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Pressure on Press Freedom

The Current Religious War on Freedom of Expression

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Press freedom and freedom of expression have entered the world headlines to an extent unpredictable only ten years ago. The reason, of course, is the building tension between this old Enlightenment standard on the one hand and aggressive religion on the other. Or is it? Many countries and even single political parties in the West seem split on the issue: is it really the fact that religion challenges freedom of expression to an extent not seen since the bourgeois revolutions in mid-19<sup>th</sup> Century – or is it rather the fact that freedom of expression has overstepped its limits and responsibilities, thereby defaming and insulting religious sensibilities in a novel, unnecessary and even cruel way?

In the Anglo-Saxon world, the overall tendency is to opt for the latter answer, in continental Europe, the tendency is rather to settle for the former. Measured on the left-right-axis, there is probably a weak tendency that the left opt with the Anglo-Saxons, while the right goes with the continentals – but there are many countervoices on both sides blurring this too simple picture. In Scandinavia, the issue has gained notoriety through the “Mohammed Crisis” or “Cartoon Crisis” originating in Denmark, drawing Norway into its wake, leaving it to Sweden to follow up with its own similar crisis around the artist Lars Vilks’ drawings of Mohammed as a roundabout dog.

The discussion in Denmark has been fierce. The leading center-left daily *Politiken* has taken a very definitive stance on the

issue, representing much of the Danish left wing in attacking the publication of the drawings by the center-right *Jyllands-Posten* (ironically part of the same press conglomerate as *Politiken* itself). Its main argument has been what has been nicknamed as “Press Freedom BUT”: After an initial, ritual confession to press freedom, you quickly go on to assert that such freedom must always be accompanied with responsibility and respect, granting you do not say anything which may insult minorities and religions – the implication being that Danish muslims form a vulnerable minority with a demand for special protections. The bottom line of this argument is that the whole affair has little to do with press freedom which reigns unattacked – but everything to do with keeping a proper “tone” in public debate and current Danish politics: the center-right wing Danish majority government and its reliance upon the right wing nationalist “Danish People’s Party”. Ironically, this explanation seems as narrowminded in its exclusively national focus as exactly the nationalist party mentioned. By construing the affair as an internal Danish event primarily, with a Danish root cause and subsequent international effects being only secondary results of a basically Danish malady, the Danish daily completely shuts its eyes for the international, cosmopolitan aspects of the crisis. This is evident not only from the fact that radical Danish imams from the Danish section of the Muslim Brotherhood “Islamisk Trossamfund” (Islamic Society of Faith) were instrumental in igniting the crisis with a skillful use of their international contact network in the Middle East – but also from the fact that the Danish event is far from unique. Ever since the Rushdie affair in the late 80s, the islamist pressure on press freedom has been mounting – along with a growing, broader religious pressure involving also Christianity, Hinduism, Sikhism, Judaism, etc. Hardly a week passes without an art exhibition being shut down, a death threat received by an open-mouthed muslim apostate, a feature film boycotted, a publishing house set on fire – or any other religious act aiming at curtailing free speech.

Two serious examples may be mentioned in order to substantiate this claim. The Organization of the Islamic Conference (OIC) is an organ founded in the 60s with the aim of coordinating the policies of now 57 muslim countries. Since the last years of the 90'es a considerable radicalization has taken place in this organization, evident from the still more farreaching claims in the records of its biannual meetings. Around 1999 it decided to coordinate muslim voting in international organizations, to collaborate to fend off NGO attacks for human right violations and to work against so-called "defamation of religions" with the aim of constructing international law prohibiting it. It goes with out saying that legally restricting such "defamation" is impossible without curtailing free press. The result has been that during the recent decade, the UN Human Rights Commission (and its successor the Human Rights Council) has every year supported a resolution document more radical than the year before, attacking free speech. It has been possible because of the OICs coordinated policy and the support from non-allied countries – of course against Western votes in the Council. In 2007, the UNHRC thus demanded of all UN member countries to adopt legislation explicitly banning "defamation of religions" – the main example always mentioned being so-called "islamophobia". The constant pressure in such international bodies has without doubt strongly contributed to the spreading of this concept trying to criminalize criticism of islam and of religion in general. In 2008, the UNHRC furthermore decided to give the special UN rapporteur the task of going through each member country's legislation in order to secure the implementation of this truncation of freedom of speech. Given the historical fact that freedom of speech had to fight its way to recognition exactly against organized religion (in Holland, France, England, etc.) until it was finally given legal status in Western democracies during the 19<sup>th</sup> Century, this religious delimitation of free speech is no simple thing to admit. The Western countries voting against this pressure in the UNHRC, of course, do not succumb to the resolutions of the Council (at least until now). But

this implies, in any case, that the UNHRC is on the way to become completely delegitimized in the eyes of the Western countries (the only ones which have, by and large, adopted Human Rights) – so the effect is, in the West, gradually to make the Human Rights Council completely irrelevant; in other parts of the world the effect is to make the Council, ironically, into an instrument against the implementation of Human Rights. The OIC pressure not only takes place in the UN, but also in other international organizations such as the EU – and as support to similar political processes against free speech internally in Muslim countries – backed up by the OICs 1990 “Cairo Declaration of Human Rights” where free speech is explicitly allowed only to the extent it does not offend the shariah. In the Cartoon Crisis case, a major goal for the Danish radical imams’ Middle East tour was the OIC meeting in Mecca in December 2005, just before the onset of the crisis – where the Cartoon issue pushed all other items off of the program. The OICs exact role in the further development of the crisis has not been described in detail yet – but it is thought-provoking that present at the meeting were the foreign ministries of all the countries which only a month later did not intervene when embassies were attacked and incinerated.

Another example of the religious pressure against free speech took place at exactly the same time – the Winter 2005-6 - namely the political attempt at severely curtailing British press freedom. It had its roots just after 9-11 in 2001 when British muslims asked the government for protection against what they perceived as a wave of scepticism against muslims. The Blair government drafted a law, supported by Muslim Council of Britain along with the Anglican Church, the so-called “Religious and Racial Hatred Act” – an expansion of the earlier “Racial Hatred Act”, in itself a part of the general “Public Order Act”. The proposal was radical. Insults and defamations were criminalized, even if they were not intentional, and the frame of punishment was as large as seven years imprisonment and/or a fine with no upper bound. The implication, of course, was that even a remark with no defamatory

intention might be experienced otherwise by some listener and result in the utterer being punished with long prison sentences and large fines to pay. The House of Lords protested and opted for a weaker version of the law narrowing in on direct threats, accompanied by an explicit statement protecting free speech, and a campaign against the law was led by the comic Rowan Atkinson (“Mr. Bean”) who understandably saw his business threatened by the proposal. The House of Commons, however, proceeded with the hard version of the legislation, and at the end of January 2006, just as the Cartoon Crisis was accelerating in the Middle East, the law was set for vote with Labour having a 40-odd comfortable majority in the House. In the concluding debates, the deputy minister of the interior, Paul Goggins, predicted it would now be a matter of days before the printing of the now world-famous Danish drawings would be criminalized in Great Britain, and MCB leader Sir Iqbal Sacranie who had supported the development of the law made clear that with the law, the use of expressions like “Islamic terrorism” would be liable to punishment. Luckily, the “whip” in Labour’s Parliament group had not done his work properly. 21 Labour back-benchers had secretly agreed to vote against the proposal, and the law fell with one single vote in the House of Commons. Tony Blair had been so convinced the law would pass that he had left early; had he stayed in Parliament, the votes would have been equal and his vote as PM would have been decisive. So close was this radical delimitation of freedom of speech in one of the very fatherlands of this concept. Both Muslim and Christian clergy in Britain were shocked by the failing of this law to pass, and both the Muslim Council of Britain and the Anglican Church press on the have the case opened again. Most notably, the Arch Bishop of Canterbury Rowan Williams has, as of 2008, again demanded severe restrictions of British freedom of speech regarding religions.

With such blatant international cases of religious pressure against free speech, it is a wonder anybody can seriously believe that a case like the Danish Mohammed Crisis is a unique case

having its roots in special cultural or political conditions prevailing in Denmark only. Rather, it forms merely one of the more conspicuous cases among hundreds of similar annual cases of religious attacks against free speech – and it is a sad fact to register that other religions seem to pick up quickly from the Islamist avant garde so as to nurture a cross-religious culture of acting offended, training in posing as victims of utterances with only a few decades ago would have appeared to everybody as securely protected by freedom of expression.

The Danish affair has conjured up a series of more detailed arguments in Danish and international public, demanding the reduction of the freedom of speech, be it by legal or more implicit means. Let us scrutinize some of these arguments:

#### 1) Free speech is for attacking the powerful only

On the political left, a prevailing argument has been that freedom of speech has its motivation in the ability of attacking powerful factions of society – and that it may not, then, be used to criticise weak groups or minorities, nor, a fortiori, to make cartoons ridiculing their beliefs. This, of course, forms no part of the legal expression of freedom of speech in the Constitution which does not restrict freedom of speech for certain purposes only – so it is an interpretation of the “spirit” of this right. But the argument rests on the sentimental idea that it is easy to identify who is “powerful” and who is not. As if the “powerful” always wore high hats, smoked cigars, drove expensive cars and met in fine offices downtown – as if they fit the old communist caricature of a capitalist. But in a pluralist democracy it is not so easy beforehand to decide who’s “in power” or who misuses the power he has been trusted with. Rather, it is one of the *aims* of public debate to locate who has and misuses power in each single case – so it can not beforehand be determined that certain groups may be attacked and others not so. A further false premiss in this idea

seems to be the contention that weak or minority groups could never misuse power. This prejudice effectively protects certain groups against criticism so it becomes bad taste to investigate e.g. whether certain immigrant groups offend the human rights of some of its own members. This is also a problem, of course, because in a pluralist democracy, by far the most groups or organizations are naturally minorities. Typically, no political party holds the absolute majority, so all parties are minorities – should it mean that they should be exempt from criticism for that reason? Should it be allowed to attack only the government which in democracies by definition represents the majority of the population? Hopefully, it is clear that such a curtailing of free speech would severely diminish the ability of public debate to discover misuse of power in many corners of society. Rather, free speech is there to grant an open debate - that all individuals and groups in the society have the ability to focus upon their particular interest, including the dismantling of “the powerful “ which may only be identified as such in the course of open debate.

## 2) Free speech is for insiders only

Another issue concerns that some parties have more right to free speech than others. In Denmark, some voices claimed that what was wrong about *Jyllands-Posten*'s drawings was not the cartoons themselves but the fact a center-right newspaper published them – if it had been a left wing journal, the drawings would have been ok. In one of the first internet debates which spread into other media (in the German website signandsight), Pascal Bruckner, Timothy Garton Ash, and Ian Buruma discussed criticism of Islam, and a similar argument was presented. The former held such criticism to be necessary and protected by free speech; the latter two argued that only certain figures had the right (in a more vague sense) to attack Islam. Specifically, Buruma attacked Ayaan Hirsi Ali for attacking Islam – as she is not a muslim, she has no right to do so, and she has, a fortiori, no right to quote Voltaire. He had

been fighting the powerful catholic church of his time – while Hirsi Ali, according to Buruma, was only attacking a weak minority in Europe (a version of the first argument discussed above). And only muslims had the right to attack Islam, Buruma claimed. Here, it counted for nothing that Hirsi Ali has been a muslim all of her African childhood, that she joined the Muslim Brotherhood for a long radical period of her adolescence, and that she only discovered other possibilities reading British 19 C novels in Nairobi, ending up fleeing both islam, Africa and the marriage her family was forcing upon her. As she left islam, she lost her rights to criticise it, so Buruma. He prefers islam criticism undertaken by moderate muslims, while all other voices accordingly should silence on this issue. But where would the process of Enlightenment be if this criterion should be generally accepted? Only Jesuits may attack the Spanish Inquisition? Only noblemen may criticize feudalism? Only nazis may attack Nazism? This argument ends up in a paradox: only who agrees gain the right to criticize ...

3) Free speech is not threatened if the state does not consider restricting Free speech laws

The argument that the Cartoon Crisis did not have anything to do with free speech at all – but rather concerned the “tone” of the debate – was often based on the idea that no influential voices demanded the revision of the Free Speech clause of the constitution. This argument is empirically wrong for the reason that there were indeed Danish voices claiming Free Speech should be legally constrained (imams, a theology professor, etc.) as well as many international voices including the OIC, Turkey’s president Erdogan demanding changes in Free Speech legislation in EU, and many more. But even if it was the case that nobody demanded legal revisions – would the argument be correct? Not at all. Free speech is, like the other human rights, a restriction the state admits on its own exercise of power over its citizens. The idea is that the

state is a mighty agent and thus must be constrained. But even if mighty, the state is not almighty. Before the state may make laws and lay restrictions upon itself, it must first of all gain sovereignty over its territory by means of violence: army, police, etc. But this sovereignty may be contested from without as from within – this is what state security is about. And exactly the Cartoon crisis revealed the fact that the Danish state meets strong, alternative sources of sovereignty on its own domain. Foreign powers proclaim rewards for the killing of some of its citizens – and citizens and inhabitants of Denmark itself plan, in connection with international networks, the killing of some of the draughtsmen. The founding fathers of the Danish constitution hardly, when penning the constitution, considered the possibility that Danish sovereignty and Free Speech could be contested in this way. Yet, there is an earlier example: the nazi period of 1933-45 where the Danish minister of the exterior urged Danish press not to publish anti-German cartoons – after pressure from a foreign sovereign power, namely Nazi Germany. Thus, Freedom of Speech may indeed be threatened, even if no sane Danish politician campaigns for legal change of the Free Speech Clause of the constitution. And for this very reason, one of the central tenets of the Cartoon crisis was, in fact, the pressure against Free Speech.

#### 4) Free speech must be fenced in by tolerance and respect

Doesn't it sound good? Would a larger measure of toleration and respectfulness not ease things? This sweet-sounding claim is, in fact, ripe with terminological and philosophical problem. Tolerance deals with ways of coping with what you dislike – without prohibiting it. Thus, tolerance is a demand that is made of the person or group who might feel insulted by some utterance or claim in society, but restrains itself so as not to attack or prohibit such utterances. This does not in any way imply that that person or group thereby accepts the claim in issue or that it respects the contents of that claim. It may go on hating the claim as well as

attacking it in speech and writing and with all legal means. And of course, exactly the same behaviour, mirror-wise, is expected from the opposing person or group. But there is widespread tendency to sloppy thinking, loosely identifying this Enlightenment tolerance with respect. But respect is completely different from tolerance. To respect a group or a person involves passing a positive judgment on them as being respectful – in some way dignified by their status, achievement, claims, behaviour or something else. No such thing is involved in tolerance. Tolerance is an action of *refraining* from acting – from prohibiting or physically attacking someone with whom you disagree. This is why democracies may demand toleration of its citizen. It is only about *not* doing something. Respect, on the other hand, involves knowledge about the group and person in issue, and it involves a positive judgment about it. This is why it is impossible to *demand* respect for some specific ideology of all persons and groups – if you do not, in fact, respect that ideology, you cannot be pressed to do so. This would require a thought police. Freedom of conscience exactly entails that everybody is free to make his own opinion of things, including other groups and ideologies. To demand respect would only entail simili-respect, theatre-recognition, a feigned, clumsy expression of a judgment you do not really subscribe to. So what is called for is toleration – not respect.

Respect is called for only in relation to the *rights* of these other groups – their political and human rights. But you may respect them without respecting a single gram of the group's behaviour or ideology. So tolerance and respect differ considerably – tolerance is a demand made to the one who listens to some potentially insulting utterance – while respect is a demand made to the one about to utter something, a demand that he should shut up. Thus tolerance is conducive to free speech, respect quite the opposite.

These two concepts, furthermore, are often confused with politeness, with “respectfulness”. This is a special, stylized form of behaviour, probably originating in the great cities of antiquity,

Rome, Alexandria, Babylon, etc. where many different people met and interacted – and a language had to be invented for smooth dealing with people you do not share values, religion, or culture with. This language is politeness: “How are you?”, “Good day”, “Excuse me”, “Thank you”, which takes the shape of caring for the other person while everybody knows that, on a deep level, you don’t. Saying “How are you?” does not oblige you to take a sincere interest in your interlocutor’s health – it is a sign saying you are willing to deal politely with him in spite of any difference you may have in values or ideology. This politeness may also be called “respectfulness”, but it has as little to do with real respect as “Good day” has to do with caring for the addressee’s well-being this particular day. Such politeness is extremely important for the trust, smoothness, and plasticity of a society and provides a basis for the liberties in urban living. But even if politeness is indeed a very important social good, it is secondary to basic, individual rights. When discussion of important political issues is at stake, politeness comes second, and critical problems must not be hidden away for politeness reasons. The same goes, a fortiori, for free speech. When free speech is threatened, politeness most decidedly comes second.

The arguments scrutinized here all stem from center-left reactions to the pressure against free speech. How come, that the left wing with its roots in basic Enlightenment standards, seems so willing to invent arguments in order to curtail it? My contention is that this has to do with culturalism. Culturalism is the idea that culture determines every individual through and through, that cultures form organic wholes which are homogeneous at the inside and completely heterogeneous at the outside, in relation to other cultures. This entails that once socialized in a culture, the individual is bound to it, cannot enter another culture, and may only find a satisfying life within the confines of his culture. Culturalism began as an anthropological theory – very strong, for instance, in inter-war American Anthropology. It spread to the

Western middle classes after WW2, and after the decline of Marxism as a basic ideology of the Western left, it is increasingly replaced with Culturalism. This development is strange, for in many respects Culturalism forms the antidote to Marxism's claim about society's basis in economical structures, culture only being a superficial superstructure. Culturalism will claim that religion and culture form the basis and economy rather belongs to the surface. The spreading of Culturalism on the left more has the character of *versunkenes Kulturgut* than that of an explicit ideology. Nobody comes out and claims himself to be a culturalist, rather culturalism appears in arguments - like those dissected above - claiming that cultures, rather than individuals, should be given special rights, such as rights not to be insulted, defamed, or counterargued. In the more hard versions of "multiculturalism", culturalism sticks out its ugly face. Just like racism tried to tie the individual to his race, to the color of his skin, culturalism tries to tie him to his culture

Here, it is important to note that left-wing culturalism is only half of the story. The other half is right-wing culturalism - nationalism. Both of them, of course, share the same roots in the history of ideas, in the right wing of German romanticism, most notably Herder's ideas of the *Volksgeist*, the people's spirit, as something over and above individuals as well as political institutions. This is why the religious pressure on free speech these years comes from many sides. The basic pressure, to be sure, comes from religions. But in the democracies, this pressure is supported by culturalisms from both political wings - multiculturalists claiming cultural groups and religions have a right not to be insulted, and nationalists claiming national culture has such rights and claiming that human rights are a vain, suppressive substitute religion. To defend itself against the religious pressure against free speech, consequently, the political culture of the democracies must purge itself from culturalism and insist on the basic individual human rights must never be eroded by the collective, cultural rights claimed by groups (or, most often, by their conservative spokesmen). Thus, it is important to realize that

the problem in multiculturalism is not the “multi” part – the existence of many different persons. The problems lie in the “culturalist” part – the insistence that such person form closed groups which should be accorded rights to be protected against free speech. They should not.

This essay summarizes some of the points of the book “Adskillelsens politik. Multikulturalisme – ideologi og virkelighed” (“The Politics of Segregation. Multiculturalism – ideology and reality”) which I co-wrote with the novelist Jens-Martin Eriksen (Copenhagen 2008: Lindhardt & Ringhof).

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