

DEBATING THE DANISH CARTOONS: CIVIL RIGHTS OR CIVIL POWER?

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In September 2005, as part of an editorial on self-censorship and Islam, the Danish newspaper *Jyllands-Posten* published twelve cartoons depicting the Prophet Muhammed. The controversy that has accompanied the publication and reprinting of the cartoons has been widely interpreted as yet another illustration of an ineliminable tension between multiculturalism and liberalism. Such an interpretation would have us believe that what is at issue in defending the cartoons is our commitment to civil liberties as a mainstay of liberal democracy. But is this really what is at issue? A closer examination suggests that what is actually being defended in this case is not civil liberty but civil privilege. In particular, what is at issue is the privilege to exclude and define Muslims.

The cartoons at the heart of the controversy were solicited by Flemming Rose, the *Jyllands-Posten's* cultural editor, to accompany an opinion piece urging the importance of overcoming a tendency to self-censorship on the topic of Islam as a political force. In the final piece the cartoons formed a border around the editorial text, providing a literal frame for the editorial, the argument of which in turn provided an interpretive framework for the cartoons. Rose asked the cartoonists to draw Muhammed "as you see him." Some of the cartoonists took this at face value and offered portraits; others offered satirical vignettes which included the Prophet.

The initial publication of the cartoons sparked a public demonstration within Denmark and calls for the newspaper's management to apologize. An official investigation into the cartoons was launched after a complaint was filed under the provisions of Denmark's criminal code relating to hate speech, and diplomats from several countries lodged official complaints, describing the images as part of an ongoing campaign in Danish public media against Muslims. In the end the cartoons, unlike remarks that had been broadcast on a right-wing radio station earlier in the year, were found not to have violated the law. A group of imams within Denmark, unhappy with their government's response, attempted to generate international pressure on the government by touring countries outside of Europe with a dossier

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that included the *Jyllands-Posten* piece, pictures from another Danish newspaper, a series of privately sent pictures and letters, and a television program critical of Islam in which several Danish politicians had participated.

The ongoing controversy around the cartoons has been interpreted as yet another example of the tension between liberalism and multiculturalism as important values of Western democracy. Such an interpretation is in keeping with the *Jyllands-Posten* editor Flemming Rose's account of what he had hoped to accomplish by incorporating the cartoons into his editorial. The intention, Rose has said, was not to insult or disrespect Islam, but to stir debate on a topic that Europeans must confront and to spur moderate Muslims to speak out about the value and importance of secular democracy.¹ For Rose, subsequent denunciations of the cartoons and calls for the newspaper to apologize serve only to demonstrate the importance of publishing the editorial in the first place: they show the importance of affirming our commitment to civil freedoms such as free speech in the face of religious extremists who would silence ideas with which they disagree.

Thus interpreted, criticisms of the editorial and decisions by other papers in Europe to reprint the cartoons are an attack on civil freedoms. As such, demonstrations against the cartoons are argued to demonstrate the limits of multiculturalism as a value in liberal democracy. The demonstrations provoked by the editorial supposedly show that ultimately Western democracies must choose between respect for individual rights, in this case the right to free speech, and respect for minority cultures, in this case adherence to Islam. This choice between multiculturalism and liberal democracy is a choice between tolerance for difference and individual freedom, between protecting individuals' rights to maintain the integrity of their cultures and protecting the conditions necessary for there to be rights at all, such as secularism and open debate. The choice is in many ways a tragic one, but for Rose and many defenders of the cartoons, it is important to recognize that it is a choice that has been forced upon us by extreme and unreasonable groups who would strike at the very heart of what makes liberal democracy worthy of our allegiance in the first place. In forcing us to acknowledge that such a choice must be made, the cartoonists have done a great democratic service.

This is a noble defense of Rose's editorial and the cartoons that accompanied it. But is it an honest one? One of the interesting features of the cartoon controversy is the vehemence, not only of criticisms, but of *defenses* of the editorial. For example, in October the Danish Prime Minister refused to meet with diplomatic representatives of the eleven Islamic countries protesting the editorial on the grounds that they were inappropriately attempting to exert pressure for the curtailment of Danish freedoms. However the object of the protests was not the

¹ Flemming Rose, "Why I Published Those Cartoons", *Internetavisen Jyllands-Posten* (19 February 2006), online: Udland Jyllands-Posten <<http://www.jp.dk/udland/artikel:aid=3566642:fid=11328/>> Reprinted on WashingtonPost.com <<http://www.washingtonpost.com/wp-dyn/content/article/2006/02/17/>>.

cartoons and editorial *per se* but rather what representatives of these countries perceived as a disturbing trend in Danish media, of which the cartoons were merely the most recent instance. As a delegation seeking to express worries about the depiction of their culture and citizenry in local media, there seems nothing extraordinary or inappropriate about the diplomats' actions. However, the Prime Minister's response, and the coverage it received inside Denmark, suggested not only that it was of special significance that the diplomats sought a meeting on the matter, but that it was important as a matter of principle that the meeting be refused.

Complaints about the cartoons as offensive or disrespectful have been condemned as undermining the principles of free and open debate and freedom of the press. Rose and the cartoonists have been celebrated as heroes of free speech, even though they did not face any barriers to the dissemination of their ideas, either at home or abroad, and they have enjoyed the support of both government and civil society in the ensuing controversy. It is true that Rose and the newspaper have received death threats since the publication of the editorial but so too have those who publicly criticized the editorial, and no one has suggested that *they* are heroic for speaking out. In fact, ideas very much like those expressed by the most controversial of the cartoons have appeared elsewhere in the Danish media, some in even more provocative form, without the authors experiencing much in the way of consequences beyond public criticism. The ideas expressed in the editorial and cartoons are thus neither especially difficult nor dangerous to circulate, nor even that unpopular.

Nonetheless, Flemming Rose's willingness to write the editorial, the cartoonists' willingness to contribute their artwork, and the *Jyllands-Posten's* willingness to publish the finished piece have all been treated as important acts of principle in the subsequent debate. Perhaps more significantly, it has been deemed extremely important that Rose and the cartoonists *not* apologize for the ideas the editorial and cartoons communicated. For example, the *Brussels Journal* described public condemnations of the cartoons by various European governments as "appeasement".² The editors of the *Jyllands-Posten* published an open letter on January 30, 2006 apologizing for any offense that publication of the cartoons may have inadvertently given, but not for the cartoons themselves.³ In a letter of his own, Rose refused to apologize even for the offense that the article may have given, on the grounds that effective journalism requires indifference to possible insult.⁴

On the face of it, it is odd to champion the importance of not apologizing for unintentionally offensive speech in the name of democracy. After all, one of the

² Paul Belien, "European Appeasement Reinforces Muslim Extremism" *Brussels Journal* (24 January 2006), online: Brussels Journal <<http://www.brusselsjournal.com/node/704>>.

³ Carsten Juste, "Honourable Fellow Citizens of the Muslim World" *Internetavisen Jyllands-Posten* (30 January 2006), online: Udland Jyllands-Posten <<http://www.jp.dk/udland/artikel:aid=3544992:fid=11328/>>.

⁴ Rose, *supra* note 1.

preconditions of open and honest debate is that participants be willing to take responsibility for what they say and to revise their claims in the face of evidence that their stated views are less plausible or more problematic than they initially realized. Reactions by critics of the cartoons and demands that the newspaper apologize clearly indicate that the editorial sent a message about Islam and Muslims that both Rose and the cartoonists deny they intended to send. This fact – that the editorial communicated ideas that the authors claim they neither intended nor wished to send – seems to offer an obvious reason for these authors to revise or at least qualify their expression if indeed the point of it is to contribute to debate.

In discussions of the cartoons by Rose and others, however, any revision or qualification of the ideas communicated by the editorial and cartoons is rejected as an unacceptable compromise of the right to free speech. This rejection of calls to revise what the authors expressed does not make sense as a defense of the principle of free speech. But it does make sense as a defense of *what was expressed*. After all, there is a difference between claiming that the *Jyllands-Posten* was wrong to publish the cartoons, and claiming that it ought not to have the right to do so.

This distinction is glossed over in many defenses of the editorial and cartoons. Rose writes in his defense: “We cannot apologize for our right to publish material, even offensive material. You cannot edit a newspaper if you are paralyzed by worries about every possible insult.”⁵ This is all well and good, except that neither Rose nor the cartoonists have been asked to apologize for their *right* to publish offensive material. What they have been asked to apologize for is the way they chose to exercise that right. For example, if I bump into you while walking down the street, you may well expect me to apologize, not for having the right to walk down the street, nor even for having exercised it, but for having exercised my right to walk down the street in a way that led to your being bumped. Similarly, if I express an idea that turns out to be false or demeaning or harmful, you may well expect me to apologize, not for having the right to express ideas, nor even for having exercised that right, but for having exercised the right to express ideas in a way that led to your being deceived, demeaned or harmed.

In short, having the right to free speech doesn’t mean never having to say you’re sorry. On the contrary, having the right to express whatever idea comes into your head seems virtually to guarantee that at some point you are going to owe someone an apology. So when Rose and various defenders of the cartoons insist on the importance of not apologizing, they are not defending the principle of free speech, they are defending the specific use to which rights of free speech were put in that instance.

But if there is nothing threatening to liberal values *per se* in acknowledging that the ideas expressed in the editorial or the cartoons were ill-considered or mistaken, and that they connoted ideas which either were not intended or have since

⁵ *Ibid.*

been reconsidered, why is it so important that no apology be issued? One reason defenders of the editorial might offer is that the ideas are true. In that case, it may well be important for the sake of the integrity of the debate to which they contribute that the ideas be expressed even though some members of the audience will be upset or harmed. But although this argument might explain why it is important not to apologize for the editorial, it does not explain why no apology is required for the cartoons. The cartoonists were not asked to depict Islam as it is; they were asked to depict Muhammed *as they see him*. The cartoons are supposed to express Danish perceptions of Muhammed, and so if no apology should be issued for the sake of the integrity of debate, it must be on grounds of sincerity, not truth.

But why should the fact that the ideas the cartoons express are sincerely felt make it important, first, that they be expressed, and second, that those expressing them refuse to revise or qualify those ideas even if they turn out to be demeaning or harmful? More to the point, what exactly is the debate to which the cartoons are supposed to be contributions if what they express are not claims about what Muhammed or Muslims are like but rather how Muhammed and Muslims appear in the eyes of Danes? What is being championed by Rose and by various defenders of the cartoons is not the right of the cartoonists to express how Muhammed appears to them, nor even the importance of their doing so. What is being championed is the importance of the cartoonists expressing how Muhammed appears to them in a widely circulated newspaper.

When we describe what is at issue in this way it is clear that the insistence that no apology should be offered is not about rights, it is about power. Specifically, it is about the power of Westerners to speak as they wish about Muslims. That power includes the ability to exclude Muslims from determinations of what may be said, both by excluding them from the conversation and by being indifferent to their responses. It is important not to apologize for the editorial and cartoons because to do so would imply that there is a limit to what it is appropriate for Danes to say about Muslims, and that that limit is at least partially set by considerations of how Muslims as audience members would receive it. To apologize would imply that Danes must think of Muslims as potential subjects in the conversation, and not merely potential objects. To apologize would be to deny Danes a privilege that existing social and political structures bestow.

To see this, consider the editorial and cartoons as they were initially published. The text of Rose's editorial concerns the dangers of self-censorship in deference to intimidation by extremists. Ostensibly, he intended this as an invitation to debate what ought to be said or expressed about Islam. However, when Rose solicited drawings to accompany the piece, he did not ask cartoonists for drawings depicting intimidation, fear, or even radical Islamists. Rose solicited drawings of the Prophet Muhammed. In so doing, he added an implicit message about what will be said to the explicit message about what it ought to be possible to say.

Explicitly, the editorial's message is "We should be able to say whatever we want to say about Islam." This explicit message is then juxtaposed with a set of images, some of which are certain to be found offensive by at least some Muslims. These images add an implicit message, "We will say whatever we want about Islam". If the cartoons and the editorial had appeared independently of one another, the second message would not (or at least not necessarily) have been implied by the article. However, the editorial and the cartoons did appear together, and deliberately so. Moreover, the terms on which the cartoons were solicited makes them contributions to a conversation, not about what Islam is, but about how Islam appears to Danes. Such a conversation is not one to which non-Danes, or even all Danes, can easily contribute. What, after all, can an Egyptian say about how Danes perceive Islam? Even a Dane who is both Danish and Muslim will have difficulty participating in such a conversation. For the terms of the conversation seem to require her to treat her Danishness as separate from her participation in Islam, so that when she thinks about how Islam appears to her, it is not as a Muslim that she does so but as a Dane.

One of the article's most basic effects, then, is to hive in two any audience exposed to it: those who are part of the conversation about what is said about Muslims, and those who are not. Muslims, insofar as they are Muslim, are not part of the conversation; the claims the cartoons and the editorial make are not addressed to them. This in part explains why attempts by Muslims to contest the ideas expressed by the cartoons have been branded as illiberal. If Muslims were properly understood as part of the audience to which the cartoons were addressed, then protests by individual adherents of Islam would simply be an instance of countering speech one doesn't like with more speech. The cartoonists are saying, "This is how Muhammed appears to me", and the protesters are responding, "Muhammed ought not to appear to you that way." But Muslims are not part of the audience to whom the cartoons are addressed (not explicitly, at least). So when they say, "Muhammed ought not to appear to you that way" they cannot be participating in the conversation; they can only be attempting to suppress it.

And what of those who are not Muslim? Could they not counter the ideas in the cartoons? Those who are properly understood as addressed by the article find themselves in a bind. To respond to the ideas they must accept the terms within which they are offered: as part of a conversation among non-Muslims about how Muhammed appears to them. To contest the terms within which the ideas are offered, they must ignore what has been expressed. To do the first is to participate in and reproduce the claim to privilege which is at the heart of what makes the message problematic in the first place. To do the second is to acknowledge the privilege but to leave uncontested the ideas that that privilege is being used to disseminate.

Recognizing that the combined editorial and cartoons function primarily to assert a relation of power explains why more speech is not an adequate response. What, then, is the answer? A first step would be to stop treating this case as a dilemma of rights versus culture. What is at issue in this case is not whether Rose

and the cartoonists *had* the right to express what they did, but whether they *were* right to do so. Moreover, in considering whether they were right it is important to recognize *what* was actually expressed and what is now being defended by those who insist that there ought not to be an apology. At the heart of this controversy is an implicit assertion that Westerners can and should speak with impunity about Islam and its adherents. The violence that has greeted this assertion calls into question whether it is in fact true. But would we want it to be?