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Tolerating extremism : to what extent should intolerance be tolerated?

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CHAPTER SEVEN

Looking Forward

When I undertook this project the comments, reactions and criticisms *Freedom from Religion: Rights and National Security* elicited were very much on my mind. As mentioned in the introduction, my hesitation with respect to this project was whether it was sufficiently distinguishable and distinct from *Freedom from Religion*. After intensive meetings with subject matter experts in the surveyed countries I concluded that the two, while sharing a similar theme, are clearly dissimilar. As one reader noted the two books complement each other in addressing extremism through the lens of free speech, individual rights, and the state's obligation to protect both larger society and the particular, endangered individual.

The operative word is "balance"; there is, needless to say, no perfect mathematical formula that will satisfy all interested parties. To suggest otherwise is to engage in wishful thinking. However, as the excerpt from an email I received while writing this book make clear the danger posed by extremism is neither amorphous nor imagined:

Because of your (reference is to mine, ANG) interest in this subject, here is some of the background to the current situation in Colorado City/Hildale. Name and Title redacted (ANG), has been down there, and is very aware of the tendency to exaggerated rumors in the community, but says that the theme of children being removed is a consistent one. Based on what has happened in Texas, and knowing what the FLDS are capable of, it seems a legitimate concern. These are some of the things that have been reported to Name of Organization redacted (ANG)

As you know, Warren Jeffs is still dictating from prison what his followers are to do. He is convinced that if they "purify" themselves then he will be miraculously freed from his prison cell. He has created a group called the United Order (UO) that are those that follow his edicts and are deemed holy/righteous enough to be called "worthy". Only those in the UO are allowed to eat from the storehouses, attend meetings, etc. Those in the UO are not allowed to speak to or even be in presence of those deemed not worthy. Which means those found unworthy are being quarantined in lower parts of the home or rooms by themselves, or worse. Over the past year hundreds have been asked to leave the community and "repent from afar" so they can someday return and be holy enough to be part of the UO. Parents sent to repent are instructed to leave their children as the parent truly believes that if they just repent enough Warren will allow them to come back. He is splitting families and reassigning them

to new families. Children without parents present are being told their father is now Warren Jeffs, they are no longer the children of their biological fathers. As a result we are estimating that there are several hundred groups of children from infant to early 20's in households without parents or with one parent caring for several families children (groups of up to 20-30 at a time). From our experience, and the stories of the young adults we are serving, we know that this is a backdrop for extreme physical and sexual abuse (which is rampant in the community - up to 70% of our clients were abused at some point). As Warren's control and commands have continued to increase, the stories we are hearing and the numbers contacting us are escalating.

This week has been by far the worst though. Here are just the stories we have recently heard:

- 11 yr old boy committed suicide because he was told he was no longer worthy to be part of UO and therefore no longer worthy to eat
- 18 yr old boy committed suicide because no longer worthy to eat
- little girl was placed in a chicken coop behind her home because she was no longer worthy and therefore could not have contact with the rest of the family - she was later allowed back in the home, but no one knows what is happening to her now
- A mother had her 3 children removed from her care and supposedly placed in Lyle Jeffs (brother of Warren Jeffs) home as she was not worthy, but they were
- 3 mothers with children have called for assistance this week as they are fleeing with their kids
- Some are saying the UO has ordered buses and are taking all of the children that have been deemed worthy out of the community by December 23 (birthday of Joseph Smith). Over the past year we have heard reports of vanloads of girls being taken away, but parents have not been willing to file police reports. This is huge. Hundreds of children could disappear and never be seen again. With many parents absent from the homes, the removal of many of these children would be uncontested.
- Numerous accounts of children not being fed because they were not deemed worthy, and even those found worthy not having much because the storehouse is low on supplies. They are a closed society though - so any contact with us is enough to get them kicked out, so they won't let us help them.

That this is going on in Utah and Arizona without the intervention or at least the close scrutiny of the law seems inconceivable.⁶⁵⁰

Whether all the above are precisely accurate is almost beside the point; it is sufficient for some, perhaps even only one claim need be correct for the extraordinary danger to be fully appreciated. What is particularly disconcerting, actually troubling, is the impression state agents are, once again, failing in their duty to protect the vulnerable. This was a recurring theme throughout many of my travels; whether “willful malfeasance” is too strong a phrase is a matter of debate. What is clear is a consistent pattern of ignoring threats, vulnerabilities and harm. As discussed in previous chapters, different reasons have been proffered for this unfortunate and troubling reality. I have found none of them compelling. In rejecting various explanations I harken back to Dean (then Professor) Minow’s law review article discussed in earlier chapters: to what extent should society tolerate intolerance.

This is, obviously, a complicated question, fraught with danger. There is, obviously, great danger in casting too broad a swath in creating a paradigm where intolerance is not tolerated. After all, the essence of democracy is a mosaic of voices, opinions and beliefs. To prevent dialogue, discussion and debate is enormously risky for it raises obvious questions regarding standards, criteria and “who decides”. These are, clearly, weighty issues not easily dismissible; however, given the dangers posed by extremism state leaders cannot sit idly by while vulnerable individuals are endangered.

The themes of vulnerability and endangerment are essential to understanding extremism; emphasizing both highlights the clear danger extremist’s pose. This was highlighted to me in the context:

Over a number of weeks (fall 2012, winter 2013) I conducted a number of personal interviews with former FLDS members; those with whom I met recently left the Church and relocated to the Salt Lake City area. Their ages ranged from late teens to mid ‘40’s; I met with men and women alike. Our conversations, which took place over the course of many hours, were painful, revealing, deeply emotional and immensely important in understanding the regime of fear imposed by Jeffs, regardless of his physical location. The individuals with whom I met were remarkably forthcoming in their descriptions of the FLDS culture and how they had, prior to leaving, been deeply committed to the faith and its “way of life”. In our meetings, I guaranteed anonymity; in their presence I took handwritten notes (which I did not share with them) in an effort to capture both the specific point the individual was making and its relationship to previous comments made by other interviewees. All the notes are in my personal records.

With one exception, all those interviewed indicated that they would never, under any condition return to the FLDS community; one, in remarkable candor, stated that under the correct circumstance she would weigh with the utmost

⁶⁵⁰ Private email; in author’s records.

seriousness the possibility of returning. This, in spite of knowing----in her words--that Warren Jeffs is akin to Hitler and that friends with whom she is in contact have described the current atmosphere as resembling "terrorism". The motivation for this person's willingness to consider returning is a direct result of Jeff's directives that cause unmitigated harm to individuals and families alike: this woman's husband was ordered to leave the community (and obviously, his family) in order to repent for unspecified sins he committed.

As part of the repentance process the husband (a polygamist with three wives and numerous children and grandchildren) is not allowed to have any contact with any family members. Important to note: in spite of the fact that Jeffs is incarcerated in Texas and the husband is, according to his wife, probably in Idaho he refuses to have any contact with her so great is the "regime of fear" created by Jeffs. Nevertheless, in spite of her clearly expressed anger at her husband, the woman was adamant she cannot conclusively reject return to FLDS culture were that the condition for reconciliation with her husband. Re-stated: in spite of her clear understanding of the harm FLDS has caused her and her children the possibility of return was not discounted.

In seeking to better understand the motivation for willingly engage in conduct that endangers the woman made clear that "in spite all the in spites" her commitment to FLDS (not to Jeffs) was unwavering. At first blush her willingness was surprising; upon further conversation with her, other former FLDS members and outside experts her response 'makes sense'. In contrast to those who suffer from "Stockholm Syndrome" FLDS members do not have a normative previous world-view as distinct point of reference; as suggested by a thoughtful non-FLDS member who has long studied the community, members only know the FLDS culture and do not have a suitable comparison paradigm.

That is essential to the harm discussion because the inherent danger of insularity is that conduct deemed harmful by "outside" society has been presented to the group as necessary and essential in seeking to please the leader who is acting on behalf of the divine. In creating a paradigm predicated on "glory to God" or "honoring the leader", the leader ensures loyalty, subservience and unquestioning conduct. Those who have the temerity to question the leader, or are perceived as questioning, are subject to punishment as they are viewed as apostates who must be educated.

In the FLDS culture, the punishment meted by Jeffs for questioning----whether the person questioned Jeffs' leadership is irrelevant----is forced exile for an unlimited period of time to be determined exclusively by Jeffs. The social, personal and familial damage is extraordinary; nevertheless, in the "absolute" model Jeffs has created individuals designated for "exile" accept their "sentence" without question, in spite of the unimaginable pain. In describing the pain when her husband informed his family he had been deemed "unworthy" and therefore must immediately leave the woman was stark and graphic.

Nevertheless, the scenes of pain of families torn apart by fiat are not powerful

enough to convince FLDS members to reject the “unworthy” label and refuse the order to separate. As discussed below, that is ---tragically---not the only fiat that imposes harm on faith members that is willingly and unquestioningly obeyed. Needless to say, other faith requirements in clear violation of the law are fully executed regardless of the damage caused to children and adults alike. Re-articulated: FLDS beliefs result in violations of the law and direct harm to its members alike. Precisely because individual members and the community at large are incapable of protecting themselves from the harmful conduct inherent to the FLDS faith as demanded by Jeffs the state is required to intercede on behalf of those incapable of protecting themselves who have been abandoned by those responsible for their protection.

Re-stated: in the name of obedience to Jeffs’ dictates, parents are violating their obligation to protect their children and are engaged in behavior that directly harms them. Parents may suggest their conduct is not intended to harm their children emphasizing their actions are predicated on devotion to faith and respect for the dictates of the faith leader the result is harmful conduct that endangers their children. On that note, important to recall that FLDS beliefs include the practice of polygamy which has been defined by the Supreme Court of British Columbia as a “crime of harm”. In its decision the Supreme Court wrote: “I have concluded that this case is essentially about harm; more specifically, Parliament’s reasoned apprehension of harm arising out of the practice of polygamy. This includes harm to women, to children, to society and to the institution of monogamous marriage.”⁶⁵¹

There are, then, three distinct harms pervading modern day FLDS culture: child-brides, lost boys and polygamy. In addition to causing harm to members, all three are in direct violation of the law, yet all three are practiced with impunity on a regular basis in accordance with FLDS beliefs; Jeffs’ instructions; imposition of the instructions by enforcers; the willingness of community members to engage in this conduct and the state’s failure, in an institutionalized manner, to protect the vulnerable. Extensive interviews with former FLDS members highlighted the powerful convergence between the three distinct harms/crimes and the five steps required for their occurrence. It is this convergence between the two forces (crimes) and facilitation that we will focus on in the pages to come.

The perfect convergence between the three crimes----underage marriage, abandoned sons, polygamy----and the five facilitators pose a clear and present danger to the vulnerable members of a closed group. The primary responsibility of a parent is to provide for and protect his children; that is codified in child endangerment laws in numerous states. The laws make clear parental responsibility and the penalties associated with endangering one’s child. The laws were codified in legislative recognition of the failure of many parents to adequately, competently and consistently provide for their children. There is, of course, risk in penalizing parents: as evidenced by the Texas raid, evidence is

⁶⁵¹ *Reference re: Section 293 of the Criminal Code of Canada*, 2011 BCSC 1588, para. 5 (Can.).

problematic and the state is not necessarily equipped to “step into the shoes” of parents who endanger their children.

What the interviews made clear is that Jeffs exercises extraordinary control over the community; remarkable is the control exercised in spite of his physical presence. In addressing this issue, one interviewee commented that for many community members hearing his voice (an issue to be subsequently addressed) was sufficient cause for acting in accordance with his demands and acceding to new Revelations. The willingness to conform is of particular note when results directly result in harm to individuals and families alike; the unquestioned obedience resulting in destruction of families, under-age marriage and shunning of particular individuals accused of crimes/sins is a most important characteristic of the FLDS culture. As noted by the individuals I met, the overwhelming majority of faith members accept, unquestioningly, Jeffs’ commands.

Rebellion is, necessarily, highly secretive, furtive and modest; one married couple engaged in sexual relations in spite of Jeffs edict that only 12 males he has personally chosen are allowed to impregnate FLDS women (sexual relations, according to FLDS dictates, are exclusively for the purpose of impregnating women); another engaged in foreplay that did not culminate in full sexual relations; others surfed the internet (this is strictly forbidden); another (in his words) partied (i.e. consumed alcohol, flirted with non FLDS girls) and others used birth control measures (this is strictly forbidden). Important to note, while the couple (married) felt comfortable in telling me they had full sexual relations using birth control (condoms) they chose not to answer my question regarding how and where they purchased. The interviewees commented that other members with whom they were acquainted also engaged in “illicit” conduct; that said, they noted that while the conduct contradicted Jeffs orders they were not indicative of wide-spread, open rebellion and noted, with irony, the pleasure they received from engaging in such acts however minor they might seem (to an outsider).

That observation is of particular importance because it highlights, unintentionally, the combination of Jeffs control, enforcement by his handpicked “trusted” bishops and the fear that other community members might “report” conduct that contradicts revelations and orders. That triangle ensures obedience and control; the methodology harkens to “reporting” mechanisms implemented by Mao Tse-Tung whereby children were expected to report to the authorities regarding parental misdeeds. Those interviewed repeatedly emphasized fear predicated on the all-know-ing/all see-ing Warren Jeffs and the constant state of uncertainty regarding correct/incorrect conduct and the powerful consequences if Jeffs determined the individual “unworthy”.

These interviews, then, highlight the practical consequence of extremism; the conversations difficult as they may have been were painfully honest for they articulated the daily and existential lives of individuals living in an extremist paradigm. The FLDS culture is a vivid demonstration of harm caused by

extremism; the interviews poignantly highlighted how an extremist leader controls members of his community. While some are able to leave, the overwhelming majority is either incapable or unwilling to do so. To what extent those who do not leave understand the harm to which they are subjected is an open question; what is not an open question is the harm caused and the failure of state agents to sufficiently protect the vulnerable and endangered.

However, as the proceeding chapters highlighted determining who is endangered and vulnerable is far from “clean-cut”; the trial of Geert Wilders makes that perfectly clear. Rather than protecting Wilders’ right to free speech, the Amsterdam court ordered his trial on the grounds that his speech was offensive to Islam and Moslems. It would be hard to argue that Wilders’ speech endangered Moslems or heightened their vulnerability; while, admittedly, intended to cause discomfort and force public debate the movie *Fitna* accurately depicts events and religious text. Nevertheless the decision was made to order Wilders’ prosecution; this is particularly troubling given Imams who issue *fatwas* targeting specific individuals are not subject to prosecution.

This paradox is highlighted in the chapter addressing multiculturalism; rather than limiting the free speech of an extremist faith leader who deliberately endangered an individual (Marcoush) the decision (by the Court, not the prosecutor) was to limit the free speech of an individual who does not have the ability to harm or endanger others. Perhaps akin to Theo van Gogh who was a provocateur, Geert Wilders seeks to impact public opinion on a particular issue. That is the essence of democracy; devoid of vigorous public debate competing voices, perspectives and opinions are not heard. However, there is an important question directly related to extremism and tolerance: what are the limits of free speech. The follow-up question, as highlighted by the Wilders discussion, is whose free speech should be limited.

It is with respect to both questions that the extremism discussion must focus for the relationship between extremism and free speech is of extraordinary importance. The numerous conversations with subject matter experts in the six surveyed countries consistently reinforced the inexorable link between the two. While other factors are important motivations for extremist action, the role of the inciter is paramount. Whether the inciter is a faith leader or a secular voice the relationship between the actions of the extremist and the speech that propelled him is powerful.

In innumerable conversations in Norway, Israel, the UK and Holland the question of how to minimize the impact of extremism was posed to my interlocutors. The common refrain amongst the overwhelming majority of discussants was that extremism cannot be eradicated but can be minimized. The working assumption from the perspective of academics, law enforcement and national security officials, policy analysts, former extremists and members of the media was the extraordinary ‘staying power’ of extremism. To that somber analysis was added widespread concern regarding an increase in extremist tendencies and

sympathies. In large part this increase was particularly attributable to three distinct factors that have over-lapping characteristics: the current European economic crisis; a heightened sense of antagonism with respect to the 'other', particularly immigrants predicated on sentiment that 'our way of life is threatened and they don't share our values'; the ability and ease with which extremists can communicate through the internet.

Additional factors mentioned include tensions between different extremist groups that contribute to increased manifestations of extremism, whether in actual actions or threats; the failure of state agents to directly and consistently confront extremists; closed communities that accentuate parallel societies and minimize external (state) influence.

In other words, if policy makers determine that extremism (and extremists) pose a threat then the relevant question is how to minimize its impact. Minimize is the operational word given the unanimous assessment by subject matter experts in different countries that extremism cannot be erased. That is, the dilemma confronting policy makers, law enforcement officials, and government leaders is how to minimize the impact of extremism in a manner that neither backfires by enhancing the public image of extremists nor violates otherwise guaranteed rights. It is, needless to say, a fine balance; nevertheless, as made clear by events in Norway, Holland, Israel, the US, the UK and Germany action must be taken.

In chapter five we explored 'soft' measures whereas in this chapter we examine how the law can be used to limit the impact of extremism. Perhaps the correct distinction between the two chapters can be described as the carrot and the stick. A word of caution: there is significant discussion whether extremists wish to be, for lack of better term, de-radicalized. The caveat is of enormous importance for it suggests that the nation state's efforts to de-radicalize may well fall on deaf ears. To that end, the extremists can be divided into a number of different categories of commitment and fervor; while some members are fully engaged to a particular cause others may be defined as swayable and therefore receptive to de-radicalization. The efforts addressed in this chapter are, naturally, focused on the latter category whereas the criminal law measures discussed in chapter eight are more relevant to the former.

Dan Ben-David writes in the foreword to "State of the Nation Report"⁶⁵²:

In 1970 Israel was much poorer and its production needs could be supplied by a very large number of workers with low education levels. At that time, over 90 percent of workers in all education level groups were employed---whether they had less than four years of schooling or more than 16 years of schooling.....in 21st century Israel, the lower the educational level of prime working age men, the more rapid the decline in their employment rates

⁶⁵² STATE OF THE NATION REPORT, SOCIETY, ECONOMY AND POLICY IN ISRAEL (Taub Center for Social Policy Studies in Israel 2010).

and the lower the level to which those rates have dropped.⁶⁵³

Similarly, Haya Stier argues that:

Industrialized labor markets are currently characterized by economic instability that is expressed both in significant fluctuations in unemployment rates and in the employment difficulties of workers who, while they may succeed in finding employment, often earn wages too low to maintain a decent standard of living, or who are employed only part-time despite their desire to invest more of their time in the labor market.....⁶⁵⁴

Prof Ben-David's and Prof Stier's analysis are relevant across the board and are not, therefore, symptomatic only of Israel; both highlight issues critical to responding to extremism. Both commentaries shed light on an increase in international markets, rise in numbers of migrant workers and dwindling employment rates of uneducated workers. The result is the creation of a category of individuals, largely male, best described as 'left behind'.

For extremist groups this category provides large numbers of potential members, often times united by powerful commonalities: low education, minimal job opportunities, anger at the immigrant and a powerful sense of despair at having been 'left behind'. As Europe's history has powerfully demonstrated this is not a unique development; European leaders have either been forced to respond to working class anger or been the beneficiaries of that anger. With respect to the latter, one must only examine the rise of Hitler in the aftermath of the reparations forced on Germany by the Treaty of Versailles.

While the commentary below by Nachum Blass is specific to Israel, the issues it raises regarding educational levels and values are also generic:

.....since ultra-Orthodox curricula stress religious studies over Hebrew, mathematics, English, computer literacy and civics, growth in the relative size of the ultra-Orthodox pupil population is tantamount to an increasing percentage of Israeli pupils whose educational experience fails to respond to the needs and values of Western democracies or to meet the demands of developed modern economies. Second, since the ultra-Orthodox population is largely poor, growth in the relative size of the ultra-Orthodox pupil population is as good as an increasing percentage of pupils whose socioeconomic background is likely to have adverse effects on academic achievements.⁶⁵⁵

Blass' commentary regarding educational levels is of the utmost importance in

⁶⁵³ *Id.* at 12-13.

⁶⁵⁴ *Id.* at 155-156.

⁶⁵⁵ *Id.* at 238.

developing, or at least proposing, mechanisms to minimize the dangers posed by extremists. The analysis is as relevant to countering extremism in Europe as it is in Israel. The three commentaries above, based on research findings of the Center for Social Policy Studies in Israel, reflect the overwhelming importance of both education and employment opportunities in creating a vibrant, economically sound society that minimizes the impact of extremism. There is, of course, nothing new in this analysis; what is important, however, is recognizing two important developments in contemporary Europe.

In many ways, the two are deeply intertwined; the downturn in the European economy combined with immigration, particularly from North Africa, Turkey and Pakistan, have significant impact on enhancing extremism. The term 'other' was repeatedly mentioned in the course of my conversations with subject matter experts; the reference, without doubt, was to immigrants and in particular to non-white immigrants.

As Jamie Bartlett, Jonathan Birdwell and Mark Littler write:

Over the last decade, populist parties have been growing in strength across Western Europe. These parties are defined by their opposition to immigration and concern for protecting national and European culture, sometimes using the language of human rights and freedom. On economic policy, they are often critical of globalization and the effects of international capitalism on workers rights.....(T)he growth of these movements is mirrored online.....(T)his nascent, messy and more ephemeral form of politics is becoming the norm for a younger, digital generation.⁶⁵⁶

What unite these disparate groups, then, are high unemployment, low education levels and enormous resentment of the 'other'. That said, important to recall an important observation suggested by a Norwegian scholar:

Well, the argument only holds true in part. If we are talking about right-wing extremism in Europe, the finding of recent research is that material deprivation alone can not explain it fully (summarized in political scientist Cas Mudde's dictum: 'It's not the economy, stupid!). It most certainly cannot account for the case of ABB (Breivik, ANG), who could have lived an ordinary life with a reasonable regular income had he so chosen.⁶⁵⁷

There is a need, then, to distinguish between different degrees of activism; much like extremist Moslems responsible for the terrorist attack committed in London on July 7, 2007 and at Glasgow Airport on September 30, 2007 were middle to

⁶⁵⁶ JAMIE BARTLETT, JONATHAN BIRDWELL AND MARK LITTLER, THE NEW FACE OF DIGITAL POPULISM 15 (Demos, 2011).

⁶⁵⁷ Email exchange in author's files.

upper middle class UK citizens, Anders Breivik was fully capable of being a member of Norwegian middle class, if not more. Economic circumstances, then, must not be used as a convenient 'hook' to explain the actions of extremists; important to recall that those responsible for 9/11, primarily including Bin Laden, were neither financially destitute nor unemployable. Given that economic circumstances and education levels were not the cause for Breivik's actions on July 22, 2011 nor those of Bin Laden's the measures recommended to minimize extremism do not apply across the board.

It is for that reason, then, that the impact of the triangle of economic conditions, educational level and influx of immigrants applies to a particular category of extremism rather than broadly to all extremists. This particular category is comprised of those whose anger at the 'other' is fueled by a lack of education that directly enhances un-employability. A caveat is warranted: anger at the 'other' whose importance cannot be sufficiently emphasized is not solely the result of education and employment opportunities. As innumerable studies have shown the causes of racism and hatred are varied, complex and dependent on both internal and external circumstances.⁶⁵⁸

Needless to say, this combination is a powerful motivator for their actions regarding the core actors, those 'locked in' on committing egregious crimes on behalf of the particular extremist viewpoint they espouse, the measures discussed in this chapter are not relevant. With respect to those who either directly incite to violence or commit the violent acts themselves and have financial opportunities thereby distinct from individuals described by Prof Ben David, the educational and economic discussion is not particularly relevant.

However, before addressing right wing extremism we turn our attention to radical Moslems in the Netherlands. In exploring both groups---right-wing extremists and radical Moslems----it is important to recall their similarities and distinctions; understanding and appreciating both significantly facilitates implementing measures that reduce their impact. With respect to Islamic extremism the possible influence of moderate Moslems must be considered. Case in point: the Brixton Mosque "..... is an ideal hunting ground for terrorist talent spotters since it attracts mainly young worshipers, including ex-convicts it helps rehabilitate. A criminal background is a useful indication that the candidate is not afraid to break the law. Recruiters often approach their targets at small, private Islamic study groups that meet outside the mosques."⁶⁵⁹

In an effort to protect the mosque from the increasing attempts of extremist protagonists and their followers to destabilise the mosque and provide an alternative violently radical narrative, the administration took some of the following steps:

⁶⁵⁸ See generally Scott Atran, *God and the Ivory Tower*, FOREIGN POLICY (Aug. 6, 2012) http://www.foreignpolicy.com/articles/2012/08/06/god_and_the_ivory_tower.

⁶⁵⁹ Helen Gibson, *Looking for Trouble*, TIME, Jan 21, 2002, <http://www.time.com/time/world/article/0,8599,193661,00.html>.

- Changed the charitable status of the mosque into a trust with a set quorum of trustees who had the sole responsibility of electing and deselecting new or fellow trustees.
- Purchased the mosque premises, placing it under the direct ownership of ‘holding trustees.’
- Prevented the distribution of any publication or leaflets outside the immediate vicinity of the mosque. This included its own material which would, in the event, be distributed from within the mosque premises.
- Prevented any unofficial classes or study circles taking place.
- Provided more access to renowned scholars and their students from the Muslim world.
- Addressed the violent extremists and their ideologies publicly in sermons, conferences and publications.
- Physical preventative measures were adopted for those physically threatening the security of the mosque and its attendees.⁶⁶⁰

A word of caution: not all extremists are driven to action by inciters; Breivik is a prime example of largely self-motivated lone-wolf actor. While influenced by the blogger, Fjordman, Breivik’s decision to attack was unrelated to the larger free speech discussion. In that spirit, lone-wolf actors pose extraordinary challenges for the law enforcement and national security communities because of the paucity of “links” to like-minded individuals or leaders and inciters. While the danger posed by lone-wolf actors must not be minimized, the danger posed by inciters must, similarly, be recognized. In that context, the dilemma is how to more effectively balance free speech protections with protection of individuals and society alike.

The challenge is enormously compounded by the Internet and the resulting cyber incitement. The anonymity, reach and unrestricted tone and content that is the essence of the Internet is ‘low hanging fruit’ for extremists. It avails them, literally, unlimited access to ‘believers’ and provides fertile ground for unhindered, broad scale recruiting. My conversations with website administrators highlighted the built-in advantage enjoyed by cyber-inciters: the websites are easily accessible and administrators are deeply opposed to limiting content, regardless of its tone and tenor. Nevertheless, cyber-incitement deserves our attention; there is great danger in the reflexive response of the administrators whose unwillingness to engage in discussion regarding content restriction ensures unfettered ability to incite.

With respect to motivation for extremism, conversations with subject matter experts highlighted a number of causes. As I discussed in *Freedom from Religion*, religious extremism is, undoubtedly, a prime motivation. Questions abound

⁶⁶⁰ Abdul Haqq Baker, *A view from the inside*, 73 CRIMINAL JUSTICE MATTERS 24 — 25, 2008.

whether it is a prime motivation or the prime motivation. Whether “a” or “the” the reality confronting the general public, decision makers and people of moderate faith is that religious extremism is extraordinarily dangerous, targeting larger society and specific individuals alike.

Our collective failure to directly address, much less recognize, dangers arising from the link between extremism and speech is an on-going reality. The discussion is complicated primarily because extraordinary hesitation to restrict free speech. The common rejoinder of thoughtful readers of earlier drafts of this manuscript was “marketplace of ideas”. In other words, the strength of democracy is the spirit of rigorous debate and discussion; limiting discourse is both an anathema to democracy and ultimately weakens it. That is a valid and important argument that resonates with me, particularly when efforts are made to limit voices considered “outside the mainstream”.

By example: in December, 2012 the Israeli Knesset Election Committee voted to bar the participation of Hanin Zoabi, an Israeli-Arab, from participating in the January, 2013 election.⁶⁶¹ The decision, largely based on MP Zoabi’s involvement in the May 2010 Freedom Flotilla from Turkey to the Gaza Strip⁶⁶² is expected to be over-turned by the Israeli Supreme Court.⁶⁶³ The decision to bar Zoabi’s participation in the election reflects disturbing trends in the Israeli extreme political right; while Zoabi’s involvement in the Flotilla was a matter of intense public debate it would be an exaggeration to suggest her actions endangered the state. The dilemma is concisely described below:

The Coalition Against Racism in Israel, opposing the decision, said it was based on political calculations. ‘A strong democracy is tested by its ability to contain opinions, even if they are different or hurtful,’ said coalition director Nadal Othomann. ‘Even if we do not all agree with Zoabi’s words, we shall fight for her right to express them,’ he said.⁶⁶⁴

However, there is a ‘flip side’ to that coin; the one that asks, as Dean Minow posed, what are the limits that intolerance is to be tolerated. The proverbial clear lines in the sand do not exist; to suggest otherwise is to engage in either political demagoguery or intellectual dishonesty. One of the great challenges confronting western democracy is, indeed, determining the limits of tolerating

⁶⁶¹ See Johnathan Lis, *Israel election committee isqualifies MK Hanin Zabi rom running for Knesset*, HAARETZ (Dec. 19, 2012, 5:30 PM), <http://www.haaretz.com/news/national/israel-election-committee-disqualifies-mk-hanin-zuabi-from-running-for-knesset-1.485895>.

⁶⁶² See *Gaza Flotilla*, HAARETZ, <http://www.haaretz.com/misc/tags/Tag/Second%25252525252520Lebanon%25252525252520War-1.477718/Gaza%20flotilla-1.476996> (last visited Jan. 17, 2013).

⁶⁶³ This is not the first time a political party has been banned in Israel: in 1988 Kach (founded by Rabbi Meir Kahane) was banned by the Israel Election Commission a decision upheld by the Israel Supreme Court. The basis for the ban was the IEC’s position that the party was “racist” and “undemocratic”.

⁶⁶⁴ See Lis, *supra* note 695.

intolerance. To answer that question requires acknowledging that individual rights are not absolute and are subject to minimization in response to particular threats and circumstances. However, that two-step process demands recognition that extremists endanger society and that the state's primary obligation is to protect the vulnerable. It is for that reason that defining extremism is essential for otherwise the paradigm is akin to "round up the usual suspects".

In the journey that is this book the tension was identifying in each culture extremists and then determining whether they posed a danger to specific individuals or larger society. The premise, and conclusion, is that extremists pose a danger to both categories; however, the analysis cannot stop there for attention must be paid to distinct categories.

As discussed in chapters three and five there is a palpable tension in Europe between multi-culturalism and immigration; the former preaches acceptance of the 'other', the latter raises deep concerns regarding parallel communities and a willingness to truly be acculturated into a new society. Research and conversations in the UK, Norway and Holland raised significant questions regarding the context to which immigrants become members of mainstream society and similarly the degree to which traditional society accepts the 'other'. Re-articulated: the distinctions between traditional society and recent immigrants are significant; enhancing the differentiation is concern that newcomers do not "adopt" to the norms and mores of their new society preferring the language, customs and ways of their home culture.

Terminology is important; the semantics in Norway unequivocally suggested that society is divided between traditional Norwegians and immigrants; the former are white, the latter Moslems. Needless to say, not all immigrants are Moslems; after all, Danes and Poles have moved to Norway and are, therefore, immigrants. However, it would be an exaggeration to suggest that my Danish waiter at an Oslo restaurant would be referred to as an immigrant akin to a Moslem from Turkey or Morocco. That was made clear in meetings with immigration experts who emphasized Moslem immigration even though non-Moslems are also immigrants. Conversations with taxi drivers reinforced the sharp distinction between traditional Norwegians and Moslem immigrants; this distinction was never made between traditional Norwegians and white immigrants. Similar sentiments were expressed in the UK and Holland.

Why is this important? For the simple reason that distinctions and differentiations become self-fulfilling prophecies whereby 'outsider' status is reinforced; needless to say, that status can also reflect an unwillingness to join the new culture. This is extraordinarily important with respect to the issues discussed in this book; simply put, 'outsider' status enormously facilitates recruitment by extremist organizations able to magnify the "in-out" distinction. The consequences are dangerous: failure to successfully integrate immigrant communities into mainstream society directly contributes to marginalization compounded by high unemployment, low education and religious extremism.

The statistics suggested by scholars in Israel, Norway and the Netherlands suggest powerful similarity in distinct paradigms: the lack of education directly leads to unemployment⁶⁶⁵ with its inevitable and troubling consequences.

Do extremists manipulate this paradigm to their advantage? The unfortunate response is “yes”. In Israel, for example, the high unemployment of adult males compounded by broad scale exemption from service in the Israel Defense Forces directly contributes to distinct societal categories. This is particularly troubling when the distinction implies delegitimization of state institutions. How else to explain attacks on IDF soldiers by nationalist right wing settlers, articulation by orthodox rabbis that religious law supersedes state law and incitement against Arabs and left-wing Jews by right wing Israelis, religious and secular alike? More troubling than the attacks---physical and verbal---is the deafening silence of state authorities tasked with enforcing the law. While various reasons have been offered to explain this, the most telling, and arguably accurate, was suggested by a former Cabinet Minister. His explanation for the failure to question or prosecute rabbis who incited against Rabin: fear of the response of right wing rabbis and their supporters.

Initially I was surprised by this analysis (2008); however, subsequent research in Israel and elsewhere has tragically re-enforced and re-affirmed this theory. The failure to directly confront extremists reflects disturbing weakness by the general public and state officials with particular blame attributed to the latter. There is, after all, only so much the public can do if law enforcement, prosecutors and courts are recalcitrant in their efforts and deleterious in their responsibilities. There is no substitute for a firm commitment by those entrusted to protecting the public in general in specific individuals in particular; just like those responsible for inciting Rabin’s assassin were never prosecuted, state officials in Utah have consistently failed to protect underage brides. In both cases, terrible crimes are committed: the assassination of an Israeli Prime Minister and institutionalized statutory rape.

It is for that very reason that the discussion regarding extremism must move from the abstract to the concrete: the harm is real, not abstract, the consequences visceral, not ephemeral. To that end, the discussion has been three-fold: descriptive, philosophical and legal. The descriptive is essential to recognizing the scope, nature and danger of extremism; the philosophical necessary to understanding its deeper meanings and causes; the legal inherent to addressing the question of how to minimize the dangers posed by extremists. There are, however, two distinct dangers with respect to imposing legal restrictions on extremism: limiting free speech is, needless to say, a dangerous road to travel and relying exclusively on the law to limit dangers is, similarly, a problematic path to traverse.

⁶⁶⁵ As the Taub Center in Israel suggests, the more troubling issue is “unemployability” of profoundly under-educated adult males (Orthodox Jews) whose English language and mathematical skills are, at best, equivalent to a grade school level.

It is to Martin Niemoller's⁶⁶⁶ famous poem that we turn our attention:

First they came for the Socialists, and I did not speak out-- Because I was not a Socialist.

Then they came for the Trade Unionists, and I did not speak out-- Because I was not a Trade Unionist.

Then they came for the Jews, and I did not speak out-- Because I was not a Jew.

*Then they came for me--and there was no one left to speak for me.*⁶⁶⁷

On the assumption society cannot afford to turn a blind there are two recommended avenues in minimizing the threats posed by extremists. Failure to choose either option all but ensures realization of the horrifying paradigm Niemoller's powerful poem compellingly depicts. The failure to understand the ramifications both of extremism itself and silence in the face of extremism has extraordinary consequences. Those consequences are relevant both to the fate of particular individuals and to larger society.

Perhaps that is what led both UK Prime Minister Cameron and German Chancellor Merkel to conclude that multiculturalism has failed. While different cultures are important for a broad mosaic there is an important 'but': dangers to specific individuals and broader society if an insular group refuses to adapt to the laws and mores of the home society. While western democratic societies are predicated on freedom of speech and belief there is no justification for that tolerance to become a 'weapon' for extremists within insular communities. That, more than anything, articulates the great danger posed by an indiscriminating embrace of multi-culturalism.

A simple examination of the horrors resulting from honor killings and female genital mutilation sufficiently highlights the dangers to which Moslem females are subjected. Under no condition can either practice be tolerated or 'understood' in the context of respect for other cultures; both acts are a crime that must be met with the full force of the law. Unfortunately, as widely documented and discussed in previous chapters, that is not the case. To that end, even if a particular practice is presented in accordance with the tenets and mores of a faith, society has the obligation to proactively prevent it if deemed to harm individuals. The harm test, then, is essential to this conversation.

As I wrote elsewhere:

In a recent Great Britain honor killing case, Justice Roderick Evans commented regarding a young woman killed: 'She was being squeezed between two cultures

⁶⁶⁶ Niemoller was a prominent Protestant pastor who emerged as an outspoken public foe of Adolf Hitler and spent the last seven years of Nazi rule in concentration camps, *see generally, Martin Niemoller: First they came for the socialists*, U.S. HOLOCAUST MEMORIAL MUSEUM, <http://www.ushmm.org/wlc/en/article.php?ModuleId=10007392> (last visited Jan 17, 2013).

⁶⁶⁷ *Id.*

– the culture and way of life that she saw around her and wanted to embrace, and the culture and way of life you wanted to impose on her.”⁶⁶⁸

In that vein, Gila Stopler sheds important light on the relationship between religion and women:

The symbolic devaluing of women in relation to the divine is achieved in the Hebrew monotheist religion through the establishment of a supreme, male God who makes a covenant exclusively with men that excludes women from the religious ritual and from the religious symbol systems. Through the portrayal of woman, especially her sexuality, as the source of all weakness and evil, this symbolic devaluation becomes one of the two founding metaphors of western civilization.⁶⁶⁹

Where do we go from here? There are, I suggest, three viable alternatives to combatting the dangers posed by extremism. Needless to say, there is a fourth that I find morally unconscionable and legally deeply troubling: ignoring the threat and ‘hoping for the best’. Martin Niemoller brilliantly articulated why that option endangers society and individual alike and is, therefore, not an option.

The viable three options I propose as viable are: limiting the free speech of extremist inciters; enhancing and broadening educational opportunities for those living in extremist cultures; dialogue with extremists. Before addressing the three, important to recall the presumption in this discussion is that extremism does, indeed, pose a threat to society and individuals alike and that turning a blind eye is simply not viable.

With respect to dialogue: perhaps reflective of and influenced by my experience in operational counter-terrorism but dialogue exclusively predicated on dialogue will not convince extremist leaders to ‘de-extremism’. The pages of history are filled with examples of efforts to reach-out to extremists; the dialogue is effective only if coupled with inducements commensurate with self-interest. Herein lies a troubling weakness with this option: self-interest whereby society recognizes the validity and legitimacy of extremist actions is akin to the multiculturalism efforts that both Cameroon and Merkel identified as ‘failed’. That is, the hope that recognizing the uniqueness of particular actions by extremist groups has the ability, clearly, to cause harm.

Otherwise, how explain the troubling paucity of criminal actions against parents and other family members who participate in female genital mutilation and honor killings. Both are direct attacks on females; both are violent, reprehensible and must not be ‘understood’ in the context of dialogue. In this same way, efforts of Orthodox Jewry’s efforts to relegate women to second class status----

⁶⁶⁸ Julia Chamberlin and Amos Guiora, *Polygamy: Not “Big Love” but Significant Harm*, 10 (forthcoming 2013).

⁶⁶⁹ *Id.* at 25.

forcing women to sit on the back of buses or preventing women from praying at the Western Wall---is reflective of actions incommensurate with western democracies. In the same spirit, political calculations have led successive Israeli governments to extend deferments from IDF obligation to Orthodox males; while reflective of the 'price' of ensuring electoral support by the Orthodox community the larger questions regarding the nature and ethos of society are, largely, ignored.

This is not, then, dialogue; it is, for lack of better term, capitulation predicated on narrow and political calculations. Re-articulated: the failure to directly address the crimes committed in the name of Islam, the decision to enable sexual discrimination and profound imbalance amongst Israeli citizens suggests a 'one way' dialogue in which society is enabling extremism at the cost of imposing harm on individuals. This is not true dialogue; true dialogue would require the extremists to adopt their ways to that of larger society. As discussed in the proceeding chapters, adoption is antithetical to extremism for it reflects failure to adhere to rigid codes and tenets.

While the physician described in the introduction was not an extremist for he was not, I believe, a person of violence his rigidity was overwhelming. While professing love for his children as paramount, greater value was attached to religious scripture. I am deeply doubtful that his son, whose hypothetical same-sex marriage was the basis for our conversation, could convince my seatmate to attend the wedding. This was vividly reinforced in a dialogue I had with an orthodox Jew who was adamant that he would not attend the wedding of *his* son were he to marry a Gentile. I pressed, suggesting his son's happiness in finding a partner was to be celebrated; the response was clear, "marrying a Gentile is a reject and repudiation of everything I (the father) believe in". This individual who by all accounts is gracious, thoughtful and generous was as uncompromising as my plane seatmate.

Both conversations cast, for me, deep skepticism regarding the efficacy of dialogue not accompanied by significant self-interest. That is, the very essence of extremism---whether accompanied by violence or not---is the absolute commitment to a particular belief or set of principles. While dialogue is, understandably, a compelling alternative the essence of dialogue is an interaction, by at least two individuals open to an exchange of ideas that implies the possibility of changing opinions and viewpoints. That is, in many ways, the existential opposite of extremism, which, in the dialogue-monologue paradigm, is far more reflective of monologue in the echo chamber, as previously discussed.

Accordingly, I am skeptical of the willingness of the extremist to engage in conversation intended to convince him to 'change his ways' for that is the very antithesis of extremism. However, the option of dialogue need not be perceived through the lens of a silo; the more appropriate question is whether dialogue in conjunction with other means can be effective in countering extremism. To that end, of the other two measures suggested as relevant to effectively minimizing

extremism the most relevant---in the dialogue context---is education. As discussed in preceding chapters, research by the Taub Center (Israel) compelling and convincingly highlights the power of education and its extraordinarily powerful and positive impacts. Conversely, findings demonstrate the dangers, harms and negative repercussions resulting from a failure to educate young people. To clarify: education in this context refers to a broad education extending far beyond rote memorization of religious scripture--- Christian, Jewish and Muslim---whereby the individual's world view is extraordinarily limited, devoid of curiosity and engagement with the outside world.

The religious "education" preferred by religious extremists insures perpetuation of ignorance, compliance and rigidity. The interviews with former FLDS members (see above) powerfully highlighted the extraordinarily limited nature of their "education"; that model is as applicable to the FLDS culture as it is to Orthodox Jewry as it is to madrassas' where Moslem children learn. The model is the same, only the text differs; divorced from critical thinking, relying on strict discipline and ensuring perpetual ignorance is the essence of strict religious education. In essence, this is not education rather it is indoctrination with one powerful goal: ensuring the continuation of closed, insular worlds devoid of external influence. As history has repeatedly demonstrated the consequences are deeply distressing; today's newspapers reflect the dangers posed by indoctrination, rather than education, to individuals and society alike.

However, creating infrastructure whereby individuals of deep religious faith can study subjects more commonly associated with liberal western society would represent a dramatic paradigm shift. Whether the impetus would reflect economic reality, internal pressure or other factors is a matter of debate. What is clear, and need not be a matter of debate, is the extraordinarily positive ramifications of such a development. Unlike the dangers of cyber-incitement discussed in chapter five, the positive power of the Internet in opening up new vistas and horizons is unparalleled. It is not by chance that religious extremists deny their followers Internet access; the conversation with FLDS members powerfully articulated the extent to which Warren Jeffs is deeply concerned about the Internet's impact on his community.

In that same vein, the manner in which Orthodox Jewish women use Facebook to communicate with the outside world expressing their distress suggests understanding of the world beyond their immediate cloistered walls. Similarly, economic reality increasingly forces Orthodox women to join contemporary society's workplace, as compared to the traditional role of schoolteacher. Whether this will have an impact on forcing the larger Orthodox community to engage with modern Israeli society remains to be seen; nevertheless, it suggests an important shift whose importance need not be minimized.

Dialogue (not echo chamber) and education are, then, the carrots in minimizing extremism; limiting the free speech of extremist inciters is the stick. We are at a

crossroads: my travels over the past few years have forced me to confront the dangers posed by not aggressively confronting inciters. I have been extremely fortunate that a broad range of individuals have graciously agreed to engage me in discussion on this issue. Needless to say, not all agree with the core recommendation to limit free speech; some find this proposal deeply troubling suggesting it violates the very ethos of liberal western society. They are right.

However, I respectfully disagree with them for there are limits to which the marketplace of ideas is the most effective mechanism to minimize the reach of an inciter particularly when the Internet makes that reach, literally, unlimited. Mills' argument, on which I was raised and educated, may well not be relevant to a world where an inciter has the world, literally, at his fingertips. Whether Breivik ever met Fjordman is not important; what is relevant for our purposes that Fjordman's writings were available to Breivik and millions of others through the Internet. The same is true with respect to Major Hassan who was propelled to kill fellow US military personnel because of cyber-incitement.

However, my recommendation goes beyond the computer: the FBI's failure to directly address the radical imam in Minneapolis who radicalized second generation Somali youth to become suicide bombers is a mistake that we cannot allow to occur again. That is also true with respect to the stunning failure of Israeli authorities regarding right-wing rabbis. In the ultimate paradox, MP Wilders was brought to trial for offending Moslems; his acquittal need not detract from the enormity of the decision to prosecute him. A careful review of *Fitna* and Wilders' public comments reflect an individual raising powerful flags of caution with respect to clear threats to Dutch society. However, rather than prosecute the imam who issued a fatwa against Marcoush, the decision was made to prosecute the 'warner'.

While Wilders' commentary and methods, understandably, cause discomfort that is neither existentially, legally nor practically akin to the clear physical harm Marcoush expressed to me the evening we had dinner. He well understood the very direct threat under which he had been placed. Needless to say, the same is true with respect to Rabin. In that spirit, the same is true with respect to underage girls subject to statutory rape, honor killings and female genital mutilation as I write these lines.

It is to *them* that we owe a duty and it is for their protection that we *must* seriously consider limiting the free speech of those directly responsible for the harm and danger in which they live. Western society's obligation to protect the vulnerable is no less sacred than Western society's obligation to ensure Freedom of Speech.

Somehow, somewhere that balancing requirement must be adjusted before an inciter causes further harm. In that spirit, we cannot take our collective and individual eye off the ball that is the harm posed by extremism.