



### **Description**

*The turn of the twenty-first century has seen an ever-increasing profile for religion, contrary to long-standing predictions of its decline. Instead, the West has experienced what some call a 'realignment' of religion where it persists in conjunction with other institutions and structures. Outside the West, religion is an ever more prominent force in social and political movements of both reform and retrenchment. Across these contexts, no issue in religion is of as much concern as fundamentalism - or rather the fundamentalisms within various traditions - which are seen to be fomenting religious, social, ethnic, and political tension and conflict.*

*The contributions to this volume represent the first effort to look at 'fundamentalisms' and 'the media' together and address the resulting relations and interactions from critical perspectives of history, technology, geography, and practice. The result lays important groundwork for scholarship on these new and increasingly important phenomena.*

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## Are Free Expression and Fundamentalism Two Colliding Principles?

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### Introduction

The Danish cartoons controversy began 30 September 2005, when the Jyllands-Posten, Denmark's highest-circulation newspaper, published 12 editorial cartoons depicting the Islamic prophet Muhammad. One of the cartoons featured a drawing of Muhammad with a bomb in his turban, fuse lit, and the Islamic creed written on the bomb. Almost immediately a serious situation developed. Islam forbids depictions of Muhammad and critics of the cartoons described them as hateful and blasphemous to people of the Muslim faith. When challenged, the newspaper refused to retract the cartoons or apologize, citing its right of free expression. In the course of various related confrontations, at least 139 people were killed and, almost three years later, the Danish cartoons controversy continues. In 2008, Danish police arrested three persons on charges of plotting to kill Kurt Westergaard, one of the 12 cartoonists whose pictures of Muhammad were published the Jyllands-Posten (Kimmelman 2008).

The longevity of the Danish cartoons controversy suggests a need to examine further the fundamental principles held by the two sides in the conflict. This is precisely the goal of this chapter which will look at this heated dispute in the context of two potentially colliding principles: a religious (Islamic) fundamentalist insistence on observing certain standards of right and wrong, and an equally strong secularist (and Western) insistence on upholding unlimited freedom of expression in the

media of mass communication.

The Danish cartoon controversy immediately presents two questions: First, do followers of any religion have the right to threaten or kill others based on their beliefs? Second, are their actions justified if they are responding to direct challenges to those beliefs? I cannot find any justification for the destructive and deadly behaviors of Islamic fundamentalists, and my answer to both of these questions is 'no'. However, equally importantly, the cartoon controversy raises a third and more complex question, namely: Is the Western liberal conception of free expression so absolute that it supports insults to religious fundamentalists? In other words, even in the context of a Western tradition of free expression, was the Jyllands-Posten's publication of the 12 cartoons an impermissible and direct provocation?

Answering this last question is a complicated matter because of in the West there is a long history of imagining and arguing that unfettered mass media are central to the survival of democracy and should therefore be protected by law. This is more than a legal doctrine but also a very powerful cultural myth that excites passions among many but particularly among media professionals. As I argue in this essay, however, a strict adherence to an absolute freedom of the press is far from what most Western legal texts propose. Therefore, the debate about the significance of what the Jyllands-Posten editors did is more nuanced than may appear at first sight and has to do with the way we interpret the legal doctrine of freedom

of expression.

To explore this problematic, this essay examines current trends in Western legal regulation and in social responses to hateful expression by drawing examples from particular texts of legal rules against hateful speech in various Western European countries and the United States. In the course of the analysis, the case of the Danish cartoons and the public discourse around it are used to illuminate these trends more clearly. Ultimately, the goal of this chapter is to illustrate that there may be alarming similarities between a fundamentalist way of interpreting religious beliefs and an absolutist (or 'fundamentalist') way of interpreting the legal doctrine of freedom of expression. However, the essay also hopes to demonstrate that such interpretations are not the ones intended by most legal codes in contemporary Europe and the U.S. and are certainly not the only possible ones.

### **What is Fundamentalism?**

Let me now return to the analysis. Before we can answer the question of whether the Danish cartoons were an impermissible provocation, we must address an important clarifying question, namely: What is fundamentalism? Fundamentalism is a contested term that means different things to different people and the meaning is often controlled by the context. For the purposes of this chapter, however, I would propose that it would be illuminating to focus on the way so called fundamentalists interpret the surrounding reality. Hence, this chapter's working definition of fundamentalism holds that: fundamentalism is a rigid style of interpretation, reliant on authoritative texts, to discover rights and duties.

Importantly, this essential trait of fundamentalism-as-interpretation is shared by both Christian and Muslim societies. For those in the West, fundamentalism most often refers to Protestantism that depends on a strict and literal interpretation of the Bible, including its narratives, doctrines, prophecies, and moral laws. For Muslims, fundamentalism means that Islamic law is central to state and society, advocating strict adherence to the Koran at all costs and in all spheres of life.

Within a strict interpretation of Islam, visual depictions of the Prophet Muhammad constitute blasphemy and are forbidden, subject to the most severe penalties. To give just one recent example, a British primary school teacher in Sudan, Gillian Gibbons, allowed her pupils to name a teddy bear after the Prophet Muhammad as part of a class assignment. When officials discovered this transgression, Gibbons was arrested and imprisoned under strict blasphemy laws for showing 'contempt and disrespect against the believers'. Had the British government and others not intervened, she could have faced penalties of up to 40 lashes and a year in jail (Judd 2007).

As extreme as this may seem, it is important to realize that the West has not been exempt from the influence of fundamentalism either. In fact, Western traditions have long regarded blasphemy as an offense against the community. When religious faith is at the heart of a society, it is common for the law against blasphemy to protect the fabric of the society, and its faithful, from a perceived challenge or threat ('Columbia Encyclopedia 2007). While no European nation today enforces its laws against blasphemy, these laws are indisputably part of Western legal

tradition. For example, the British law of blasphemy, based on decisions made by nineteenth century courts, is restricted to protecting the 'tenets and beliefs of the Church of England' (BBC News 2004). Presently this law is not enforced, and the BBC reports that the last British man to be sent to prison for blasphemy was in 1922 for comparing Jesus with a circus clown (BBC News 2004).

### **Free Expression Fundamentalism**

Using the working definition of fundamentalism proposed above, one could conceive of the strict interpretation of the legal principle of free expression in Western law as a form of 'free expression fundamentalism'. In a similar vein, Richard Webster (1990), author of A Brief History of Blasphemy, has observed that the battle over the Danish cartoons can be characterized as two kinds of rigidity, two forms of fundamentalism (Webster 2003). He asserts that the more closely we examine liberal rhetoric, the more it seems that we are indeed dealing not with a battle between religion and secular liberalism but with a clash between two forms of essentially religious ideology. According to Webster, an analysis of the rhetoric in the Danish cartoon controversy shows that advocates for the freedom of expression often depict the events as part of a battle to be fought out in terms of 'implacable antitheses' – a war between 'humanity and the forces of inhumanity' and between 'the forces of light and the forces of dark' (Webster 2003).

A fundamentalist style of interpreting texts takes the announced principles as being without limitation or compromise against potentially competing values. In a fundamentalist interpretation, the freedom of

expression is an absolute, a principle that must be adhered to. Failure to abide by its clear mandates endangers an entire civilization. Whether Western or Islamic, a fundamentalist style of interpretation is based on bedrock principles. Language is seen as a concrete and unchanging vessel of meaning and does not permit ambiguity, paradox, contradiction, or irony.

Free expression fundamentalism is not an advocacy of freedom within the law; rather, it is the law of absolute individual freedom, a moral law that takes precedence over competing considerations. Consider how this way of interpreting free expression factors into the debate over the appropriateness of the publication of the Danish cartoons. It is a form of strict free expression fundamentalism which allowed the editors of various European newspapers, many of which reprinted the offensive Danish cartoons, to conceive of culturally insensitive expressions of opinion as an expression of the ultimate right of every free citizen, rather than as an evil to be avoided whenever possible. For example, Niklas Ekdal of the Dagens Nyheter, the largest-circulation Swedish morning newspaper, expresses a fundamentalist interpretation of the right of freedom of expression in the following passage:

Here it only concerns the defense of an open society against those who want to use violence to send us back to the Middle Ages. There are both similarities and differences with the Rushdie case, 20 years ago. Now just as then, the defense of freedom of speech must be absolute, and now just as then, it is a national issue to protect those who are

affected (World Association of Newspapers 2008).

In this passage, Mr. Ekdal seems to be imagining a system that places inerrant faith in the unalloyed benefits of complete freedom of expression. It is strict, unqualified and true; as he puts it 'the defense of freedom of expression must be absolute'.

Another recent example demonstrating some of the qualities of a fundamentalist interpretation of freedom of expression is the position taken by European Commission President José Manuel Barroso. In a February 2006 debate over the Danish cartoons in the Strasbourg Plenary session, Mr. Barroso stated that, 'Freedom of speech is part of Europe's values and traditions. Let me be clear. Freedom of speech is not negotiable' (European Parliament (2006).

Similarly, Iranian-born professor Afshin Ellian of Leiden University in the Netherlands, has argued that all of Europe should show solidarity with the principles of freedom of expression, regardless of the degree of insult or offense contained in the expression. In an opinion piece in The Wall Street Journal, professor Ellian discusses how in March 2008 hardliner Geert Wilders, a Dutch politician who has publicly stated that the Koran is a 'fascist book', made a film with the message that the Koran motivates murderous ihadists. The film includes one of the most famous of the Danish cartoons which depicts Muhammad wearing a bomb-filled turban. Defending this display, Ellian argues that 'any weakness in the resolve' to defend the freedom of expression that permits the publication of the film would be 'betrayal and cowardice' (Ellian 2008).

Speaking on another occasion,

and not at all in reference to the Danish cartoons, author Salman Rushdie offered his own unconditional and dogmatic defense of freedom of expression to rebut his Islamic critics: 'free speech is a non-starter says one of my Islamic extremist opponents. No, sir, it is not. Free speech is the whole thing, the whole ball game. Free speech is life itself' (Rushdie 1991). No doubt, Rushdie has unique credentials to argue that 'free speech is life itself'. Following the publication of Rushdie's novel The Satanic Verses, Iran's Ayatollah Khomeini called for everyone involved in the book's publication to be punished. The result: Rushdie's Japanese translator was murdered, his Italian translator stabbed, and his Norwegian publisher shot. However, his statement, although made significantly before the time of the Danish cartoons controversy, illustrates the unequivocal nature of what I have termed in this chapter 'free expression fundamentalism'.

### **A Non-Fundamentalist Style of Interpretation**

As the argument so far suggests, libertarian and religious fundamentalisms share a style of interpretation that does not tolerate ambiguity or nuance in the application of rules. By contrast, some texts, by the very way that they are written, require a non-fundamentalist style of interpretation. Consider, for example, the International Covenant on Civil and Political Rights whose Article 18(3) declares that:

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 (International Covenant on Civil and Political Rights 1966).

In other words, this freedom is not an absolute right, and is subject to balancing against other social interests. Moreover, Article 19 also recognizes that the right of freedom of expression 'carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary.... including respect for the rights and reputations of others and protection of public order and morals. This text resists a fundamentalist style of interpretation because it uses wording that requires thoughtful consideration and a balance of competing individual and social interests.

In a similar way, in the course of history the practice of American courts has been to move away from a fundamentalist style of interpretation of the constitutional principle of freedom of expression. An exception to this trend can be seen in the opinion of Supreme Court Justice Hugo Black who once dogmatically said that:

The phrase 'Congress shall make no law' is composed of plain words, easily understood. It is my belief that there are 'absolutes' in our Bill of Rights, and that they were put there on purpose by men who knew what words meant, and meant their prohibitions to be 'absolutes'. In other words, 'If the text of the Constitution prohibited government from taking some action, then that was it' (Black 1960).

However, Justice Black's absolutist (or 'fundamentalist') views do not represent current American interpretation. Indeed, the American legal tradition is complicated in this case; once you start to apply the easy answers of dogma to real life, you can get really stuck in the details. In practice, the law of free expression almost always involves balancing rights.

For example, in Beauharnais v. Illinois (1952), the U.S. Supreme Court upheld a state group libel law that made it unlawful to defame a race or class of people. The court rejected the protection of free speech in a case where white supremacists petitioned to city government. Indeed, the Justices seemed to contextualize their decision within the history of racial strife in Illinois; the legislature reasonably feared substantial evils would come from unrestrained racial utterances.

Contemporary American law no longer recognizes Beauharnais as a binding precedent, trumped by the rulings in R. A. V. v. City of St. Paul (1992) and Virginia v. Black (2003). In R. A. V. v. City of St. Paul a majority of the Court struck down a law that prohibited the display of a symbol which one knows or has reason to know 'arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender' (R. A. V. v. City of St. Paul 1992). The Court reasoned that since the statute isolated certain words based on their content or viewpoint it therefore violated the First Amendment. Later, in the Virginia v. Black case, a majority of the U.S. Supreme Court held that under certain circumstances, a state could outlaw the display of symbols that intentionally intimidate any person or group of persons. Once again, the majority found that the specific law in question was invalid, but said that in

general principle the First Amendment permits government to outlaw particularly virulent forms of symbolic intimidation – such as cross burning – when the intention is intimidation. However, the Supreme Court insisted on a distinction between illegal ‘threats of intimidation’ and cases like the Ku Klux Klan’s constitutionally protected display of symbols and messages of shared ideology, even if hateful in the view of others (Virginia v. Black 2003). And so the rule in the U.S. has arisen that the principles of free expression protects someone who displays controversial symbols as long as the element of intimidation is absent.

These rules, taken together, illustrate the dictum of Justice Holmes that essentially ‘the life of the law is experience’ and that legal results cannot be reached by the mere rigorous application of logic (Homes 1881). By admitting a reasoned exception to a general principle, the Supreme Court adopted a non-fundamentalist approach. In other words, the Court went beyond the First Amendment’s literal meaning to find the deeper human truths that underlie its general principle.

### **Limitations in the West: Human Rights vs. Freedom of Expression Rights**

In present-day Britain, for example, it is illegal to use the right of free expression to foment racial hatred, and propagation of such attitudes is subject to prosecution and suppression. Recently, Parliament extended the reach of this limitation on free expression to include religious beliefs. The bill approved in 2006 makes it a criminal offense to use threatening words or behavior with the intention of stirring up hatred against any group of people because of religion or atheism (Home

Office 2008).

Throughout Europe there is continuing disagreement whether religious beliefs or faith should be protected. For example, Norwegian law forbids threats and insults to persons on the basis of their skin color, nationality, outlook on life or sexual preference but excludes religious beliefs (Aftenposten 2006). Without attempting to be comprehensive, a quick review shows that many Western nations have laws in place to that could be used limit the socially adverse consequences of freedom of expression directed at religious faith. Nations such as Germany, Ireland, Canada and Sweden all have laws within their freedom of speech traditions that prohibit inciting hate and ridicule towards certain groups or minorities. In Germany, Volksverhetzung (the incitement of hatred against a minority under certain conditions) is a punishable offense under Section 130 of the Strafgesetzbuch (Germany’s criminal code) and can lead to up to five years imprisonment (Federal Ministry of Justice 2008). In Ireland, the Prohibition of Incitement to Hatred Act, proscribes words or behaviors which are ‘threatening, abusive or insulting and are intended or, having regard to all the circumstances, are likely to stir up hatred’ against ‘a group of persons in the State or elsewhere on account of their race, color, nationality, religion, ethnic or national origins, membership of the traveling community or sexual orientation’ (Office of the Attorney General 1989). In Canada, advocating genocide or inciting hatred against any ‘identifiable group’ is an offense under the Criminal Code of Canada. An ‘identifiable group’ is defined as ‘any section of the public distinguished by color, race, religion, ethnic origin or

sexual orientation' (Department of Justice 2008). The Code makes exceptions for cases of statements of truth, and subjects of public debate and religious doctrine (Department of Justice 2008). Sweden prohibits hate speech defined as publicly making statements that threaten or express disrespect for an ethnic group or similar group regarding their race, skin color, national or ethnic origin, faith or sexual orientation (Legislative Support Unit 2008).

So, across the European continent, there is a split of opinion on whether religion should be legally protected. However, there is a reason to believe that the trend is shifting in favor of more rather than less protection for religion and faith. An example of this can be seen in a measure adopted recently by The Council of Europe which could criminalize 'any written material, any image or any other representation of ideas or theories, which advocates, promotes or incites hatred, discrimination or violence, against any individual or group of individuals, based on race, color, descent or national or ethnic origin, as well as religion if used as pretext for any of these factors' (Scheeres 2002). While the Council of Europe is not a legislative body its opinions carry some persuasive force. According to its mission statement, the 47 member countries seek to develop throughout Europe common and democratic principles based on the European Convention on Human Rights and other reference texts on the protection of individuals (Council of Europe 2008).

In the particular case of the republishing of the Danish cartoons by various newspapers, it is instructive to observe that official U.S. voices did not side with the right of freedom of

expression. For example, State Department spokesman Kurtis Cooper said, 'These cartoons are indeed offensive to the belief of Muslims' and added that, 'we all fully recognize and respect freedom of the press and expression but it must be coupled with press responsibility. Inciting religious or ethnic hatreds in this manner is not acceptable' (Hudson 2006). Mr. Cooper's comments compare favorably with other comments made by U.S. officials, where politicians often take a hard-line against Muslims. Indeed, there is often a pronounced and regrettable fundamentalist tendency present in aspects of U.S. discourse about Islam and Muslims. To give just one example, Richard T. Cooper, writing in The Los Angeles Times, has observed that at the highest levels, there is a pronounced tendency in U.S. political discourse to frame the Middle East conflict in terms of good and evil. For example, he observes that immediately after the 11 September 2001 attacks against the U.S. President Bush said he wanted to lead a 'crusade' against terrorism (Cooper 2003). When more culturally sensitive critics called attention to the negative public relations consequences of the President's characterization of U.S. intentions, this statement was later retracted.

Others in positions of power in the U.S. have gone further towards a dogmatic stance, positing the values of Christianity against those of Islam. For example, when discussing the battle against a Muslim warlord in Somalia, Lt. Gen. William G. Boykin, as Deputy Undersecretary of Defense for Intelligence, told a public audience, 'I knew my God was bigger than his. I knew that my God was a real God and his was an idol' (BBC News 2003). He has also said of President Bush, 'He's in

the White House because God put him there' (BBC News 2003). Boykin's characterization of the situation is unfortunate because one of the most significant dangers of a fundamentalist point of view is that it permits one socially intolerant group to demonize another. Demonizing an individual, group or culture generally involves a suspension of the normal considerations of humane behavior and respect. Given that the subjects of demonization are portrayed as evil and/or subhuman beyond any dispute, then any means of self-defense is considered legitimate, in proportion to the threat represented (Nasheed 2007). Recent evidence suggests that many Americans believe that American Muslims constitute a threat to the United States. According to a 2006 poll, 39% of respondents believe that American Muslims aren't loyal to the United States and nearly a third believe that American Muslims are sympathetic to al-Qaida (Haynes 2006). As First Amendment Scholar Charles C. Haynes has observed,

More Americans than I imagined, it appears, are so frustrated, fearful and angry about the terrorist threat that they're no longer willing to sort out what is and isn't authentic Islam. For growing numbers of people in this country, the 'war on terrorism' is now seen as a 'war on Islam'. This characterization of the war is exactly what al-Qaida has worked for years to achieve in its battle for the hearts and minds of Muslims worldwide (Haynes 2006).

From a very practical point of view, public statements that demonize other nations and religions are clearly against

American interests. As Yoji Cole has pointed out, these conditions, along with official statements that the United States 'is at war with Islamic fascists' may result in effectively bringing together groups that would otherwise be opposed to partnering, such as Hamas and Hezbollah, with al-Qaeda (Cole 2006).

### **Fundamentalist Interpretations of Rights and Duties**

We now return to the question, 'Does the liberal conception of the absolute right to freedom of expression include the right to offend deeply held religious beliefs?' In the case of the Danish cartoons, some have answered this question affirmatively. For example, when asked to reflect on the costs and benefits of the incident in early 2006, Joern Mikkelsen, political editor at the Jyllands-Posten, said, 'Yes, it was worth it' (Tynes 2007). In a similar way, Flemming Rose, Jyllands-Posten's culture editor who commissioned the 12 cartoons, has stated:

[Some Muslims] demand a special position, insisting on special consideration of their own religious feelings. It is incompatible with contemporary democracy and freedom of speech, where you must be ready to put up with insults, mockery and ridicule (Tynes 2007).

In essence, the editors of the newspaper take the position that its publication of the cartoons was not intended as an offense but should instead be seen as a contribution to debate regarding criticism of Islam and self-censorship.

As to this point, Professor Jorgen S. Neilsen has indicated that there is a

substantial irony here: modern European nation-states were often constructed through centuries of conflict in which 'religious differences and oppression were explosive' (Nielesen 2008). This works against the argument that the West needs to teach others the value of free expression. He further explains that contemporary European culture and discourse has become secularized, and as a result, the West is less aware of peoples who hold religion central to their lives and identities.

For advocates of free expression in a multicultural world, it seems unwise to advance the doctrine that the principles of freedom of expression require acceptance of expression of hatred and bigotry. A better course for the West is to retain its regard for freedom of expression by building a foundation of education and mutual understanding that would make the insult or abuse of another person's core beliefs unacceptable public behavior. Indeed, it is interesting to note that while the Danish Director of Public Prosecutions' Decision on Possible Criminal Proceedings in the case of Jyllands-Posten's Article 'The Face of Muhammed' upheld the finding of no liability, he concluded his decision with these words:

To the extent publicly made expressions fall within the scope of these rules [of Danish law] there is, therefore, no free and unrestricted right to express opinions about religious subjects (Fode 2006).

### **Limiting Freedom of Expression: Social Sanction**

In 2006, Joseph Ratzinger, after ascending to the papacy as Benedict XVI, quoted a source in a speech that called Muhammad 'evil'. Following his

public statement, enraged rioters burned churches and killed a nun in Somalia. In response, rather than insisting on freedom of speech in the service of theological inquiry, the Pope retracted his statement and entered into a dialogue with Islamic clerics. As Time Magazine reported, 'none of the parties are departing from their theology, but out of frankness, a tenuous bridge seems to have been built' (Van Biema 2008). In this case, the strategic choice of the Pope is a useful example and calls to mind the possibility of social, as opposed to legal, sanction of intolerant and transgressive remarks.

An interesting example of a penalty imposed from outside of a legal system is a recent incident concerning comments made by James Watson, the 1962 Nobel Prize winner. In a 2007 interview with the London Times, Watson was quoted as saying that there was no reason to believe different races separated by geography should have evolved identically, and that while he hoped everyone was equal, 'people who have to deal with black employees find this is not true' (CNN 2007). In response, London's Science Museum canceled Watson's talk there, saying that his words had 'gone beyond the point of acceptable debate' (CNN 2007). In full agreement, the board of trustees at New York's Cold Spring Harbor Laboratory, which Watson has led for nearly four decades, suspended his administrative responsibilities pending a review of his comments (CNN 2007). In this case concerning race rather than religion, Watson crossed the boundaries of acceptable debate and there were immediate and powerful consequences. This clearly signaled social sanction against unacceptable speech. The Watson incident helps us realize that even in a society that places a high value

on free expression, the concept of democracy is not synonymous with absolute individual liberty; indeed, often the will of the majority is at odds with the needs and rights of specific individuals.

Similarly, in reference to the Danish cartoons, Former Danish Prime Minister Poul Nyrup Rasmussen has discussed this point and it is constructive to cite him at length. He began his remarks by saying that he had been shocked to see people attacked, flags burned, embassies trashed, and innocent people losing their jobs. He further said:

This is sad because our history is based on tolerance, solidarity and development. We have fought for justice, and for peaceful co-existence in Palestine. Violence must stop. I want to thank President Barroso for his signal of solidarity to my country. Any attack on one Member State is attack on the whole EU. [But the] EU should not be deemed to be [a] Union of intolerance. Through our long and bloody history, we have learned values of peaceful co-existence the hard way (Rasmussen, (2006).

The cartoon episode, Rasmussen said, cannot be used to create new myths about each other or to stimulate xenophobic and populist movements in Europe or in Islamic world.

It is not a matter of them and us. For too long extremists have played the tune, it is time for moderate and responsible voices to set an agenda for another way and not to add fuel to fire. We should unite all forces for a new dialogue with Islamic world, for

mutual respect beyond all borders to all religions. It is not them against us, we are one (Rasmussen, (2006).

In sum, Rasmussen said that he said this event should be the last act of provocation and that instead there should be a permanent, political, open and constructive dialogue (Rasmussen, 2006).

Indeed, when speaking in Qatar, former U.S. president Bill Clinton strongly criticized the publication of the Danish cartoons, comparing historical anti-Semitism in Europe with anti-Islamic feeling today. He asked, 'So now what are we going to do? [...] Replace the anti-Semitic prejudice with anti-Islamic prejudice?' (AFP 2005).

### **Conclusion**

The case of the Danish cartoons thus calls into focus a clash of two competing principles: the right of freedom of expression and the right of a society to impose restrictions on expression in order to create a foundation for tolerance and mutual accommodation. In its most extreme instances, the example of the Danish cartoons incident shows a fundamentalist turn in the West concerning interpretation of rights and duties. In this context, many have advocated a doctrine of freedom of expression that privileges a rigid adherence to the doctrine of abstract individual freedom. Rather than asking which interpretation of an absolute right prevails over the other, perhaps the best way forward is to attempt to reach an accommodation between the competing principles of fundamentalism and free expression.

In this essay I have tried to show that a fundamentalist turn in

interpreting the principle of freedom of expression, as evidenced by statements like those of the Jyllands-Posten's editors Mikkelsen and Rose. Such statements have been called into question by many participants in the debate over the Danish cartoons who have insisted that freedom of expression is not an absolute within any culture, and it is a problematic absolute in any multicultural environment.

Tolerance is a prerequisite for the free flow of information, and no rational society would choose a rule of law that leads to sectarian strife or civil war. So starting with the assumption that globalization – coexistence – calls for a climate of mutual respect to favor peace among men and nations, I have suggested that free expression and religious fundamentalism collide most irreconcilably when the followers of each doctrine use the same inflexible principles of fundamentalism in rigidly interpreting rights and responsibilities. It is the fundamentalist quality of the debate that makes the words used so harsh and the destructive responses so intense.

However, coming from a Western tradition, we also need to be aware of our own tendency toward a fundamentalist interpretation of the right of free expression. History shows that the actual limits on free expression are democratic decisions, guided as much by historical context as by logic and reason. What's more, the best view seems to deny that free expression is a universal principle unchecked by society. While in the U.S. the First Amendment protects even vicious and cruel parodies of public figures – Hustler Magazine once published a parody of the Reverend Jerry Falwell getting drunk before preaching and then having sex with his mother in an

outhouse (Hustler Magazine v. Falwell 1988) – it would be intolerant to force this broad interpretation of the right of free expression upon other communities and nations. Indeed, there is a critical difference between asking another society to accept one set of principles and values and demanding so.

While the recent trend in the U.S. has been toward a legal regime that protects hateful speech, there is ample evidence of a sharp decrease in its social acceptance. In other words, one does not need the participation of the legal system to create effective social limitations on free expression. In the West, legal restrictions of freedom of expression are unlikely to be workable solutions especially when grounded upon content-based distinctions. So, ultimately, the tension between faith and reason must be counterbalanced by dialog and respect – and we must call upon the 'better angels of our nature' to guide us in this dialogue (Lincoln 1861). A healthy relationship between rights and responsibilities in the context of freedom of expression will not come from a legal regime alone, with its unyielding interpretations of rights and duties. What we need is a deeper understanding of the characteristics of fundamentalism and the range of appropriate responses, especially in the realm of international communications.

There is no society that guarantees absolute freedom of expression. What actually exists in all cases is the freedom of expression within the law, which varies from nation to nation. So while no society should unilaterally compromise its most valued freedoms, it ultimately makes little sense to fight Islamic intolerance with secular Western intolerance.

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