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Free speech, religion clash over anti-Muslim film

By Gillian Flaccus
The Associated Press

CERRITOS, Calif. (AP) — While the man behind an anti-Islam movie that ignited violence across the Middle East would likely face swift punishment in his native Egypt for making the film, in America the government is in the thorny position of protecting his free speech rights and looking out for his safety even while condemning his message.

It's a paradox that makes little sense to those protesting and calling for blood. To them, the movie dialogue denigrating the Prophet Muhammad is all the evidence needed to pursue justice — vigilante or otherwise — against Nakoula Bassely Nakoula, an American citizen originally from Egypt.

In America, there's nothing illegal about making a movie that disparages a religious figure. And that has

Nazis and the Ku Klux Klan could march without being attacked for their views.

But Nakoula's case invites scrutiny because the free speech he exercised with the film "Innocence of Muslims" has had such far-reaching and violent implications.

If the government were to overtly protect Nakoula, it could be seen by some as tacit approval of the film, and further enflame protests. Leaving him to fend for himself could have deadly consequences. There are examples of violence against others who have written or spoken against Muhammad.

Egypt's general prosecutor on Tuesday issued arrest warrants for seven expat Egyptian Coptic Christians, including Nakoula, and referred them to trial on charges of harming national unity, insulting and publicly attacking Islam and spreading false information. The

unusual at all for the government to step in and give a citizen in distress or danger special protection, but it can't be unlimited. They're going to have to strike a balance."

A 14-minute trailer for the film posted on YouTube sparked violence in the Middle East, including an attack in Libya in which a U.S. ambassador was killed. Nakoula, a Coptic Christian and American citizen who served federal prison time for check fraud, told The Associated Press in a short interview last week that he was involved in management and logistics for the anti-Islamic film. Federal officials, however, told the AP they have concluded he was behind the movie.

Furor over the film has been widespread. Bahrain protesters used Twitter to organize demonstrations that included burning American flags in the nation that hosts the U.S. Navy's 5th



Screen still from the film 'Innocence of Muslims'

saying the video was within its guidelines for content. The company did restrict access to the video in certain countries, including Egypt, Libya and Indonesia, the world's most populous Muslim nation.

"This can be a challenge because what's OK in one country can be offensive elsewhere," the company said in a statement.

That's precisely the point about the First Amendment, Armour said.

"The reason it is a constitutionally protected interest is precisely because it may prove unpopular," he said. "Words and images don't just convey information, they are attached to consequences. That's when we really have to ask ourselves, 'What price are we willing to pay for that First Amendment interest?' And these are the times that really test our convictions."

In 1975, former CIA agent Philip Agee published a book detailing agency operations and disclosing the names of a number of CIA agents working undercover overseas, Rosenthal said. Even in that instance, the

U.S. government didn't press criminal charges but instead revoked Agee's passport and sued him for the book's profits.

"It's not clear that there is, on the books today, a law

relatively low visibility way of prosecuting him but not technically for what he said and how inflammatory it was," Armour said. "It may be a way of splitting the baby."

Nakoula's case invites scrutiny because the free speech he exercised with the film 'Innocence of Muslims' has had such far-reaching and violent implications

that makes what (Nakoula) did a crime," Rosenthal said. "This is an extremely difficult problem."

Indeed, federal officials have said they are looking at Nakoula only in the context of whether he violated his probation for the fraud conviction. Under terms of his sentence, he was banned from using computers or the Internet as part of his sentence.

The probation issue "gives the government a

Associated Press writer Brian Murphy in Dubai, United Arab Emirates, contributed to this report.



President Barack Obama participates in a conference call with his national security team on the situation in the Middle East and North Africa, in Golden, Colo., Sept. 13, 2012. Brian McKeon, National Security Council Chief of Staff, is at left.

the Obama administration walking a diplomatic tight rope less than two months before the election — how to express outrage over the movie's treatment of Islam without compromising the most basic American freedom.

"The thing that makes this particularly difficult for the United States is that ... we treat what most of us would refer to as hate speech as constitutionally protected speech and Americans don't appreciate, I think, how unusual this position seems in the rest of the world," said Lawrence Rosenthal, a professor at Chapman University's School of Law in Orange, Calif.

The situation also raises vexing questions about how far the government can and should go to protect someone who exercises their First Amendment right. In the past, for example, police have stood guard to ensure

charges carry the death penalty.

So far, the U.S. government has acknowledged offering Nakoula very limited assistance. Los Angeles County sheriff's deputies escorted Nakoula to an interview with federal probation officials. They did so in the dead of night and allowed Nakoula to cover his face. And early Monday, deputies answered his family's request for help leaving the house where they'd been holed up for five days so they could reunite with the 55-year-old filmmaker. All remain in hiding.

Department spokesman Steve Whitmore stressed the agency is not providing protective custody. He referred questions to federal authorities, who have declined to comment.

Jody Armour, a professor at the University of Southern California's Gould School of Law, said it's "not

Fleet. Pakistan's conservative Islamist parties sent out text messages, mosque announcements and made phone calls to bring out protest crowds, including about 1,000 people in the northwestern city of Peshawar on Sunday and hundreds who rushed the U.S. consulate in Karachi, sparking clashes with police in which one demonstrator was killed.

"Yes, we understand the First Amendment and all of this stuff," wrote Khalid Amayreh, a prominent Islamist commentator and blogger in Hebron on the West Bank. "But you must also understand that the Prophet (for us) is a million times more sacred than the American Constitution."

In America, the government can't even order that the video be removed from YouTube. All it can do is ask. And so far, parent company Google has declined,

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