

Freedom of Speech vs. Respect for Religious Belief

Thom Donlin-Smith, Nazareth College
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Please permit me two preliminaries before launching into our topic. First, I take it that our discussion is to focus on the initial stage of the recent European “cartoon controversy:” that is, the decision of newspaper editors in Europe (especially the Jyllands-Posten in Denmark) to print the cartoons in question. That means that our focus is not on the various responses and responses-to-responses that occurred as matters devolved. Those responses are worthy of examination in their own right, but that’s another conversation for another day.

Second, it is clear that these events are more complex than can be summed up by our title of “freedom vs respect.” The complex social history of these events is lost when reduced to an abstract diad. Much is left unsaid and unexamined when we focus the conversation in these terms. However, we can use this formula as one lens on the controversy, or one way into the labyrinth.

I. Freedom of Expression, Speech & Press

The Value of Free Speech

I doubt that I have to convince anyone here of the basic value of free expression, free speech, and a free press. These freedoms are among the necessary conditions for individual human dignity and happiness, for the progress of human understanding, and for the existence of a democratic political order.

Freedom of speech - like all rights - is only as real as its extent, as its ability to be acted upon. The test of the vitality of this right comes when it conflicts with other values, when it becomes inconvenient, unpopular, even offensive or dangerous. According to Mark Twain, “Americans have both the right to free speech and the good sense not to exercise it.” While this is sarcastically funny, there is a serious issue here: a freedom that isn't or can't be exercised isn't worth much. In a generous interpretation of the Danish newspaper’s decision to publish the cartoons, this was the motive: a deliberately provocative exercise of free speech in order to reassert the value of this important right.

Limits on free expression/speech/press:

The tough and interesting questions are those of limits. The freedom of expression/speech/press is certainly not absolute. But by whom, for what reasons, in what form, and through what process may this freedom be justifiably restrained? Should the newspaper have been somehow prevented from printing

these cartoons in the first place? Let's begin by noticing that we place both moral and legal limits on freedom of speech.

Moral constraints on the exercise of free speech. The press routinely applies some moral self-censorship – and rightly so. Even when they could legally do so, they don't publicize everything they know about crimes, human tragedies, and victimized people. They understand that having a legal right to a form of expression doesn't make it morally right. A legal right to do something doesn't make it wise, helpful, compassionate, tasteful, self-respectful. It is perfectly sensible to say, "yes, you can do that (legally), but still you shouldn't". Both the press & business corporations sometimes try to deflect moral criticism by reminding us that what they did was legal. But "legal" never settles the moral question. The European newspapers are wide open to this sort of criticism: that the cartoons, although legal, were a poor moral choice.

There are also legal constraints on free speech.

No legal right to libel.

No legal right to false advertisement.

No legal right to incite violence.

No legal right to divulge state secrets of national defense.

No legal right to commit public acts of "obscenity."

People who disagree over whether newspapers should be permitted to print insulting cartoons of the prophet are different only by a matter of degree, of where they would draw the line - not whether there is a line to be drawn.

II. Respect for Others' Religious Norms and Beliefs

Respecting the Sacred

If there is an essential element of religion, it is the experience of something sacred. Religions are full of sacred deities, persons, objects, rituals, times, and places. Definitional of something being "sacred" or "holy" is that it is set apart, different than ordinary mundane matters, on an entirely higher level of value. The sacred is special, and being so, it must be respected.

Respect for the sacred is often expressed in limits, what anthropologists call "taboos." There are limits of all sorts: limits of who, when, what, why, and how. These limits on how one behaves toward the sacred don't mean one has no relationship at all with it: just that one has a careful relationship. The prohibition of representations of the Prophet is a limit that protects both his status and the unique status of God.

It is said that Muslims "believe" that the Prophet should not be physically depicted. This "belief" is more than just an intellectual proposition, just an idea in

the head. It's a behavioral norm, a proscription, a prohibition of certain actions. As such, it is necessarily a restraint on liberty, a limit on freedom. All prohibitions are like this: no work on the Sabbath, no meat on Friday, no alcohol, no premarital sex, no smoking in public facilities, no right turn on red. No matter how well justified these prohibitions are, no matter how much they work to the enrichment of our lives and the common good, their immediate impact is to reduce freedom. Since limits are a central element of how people relate to the sacred, we have an inherent tension between religious practice and the concept of freedom. The individual believer might not feel a conflict, contending instead that their life is somehow all the more free for living within the limits of their tradition. But the situation is complex in a pluralistic society where some live by sacred limits that others do not value. Why should I be constrained by your limits? And to put it more positively, what shall I do if I want to show that I respect your sacred norms, even though I do not follow them myself?

Questions about respect:

What does "respect" for a belief, value, or practice mean?

It means acknowledging that this is a belief or value that an intelligent, good hearted person could hold. I don't have to agree in order to respect, but I do not hold that only the foolish or vicious could think this.

What are the deeds of respect? How is respect demonstrated, what are its outward signs, what does it look like? What do I do when I "respect?" In particular, what does it mean to show I respect someone's religious belief, someone's sacred value? Especially one I don't share?

1. Acknowledge it, recognize its existence; listen, try to understand.
2. Be fair to it, do not slander it, represent it accurately.
3. In general, leave it alone. Have the good manners not to flout it or criticize it. Don't have to embrace it, but at least don't go out of one's way to deliberately offend. Do not deliberately, flagrantly, gratuitously, publicly exceed the limits that others embrace.
4. Convey positive regard for the persons even when one cannot agree with their beliefs.

But must I live by it in order to demonstrate my respect for it? No. The "deeds of respect" do not include practicing the same norms. This would involve loss of my own autonomy. Since respect is reciprocal, neither of us can demand that the other adopt the other's sacred norms and values. I am not respecting you when I expect you to act on norms and values that you do not agree with. You may not do that to me, and I may not do that to you.

The result is that I live in a world where others do indeed violate my sacred norms, and I must live with that fact, and I must live successfully with those people. After all, it's possible that I violate their norms too in how I live. Living successfully in mutual cooperation despite this situation is what we mean by "tolerance."

And so a principle of "respect for others' religious ideas, norms and values" - like the principle of freedom of speech - as important as it is, turns out not to be absolute. The expression, "no disrespect intended, but . . ." indicates that we are sometimes willing to take risks with respect: there are things important enough to say or do even at the risk of seeming disrespectful. There are "disrespectable" ideas, norms, and values - ones so outrageous that we can not imagine an intelligent, good-hearted person holding them. And even others' religious norms and values that I respect are not absolute in the sense of obligating me to live by them, of following them in my own life.

III. Negotiating Situations of Clashing Principles or Values (such as "freedom vs respect")

Although both freedom of speech/press and respect for others and their sacred values are principles we want to live by, neither are absolutes.

Perhaps I am simply predictably American in asserting that the solution for a situation like this is not legal. It is tempting, when outraged by others' bad behavior, to declare "there oughta be a law." But laws that would attempt to prohibit religion-disrespectful speech in the media would create more problems than they would solve.

The concept of respect is too vague, too subjective, to be legally manageable. Law is a blunt instrument and requires clear concepts.

The result would be disastrous for critical discussion and democracy.

Such laws would surely be subject to all manner of abuse and enforced in inconsistent ways.

So if civil laws are going to be of little help, we're going to have to rely on moral analysis, treating freedom and respect as moral principles to be analyzed and assessed together. And this is not easy.

More bad news: there can be no *a priori* ranking of these principles either. It's not that one always trumps the other. That would make things simple, but it is more realistic to insist that freedom and respect must be weighed and compared in context.

Giving the editors of the Danish newspaper credit for the best of motives, they decided that the principle of freedom of speech needed to be acted upon. Let's say they published the cartoons on the grounds of this important principle rather than some other more dubious motive. And in making their "principled"

statement, they deliberately chose to offend Muslim sacred limits. In this deliberate violation of sacred limits, the cartoons certainly were disrespectful. The cartoons were simultaneously both a gesture of an important principle - freedom of speech - and a violation of another important principle -- respect.

There is no simple solution to such a profound conflict. But it might be helpful to set some guidelines for those tragic situations in which we feel we must violate one of our cherished moral values in the name of another:

1. We should violate a value only for the very best of reasons; reasons of other significant & conflicting principles or values.

For the sake of argument, let's give the Danish editors the benefit of the doubt here: this was a violation of respect in the name of freedom of speech.

2. We should be willing to make public this justification. We owe moral accountability to another.

Did the newspaper do an adequate job of explaining its good reasons for what it was doing?

3. We should violate a value with a sense of regret rather than glee. This demonstrates the purity of one's motive.

Did the newspaper and subsequent publishers demonstrate real seriousness of purpose?

4. We should violate a value to the smallest degree and shortest duration possible.

The repeated publication of the cartoons in other newspapers raises problems here.

5. We should be consistent in our reasoning about these matters: no double standards!

Would these newspapers have been as careless with Christian sensibilities?

There are serious questions to be asked about each of these conditions, and on most of them, the European media could have done better.