

Blasphemy, Offence, and Hate Speech: *Response to Henk Vroom*

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ABSTRACT

The article discusses the relation between legal restrictions and moral responsibility in the question of blasphemy and offence. The first part observes some historical developments in relevant legislation, mostly using Norway as an example. Two “humanizing moves” are identified, from the protection of state interest to (1) protection of groups and (2) protection of vulnerable individuals. The second part of the article offers a reading of Salman Rushdie’s *The Satanic Verses* as a novel about ambivalent religion, doubt and moral deliberation. The article concludes by distinguishing between potentially offensive utterances on the one hand and hate speech on the other.

KEYWORDS

blasphemy, hate speech, law and ethics, Satanic Verses

In the first part of this article I will make some observations regarding the historical development of legislation on blasphemy, offence and hate speech, mostly using Norway as an example. My discussion of legal developments ends with some reflections on the relation between legal restrictions and moral responsibility.

The second part of the article offers a reading of Salman Rushdie's *The Satanic Verses* (from 1988) as a novel about ambivalent religion, doubt and moral deliberation. The novel was seen by some as a serious investigation of moral and religious issues but was felt to be deeply offensive by others. I conclude my discussion by distinguishing between potentially offensive utterances on the one hand and hate speech on the other, suggesting that this distinction is pivotal for any discussion of religion and freedom of speech.

BLASPHEMY LAWS: IN PROTECTION OF GOD AND THE STATE

Pre-modern legislation against blasphemy has seemingly aimed at protecting God's honour. But for all practical purposes, it has functioned to safeguard the social and political order – symbolically as well as physically. In the Danish-Norwegian and subsequent Swedish-Norwegian kingdom, from 1687 until 1842 the so-called Christian IV Norwegian Code prescribed torture and capital punishment for blasphemy against 'his [God's] Holy Name, his Word and his Sacraments', and for sorcery.¹ Apart from the witch trials in the 16th and 17th centuries, such draconic punishments were not implemented and functioned thus mostly as a symbolic protection of the Lutheran state and its Church. The Code section in question, entitled 'On Erroneous Teachings, Blasphemy and Sorcery', contained also a general ban on 'the Papal religion' and its representatives.

Today capital punishment (or life imprisonment) for blasphemy is prescribed, and to some extent practiced, in some countries with an Islamic constitution. For instance in Pakistan's Penal Code, desecration of the Holy Quran 'shall be punishable with imprisonment for life' and derogatory remarks about the Holy Prophet Mohammed 'shall be punished with death, or imprisonment for life, and shall also be liable to a fine.'² It should be noted that these are modern provisions. Sections against blasphemy were actually introduced in the Indian Penal Code under British colonial rule, prescribing (from 1927) imprisonment or fines for intentionally 'outraging the religious feelings of any class of His Majesty's subjects'.³ In 1982-1985, the Pakistani Penal Code was seriously sharpened to the effect mentioned above, as part of General Zia ul-Haq's islamization policies which were introduced in 1979

¹ Christian V's Norske Lov, 6: 7-9.

² Pakistan's Penal Code 295: B-C.

³ Naeem Shakir, *The Blasphemy Law in Pakistan and its Impact* (Hong Kong: International Affairs Christian Conference of Asia 1998), p. 14f.

when the so-called ‘hudoon ordinances’ were enacted.⁴ The same section of the Penal Code contains also regulations that severely restrict the religious freedom of the Ahmadiyya community.⁵ The Pakistani blasphemy laws are generally seen by human rights observers as oppressive for both Muslim minorities and Christians who often face false accusations under this law.⁶

FIRST HUMANIZING MOVE: PROTECTION OF RELIGIOUS COMMUNITIES AND OF
‘RELIGIOUS FEELINGS’

In pre-modern Norway as well as in modern Pakistan, blasphemy laws have functioned to protect the confessional state and the interests of its religious majority – with severe consequences for dissidents and religious minorities. However in some modern versions, legislation against blasphemy has sought to protect the religious feelings of *all* citizens, as in the cited example from British colonial rule in India. The modern blasphemy law in Norway (section 142 of the Penal Code; amended in 1934 and 1973) prescribes fines or imprisonment for ‘any person who by word or deed publicly insults or in an offensive or injurious manner show contempt for any creed whose practice is permitted in the realm or for the doctrines or worship of any religious community lawfully existing here’.

Although the so-called blasphemy paragraph in the Norwegian Penal Code still stands, it is generally considered as ‘sleeping’ and no person has been convicted since 1912. The paragraph does not exactly protect the religious feelings of individual citizens, but rather the integrity of ‘any religious community lawfully existing here’. These could be seen as two different concerns: for the feelings of individuals on the one hand; for the integrity of communities and their creeds on the other. But in the Indian case, colonial concern for religious feelings had maybe not so much to do with individuals and their integrity as with religious communities and potential clashes between them.

⁴ See *Report on Hudoon Ordinances 1979* (Islamabad: National Commission on the Status of Women 2003).

⁵ Pakistan’s Penal Code 298: B-C.

⁶ See for instance Naeem Shakir, *The Blasphemy Law in Pakistan and its Impact*, and Naeem Shakir, *Human Rights Monitor 2005. A report on Religious Minorities in Pakistan* (Lahore: National Commission for Justice and Peace and Pakistan Catholic Bishops’ Conference 2005).

SECOND HUMANIZING MOVE: PROTECTION OF INDIVIDUALS

More recent legislation about ‘blasphemy’ does not aim at protecting either the state or the religious communities, but rather the individual. In the background one will find the UN Convention on Elimination of Racial Discrimination and the UN Covenant on Civil and Political Rights which prohibit anti-discrimination and outlaw hate speech against vulnerable groups in society.⁷ When implementing these human rights norms, the question arises whether national legislation against discrimination and hate speech should contain an explicit reference to religion. When in 1970 hate speech against people on the basis of their ethnic or racial background was penalized by the introduction of a new section in the Norwegian Penal Code (§ 135a), a reference to ‘declaration of faith’ – substituted for ‘religion’ in 2005 – was included.⁸ After an inclusion of homosexuality in 1981, the section currently runs as follows:

Any person who wilfully or through gross negligence publicly utters a discriminatory or hateful expression shall be liable to fines or imprisonment for a term not exceeding three years [...] A discriminatory or hateful expression here means threatening or insulting anyone, or inciting hatred or persecution of or contempt for anyone because of his or her

- a) skin colour or national or ethnic origin,
- b) religion or life stance, or
- c) homosexual orientation or lifestyle.

The section in question offers an interesting example of how discriminatory or hateful expressions with reference to race are now penalized on a par with verbal assaults on the individual’s faith or sexual orientation. Although not explicitly stated, regulations against hate speech could also be taken as a protection of social harmony, in tune with the human rights covenants’ restric-

⁷ Cf. Article 20b in the UN Covenant on Civil and Political Rights: ‘Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.’

⁸ For the background, development and practice of this section, see Helge Årsheim: ‘Act(ual) Religion – differing notions of religion in International and Norwegian law’, paper presented to the conference ‘The Secular and the Sacred: Human Rights in the West-Nordic Context’, Faculty of Theology, University of Oslo, 20-21 May 2010.

tions on freedom of expression in order to protect public safety and the fundamental rights and freedoms of *other* individuals.⁹

In Henk Vroom's reflections on blasphemy, in his article in this volume entitled 'On blasphemy: an analysis', he makes a philosophical distinction between 'rejection of the person as a whole on grounds for which the person is not responsible and rejection on the basis of insights and ideals that are freely accepted and formative for a person's identity'.¹⁰ He seems to subsume race, ethnicity and sexual orientation in the former category and religion in the latter, on the philosophical background of Paul Ricoeur's distinction in *Oneself as Another* between 'self' and 'I'. In addition to anti-discrimination laws which protect those parts of human identity which is not chosen but *given* (race, ethnicity, sexual orientation), Vroom sees the need for a separate legislation against blasphemy which protects what individuals have chosen to be holy: 'Therefore, the state should prohibit blasphemy but not be quick to punish'.¹¹

I find Vroom's distinction interesting but not convincing. Religion (as Vroom of course realises) is not merely something chosen. Perhaps for most people, religion is something you are born into, as an important part of your group identity on a par with your imagined ethnicity. As the notion 'symbolic ethnicity' indicates, even a self-conscious invocation of religious identity (e.g. Muslim) at the cost of ethnic identification (e.g. Pakistani) refers not only to the existential choice of an 'I' but equally to the strategic preference of a collective self, i.e. a 'we'.¹² On the other hand, identity markers that might seem to be given, such as sexual orientation, may also contain an important element of choice. Even ethnic identifications may be rather fluid. If my observations are correct, it becomes difficult to distinguish between respect of 'given' and 'chosen' elements of the individual's identity.

⁹ Cf. Article 18c of the UN Covenant on Civil and Political Rights: 'Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.'

¹⁰ Henk Vroom, 'On Blasphemy: An Analysis,' in this volume, p. 90.

¹¹ *Ibid.*, p. 94.

¹² Riva Kastoryano, 'Religion and Incorporation: Islam in France and Germany', *International Migration Review*, Volume 38 Number 3 (Fall 2004), p. 1234-1255 ('... more and more, Islam represents a unifying identity among Muslim immigrants for asserting collective interest and structuring a transnational community that transcends the boundaries of member-states ... The objective is to promote a common identification: to be Muslim in Europe', p. 1251f.).

A HUMANIZING, *ETHICAL* TURN

As demonstrated, section 135a in the Norwegian Penal Code makes no distinction between hate speech with reference to religion, ethnicity or sexual orientation. And the fusion is seriously meant. Whereas the Norwegian ‘blasphemy paragraph’ (section 142) is sleeping, section 135a (the so-called ‘racism paragraph’) is active. In 1981, an anti-immigration activist (Vivi Krogh) received a suspended sentence for hate speech against immigrants in general and Muslims in particular. Three years later, a pastor in an independent charismatic congregation (Hans Bratterud) was convicted for offending utterances against homosexuals and admonitions to remove them from leading positions in society. More recently, in 2007, the leader of the racist organisation Vigrid (Tore Tvedt) was given a suspended sentence for hate speech and threats against Jews. Other cases have been turned down. For instance, in 1989 a group of Norwegian Muslims did not succeed in banning Salman Rushdie’s *The Satanic Verses* when trying to mobilize the blasphemy and racism paragraphs against the Norwegian edition of the book.

Independently of how one views the desirability of legal restrictions on religious defamation, it is a matter of fact that legal provisions regarding ‘blasphemy’ and their rationale for (more or less severe) restrictions have changed over time. In Norway as in several other countries, the purpose of such provisions have shifted from (1) protection of God and the state religion, to (2) protection of religious communities and their creeds, to (3) protection of individuals in vulnerable positions (here: because of their ethnicity, religion or sexual orientation).

If blasphemy relates to ‘God’ as a powerful symbol of the religious state, modern legislation which aims at protecting communities or individuals against hate speech is a different matter altogether and can hardly be characterised as dealing with blasphemy. As indicated by my subheadings, I find it apt to characterize step 2 and 3 above as *humanizing* moves – leaving ‘blasphemy’ as a relevant characterisation only of category 1.

In philosophical or theological terms, the above development reflects not only an *individualist* but also an *ethical* turn in dealing with ‘blasphemy’ and potentially offensive utterances. In the controversies over the Danish Muhammad cartoons in 2005-2006, many of those who were utterly critical of the (re)publication of the cartoons stood firm in protecting the principle of freedom of speech. In Norway, critics did not try to take *legal* action when Magazinet – a mouth-piece of the New Christian Right – republished the Danish cartoons framed by warnings against ‘a religion that is not alien to

resorting to violence'.¹³ Instead, the emphasis was put on the *moral* obligation of the stronger party (in this case, the Christian/Secular majority) to be careful in their characterization of the beliefs of the minorities.¹⁴ For instance, a joint 'Statement on the caricatures of the Prophet Muhammad', issued by Christian and Muslim leaders in Norway, emphasized that 'Freedom of expression is a fundamental right which must be respected, but it must be exercised with responsibility and wisdom.'¹⁵ The statement warned also against offending 'Muslims' religious feelings' – but again, without any intention of legally banning offensive utterances.

In what has been termed by the media researchers Risto Kunelius and Elisabeth Eide as the 'liberal fundamentalist' paradigm, freedom of expression stands out not only as an inviolable right but as an absolute value.¹⁶ In this paradigm, there is not always room for pragmatic considerations of what is wise (considerations that are actually carried out on a daily basis in any editorial office) or for moral deliberations focused on the responsibility of the more powerful in relation to vulnerable groups in society.

What used to be a discussion about 'blasphemy' has thus turned into a quite different type of question about how to balance two potentially conflicting principles that are both *humanistic*. One principle is freedom of expression, as a *legal* right with some restrictions. The other principle is respect for otherness and vulnerability, as a *moral* obligation.

Although both principles are humanistic, God may still be part of the picture, but not as someone whose honour must be protected. In a Levinasian interpretation, 'God' now only becomes visible as the trace of infinity in the *human* other's face – accentuating individual integrity and moral obligation.

¹³ Magazinet 10.01.2006, p. 2.

¹⁴ Cf. Oddbjørn Leirvik, 'Fridom under ansvar', Dagbladet 04.02.2006.

¹⁵ See full text: <http://folk.uio.no/leirvik/tekster/IRN-MKR-uttalelse.htm>

¹⁶ *Reading the Mohammed Cartoons Controversy. An International Analysis of Press Discourses on Free Speech and Political Spin*, Kunelius, Risto, Elisabeth Eide, Oliver Hahn, and Roland Schroeder (eds.) (Bochum: ProjektVerlag 2007), p. 16ff. Cf. Oddbjørn Leirvik, 'The Cartoon Controversy in Norway: The New Christian Right and Liberal Fundamentalism confronting Islam?' Forthcoming in *Communicating 'Fundamentalism' in the Global Public Sphere. Volume 3: Mass Media and Popular Culture*, Ulrika Mårtensson m.fl. (ed.) (London: I.B. Tauris 2010).

INSIDE OUT, OUTSIDE IN

In terms of moral deliberation, another issue should also be taken into consideration. Conscious of the asymmetry in any social relation (another Levinasian concern), it makes a moral and political difference whether harsh religious critique (for instance in the form of ridiculing cartoons) is perceived as a blow from the powerful majority against a religious minority, or as part of a tough discussion between representatives of the majority culture. Correspondingly, provocative critique voiced from the inside of a religious tradition may be perceived differently from similar critique from the outside.

Modern critique of religion started out as a (self)critique from the inside of Christian Europe. Similarly, such books as Salman Rushdie's *The Satanic Verses*,¹⁷ Ibn Warraq's *Why I am not a Muslim*,¹⁸ and Irshad Manji's *The Trouble with Islam. A Wake-up Call for Honesty and Change*¹⁹ represent a critique of Islam which voiced from the inside of Muslim cultures in the West (including its self-declared apostates).

Sometimes, however, the distinction between inside and outside is blurred. For instance Ayaan Hirsi Ali, in her attacks on Islam as a religious tradition to be defeated, seems to apply the rhetoric of aggressive American neo-conservatism. In her most recent book (*Nomad: From Islam to America*, 2010), she has also referred to the 'Christianity of love and tolerance' as 'one of the West's most powerful antidotes to the Islam of hate and intolerance.'²⁰

But it is not only in aggressive literature against one's previous religion that the distinction between inside and outside is confused. Instead of pursuing the legal perspectives laid out in the first part of my paper, in what follows I will offer a reading of Salman Rushdie's *The Satanic Verses* and its fictional fusion of Islamic and (in my interpretation) Christian elements. My reading leans on an essay of mine which was first published in 1989, in which I attempted to give a *bona fide* interpretation of Rushdie's novel as a serious exploration of the phenomenon of doubt, applying to some extent Christian imagery to create a literary fiction which many Muslims found utterly offending.²¹ My reading of the *book* is meant to illustrate how complex the question

¹⁷ Salman Rushdie, *The Satanic Verses* (London: Vintage 1988).

¹⁸ Ibn Warraq, *Why I am not a Muslim* (Amherst, NY: Prometheus Books 1995).

¹⁹ Irshad Manji, *The Trouble with Islam. A Wake-up Call for Honesty and Change* (Toronto: Random House Canada 2003).

²⁰ Ayaan Hirsi Ali, *Nomad: From Islam to America* (New York, NY: Free Press 2010), p. xx.

²¹ Oddbjørn Leirvik, 'Var det sjel i hans tvil?' (om Rushdies 'Sataniske vers'), *Syn og Segn* 4:1989, p. 312-319. Further developed in *Islam og kristendom. Konflikt eller dialog?* (Oslo: Pax 2006), ch. 19.

of insider and outsider perspectives may be, if taking literary fusion and religious hybridity seriously.

The outcome of Rushdie's literary project soon proved to be highly dramatic, both for Rushdie himself and for his translators and publishers (cf. the attempted assassination on Rushdie's Norwegian publisher in 1993). Because of the novel's frivolous play with sacred elements of Islamic history, such as the whores of Mecca being given the names of the Prophet's wives to boost business before Muhammad's final takeover, it was seen by many Muslims as an apostate's deliberate defamation of Islam. At a deeper level, the novel's retelling of the traditional story about 'the Satanic verses' implies that Muhammad more than once might have listened to his own ambitions instead of harkening to God – and perhaps without being corrected by the angel of revelation (Gibreel/Gabriel). Thus the novel was also read as a provoking questioning of the integrity of the Qur'an.

As mentioned, a group of Norwegian Muslims (joining hands in the so-called Muslim Defence Council) tried to take legal action against the book, but did not succeed.

The Rushdie *affair* illustrates that what is seen as abominable fiction for some might in fact express something that is 'holy' for others. Rushdie himself (in the words of Gibreel) presents the novel as a drama of faith and doubt, not as a manifest of disbelief:

Question: What is the opposite of faith?

Not disbelief. Too final, certain, closed. Itself a kind of belief.

Doubt.

The human condition, but what of the angelic? Halfway between Allahgod and homosap, did they ever doubt? They did: challenging God's will one day they hid muttering beneath the Throne, daring to ask forbidden things: antiques-tions.²²

The novel's key figures, the Indian-born immigrants Gibreel Farishta and Saladin Chamcha, are portrayed as being born again in a plane crash into the English Channel. They eventually end up in London – Gibreel as an archangel, Saladin in the first place as a devil. Their cultural impression of late modern England is confusing. Devoid of significant distinctions, England (with its grey weather and fluid culture) creates desperation in the two reincarnated men:

²² Salman Rushdie, *The Satanic Verses* (London: Vintage 1988), p. 92.

Gibreel Farishta floating on his cloud formed the opinion that the moral fuzziness of the English was meteorologically induced. 'When the day is not warmer than the night,' he reasoned, 'when the light is not brighter than the dark, when the land is not drier than the sea, then clearly people will lose the power to make distinctions, and commence to see everything – from political parties to sexual partners to religious beliefs – as much-the-same, nothing-to-choose, give-or-take. What folly! For truth is extreme, it is *so* and not *thus*, it is *him* and not *her*, a partisan matter, not a spectator sport. It is, in brief, *heated*. City,' he cried, and his voice rolled over the metropolis like thunder, 'I am going to tropicalize you.'²³

Interestingly, Rushdie/Gibreel associates the moral fuzziness of England with the legacy of confusingly mixed categories in the Jewish-Christian tradition, equalling 'England-induced ambiguities' with 'Biblical-Satanic confusions' in which Satan (alias Lucifer) can be seen as a fallen angel. Gibreel much prefers the Islamic tradition in which there are no such confusions: 'Iblis/Shaitan standing for the darkness, Gibreel for the light.' Trying to establish his own agency in clear-cut terms, he continues: 'Out, out with these sentimentalities: *joining, locking together, love*. Seek and destroy: that was all'.²⁴

But was it as simple as that? The novel's main figures eventually fall out with each other, becoming enemies. And as the personal drama evolves, Gibreel and his alter ego (the angel of revelation) gradually pose more open questions regarding the divine attributes, in relation to human morality:

Is he to be the agent of God's wrath?

Or of his love?

Is he vengeance or forgiveness? Should the fatal trumpet remain in his pocket, or should he take it out and blow?²⁵

Chasing Saladin, Gibreel comes upon him in the very moment his former friend is about to be consumed by a fire. In the moment of truth, Gibreel throws himself into the fire and pulls Saladin out of the burning house. Thus, he testifies in practice that forgiveness is indeed stronger than vengeance and that 'love was more durable than hate',²⁶ in human nature as well as in divine reality.

²³ Rushdie, *The Satanic Verses*, p. 354.

²⁴ *Ibid.*, p. 353.

²⁵ *Ibid.*, p. 457.

²⁶ *Ibid.*, p. 407.

Back in India, Saladin is once more spared by Gibreel. But clemency is not the same as clarity. At the last pages of the book a deeply confused Gibreel ends up taking his own life, whereas Saladin (now as Salahuddin) sees the prospect of being born again – this time not in devilish confusion but as a human being reconciled with life's contradictions. Once more, Rushdie alludes to the language of grace and the Christian metaphor of being born again:

If the old refused to die, the new could not be born. [...] It seemed that in spite of all his wrong-doing, weakness, guilt – in spite of his humanity – he was getting another chance. There was no accounting for one's good fortune, that was plain.²⁷

Good fortune cannot be explained, that much he grasped. Not more. Or was it more than luck? Was it divine grace he could not explain?

The above reading of Rushdie's novel may be overly 'Christian'. But it is a possible reading, which needs not be specifically Christian. The Qur'an too speaks warmly about grace. Christian or Muslim: the novel invites the reader to become part of the drama – either with 'find and kill', or with doubt and grace.

However, the novel never got the chance to be read like that, neither by ordinary Muslims nor by Christians. For Muslims, it quickly became a token of the West's intellectual arrogance, holding nothing for holy and making fun of the most revered personalities in Islamic history. To make things worse, it was written by an alleged apostate who turned holy matters inside out – and outside in.

CONCLUSION

What is holy to some may be utterly provoking to others. Christians and Muslims will therefore have to realise how painful it can be to be confronted with what the other holds to be true – sometimes in direct contraction of one's own beliefs (divergent views on Christ is a pressing point in case). Although Christians and Muslims may have a lot to learn about respectful communication across deep differences, it is hard to see how potentially 'offensive' utterances can always be avoided. Public proclamation of the Christian or Islamic messages may in some cases offend the other camp of believ-

²⁷ Rushdie, *The Satanic Verses*, p. 547.

ers, and provoke non-believers. Artistic remoulding or literary elaboration of religious motifs may also be seen as utterly offensive by some.

Any attempt to outlaw utterances that may hurt religious (or secular) 'feelings' might thus threaten both religious freedom, artistic freedom and freedom of expression. It seems therefore wise that modern, human rights-based legislation aims only at banning hate speech that is directly threatening towards individuals, or linked with discrimination of vulnerable groups. It does not forbid religious or atheistic utterances that may be seen by some as offensive or hurting their feelings.

The legal development I have cited from the Norwegian context implies also that religious people are only protected against hate speech so as to say in (legal) solidarity with homosexuals.

The rest – whether offensive utterances in a given context can be said to be prudent or not – is a *moral* question. What about God, then? As both modern legal developments and Rushdie's novel illustrate, 'God' only comes into the discussion about 'blasphemy' as a point of reference for the moral deliberations of believing or doubting individuals.