

# THE NEW YORKER

## Copenhagen, Speech, and Violence

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Several weeks ago, *New Yorker* cartoon editor Bob Mankoff conducted the following interview with Flemming Rose, the foreign editor of *Jyllands-Posten*, the Danish daily newspaper known for having published twelve cartoons of the Prophet Muhammad in 2005. Rose, who was then the culture editor, made the decision to publish the cartoons, which sparked attacks and violent protests across the Muslim world, and multiple terrorist plots against *Jyllands-Posten*, Rose, and other staff members.

Rose's book, "The Tyranny of Silence," was published late last year in the U.S. Rose and Mankoff spoke about the book and Rose's views on free speech in person, and continued their conversation via e-mail. This interview is an edited version of their exchanges. Mankoff spoke to Rose today, shortly after a shooting attack on a Copenhagen café. The café was hosting a public event, "Art, Blasphemy, and Freedom of Expression," featuring the artist Lars Vilks, who has also caricatured Muhammad. One person was killed and three were reported injured. Rose, who said he was not at the event, declined to comment at this time.

*More than nine years ago, you commissioned cartoons of the Prophet Muhammad, and a few months later a global storm erupted. What did you take away from that experience, and would you do it again?*

I learned that we are living in a globalized world in which all that is published somewhere immediately is published everywhere. It means that contexts get lost when information travels. It creates enormous space for manipulation and misunderstanding. At the same time, most societies are getting more diverse in terms of culture, ethnicity, and religion, and the consequence is that people with different beliefs and sensibilities have to live side by side. So the question becomes, how do we exercise freedom of speech in this new world?

One way is to say that, if you do not offend my sensibilities, I will refrain from offending yours. That approach sounds nice, and it's popular in many quarters, but if applied in a consistent and democratic way it will lead to a tyranny of silence. In a multicultural and digital world, it's very difficult to say anything that won't be perceived as offensive to somebody either in your own society or in a far-away country.

Another way to go is to ask, what are the minimal limitations on speech in a liberal democracy in order to be able to live together in peace? Very few, I hope. At least, we should get rid of all kinds of "insult" laws that exist in every country except the U.S. It means that people would have to accept that the price we pay for living in a democracy and enjoying its benefits is that we cannot insist on a special right not to be offended. The more diverse a society, the more diverse

ways people will express themselves; that's why a multicultural, multi-ethnic society, in order to remain an open society, needs more, not less, freedom of speech.

*What's the difference between the European and the U.S. approach to free speech, and do you think they will converge or diverge in the future?*

In Europe, we have more legal limitations on speech but less social pressure, while in the U.S. you have very few legal limits but far more social pressure and political correctness.

As a European, I envy the First Amendment, which gives a special status to free speech. In the U.S. constitutional system, the right to freedom of expression cannot be balanced against other rights, even though that doesn't mean that speech isn't regulated. It is. In Europe, freedom of speech doesn't have a special status. It has to be balanced against other rights: the right to dignity, not to be verbally insulted, and so on and so forth. In the U.S., regulation of speech is content-neutral, while in Europe we criminalize certain opinions because they are being perceived to be inciting hatred.

The horror of the Holocaust serves as the founding narrative legitimizing European integration, and it's the key motivation for hate-speech laws on the continent. The European Union has called on all its member states to pass laws criminalizing Holocaust denial. This European narrative is based on a widely accepted interpretation of what led to the Holocaust. It basically says that anti-Semitic hate speech was the decisive trigger, that evil words beget evil deeds, that if only the Weimar government had clamped down on the National Socialists' verbal persecution of the Jews in the years prior to Hitler's rise to power, then the Holocaust would never have happened. I was confronted with this argument during the Danish cartoon crisis, in 2006. People condemned the cartoons as Islamophobic, and warned that the demonization of Muslims might trigger mass violence. "We know what happened in the twenties and thirties," critical voices argued, referring to the seemingly inevitable link between speech and violence.

Researching my book, I looked into what actually happened in the Weimar Republic. I found that, contrary to what most people think, Weimar Germany did have hate-speech laws, and they were applied quite frequently. The assertion that Nazi propaganda played a significant role in mobilizing anti-Jewish sentiment is, of course, irrefutable. But to claim that the Holocaust could have been prevented if only anti-Semitic speech and Nazi propaganda had been banned has little basis in reality. Leading Nazis such as Joseph Goebbels, Theodor Fritsch, and Julius Streicher were all prosecuted for anti-Semitic speech. Streicher served two prison sentences. Rather than deterring the Nazis and countering anti-Semitism, the many court cases served as effective public-relations machinery, affording Streicher the kind of attention he would never have found in a climate of a free and open debate. In the years from 1923 to 1933, *Der Stürmer* [Streicher's newspaper] was either confiscated or editors taken to court on no fewer than thirty-six occasions. The more charges Streicher faced, the greater became the admiration of his supporters. The courts became an important platform for Streicher's campaign against the Jews. In the words of a present-day civil-rights campaigner, pre-Hitler Germany had laws very much like the anti-hate laws of today, and they were enforced with some vigor. As history so painfully testifies, this type of legislation proved ineffectual on the one occasion when there was a real argument for it.

I have yet to be presented with evidence for the proposition that hate-speech laws are an effective instrument to prevent violence. Seen from Europe, the history of free speech in the U.S. undermines those who insist on a causal link between legalization of hate speech, on the one hand, and racist violence and killings, on the other. Throughout the twentieth century, the U.S. witnessed a gradual relaxation of restrictions on speech; nonetheless, today racism and racial discrimination is less of a problem than it was a hundred years ago.

I fear and hope that the European and U.S. approach to free speech will converge. I fear that the U.S. will move in the direction of Europe, in terms of passing hate-speech laws, which de facto do exist on college campuses around the country. On the other hand, I hope that the U.S. approach and experience will inspire Europe to get rid of hate-speech laws, though right now things are moving in the other direction.

*What do you make of the fact that, right after four million people took to the streets in Paris and other French cities to support free speech, the French authorities arrested the comedian Dieudonné, after he published an insulting comment on his Facebook page?*

That example goes to the heart of the problem with hate-speech laws in France and other European countries. A Muslim organization in France has just brought charges against *Charlie Hebdo* for incitement to religious hatred, but it's likely that the magazine will be acquitted, as in earlier cases. At the same time, the French comedian and anti-Semite Dieudonné is awaiting judgment on charges of incitement to ethnic or racial hatred, and is on trial for "glorifying terrorism," after having posted on Facebook, "*Je me sens Charlie Coulibaly*" ("I feel like Charlie Coulibaly"), an apparent reference to Amedy Coulibaly, the gunman who killed the four victims in the kosher market. Over the past decade or so, Dieudonné has been convicted eight times for anti-Semitic speech.

There are historical reasons for the fact that it isn't a criminal offense to mock a religious doctrine, while it's a crime to deny the Holocaust or say something racist. I do think there is a difference between the two, but it's a moral one. Yes, Dieudonné crossed a line that deserves condemnation in the public arena, but I don't think he committed a crime. He is being prosecuted because of his deplorable opinions, not because he incited violence.

I think Europe should do whatever it can to fight Holocaust denial, but I don't believe the best way to accomplish this is through bans and convictions in court. There is very little evidence that banning certain opinions will make them disappear. Just ask people who used to live behind the Iron Curtain, where I spent a good part of my life as a student and a reporter. Oppressive regimes believe that, if they criminalize certain words and opinions, then the reality behind them ceases to exist. History tells another story.

Laws against Holocaust denial are especially problematic in a situation where quite a few immigrants from the Muslim world insist that the Holocaust didn't happen. We need to confront these prejudices and lies in an open and free debate. If we don't, most people will keep these outrageous views to themselves, and they will be even less willing to reconsider them.

*People have said that publishing cartoons targeting the Prophet Muhammad or Islam is racist and implies mocking a minority—and, more broadly, that satire shouldn't "kick down" on those who are disadvantaged but "punch up" at those of privilege. What's your response to that?*

Labelling these images racist is misleading and dangerous. If you characterize race and religion as similar, you risk supporting those sinister forces who claim that apostasy is impossible and abandonment of religion a capital offense. Many Muslims believe they are born into their faith and it would be a serious crime to quit Islam. They treat religion as if it is a race. We should not accept that logic.

Ever since the publication of twelve cartoons depicting the Prophet Muhammad, I have referred to the important distinction between targeting a religious doctrine for ridicule and mockery and attacking a group of people like the Jews in cartoons in the Arab world or in the Nazi magazine *Der Stürmer*. To assert that only minorities may tell jokes about themselves or criticize other minorities is both grossly discriminating and foolish. By such logic, only Nazis may criticize Nazis, since, in present-day Europe, they are a persecuted and marginalized minority. Today a majority of the world opposes female circumcision, forced marriages, and ritual violence against women. Should we be unable to criticize cultures that still adhere to those practices because they are minorities?

On the minority/majority question, one of the most laudable achievements of liberal democracy is that it provides minorities with equal rights and protection against discrimination. That's crucial. Sometimes, though, we forget that the most important minority in a democracy is the individual, not the group. This is of special importance in a globalized and borderless world.

The "kicking down" argument implies that Muslims who believe that cartoons lampooning their prophet equal an attack on their faith are a homogenous group. That's not the case. It also implies that structures of power and community are stable entities. They are not. I and my newspaper belonged to a powerful majority in Denmark when we published the Muhammad cartoons, but, in February, 2006, when people in Muslim countries attacked Danish property, boycotted Danish products, and called for other sanctions, we turned into an embattled minority. In today's world, individuals have different identities and belong to different groups and communities. A Muslim can be in a minority at the level of the national community, but he can be part of a powerful majority in his local community in a Copenhagen suburb. These ever-changing power relations and community structures make it very difficult to apply the majority/minority argument in a consistent and meaningful way.

*The title of your book really refers to self-censorship, which you view with disfavor. Don't we all self-censor for perfectly good reasons of tact, politeness, and taste?*

Yes, we do, and we cannot live without censoring ourselves, but there is a difference to be made between tact, politeness, and taste, on the one hand, and self-censorship, on the other. The former is something you impose on yourself voluntarily, or in order to behave in accordance with an etiquette. The latter form of censoring yourself is different. It implies that there is something that you would like to say, but you refrain from saying it because you fear what might happen to you if you do it. This is the kind of intimidation that serves as the ruling mechanism in a fear society.

After the killings in Paris, the British historian Timothy Garton Ash called it “the assassin’s veto.”

*From reading your book, I know all the ways in which speech should not be restricted. That said, when should it be?*

Incitement to violence that represents a clear and present danger, though the concept has a history that indicates that it may be manipulated to punish speech that doesn’t incite violence or criminal action. The clear-and-present-danger test was introduced by Supreme Court Justice Oliver Wendell Holmes, in 1919. Holmes used it when the Supreme Court upheld a ruling against Charles Schenck, a Socialist who had passed out flyers on the street referring to the government draft for World War I as slavery that should be combatted using legal means. Holmes compared the distribution of the flyers to falsely shouting “fire” in a theatre and causing a panic, though a flyer contains a political message urging the reader to think for himself and decide for himself what to do. Shouting “fire” is not a call for thoughtful reaction but for swift action. Holmes applied the clear-and-present-danger test in a manipulative way, in order to avoid protection of speech that he disliked. He later retracted this application of the clear-and-present-danger test. Today the clear-and-present-danger test implies that inciting speech beyond a reasonable doubt will be followed by imminent lawless action.

The notion of incitement to violence is different in Europe. In July, 2007, four Muslims were sentenced to long prison terms for inciting violence in connection with protests against the Muhammad cartoons outside the Danish Embassy in London, in February, 2006. One of the men had put on a belt similar to those worn by suicide bombers, while others were carrying placards urging the killing of those who had insulted Islam. It is unlikely that these young men would have been convicted in the U.S., since none of the individuals being threatened was within reach at the time. There was no clear and present danger that their incitement to violence would be followed by a violent attack on the people they were targeting. This is a strong position to take, but I can agree with it in good conscience, as I was one of the people threatened.