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## Defending The Constitution, And The Right To Be A Jerk

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Image by Getty Images via @daylife

Terrorism may pose the greatest threat currently facing America. Not the possibility of being killed in a terrorist attack. Rather, the possibility of losing basic constitutional liberties.

Freedom is inconvenient. We all want the right to do as we please, but we hate it when other people do as they please. Free speech is fine, unless we disagree with the message. Everyone should be able to protest, unless we don't like their viewpoint. Spout the conventional wisdom, and few people get upset. Challenge the status quo, and public outrage results.

This is why freedom of expression and religion require constitutional protection. Freedom of conscience goes to the core of the human person. If this most basic liberty is not protected, then no freedom is likely to be secure. The power to curb expression must be put beyond transient political majorities.

[Observed Glenn Greenwald](#): "The whole point of the First Amendment is that one is free to express the most marginalized, repellant, provocative and offensive ideas. Those are the views that are always targeted for suppression. Mainstream orthodoxies, harmless ideas, and inoffensive platitudes require no protection as they are not, by definition, vulnerable to censorship."

Yet at the first sign of trouble many public officials want to close the public square.

Terry Jones is a jerk. The Gainesville, Fla., pastor recently burned a Qur'an, which triggered deadly riots by Muslims abroad. He then traveled to Dearborn, Mich., in order to protest at an Islamic facility. His permit was denied and he ended up in jail after he refused to post a bond for police protection.

Jones is an agent provocateur and publicity seeker. He is more interested in generating media attention than in provoking thoughtful debate. His actions needlessly antagonize rather than convince people. He knew great harm was likely to result from his actions. He is a jerk.

But he also has a right to protest, whether by burning a Qur'an, demonstrating in front of a mosque, or in some other non-violent way. Deny him that right, and we all lose one of our most important constitutional rights.

Last September Jones received worldwide attention when he threatened to burn a Qur'an. If an Imam in Pakistan had threatened to burn a Bible, it would have garnered no press. After all, Christians are routinely murdered and imprisoned in that nation. Bible-burning would be unexceptional.

Jones backed down after being cajoled, pressured, and begged by political, military, civic, and religious leaders across the country. But in March he claimed that he had been duped by backers of the mosque planned near Ground Zero in New York City. He went ahead with the Qur'an burning, only this time he received virtually no publicity.

That didn't stop Muslims, including America's supposed ally, Afghan President Hamid Karzai, from stoking the flames of protest abroad. On April 1 hundreds of Afghans descended on the United Nations mission in the city of Mazar-e-Sharif and murdered seven foreign employees. Protesters were also killed in Mazar and Kandahar in the south of Afghanistan. Moreover, mobs attacked Christian churches, killed Christian worshippers, and desecrated Bibles in Pakistan. The protesters demanded that Jones be arrested and executed.

After the deaths, Jones acknowledged that his action had provoked the Muslim protests. But the Qur'an burning "was intended to stir the pot," or else everyone "will stay in their complacency." He had put the Qur'an on trial, he explained: "We wanted to raise awareness of this dangerous religion and dangerous element." In response to the killings abroad, he called on the U.S. government to retaliate for the murders: "The time

has come to hold Islam accountable” and to make Muslim nations “allow for individual freedoms and rights, such as the right to worship.”

Efforts to subvert Jones’ constitutional rights began last year, when the Gainesville city attorney began the process of changing the municipal fire code to prevent Jones from lighting his fire outside. So the pastor burned the book inside.

Supreme Court Justice Stephen Breyer, who passes for a liberal, suggested an exception to the First Amendment which would allow government to criminalize a Qur’an burning. There also were the usual left-wing cries of Islamophobia. After Jones’s March performance, radio host Thom Hartmann suggested that Jones be “tried for treason” or prosecuted for a “hate crime.”

Majority Leader Harry Reed (D-Nev.) looked moderate in comparison: “We’ll take a look at this.” After all, he added, “Ten to 20 people have been killed.”

Sen. Lindsey Graham (R-S.C.)—who has supported the wars in Afghanistan and Iraq, detention policies at Guantanamo Bay, and Israeli occupation policies which all have done so much to anger Muslims worldwide—[opined](#), “I wish we could find a way to hold people accountable. Free speech is a great idea, but we’re in a war.” He added: “during World War II, we had limits on what you could say if it would inspire the enemy.” Never mind free speech: “Anytime we can push back here in America against actions like this that put our troops at risk, we should do it.”

When Jones traveled to Dearborn, Mich., to hold a protest outside of the Islamic Center of America, the local authorities complained that his rally would result in a breach of the public peace. In fact, the Wayne County prosecutor warned that if Jones held a demonstration “the greatest danger is the likelihood of a riot ensuing complete with the discharge of firearms.” The city urged him to move his event away from the Center, while the prosecutor demanded a bond to arrange for police security. After Jones refused to pay, he was jailed.

All this for a rally where no Qur’an burning or anything else controversial apparently was planned.

Jones is once again a jerk. But in this case, he represents all of us. His right to free speech cannot be abrogated because there are evil people, whether half a world away or nearby, ready to murder for any excuse.

*Time* magazine’s Joe Klein declared that “There should be no confusion about this: Jones’ act was murderous as any suicide bombing.” But Klein is the one who is confused. Giving offense is not the same thing as murder. Christians have had much to be offended by in recent years—remember “Piss Christ,” the federally-funded “art” which involved dunking a crucifix in a jar of urine? To merely suggest that taxpayers should not have been forced to fund this creation set off an orgy of First Amendment outrage.

Even more so, Jones has the right to burn his own copy of the Qur'an as a form of symbolic speech. Over much protest, the U.S. Supreme Court upheld flag-burning as symbolic speech, ruling: "the government may not prohibit the verbal or nonverbal expression of an idea merely because society finds the idea offensive or disagreeable." The burning of the Qur'an is no different. The question is not whether the majority believes Jones' criticisms of Islam. He has a First Amendment right to voice, and dramatically illustrate, his beliefs.

His right to hold a simple protest rally is even clearer—Robert Sedler, a constitutional law professor at Wayne State University, noted that the courts have ruled it unconstitutional for government to require the posting of a police bond. [Jones cannot be held to different rules because he is Jones.](#)

[Explained Rana Elmir](#) of the American Civil Liberties Union of Michigan: "As reprehensible as his beliefs may be, this is an unconstitutional attempt to limit his speech." The fee, she added, is an attempt "to put a price on free speech in anticipation of what others may do." Even the organizer of a counter-demonstration, Majed Moughni, agreed: "We think he has the right for free speech." Deny that to Jones, and the government has the power to deny it to anyone.

Ironically, the violent response to Jones's act supports his arguments. *One* of more than 310 million Americans burned *one* Qur'an. Muslim mobs in different cities and countries killed Christians and destroyed churches. As Muslim mobs did in Nigeria after a Christian was recently elected president. As Muslim mobs did in Egypt as authoritarian central rule was relaxed earlier this year. As Muslim mobs have done in response to critical cartoons, papal addresses, false reports of other Qur'an desecrations, and more.

Indeed, the fevered domestic response to Jones's plans reflects the pervasive fear that Muslims not only overseas but *in America* would respond with violence. What is the more basic problem? That a jerk is willing to offend others? Or that extremists are willing to kill, wound, and destroy in response?

The fear is real. In America television shows have been censored, bookstores have not stocked books, publishers have dropped cartoons, and newspaper cartoonists have gone into hiding out of fear. In Europe speech is routinely tempered and critics of Islam have been murdered, assaulted, and forced into exile.

But to allow fear to justify the abrogation of Americans' constitutional liberties would threaten what makes America worth protecting. Indeed, the First Amendment sets the U.S. apart from the rest of the world. Canada and many European nations long have sacrificed free speech to political correctness. It is a new form of tyranny, in which people cannot argue about important political, religious, moral, and cultural controversies if doing so might offend the majority or, more often, an influential minority.

Obviously, most Muslims, especially in America, do not resort to violence. But a disturbing number of people apparently believe that Islam provides a license to

kill. When is the last time that the burning of a Bible or Torah set off murderous Christian or Jewish riots directed against Muslims? Equally disturbing, it is hard to find a majority Muslim nation which does not at least discriminate against religious minorities. In many, from Saudi Arabia to Pakistan to Iran to Egypt—the government either engages in virulent persecution or fails to curb private violence.

Surely this subject deserves discussion. Seeking to insult and scandalize those who believe differently, through the burning of the Qur'an or otherwise, achieves nothing. But a serious debate is warranted. Obviously, there are Muslim grievances, of which U.S. foreign policy is an important one, but none of them warrants the slaughter of innocents—including religious minorities in Muslim lands *who typically express the same grievances*. Any serious interfaith dialogue requires discussing the worrisome relationship between Islam and violence.

Equally important, Americans must preserve their liberties. We cannot let freedom of expression become another casualty of the War on Terror, along with privacy in almost all of its forms. We must not surrender our liberties out of fear.

The danger is clear and present. Bruce Bawer wrote in *Surrender: Appeasing Islam, Sacrificing Freedom*: So far Islamic extremists have “been less successful at rolling back freedom, including freedom of speech, in the United States than in Europe—partly because the First Amendment makes that freedom a good deal stronger in America than anywhere else on earth, and partly because Americans have traditionally possessed a deeply ingrained appreciation for their freedom that many Europeans, alas, have not.”

But we cannot take our liberties for granted. We must guard them jealously, even when that means protecting the rights of jerks like Jones. For his rights are our rights and our rights are his rights. If the Constitution still means anything, it means Terry Jones is free to burn the Qur'an and demonstrate in front of a Muslim facility.