



The Big Chill. Islamists intend to muzzle Americans' free speech; a few congressmen are fighting back

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Freedom of speech is under attack. Let us count the ways.

The first and most obvious: Those who criticize militant Islamists – from novelist Salman Rushdie to Danish cartoonists to memoirist Ayaan Hirsi Ali – are routinely threatened with deadly violence. It would be black humor to say this is having a chilling effect.

The second is “political correctness.” On campuses and within Western governments it is increasingly taboo to label terrorists who slaughter in the name of Islam “Islamist terrorists.” In Canada, “human rights commissions” attempt to enforce this taboo by putting such writers as Mark Steyn and Ezra Levant on trial for the “crime”

of expressing opinions that offend Islamic grievance groups – and also for quoting Islamists accurately and thereby casting them in an unfavorable light. If that’s not Orwellian, what is?

But it is the third approach that could be most consequential for Americans. It’s known as “libel tourism” and here’s how it works: A book published in the United States names an individual abroad who supports terrorist groups. That individual – for the sake of discussion, let’s say he’s a Saudi petro-billionaire with a home in London -- goes online and orders a few copies which arrive in the mail. He takes those books to a British attorney who files a lawsuit complaining that his client has been libeled.

The billionaire knows it will be much easier to prevail in the U.K. than it would be in an American court where the First Amendment and decades of case law provide free speech protections. (Under English law, by contrast, the burden in a libel case is on the defendant to prove his innocence - which can be impossible if he's been using confidential sources or even just sources who don't want to cross an ocean and take part in a courtroom battle.)

The legal costs are chump change for the billionaire, while few non-fiction writers command similar resources. If the writer chooses not to spend months living in a hotel and fighting it out in court, the case will be forfeit and he will be hit with a "default judgment." If he doesn't pay, he'll never again be able to set foot in the U.K. and other countries that enforce British court judgments.

But more important is this: The message gets sent, loud and clear, to journalists, scholars and publishers, that researching and writing about terrorists and those who enable them is verboten -- even in America .

Publisher Roger Kimball has noted that when he was about to publish Andy McCarthy 's *Willful Blindness: A Memoir of the Jihad*, he received a message from a distributor working in the U.K. and Canada asking if there were "any references to Saudis and terrorist[s] in the book" as that "could potentially create libel lawsuits as it could offend Saudis living in England and this has happened with many other US

publications and we do not want to be jeopardized in selling this book." No, no - we wouldn't want that, would we?

Kimball was not intimidated but some writers no doubt have been, and other publishers have not just turned down "risky" books but pulled volumes from shelves and destroyed them following threats of legal action.

What can be done to protect Americans from having our speech restricted by foreign terrorist financiers, foreign lawyers, foreign judges and their toadies?

Representatives Peter King (R-NY) and Anthony Weiner (D-NY) have introduced the Free Speech Protection Act of 2008, which would give Americans who find themselves in the situation described above a "federal cause of action" to sue right back - and to claim legal fees, costs and significant damage awards as well if a U.S. court concludes that the foreign suit was "a scheme to suppress First Amendment rights." What's more, the bill would provide "expedited discovery": The plaintiff would be compelled to disclose information and documents relevant to the charges - something few investors in terrorist enterprises are eager to do.

On the Senate side, the bill is being shepherded by Senators Joseph Lieberman, (DI -CT), Arlen Specter (R-PA), and Charles Schumer (D-NY). What obstacles are preventing this bill from being passed into law? Let us count them.

First, though there is bipartisan support for this approach, not enough backers -- so far at least -- are from the majority party: Of ten sponsors on the House side, only one is a Democrat. Second, we're deep into the presidential campaign

season, a time when very little moves on Capitol Hill. Third, never underestimate the ability of the Saudis, their lobbyists, their allies and their courtiers, to kill that which interferes with their interests.

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