrorism, i.e. never suffered in particular way
- terrorism rarely occurs in those societies most obviously subjected to “suffering,” i.e. the poorest countries in the world
- it assumes that terrorists cannot choose to take *another, peaceful, course of action* to end their “suffering” condition – unlike others who did so



Palestinian terrorist held 13 Israeli athletes hostage at the 1972 Munich Olympics – they killed all of the athletes during a botched rescue attempt by the West German government.



# I. Defining Terrorism (cont.)

3.) **what terrorism is not**: Popular culture has created a number of terms that are said to be synonymous “terrorism” when in fact they are not – to conflate the terms creates practical difficulties in crafting a response to terrorism.

- **crime**: lacks political motivation; does not seek to upset the political order  
ex: the Mafia, South American drug traffickers
- **guerrilla warfare**: no intentional targeting of civilians; essentially military/paramilitary in nature  
ex: American revolution, Cuban revolution
- **assassination**: no intentional targeting of civilians; only state/military officials targeted  
ex.: Presidents Kennedy and McKinley, Arch-Duke Franz Ferdinand



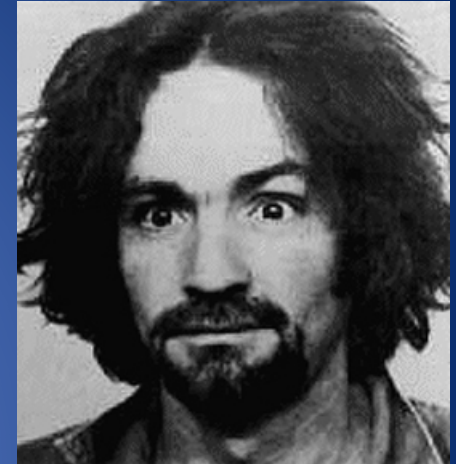
Scarface – a criminal  
but not a terrorist



# I. Defining Terrorism (cont.)

- **“doomsday” violence**: dubious political motivations; does not seek to alter/upset the political order rather seeks an end to *all* order or even the world itself

ex: the “People’s Temple” Jonestown suicide/murders,  
the Manson “Family” murders



Charles Manson, leader of “The Family” cult that murdered six people: lunatic, cultist, and murderer, but not a terrorist.

- **“repression”**: does not attempt to upset the political order; repression is a policy of the state itself

ex: Darfur genocide, Stalinism in the Soviet Union

- **“one man’s terrorist is another man’s freedom fighter”**: freedom fighters do not target civilians

ex: 1956 Hungarian uprising against the Soviets, 2009 Iranian protests



Iranian women and students marching for freedom – definitely not terrorists.



# I. Defining Terrorism (cont.)

4.) **a chronology of terrorism**: Terrorism is *not* a new form of political violence – to the contrary, it is one of the oldest identifiable strategies of political violence. Historically, *terrorism has been practiced solely by religious groups*, excepting for the mid-1800s to the mid-1900s, when religious terrorism declined relative to terrorism by left-wing and right-wing secular groups.

## **Zealots** (*sicarii*, “men of the knife”)

- 56-73 AD, operating in Israel under Roman occupation
- **Jewish** fanatical group motivated by the belief that only a Jewish king descended from David could govern Israel, not a pagan Roman
- killed Jewish civilians thought to be collaborating with Romans, almost always in broad daylight
- inspired a popular Jewish revolt that took Jerusalem from the Romans; Rome later brutally and utterly suppressed the revolt, destroyed the Temple, and initiated the *Diaspora*.



Ancient Jewish fortress of Masada, where mass suicide of the remaining Zealot holdouts occurred

# I. Defining Terrorism (cont.)

## Assassins (*hashhashin*, “hashish user”)

- 1094-1275 AD, operating in Syria and Persia
- mystical sect of Shi’a **Islam** based on an end-of-times anarchy and puritanism
- weapon always a dagger; willing to take contracts from non-Muslims e.g., Richard the Lionheart during the Crusades
- victims usually were rival Islamic religious leaders
- assassinated prominent Crusader lords Raymond II and Conrad de Montferrat of France; wounded Edward I of England; attempts made on Saladin, Sultan of Egypt
- suppressed beginning in 1256 by Mongol invaders, all of their fortresses leveled



Assassins were exterminated in the 13<sup>th</sup> c. by invading Mogols

# I. Defining Terrorism (cont.)

## Thuggee (*sthaga*, “thief”)

- 13<sup>th</sup> century-early-19<sup>th</sup> century AD, operating in India
- sect of **Hinduism** worshipping the Hindu goddess of death, *Kali*
- death almost always by ritual *garrote* after robbery
- victims were always travelers and merchants
- killed between 500,000 and 1 million people, by far the largest number of victims of any single terror movement; a colonial British wanted list estimated that 20 leading Thugs had killed 5120 people between them
- suppressed finally in the 1830s by British and colonial Indian troops

Only known photo of Hindu Thuggees





# I. Defining Terrorism (cont.)

## nationalist/right-wing terrorism

- 19<sup>th</sup> century-mid-20<sup>th</sup> century AD, operating world-wide, significantly in Europe, Japan, and the United States
- secular, non-religious terrorism predicated on establishing *race-based states*
- Examples: *Nazis* in 1920s-1940s Germany, *Black Hundred* in 1900s Russia, *Ku Klux Klan* in 1860s-1980s United States, the *hakki ichiu* movement in Japan 1900s-1940s, and others in virtually all other 19<sup>th</sup>-20<sup>th</sup> century European and Asian countries
- many fascist terror groups evolved into mass political movements, seizing power in early-mid 20<sup>th</sup> century states
- defeated as a result of World War Two



35,000 Klansmen march in Washington, D.C., in 1925

# I. Defining Terrorism (cont.)

## communist/left-wing terrorism

- 19<sup>th</sup> century-mid-20<sup>th</sup> century AD, operating world-wide, mostly in Europe, the United States, and Latin America
- secular, non-religious terrorism predicated on establishing *communist*, or “*people’s states*”
- Examples: *People’s Will* in 1880s Russia, *Red Army Faction* (“Baader-Meinhof Gang”) in 1970s-1980s Germany, *Provisional Irish Republican Army* in 1960s-1990s Northern Ireland, *Weather Underground* in the 1960s-1970s United States, *Sendero Luminoso* (“Shining Path”) in 1970s-1980s Peru, the *Khmer Rouge* (“Red People”) in 1960s-1970s Cambodia and in most 19<sup>th</sup>-20<sup>th</sup> century countries around the world
- supported by the Soviet Union
- defeated as a result of the end of the Cold War



Provisional Irish Republican Army  
terror unit in Belfast, early 1970s

# I. Defining Terrorism (cont.)

A century ago terrorism was **secular** (either communist or nationalist in character) and was primarily *internal to states*, directed at the ruling government or other parties. In very few cases did terrorism possess a truly international component – in virtually no case was it religious-based.

While there are a small number of ideologically leftist or nationalist groups remaining, the largest of these are more properly described as guerrilla insurgencies. Others have evolved into essentially non-ideological criminal gangs indistinguishable from *banditry*.

Other active leftist or nationalist terror groups are defunct or marginal, having less than 100 members.

*Secular terrorism, with very few exceptions, has disappeared from the contemporary world.*



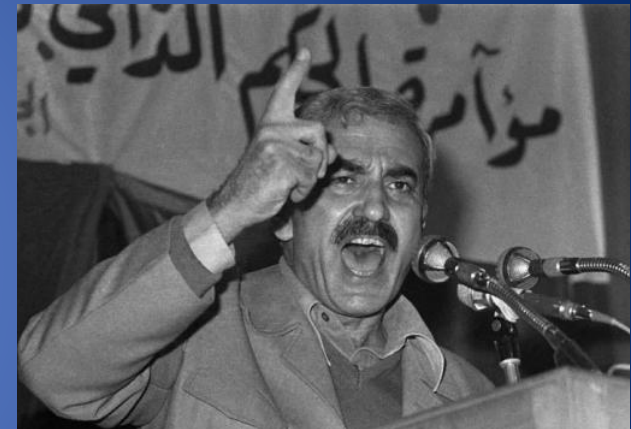
West German government wanted poster for members of the Red-Army Faction terror group, mid-1980s



# I. Defining Terrorism (cont.)

## Islamic terrorism

- The U.S. State Department's terrorism list of Foreign Terrorist Organizations indicates that of the 52 designated terrorist groups in the world, 47 are Islamic in orientation, i.e., *effectively there is no non-Islamic international terrorism in the contemporary world.*
- contemporary Islamic terrorism is said to have begun with the 1968 hijacking of an *El Al* airliner en route from Tel Aviv to Rome by the Popular Front for the Liberation of Palestine (PFLP) – the PFLP was a communist Palestinian terror group
- like all religious terrorism, Islamic terrorism is not new – its roots can be traced back to the Prophet Muhammad himself, in the 7<sup>th</sup> century



George Habash, leader of the Palestinian terror group PFLP – Habash died in 2008



# I. Defining Terrorism (cont.)

- Just in the month of July 2018, 181 Islamic attacks occurred in 25 countries, resulting in 1444 deaths.
- Islamic terrorists kill on average more people every 60 days than the number of people killed in all 350 years of the Spanish Inquisition.
- Islamic terrorists kill on average more people every 90 days than the number of blacks killed by the Ku Klux Klan in its entire 120+ year history.
- Islamic terrorists kill on average more people every 10 days than the total number of both Protestants and Catholics killed during the 36-year period of the “Troubles” in Northern Ireland.
- Islamic terrorists have killed more people just in the last ten years than the total number of U.S. servicemen and women who have died in all wars and conflicts since World War II.



Pro-terrorist protest in Thailand.

## II. Islamic Terrorism: Definition

### 1.) Jihad:

Islamic terrorism should be understood within the broader history of Islamic warfare against unbelief, termed in Islamic theology **jihad**, the Arabic root of which means “a condition of efforts” or “striving.” The “efforts” to be undertaken are physical, not simply prayer or introspection.

As **Walid Phares** has noted, to portray jihad as a spiritual effort “on the inside” is to “equate jihad with yoga.”

Politically-speaking, *jihad is a religiously-justified, communal mobilization of the resources and capabilities of the Muslim population for war against unbelievers.*

It is important to note that the Quran places great emphasis on praising those who fight, declaring them to be “one degree over” those who do not [4:95].



Portrait of the massacre of Jewish Banu Qurayza tribe by Muhammad in 627.

## II. Islamic Terrorism: Definition (cont.)

### The theological mandate for jihad

- Jihad is a moral obligation of Muslims with limited exceptions such as for the blind [48:17]
- Muhammad acknowledges that warfare is distasteful but teaches that resistance to Allah is “worse than slaughter” [2:216-217]
- the world is but a “sport and past-time” [45:36]
- Muslims on jihad are discharged from all other religious obligations [4:100]
- jihadists are described as the “best” of humanity [3:110]; Allah does not love the non-believer [3:32]
- Allah will reward jihadists and their families with both earthly and heavenly reward [4:74]; jihadists who are killed are not really dead but enjoying their gifts from Allah in the afterlife [3:169]; Allah will aid jihadists with strength and with angels [3:125]; however, failure to participate in jihad will result in damnation [8:15-17]
- Jihad is to continue until the entire earth is Islamic [9:33, 81:27]



Hamas protestors in Gaza.



## II. Islamic Terrorism: Definition (cont.)

### Early Muslims in Medina

After Muhammad and the early Muslims emigrated from Mecca (622 AD) to the nearby city of Medina, this **hijrah** (“migration”) is regarded as a seminal point in Islam. At this point a true Islamic *ummah* (“community”) is established and can begin to impose upon non-believers – the Islamic calendar marks this year as Year One. *All Quranic verses revealed after the emigration from Mecca relate to the establishment of Islam through violent struggle against non-Muslims, including the use of terror:*

Quran 8:60 – And prepare against them what force you can and horses tied at the frontier, to **terrorize** thereby the enemy of Allah and your enemy and others besides them, whom you do not know but Allah knows them.”

Quran 3:151: “We will cast **terror** into the hearts of the unbelievers on account of their associating with Allah that for which He sent down no authority.”



Mecca was the birthplace of Muhammad – Medina was where he established an embryonic Islamic state

## II. Islamic Terrorism: Definition (cont.)

2.) **The central role of the Prophet Muhammad:** All Islamic terrorists sanctify their actions through pious references to the Quran and the traditions of the Prophet Muhammad, and by extensive use of longstanding Islamic legal doctrines.

Contentions that Islam does not promote warfare or violence cannot be supported on either theological or historical grounds – indeed, such contentions would flatly contradict hundreds of Quranic passages and *hadiths* (“traditions”) of Muhammad, as well as longstanding Islamic jurisprudence.

Engaging in jihad is based Muhammad’s life, sayings, and circumstances termed *Deen Muhammad*, or, the *Way of Muhammad* [Quran 3:32].



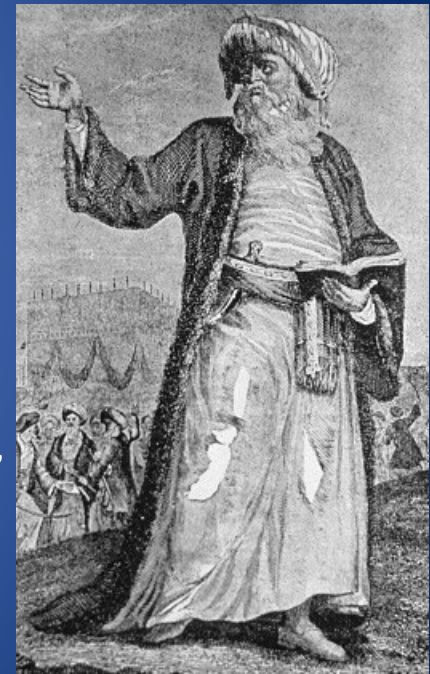
A future Hamas terrorist?

## II. Islamic Terrorism: Definition (cont.)

The speed and scale of early Islamic conquests are one of the great military achievements known to history and arguably one of those with the longest-lasting effects. In less than 50 years, Islam had wrested enormous territories from Roman (Byzantine) and Sassanid (Persian) peoples.

So, as the final Messenger of God and as a victorious commander, Muhammad enjoys such pre-eminence in Islam that his words and deeds is regarded as an independent source of Islamic law.

The Quran teaches Muslims “to obey Allah and His Messenger” (Quran 3:32), that Muhammad is “a beautiful model of conduct” (33:21) possessing an “exalted standard of character” (68:4). The Muslim “who obeys the Messenger obeys Allah” (4:80). Muslims should “Deem not the summons of the Messenger among yourselves like the summons of one of you to another” (24:62). *Muhammad is unambiguously regarded as central to Islamic doctrines.*



Muhammad, born in 570 AD, claimed to have received “the recitation” (the Quran) from God through the angel Gabriel from 610 until his death in 632.



## II. Islamic Terrorism: Definition (cont.)

The centrality of Muhammad is important because during the waging of his jihads, *Muhammad himself committed acts that also unambiguously would be regarded as terrorism today*:

- to teach a lesson to his opponents Muhammad dealt with the Jewish Banu Qurayza tribe, which had sided with some of his Meccan rivals, by massacring 700 men and enslaving the women and children (Quran 33:26, *Bukhari*, vol.5, no.362, *Muslim*, no. 4364);
- not less than four poets were killed by Muhammad, for criticizing him and Islam itself and for protesting other murders by Muhammad. The Quran declares that poets are inspired by Satan and are only admired by those who are “evil” (Quran 26:224). Mockers [86:13-14] suffered the same: one jester who threw camel intestines on Muhammad was killed and dumped into a well on Muhammad’s orders. (*Bukhari*, 1:241);
- when some herdsmen converted to Islam but found many Islamic rules disagreeable, they renounced Islam and ran away – Muhammad had them caught, nails driven into their eyes and their feet and hands cut off, and left in the desert as a method to cleanse “corruption in the land” (Quran 5:33, *Bukhari*, vol.8, no.794).



Pro-Islamic terror rally in London.



## II. Islamic Terrorism: Definition (cont.)

“Damage inflicted upon the enemy may consist in damage to his property, injury to his person, or that he is made a slave. This may be done, according to the consensus and Sharia authorities to all: men, women, young and old, important and unimportant.”

Classical Islamic legal scholar Ibn Rushd (d. 1198) in his "The Distinguished Jurist's Primer"



The legitimacy of terrorism is supported by nearly every Islamic legal authority of any significance.

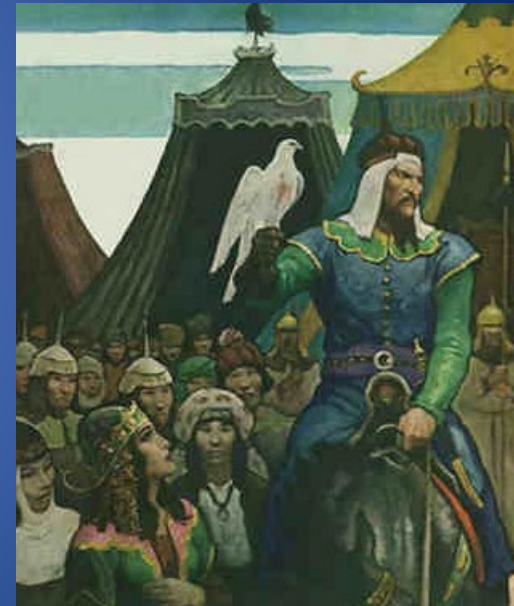
“Martyrdom operations are the highest form of jihad operations, every one of them being a legitimate act according to Islamic religious law.”

Sheikh Muhammad Tantawi, Grand Mufti of Egypt and Grand Imam of Al-Azhar University in Cairo, April 2002



## II. Islamic Terrorism: Definition (cont.)

*Ibn Tamiyyah* (d. 1328 AD) occupies a significant position in Islamic jurisprudence not only in the amount of learned works he completed but that he addresses a unique circumstance that Muslims often find themselves. A refugee in Egypt from the Mongol invasions of the Middle East, Tamiyya wrote extensively on the subject of *takfir* (“excommunication”) of Muslims, particularly Muslim authorities who no longer seem to support Islam. Tamiyya argues that *Muslims who cooperate with infidels* can be regarded as apostates, i.e., not true Muslims, and thus subject to jihad and terror.



The Mongols invaded and overran most of the Islamic Abbasid Empire – they later converted to Islam

## II. Islamic Terrorism: Definition (cont.)

4.) **suicide missions and terrorism:** Between 2001 and 2015 the number of countries in which suicide missions have occurred has rising greatly, as has the number of casualties per attack.

During this time, over 4600 suicide missions occurred in at least 31 countries, ranging from the United States to Iraq to Indonesia – the country subject to the most suicide missions is Iraq, with 49% of the total. In these attacks 45,300 people have been killed and 110,000+ injured.

Suicide missions are aimed at a variety of targets, including military and law enforcement, but the largest number (23%) are terrorist in nature, aimed at purely civilian targets.

Of these known suicide missions, nearly all are undertaken by Islamic groups.

## POS120 -- Islamic Terrorism



## Future Hamas suicide bomber?

Source: Chicago Project on Security and Terrorism

[http://cpostdata.uchicago.edu/search\\_new.php](http://cpostdata.uchicago.edu/search_new.php) 30



## II. Islamic Terrorism: Definition (cont.)

Although *suicide* in Islam is strictly forbidden, *certain death in attacking the enemy* is a religious command. Islamic groups justify certain death or “suicide” by reference to the Quran and to Muhammad. Quran 9:38, for example, rhetorically asks Muslims, “What is the matter with you that when ye are asked to forth in the cause of Allah ye cling heavily to the earth? Do ye prefer the life of this world to the hereafter? But little is the comfort of this life as compared with Hereafter.” And Quran 3:143-145 urges Muslims to “desire death.”



Yet another?

Many narrations of Muhammad’s *hadiths* register the same approval of martyrdom and promise of paradise. (*Bukhari* 4:65 and 3:694, *Muslim* 31 and 149, *Dawud* 2635)

## II. Islamic Terrorism: Definition (cont.)

The Prophet said, "The person who participates in jihad in Allah's cause and nothing compels him to do so except belief in Allah and His Apostles, will be recompensed by Allah either with a reward, or booty (if he survives) or will be admitted to Paradise (if he is killed in the battle as a martyr). Had I not found it difficult for my followers, then I would not remain behind in going for Jihad and I would have loved to be martyred in Allah's cause and then made alive, and then martyred and then made alive, and then again martyred in His cause."

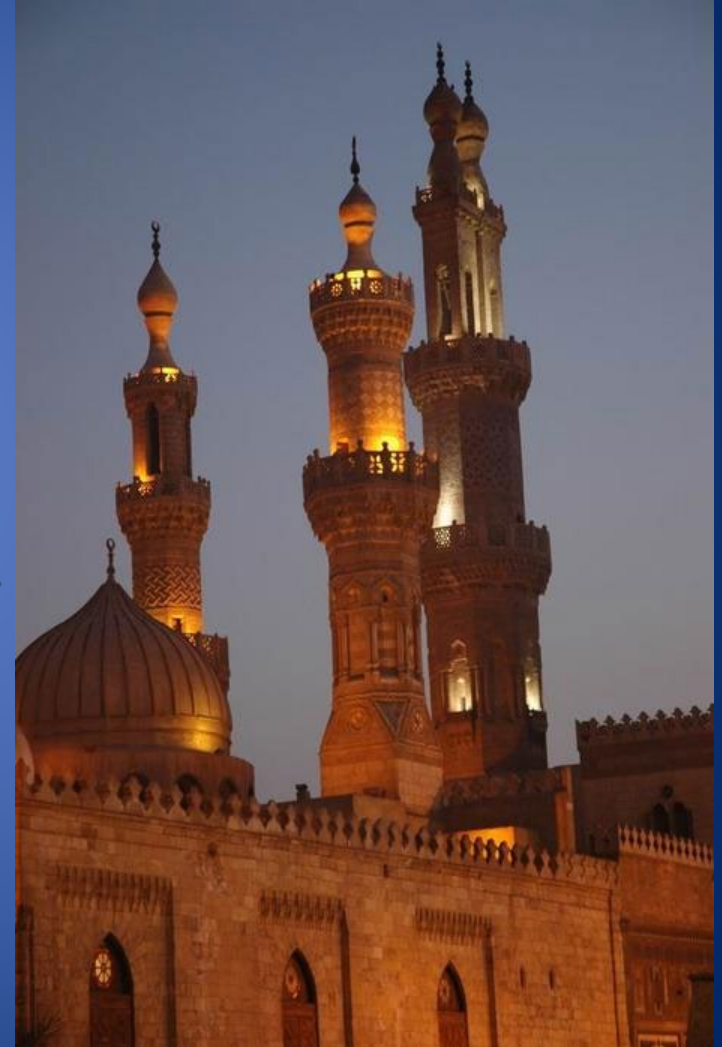
*Bukhari, 1:35*



## II. Islamic Terrorism: Definition (cont.)

As with terrorism and jihad generally, contemporary Islamic legal authorities are unanimous in their approval of suicide attacks: "The glory of the Islamic nation appeared when our prophet taught us the industry of death – when he taught us how to create death. Then life became cheap in our eyes. When one of the sons of our nation is killed, he says 'I won' and the Master of the Ka'aba [Allah] swears that he won. .. Our bombs are the *jihad* fighters, whom America has called 'suicide attackers' and we call martyrs."

Sheikh Moshin al-Awaji, imam of the Grand Mosque at King Saud University, Riyadh, Saudi Arabia

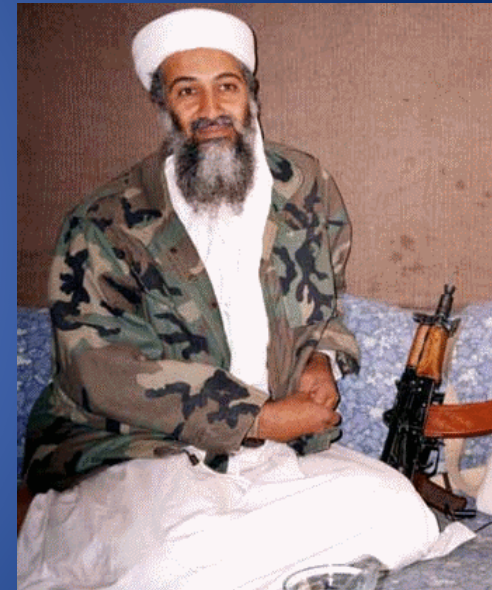




## II. Islamic Terrorism: Definition (cont.)

5.) **al-Qaeda (“the base”)**: The leader of the global Islamic terrorist movement was Osama bin Laden, the head of the movement’s lead organization, *al Qaeda*. Al Qaeda grew out of the thousands of Arabs who flocked to Afghanistan to fight jihad against the Soviet invasion in 1979. The head of Pakistan’s intelligence agency described these so-called “**Afghan Arabs**” as “the first ‘international brigade’ of Muslim jihadists in modern time.”

Bin Laden spent the war in Afghanistan or Pakistan, helping engineer a system of bunkers and tunnels in the Tora Bora region of eastern Afghanistan and establishing a base camp in Peshawar, Pakistan for thousands of Arabs volunteers flocking to Afghanistan to fight the atheistic, *kufir* Soviets – these fighters were generally termed “Afghan Arabs” and bin Laden’s base later simply came to be called “**the base**,” or *al Qaeda*.



Osama bin Laden, born in 1957 to a Yemeni construction magnate living in Saudi Arabia – bin Laden was killed in his hide-out in Abbottabad, Pakistan in a May 2011 raid by U.S. special forces.



## II. Islamic Terrorism: Definition (cont.)

Shortly after the Soviets withdrew from Afghanistan, Iraq invaded Kuwait in 1990. Bin Laden requested that his Afghan Arabs be used to defend Saudi Arabia and to fight Iraqi troops, however the government ultimately invited American troops into Saudi Arabia. After tiring of bin Laden's religious condemnations of infidel troops being in Arabia, the Saudis deported him in 1991 to the Islamic state of the Sudan.

Bin Laden spent five years in the Sudan in financial distress until bin Laden found sanctuary back in Afghanistan, which had by then taken over by the **Taliban**, an Islamic fundamentalist movement closely aligned with Wahabbism.

After the U.S. invasion of Afghanistan in October 2001 that resulted in the killing or capture of many of al-Qaeda's leaders and the overthrow of the Taliban regime, the remnants of al-Qaeda sought refuge in Pakistan's lawless tribal areas where they remain today. Bin Laden was killed by U.S. Special Forces in Pakistan in 2011.

POS120 -- Islamic Terrorism



President Obama with his national security team watching the bin Laden raid in real time.

## II. Islamic Terrorism: Definition (cont.)

After the March 2003 US invasion of Iraq, al Qaeda attempted to lead a resistance to the subsequent US occupation but was defeated over time. However, since the withdrawal of US forces in 2010, Islamic fundamentalists have led a terror movement and insurgency that has effectively partitioned Iraq into ethnic enclaves.

Calling themselves the Islamic State of Iraq and Syria (ISIS), their goal is to impose an Islamic religious empire across the Middle East and central Asia.

Begun in 2012, ISIL fighting against the neighboring government of Syria has resulted in the slaughter of hundreds of thousands of religious minorities such as Christians, Alawites, Kurds, and Yazidis, and in a similar partition of that country.



ISIS fighters celebrate their seizure of Raqqa in northern Syria.



Yazidi and Christian refugee children in Syria.

### III. Islamic Terrorism: Analysis

1.) **neo-conservatism** (Bernard Lewis): According to neo-conservatism, historically there has been one-sided, imperialistic relations between the Islamic and Christian worlds with the Christian mostly on the defense. The 1683 Ottoman defeat at Vienna begins the change in the relationship between Western Christendom and Islam, placing the Islamic world on the defense.

The decline of the Islamic world relative to the West is *the failure to embrace modernization*. Islam is not inherently incompatible with modernity: Islamic populations are being held in anti-modern conditions by dictators.

Terrorism & jihad are being undertaken by forces of reaction within the Islamic world attempting to revive the Caliphate. There are modern Islamic forces to counter the fundamentalists but they need the U.S. to side with them, provide aid, overthrow dictators, and to otherwise help establish democracy in Islamic countries.



Bernard Lewis writes that the Islamic world will be perpetually behind the West unless it embraces democracy



### III. Islamic Terrorism: Analysis (cont.)

The neoconservative position is to combat Islamic terrorism even if it means the U.S. should do so in a unilateral fashion (“going it alone”) and pre-emptively if need be. European states are viewed to be either too weak militarily or are too engrossed in appeasing their domestic Muslim populations to be reliable partners; meanwhile, the United Nations is viewed to be functionally anti-American.

Importantly: neoconservatives are uncomfortable with the concept of a “clash of civilizations” or “total war.” For them the war on terrorism is essentially a *limited war*, employing special forces, heightened intelligence and counter-intelligence, and the use of force to overthrow specific rogue states – but they *reject the concept of the war on terror being one against Islam itself*.

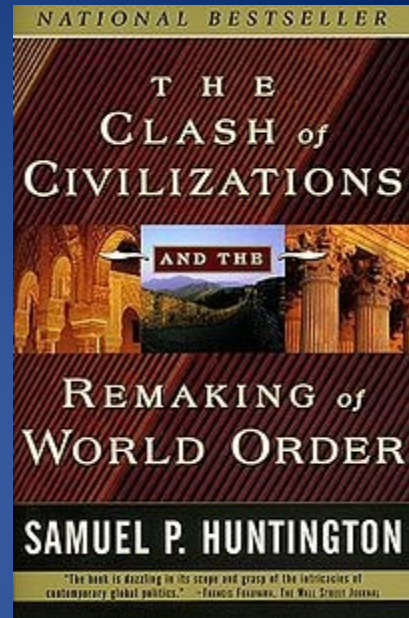


The administrations of U.S. President George W. Bush and British Prime Minister Tony Blair pursued essentially a neoconservative anti-terrorism policy

# III. Islamic Terrorism: Analysis (cont.)

2.) **clash of civilizations** (Samuel Huntington): For Huntington, “Islam has bloody borders” and is hostile to all other religions.

- antagonistic relations of Muslims towards non-Muslims: Muslims are participants in 26/50 of conflicts in the last 25 years. Further, these conflicts tend to be substantial: 6 wars in which 20K or more killed, 5 involve Muslims (Sudan, Bosnia, East Timor, Somalia, Iraq-Kurds). *15% of world's population is involved in >50% of conflicts.*
- militarization of Islamic societies: Islamic countries devote a larger % of its population to military ends (“force ratio”) and a larger % of their wealth (“military effort”) than do non-Islamic countries:



Unlike Lewis, Samuel Huntington sees no prospects for peace between clashing civilizations

\* Force ratio = # of military personnel/1000 population

\*\* military effort = force ratio adjusted for wealth

Religion of country	Force ratio*	Military effort**
Islamic	11.8	18.7
Christian	5.8	8.2
other	7.1	12.3



### III. Islamic Terrorism: Analysis (cont.)

- Islamic states have a decided preference to employ force over diplomacy, relative to other countries: Islamic countries faced 142 crises in last 50 years – use of force in 76 (=55%), including high-intensity violence/full scale war in 31. Compared to: Great Britain (11%), U.S. (17%), USSR (28%)
- Muslim popular opinion has some sympathy for terrorism generally, and the ultimate goals of terror group (sharia) particularly.



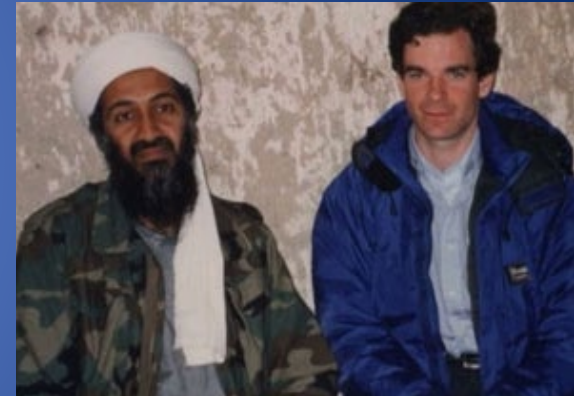
Huntington notes a marked difference in foreign policies between Islamic and non-Islamic states

### III. Islamic Terrorism: Analysis (cont.)

3.) **neoliberalism** (Peter Bergen): Neoliberals like Bergen argue that the main terrorist threat comes from “Islamists,” radical terror groups such as al Qaeda that represent a “twisted” variant of Islam as a whole, but nevertheless must be dealt with.

Bergen advocates “nation-building” and economic development in places like Afghanistan in order to remove the incentive for the poor to be attracted to extremist groups like al Qaeda. Increased economic development and international trade will help create a middle-class, whose interests would be hostile to fundamentalism.

Such efforts include: assisting governments in suppresses terrorism helping to build an Afghan army, police force, and governmental structure; building infrastructure such as power generation, dams, and roads; funding works projects similar to those created by FDR in America during the Great Depression or the Marshall Plan for Germany after WWII; and maintaining public services such as trash collection, schools, and water purification.



Peter Bergen interviewing  
Osama bin Laden in 1998

### III. Islamic Terrorism: Analysis (cont.)

Importantly, Bergen believes that there should be: 1.) a multilateral approach (involving the UN, NATO, and countries other than just the U.S.) and 2.) a comprehensive approach (an effort to solve regional problems such as the Palestinian problem or the Kashmir dispute between India and Pakistan.) Resolving such disputes in a multilateral fashion *would establish America's sincerity to Islamic countries about combating terrorism, as opposed to Islam*, and encourage them to assist the U.S. in Afghanistan and elsewhere.

Finally, Bergen argues that the U.S. should conduct anti-terror operation as humanely as possible, sparing civilian casualties by, for example, limiting air raids.



“Nation-building” activities such as road-building are major aspects of neoliberal foreign policy

# EXHIBIT B



# Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Quiz #6 -- Islamic Terrorism Results for Mohamed Sabra

[View Log](#)

Score for this attempt: **64** out of 100  
Submitted Apr 29 at 7:02pm  
This attempt took 10 minutes.

### Question 1

/ 4 pts

Who greatly elaborated on the doctrine of *takfir* as it relates to Muslims who collaborate with unbelievers?

☐ the Prophet Muhammad

☒ Osama bin Laden

☐ Saddam Hussein

☐ Ibn Tamiyyah

Additional Comments:

You Answered

Correct Answer

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 2

4 / 4 pts

What of the following was a Jewish terrorist group?

Correct!

- ☒ Zealots
- ☐ Assassins
- ☐ Borg
- ☐ Thuggees

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 3

4 / 4 pts

Al Qaeda was founded by \_\_\_\_.

- ☐ Ibn Tamiyyah
- ☐ the Prophet Muhammad
- ☐ Saddam Hussein
- ☒ Osama bin Laden

Correct!

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 4

4

/ 4 pts

What of the following was a Hindu terrorist group?

☐ Assassin

☐ Borg

☒ Thuggee

☐ Zealot

Correct!

Additional Comments:



## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 5

4 / 4 pts

A distinction between crime and terrorism is that \_\_\_\_.

- ☐ criminals do not cross international borders, terrorists do
- ☐ criminals usually do not attack innocent civilians, terrorists do
- ☒ criminals do not have a political agenda, terrorists do
- ☐ there is no distinction between crime and terrorism

**Correct!**

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 6

0 / 4 pts

What of the following is not related to terrorism?

Correct Answer

☐ organized crime

You Answered

☒ innocent civilians

☐ "propaganda of the deed"

☐ state sponsors

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 7

0 / 4 pts

In *asymmetric warfare* the attacker \_\_\_\_.

- ☐ is oppressed
- ☐ there is no visible aggression in asymmetric warfare
- ☒ is more powerful than the attacked
- ☐ is less powerful than the attacked

You Answered

Correct Answer

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 8

0 / 4 pts

What of the following examples would clearly be an instance of terrorism?

You Answered

☒ an attack on a parliament or legislative building

Correct Answer

☐ an attack on a hotel☐ an attack on a military base☐ an attack on a power station

Additional Comments:



## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 9

4

/ 4 pts

Where is terrorism *encouraged* in Islamic doctrine and law?

Correct Answer

☐ the Medina verses

☐ the Muhammad verses

☐ the Mecca verses

You Answered

☒ terrorism is not encouraged in Islamic doctrine and law

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 10

4

/ 4 pts

What is "terrorism?"

- ☐ crime
- ☒ political violence against civilians
- ☐ assassination
- ☐ "doomsday" violence

Correct!

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 11

4

/ 4 pts

What is the official, religiously justified type of warfare waged by the Islamic community on non-belief?

- ☐ terrorism
- ☐ the "New Terrorism"
- ☐ al Qaeda
- ☒ jihad

Correct!

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 12

4

/ 4 pts

Who do Islamic terrorists strive to emulate?

☐ the Prophet Muhammad☐ Saddam Hussein☐ Osama bin Laden☒ Ibn Tamiyyah

Additional Comments:

Correct Answer

You Answered



## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 13

4

/ 4 pts

What of the following is a characteristic of terrorism?

☐ assassination☐ guerrilla warfare☒ having a political goal☐ "doomsday violence"

Correct!

Additional Comments:

# Submission Details

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 14

4

/ 4 pts

Terrorism is a strategy that \_\_\_\_.

- ☐ is only related to Islamic groups
- ☐ has never been undertaken by non-religious groups
- ☐ is a very recent phenomenon
- ☒ has been undertaken by both religious and non-religious groups

Correct!

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 15

0 / 4 pts

Contemporary terrorism is \_\_\_\_.

You Answered

☒ communist/left-wing

Correct Answer

☐ Islamic

☐ Mormon

☐ fascist/right-wing

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 16

4 / 4 pts

How does "guerrilla warfare" differ from terrorism?

- ☐ terrorist groups are much larger than guerrilla groups
- ☐ terrorist groups are much smaller than guerrilla groups
- ☐ terrorist groups do not primarily attack civilians while guerrillas do
- ☒ guerrillas do not primarily attack civilians while terrorist groups do

Correct!

Additional Comments:



## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 17

4

/ 4 pts

Samuel Huntington finds \_\_\_\_ to be important in understanding the relationship between Islam and terrorism.

- ☐ Osama bin Laden and other figures within radical Islam
- ☒ the religion of Islam itself
- ☐ unemployed youth in Islamic countries
- ☐ the decline of the Islamic world relative to the modern West

Correct!

Additional Comments:

# Submission Details

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 18

0 / 4 pts

What is the "root cause" of terrorism?

- ☐ the poverty of, and a lack of economic opportunity for, the terrorist
- ☐ a calculation by the terrorist that terrorism will bring about the political goal he desires
- ☐ an unbalanced psychological state of the terrorist
- ☒ the ignorance and lack of education of the terrorist

Correct Answer

You Answered

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 19

0 / 4 pts

Walid Phares notes that although "gullible" Westerners are taught that jihad can have two meanings, people in the Arabic world understand that its overwhelmingly obvious meaning is \_\_\_\_.

You Answered

☒ struggling against sin☐ spiritual contemplation

Correct Answer

☐ combat/war☐ peace

Additional Comments:

## Submission Details

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 20

4

/ 4 pts

Terrorism is \_\_\_ in Islam.

Correct Answer

☐ justified within the context of jihad

You Answered

☒ always forbidden☐ justified under international law☐ always justified

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 21

0 / 4 pts

*Propaganda of the deed* is significant for a terrorist because \_\_\_\_.

You Answered

☒ it enables him to obtain financing

Correct Answer

☐ he must make his actions have the widest audience possible☐ his state sponsors require this of him☐ he is psychotic

Additional Comments:



## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 22

0 / 4 pts

What is meant by the *New Terrorism*?

- ☐ right-wing, fascist terrorism
- ☐ terrorism that might potentially employ nuclear weapons
- ☐ left-wing, communist terrorism
- ☒ terrorism in the Third World

Correct Answer

You Answered

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 23

4 / 4 pts

When was al Qaeda formed?

Correct!

- ☒ during the Soviet war in Afghanistan in the 1980s
- ☐ after the formation of the state of Israel in 1948
- ☐ shortly after the collapse of the Ottoman Empire in the 1920s
- ☐ during the Mongol invasion of Muslim lands in the 14th century

Additional Comments:

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

## Question 24

0

/ 4 pts

The target of a terrorist is \_\_\_\_.

You Answered

☒ strategic targets such as bridges and power plants☐ the military☐ cultural centers such as places of worship

Correct Answer

☐ innocent civilians

Additional Comments:

# Submission Details

## Quiz #6 -- Islamic Terrorism

Mohamed Sabra submitted Apr 29 at 7:02pm

### Question 25

4

/ 4 pts

What of the following helps terrorist groups function internationally?

**Correct!**

- ☒ a state-sponsor
- ☐ WMDs
- ☐ a military strategy
- ☐ a "doomsday" strategy

Additional Comments:

Fudge Points: 4

You can manually adjust the score by adding positive or negative points to this box.

**Final Score:** 64 out of 100

Update Scores

# EXHIBIT C



# MCCCD Statement on Academic Freedom

**MAY, 11 2020**

FEATURED

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\*The Maricopa County Community College District Interim Chancellor, Dr. Steven R. Gonzales, issued the following statement today (May 11) related to Academic Freedom.

"The core function of education is to prepare students to engage critically with the world around them. Often, that means addressing difficult and contentious topics, even when doing so may be uncomfortable. The Maricopa Community Colleges strive to create an environment of respectful engagement where students and faculty can express their own views and learn from others, where all members of the community are welcome and the utmost freedom of inquiry is encouraged.

Last week, posts surfaced on social media raising concerns about three questions on a quiz given in a World Politics course at Scottsdale Community College. The questions were taken out of context from a unit examining violent political and social movements, and the subject they addressed – the reliance of certain violent groups on religious texts as a justification for their actions – was within the scope of the course.

Because the questions were taken out of context, individuals not involved in the class, who viewed the quiz questions posted on social media, drew conclusions about the content of the course. Based on those conclusions, concerns were raised about whether the questions are consistent with the District's values of tolerance and inclusion of all persons, regardless of their faith or background. Some individuals went further and made threats against the faculty member involved.

To the extent any concerns have been raised by students involved in the course, those concerns have been addressed by direct communication between the faculty member and the student. However, in light of the public discussion of this situation, it is important that the District clarify in this sphere what its values are. Education at our institution is open to all individuals regardless of their beliefs or backgrounds, and we will not tolerate the

exclusion of any person based on what they do or do not believe. However, we also expect our students and faculty to engage fully with the ideas and perspectives of others, even when they disagree with each other.

That said, I am troubled by what appears to be a rush to judgement in how the college responded to the controversy and the apparent failure to follow policy and procedure in addressing both the student's concerns and the faculty member's rights. I apologize, personally, and on behalf of the Maricopa Community Colleges, for the uneven manner in which this was handled and for our lack of full consideration for our professor's right of academic freedom.

To avoid rushing to judgment a second time, I am announcing the immediate independent investigation of the facts related to this situation. I expect this to be completed with all deliberate speed. Upon conclusion of the investigation, I will ensure appropriate accountability wherever any failures occur. Also, to clear up misinformation, the MCCCC Governing Board is not currently involved in an investigation of the professor, nor does it plan to initiate one. Furthermore, it is important to note that the faculty member involved is not in jeopardy of losing his position.

Today, I am announcing the formation of the Committee on Academic Freedom, to be led by Provost Karla Fisher with members identified by the end of the week, to champion academic freedom education and training and to resolve academic freedom disputes in the hope of ensuring this fundamental academic value is better understood and realized alongside our longstanding commitment to the value of inclusion."

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Mohamed Sabra and Council on  
American-Islamic Relations of Arizona,

Plaintiffs,

vs.

Maricopa County Community College  
District and Nicholas Damask,

Defendants.

No. 2:20-cv-01080-PHX-SMB

**NOTICE OF CERTIFICATION OF  
CONFERRAL**

Pursuant to this Court's Order dated June 22, 2020 (Docket Entry 22),  
Defendants, Maricopa County Community College and Nicholas Damask  
("Defendants"), provide this certification in connection with their concurrently filed  
Motion to Dismiss.

Before the filing of the Motion, on June 25, 2020, the parties' counsel conferred  
by telephone, preceded by additional conferral through email exchanges on June 23 and  
24. Counsel for Defendants notified Plaintiffs' counsel of the issues and arguments to  
be asserted, and, after good-faith discussion, counsel were unable to agree that  
Plaintiffs' Complaint was curable by a permissible amendment offered by Plaintiffs.

DATED this 26th day of June, 2020

OSBORN  
MALEDON

A PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

OSBORN MALEDON, P.A.

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