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Should groups in liberal democracies have special rights to limit speech that is offensive to their culture or religion?

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Abstract

My topic is an analysis of the various theories of multiculturalism and how they would respond to controversial issues concerning freedom of speech with regard to religious sensitivities.

While Western nations have often concentrated on 'nation building', or the integration of citizens into public institutions, there has been the emerging trend of minority rights and 'multiculturalism' (Kymlicka, 2001, pp. 2-3). Groups with diverse interests and political agendas are resisting assimilation into wider society and are struggling for acceptance, respect and public affirmation of their differences (Parekh, 2000, p. 1). While the nation state has not become obsolete, many of its traditional functions have lost their relevance and value and we therefore need to reconceptualize its nature and role (Parekh, 2000, pp. 193-194). Many nations have a new found interest in multicultural policies and Australia has declared itself multicultural in the early 1970's as did Canada; and the debate around multicultural policies has raged on in Britain, Germany and Israel since the 1960's (Parekh, 2000, p. 5). In Kymlicka's view, public opinion has shifted from seeing minority rights as a *pragmatic compromise* to a *matter of fundamental justice* (Kymlicka, 2001, p. 6).

One controversy that multiculturalist policies have raised is issues of tolerance of cultural difference, including group rights. This is evident on a daily basis, from the storm around Muslim girls wearing headscarves in France, to the debate surrounding the use of French as a first language in Quebec; multiculturalism has been asked, what should be tolerated?

In my dissertation I will look at the controversial topic of freedom of speech within liberal democratic systems. Freedom of speech is an integral part of a democratic system, and in democratic systems discussion is often cited as a means of reaching consensus and compromise. Free speech is also intended to explore new ways of thinking and to criticize ways of thinking and living. The difficulty comes when there are certain topics, such as the lampooning of Islam and the Prophet and denying the Holocaust, which are deemed to be off limits by certain groups. Different liberal philosophies however have differing views on what the limits of free speech are. I will be looking into these philosophies and whether the limits they set apply to the Danish cartoon controversy and to the David Irving case of Holocaust denialism.

There are three broad theories of how liberal systems ought to deal with the demands of a plural society. These are 'classical liberalism', 'liberal nationalism' and 'multiculturalism'. In broad terms, classical liberal theory is intolerant of special group rights, liberal-nationalism affirms certain kinds of

group rights within a liberal framework, and multiculturalism asserts the equality of cultures, and questions the primacy of liberalism.

The question that I will be answering is how these theories deal with group rights when those groups ask for the limiting of speech that is deemed offensive to group culture or religion. In a more global society, different cultural and religious groups have differing levels of tolerance toward certain kinds of speech. Certain groups value freedom of speech with very few constraints, whilst others believe that that some speech is harmful and disrespectful to their culture or religion.

Questions about the viability of these different cultural and religious groups co-existing have been highlighted by recent events. The two cases to be explored in my analysis will be, firstly, the outcry following the publication of cartoons of the Prophet Muhammed in Denmark. Many of these cartoons were seen to be derogatory to Muslims and the depiction of the Prophet is also not allowed in many Islamic traditions. Much of Danish society felt that although these cartoons were offensive and in bad taste, they had to protect their right to freedom even though it may be offensive to others. This pits the Islamic culture against that of the Danish 'liberal' culture and asks the question of whether 'liberal' culture or 'multiculturalism' can assure religious tolerance?

My second example is the controversial case involving the historian David Irving and his questioning of the Holocaust. This questioning led to his imprisonment in Austria for the crimes of Holocaust denial. This case involves someone expressing his freedom of speech, yet many liberal-democratic countries have laws expressly prohibiting this kind of Holocaust denial. The reasoning behind such laws is to protect the sentiments of Jewish community and the suffering they endured under the Holocaust.

In both cases, the interests of religious groups are invoked as being sufficiently harmed, and the liberal right to free speech should therefore be limited. Hence the thesis looks to explore religious tolerance available in classical liberal, liberal-nationalist and multiculturalist systems at a theoretical level. I will also argue that certain kinds and manner of speech, such as speech that lampoons and offends group sensibilities, should be limited in certain cases and that liberal-nationalism provides the most fair way of adjudicating disputes.

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1. Introduction: The clash of civilization debate

Over the last two decades the debate about whether liberal-democratic capitalism has triumphed for the foreseeable future has become more intense. On one hand there are those like Francis Fukuyama, who believe that the 'end of history' is near and that institutionally the world will become liberal-democratic capitalist. On the other hand there are those like Samuel Huntington who believe that the major civilizations will clash and ideological, religious and economic conflict will continue. There are thus varying views on how to deal with different cultures in a modern society. There are those who follow Fukuyama and believe that by following a liberal-democratic capitalist system we are following the best and most just system. Others however believe in the importance of other cultures and believe that if we solely follow a liberal-democratic system much conflict will ensue. They therefore seek to understand and integrate others and their systems into the political arena.

Fukuyama celebrates the victory of liberal economic and political systems. In Fukuyama's view it is 'evident first of all in the total exhaustion of viable systematic alternatives to Western liberalism' (Fukuyama, 1989, p. 1). This is what he calls the 'end of history' or the end point in man's ideological evolution, and the universalisation of Western liberal democracy. Fukuyama cites Hegel in his belief that 'ideology' (including religion, culture and complex moral values) guides one's behaviour and material choices but believes that the material world can affect this consciousness. Fukuyama believes that liberalism has become the common ideological standpoint for man, since the 'death' of fascism and communism. Religion does not offer any real political alternatives, except Islam's theocratic states, which lack broad appeal, and further, religious impulses are also satisfied within liberal societies. Nationalism can contradict liberalism; however, nationalism is often not a single idea but several phenomena with groups wanting different goals. Most nationalist groups only seek independence, rather than having more substantive political goals. This 'end of history' in Fukuyama's view does not mean the end of conflict as there could still be ethnic and nationalist violence, unresolved grievances and wars of liberation. Instead it means the end of philosophical and ideological debate on political and economic systems that will best suit human kind.

In contrast to this sanguine conclusion we find the work of Samuel Huntington who holds not only that substantial conflict will endure into the future, but that 'the fundamental source of conflict in this new world will not be primarily ideological or primarily economic. Rather, the great divisions among humankind and the dominating source of conflict will be cultural' (Huntington, 1993, p. 1).

Huntington describes what he calls a 'civilization' as 'the highest cultural grouping of people and the broadest level of cultural identity people have short of that which distinguishes humans from other species. It is defined both by common objective elements, such as language, history, religion, customs, institutions, and by the subjective self-identification of people' (Huntington, 1993, p. 2). Huntington believes that the causes of the conflict will be firstly; the differences of culture, language and more importantly religion. Secondly, the fact that the world is becoming smaller and there are increasing interactions between peoples, as well as increasing immigration. Thirdly, social change and modernization has resulted in people seeking a local identity and often this takes the form of religion. Many groups in turn are turning inward and, for example, 're-Islamising'. Fourthly, a culture's characteristics are less mutable and less easily compromised than political or economic ones and as people define their identity in ethnic and religious terms they begin to see relations as 'us' versus 'them'.

To the argument that Western civilization befits all men, Huntington states:

At a superficial level much of Western culture has indeed permeated the rest of the world. At a more basic level, however, Western concepts differ fundamentally from those prevalent in other civilizations. Western ideas of individualism, liberalism, constitutionalism, human rights, equality, liberty, the rule of law, democracy, free markets, the separation of church and state, often have little resonance in Islamic, Confucian, Japanese, Hindu, Buddhist or Orthodox cultures (1993, p. 14).

The alternatives to adopting western values and 'band-wagoning' are that states may become isolationist or develop power to balance Western power while preserving indigenous values. As Roy states, 'at a time when the territorial borders between great civilizations are fading away, mental borders are being reinvented to give second life to the ghost of lost civilizations: multiculturalism, minority groups, clash or dialogue of civilizations, communitarianism and so on. Ethnicity and religion are called to draw new borders between groups whose identity relies on a performative definition: we are what we say we are, or what others say we are' (Roy, 2005, p. 7). From a philosophical point of view, Huntington believes the West will have to develop a more profound understanding of the basic religious and philosophical assumptions underlying other cultures. Cultures will have to seek out common ground and try to co-exist with one another as different civilizations if conflict is to be turned into co-operation.

What this debate highlights is the significance, albeit a contested significance, of religion for politics into the future. This empirical debate highlights the importance of engaging with normative questions around the relationship between religion and the liberal state, and it is one such set of normative questions with which this thesis engages. More specifically, this paper is focused on the question of the relationship between religious belief and the liberal principle of free speech. In recent times there have been a number of controversies where the rights of religious groups have clashed with the liberal right to free speech. I want to explore this debate through three competing normative theoretical views: classical liberalism, liberal nationalism and multiculturalism. Although both liberal nationalism and multiculturalism are often seen as alternative theoretical positions to classical liberalism, I believe that they are founded on liberal principles and therefore should be regarded as different versions of liberalism.

In the context of the contradictory views of Fukuyama and Huntington, we can see where the different strands of liberal belief come from. While classical liberals will support Fukuyama's view that classical liberalism is the most progressive and fairest way to organise a multicultural society, liberal nationalists will point out that conflicts of liberation and nationalism still exist. Therefore in their view, states should be built around liberal principles but still allow for specific cultural and nationalists agendas to avoid conflict. Multiculturalists on the other hand will cite Huntington and point out that different cultures exist and these cultures are often inconsistent with liberalism. Given that all cultures have some, but not full, insight into the human condition, both co-operation and progress require new forms of accommodation that stretch beyond traditional liberal protections on individual rights. Moreover, as dialogue and communication are the tools needed to reach compromise and understanding between groups, and there are varying degrees as to what should fall into the realm of freedom of speech I will analyse each theory and their reaction to controversial free speech cases.

Before engaging with these theories, let me first outline two cases to be explored in my study.

2. The two cases: the Danish Cartoons and Holocaust denialism

In the last few years, two cases linking religion, tolerance and freedom of speech to free speech have gripped the international imagination. The two cases studied are firstly, the recent controversy surrounding the cartoons published in the *Jyllands-Posten* newspaper in Denmark and secondly, David Irving's Holocaust denialism case. These cases will be used as an illustration of the repercussions when free speech and religion conflict. I will also try and use these cases as a marker to show what may be construed as legitimate and illegitimate speech. Thus when one applies the cases to the different theories, a clearer picture of the limits of free speech is drawn.

2.1 *The Danish Cartoons*

The *Jyllands-Posten*¹ cartoon controversy started on the 30th of September 2005. Twelve cartoons were published in Denmark's most widely read newspaper (*Jyllands-Posten*). The cartoons contained depictions of the Prophet Muhammad, which is banned by Sunni Islamic traditions. (See Appendix One for the cartoons.) In addition, other cartoons, specifically numbers, a, c, d, and i contained caricatures that were offensive to Muslims, including depictions of the Prophet with a bomb on his head. The chain of events that followed led to widespread protests and even violence. Initially, Danish Muslim organizations and Imams objected to these cartoons and approached the Danish government with their concerns. Muslim organizations filed complaints that the publication of the cartoons constituted a criminal offence, but this view was rejected by the Danish courts. Delegations of Imams and Muslim politicians tried to work out an equitable solution but this was in vain. The Imams approached Muslim governments in order for them to intervene on their behalf, but this was also in vain. Protests soon began over the publication of the cartoons and once other newspapers reprinted the cartoons, protests spread across the Muslim world as well (Harkness, Magid, Roberts, & Richardson, 2007). Some protests resulted in violence, death and the destruction of Danish embassies in Syria, Lebanon and Iran (Arson and Death Threats as Muhammad Caricature Controversy Escalates, 2006). It is estimated that 139 people died (Post, 2007, p. 72). The controversy has continued to the present. For example, Danish police arrested three men on conspiracy to commit murder against the cartoonist who drew cartoon (b) (Murder plot against Danish cartoonist, 2008). In addition, in March 2008, it was reported that a tape was posted on the Internet. This tape allegedly has the voice of Al-Qaeda leader Osama bin Laden warning of 'grave

¹ *Jyllands-Posten* is an independent newspaper with a weekday circulation of 150 000 and is liberal-conservative in its views

consequences to the European Union' for the cartoons. He claimed the cartoons were part of a 'crusade against Muslims' (Noueihed, 2008). In June 2008, eight people were killed and about thirty injured when a suicide bomber targeted the Danish embassy in Islamabad (Wilkinson, 2008).

Opinion on this matter diverged strongly. Some labelled the cartoons as blasphemous and Islamophobic, and humiliating to a Danish religious minority. Many felt that they reinforced stereotypes about Muslims and violence, which are already a problem in the Western world. For example, half of Australian children view Muslims as terrorists (Milojevic, 2006). Supporters of the cartoons felt that their publication was justified by the right to free speech and the fact that other religions have been criticized in this manner as well. Some Danish journalists felt they were forced to self-censor to avoid reprisals with regard to Islam, while others empathised with Muslims and respected Muslim feelings. According to Johan Galtung, the cartoons can be seen as a 'verbal aggression' and a direct violence against Muslims, using symbols as arms (Milojevic, 2006).

In response to the publication of the cartoons and the ensuing public outcry, a judicial inquiry into the cartoons was conducted in terms of blasphemy and public disorder laws. However, the cartoons were not found to be a criminal offence as freedom of speech was upheld as a key right. In the courts verdict they found the cartoons were a subject of public interest and journalists had a freedom of expression that trumped other concerns (Tisdall, 2006). Notably, though, in February 2006, *Jyllands-Posten* refused to publish another set of cartoons that were deemed to offend religious sensitivities, in this case, Holocaust denial cartoons offered by an Iranian newspaper (McInern, 2006). The Tehran newspaper *Hamshahri* had run a competition for the best Holocaust denial cartoons. The paper said it wanted to test the West's tolerance for drawings about the Holocaust. The entries on display came from nations including United States, Indonesia and Turkey (Karimi, 2006). Six of the less controversial entries were later published by *Dagbladet Information*, after the editors consulted the main rabbi in Copenhagen, and three cartoons were in fact later reprinted in *Jyllands-Posten*. After the competition was over, *Jyllands-Posten* also reprinted the winning and runner-up cartoons. The resistance to printing these cartoons marks a major contrast to the ease with which the Prophet Muhammed cartoons were published. Although the subjects of both sets of cartoons were sensitive to religious groups, the *Jyllands-Posten* appears to have shown a double standard in consulting one set of religious authorities but not the other.

Many Muslim leaders issued death threats and boycott campaigns against the Danish government and journalists, while many Danes supported the idea of free speech (Tisdall, 2006). However, this divergence should not be viewed in isolation. As Tisdall states

It is clear that the uproar has deeper causes than Westerners, struggling to fathom the rage sparked by the *Jyllands-Posten's* crude caricatures, and Muslims, fearing a growing clash of cultures, ignore at their peril (Tisdall, 2006).

The causes that Tisdall speaks of are problems such as increasing Islamophobia, unequal socio-economic conditions and racism. In this regard it is noteworthy that Dutch Muslims and many European Muslims have difficulties integrating into Western culture. As Brinks points out, 'a 2003 survey by the Market and Opinion Research Institute (NIPO) shows, that most Muslims do not feel at home in Dutch society: 85% of those interviewed did not feel welcome and 69% agreed with the proposition that however much a Muslim adapts to Dutch society, he or she will stay an outsider forever. Only 9% of the native population thought Muslims did enough to integrate into Dutch society compared with 52% of Muslims and 51% of non-Muslims agreed with the proposition that they were scared by the growing number of Muslims in the Netherlands. Furthermore, 24% of Muslims were of the opinion that in general Western culture exerts a bad influence' (Brinks, 2005, 3, p. 7).

The cartoon controversy highlights the tension between difference in attitudes to freedom of speech between Denmark and many Muslims. Freedom of speech is part of the Danish constitution and has always been defended to the extent that Denmark has received official protest from Germany for printing neo-Nazi propaganda. However, in the 'Reporters without Borders' Worldwide Press Freedom Index Denmark dropped from joint first place to nineteenth because of serious threats against the authors of the Mohammed cartoons. The threats have led to a situation in which, for the first time in recent years in a country that is very observant of civil liberties, journalists have had to have police protection due to threats against them because of their work (Reporters without Borders). However, Cohen-Almagor feels that the media have an important part to play and should be responsible when reporting the news and they should not incite people to violence and report speech that causes trouble. In his view 'responsible media are moral media' (Cohen-Almagor, 2006, p. 126). Even the editor-in-chief of the *Jyllands Posten* stated, that if he knew the lives of Danish citizens and soldiers would be threatened he would not have published the cartoons (Post, 2007). However, Harkness and others feel that 'good' journalism has many meanings, as there is a highly

complex and developed level of ethics behind the media based on culture and religion. This 'good' journalism is thus influenced by culture as each culture establishes its own levels of freedom and expressions (Harkness, Magid, Roberts, & Richardson, 2007).

From a Muslim standpoint blasphemy is punishable by death and specific mention is made that speech which 'ridicules' others is unacceptable and at times punishable (Kamali, 1997, p. 212). In an Islamic society, 'freedom of speech like other liberties, is subservient to the 'essential interests' and values which are needed to maintain a stable socio-political order. Therefore, the exercise of this freedom must not jeopardize the five essential values of life, faith, intellect, lineage and property' (Kamali, 1997, p. 166). Kamali does state however, that:

There may be instances, however, in some detailed formulations of the established schools of law, which may not serve the ideals of harmony and cohesion in the pluralistic and multi-religious societies of our time. In such instances, recourse to the broad principles of justice in the Qur'an and the *Sunnah*, and a fresh look at the principles objectives of the *Shariah*, could be recommended. This may be done in accordance with the true spirit of unfettered *ijithad*² in order to effect changes that reflect a more considered approach to the Qur'anic standards of equality and justice (Kamali, 1997, p. 107).

2.2 *David Irving's Holocaust Denialism*

The second case study is David Irving's Holocaust denialism. Holocaust denialism has also received much media attention after the imprisonment of historian David Irving. David Irving denied the Holocaust in two speeches made in Austria in 1989. He was banned from the country and a warrant for his arrest was issued. In 1992 he was found by a German court to be a Holocaust denier and was fined 30000DM. He was also barred from entering Italy, Canada, Australia, New Zealand and South Africa. In September 1996 he filed a libel suit against Deborah Lipstadt and her publisher Penguin Books for publishing Lipstadt's book *Denying the Holocaust*. In this book Lipstadt accused Irving of being a Holocaust denier, falsifier and bigot and furthermore accused him of manipulating and distorting documents. He also sued Gitta Sereny for libel for an article she wrote about him. The 2000 trial with Lipstadt received much more media attention than the 2001 Sereny trial. In the Lipstadt trial Irving claimed that he was libelled under the grounds that he was a Holocaust denier

² Kamali explains *ijithad* as 'the total expenditure of effort by a jurist to deduce, with a degree of probability, the rules of *Shariah* from the evidence and indications that are found in the sources (Kamali, 1997).'

but, in his opinion, there was no Holocaust to deny. His suit was filed in the English High Court where the burden of proof was on Lipstadt. During the trial Irving, who represented himself, focused on his right to free speech and claimed to be a victim of a Jewish conspiracy. He was found to be a Holocaust denier, anti-Semitic and racist. He was also found to be a person who associated with neo-Nazis and who deliberately misrepresented and manipulated historical evidence for his own ideological reasons (*The Ruling Against David Irving*, 2000).

In his works Irving claimed the total number of Jews killed during the Holocaust was 2,7 million, far less than the accepted total of six million. He also claims that 'Hitler protected the Jews and tried to put off the Final Solution – the systematic killing of all European Jews – at least until after World War Two' (Mail and Guardian Online, 2006). He lost his appeal and his previous works now were under intense scrutiny. He was liable to pay all the costs of the trials and was financially ruined (Duff, 2006). Irving owes over two million pounds in legal costs and was declared bankrupt (Memories are made of this, 2002). Irving claims that the libel case had cost him thirteen million dollars (Mail and Guardian Online, 2006).

In November 2005 he was arrested for speech crimes and for trivializing the Holocaust on the order of an Austrian Court. This arrest stemmed from the speeches he made in 1989 in which he referred to the Auschwitz gas chambers as a 'fairy tale', referred to surviving death camp witnesses as 'psychiatric cases' and asserted that there were no extermination camps (Historian jailed for denying Holocaust, 2006). In 2006 he pled guilty to trivializing, grossly playing down and denying the Holocaust. He was sentenced to three years imprisonment under Austrian federal law. He appealed his case, two-thirds of his prison time was reduced to probation and thereafter he was released and returned to Britain, though he was banned from Austria. Austria insists that the prohibition statute used to convict him is not contrary to international law and human rights standards. They have also argued that the statute is necessary to prevent disorder and to protect the rights of others. Irving would have had to appeal to the European Court of Human Rights if he were to argue that his imprisonment was an excessive and illegal intrusion into his right of freedom of expression. The imprisonment has been criticized for not allowing free speech and setting up the 'slippery slope' that entails imprisoning people because of unpopular opinions. Some even feel Irving's imprisonment has made him a martyr. The issue of free speech was reignited recently when Irving and far right politician and leader of the BNP (British National Party) Nick Griffin were invited by the Oxford Union to debate the limits of free speech. Their presence there sparked rowdy protests and debate from many sides (Protestors Disrupt Oxford Debate, 2007).

However, 'Germany, for example, has taken a very strong stance against Holocaust denial. This communal orientation has arisen for several reasons – the trauma of the Nazi past, the rise of violent skin-head movements after German reunification, and the belief that such material has little pedagogical value' (Hasian, 1999). Authors such as Cohen-Almagor believe that Holocaust denial is hate speech as it promotes enmity against a group based on race and religion. It also justifies evil against a people. There are those who are unhappy that Irving falsified evidence, and believe that his status as an academic and 'authority' should make him more responsible about the kinds of things he writes (Bentley, 2006).

Alongside the 'slippery slope' argument, there is also the belief held by others such as Peter Singer that there is no threat of a return to Nazism in places like Austria, and as a result we should be free to say what many people may find false and offensive (Singer, 2006). Within academic circles as well, the argument put forth by pro-speech advocates is that faculty members should also be allowed to publish their findings and once these findings are published they can be debated (Foote, 2004 (128)). Therefore in Irving's case, once his theories are published they will be open to debate where his evidence may be refuted and disproved.

Both these cases have to do with the conflict between what speech should be allowed or banned in different liberal-democratic societies. These cases also raises questions of religious tolerance, as the Danish cartoons specifically target Islamic belief and Holocaust denialism indirectly targets Judaism. The fundamental question is: at what point, if ever, will a liberal-democratic society limit speech that is considered offensive to a religious grouping? Although this question is focused around the issue of free speech, it can be seen as one instance of a broader debate on the proper relationship between the liberal state and cultural groups. Liberalism has also based itself on a number of principles such as free expression, freedom of association and human rights. But, within a democratic system, these rights are not unlimited and boundaries must be set.

This setting of boundaries and the questioning of what can be tolerated is known as the 'democratic catch'. Different liberal theorists have different boundaries. Free expression, for example, cannot be tolerated when it includes false statements that libel a person or which infringes on copyrights (Cohen-Almagor, 2006). However, there are certain cases which fall into a liberal 'grey area' and different liberal systems have different theories about what should be allowed and what should not. A common form this debate takes is about whether minority cultural or religious groups ought to

have special group rights or whether individual rights suffice. This is a debate that has three main protagonists: traditional liberals who hold that individual rights suffice, and that group rights often oppress individual members of the minority group; liberal nationalists who hold that certain group rights are necessary to secure the individual liberty of minority group members; and multiculturalists who hold that group rights ought to trump individual rights much of the time.

In engaging with the question of the limits of free speech and religion I will investigate the two cases from the perspective of each of these major traditions. More specifically, in Chapter One I look at the classical liberal arguments of John Stuart Mill and Brian Barry. In Chapter Two I consider Will Kymlicka and Charles Taylor's views under the liberal nationalist perspective; and in Chapter Three I look at the multiculturalist positions of Marion Iris Young and Bhikhu Parekh. My own argument emerges in the analysis of each chapter, and in essence I hold for a position similar to the liberal-nationalist position which, while affirming the importance of being free to make truth-claims, limits especially the style of such claims depending on the relevant social context. This allows for criticism without ridicule where it would be significantly offensive, or even the banning of certain ideas if the social consequences will be clearly harmful. On these grounds one could defend the requirement to consult religious leaders before publishing a mocking cartoon in Denmark, and the outright banning of talk that will cause substantive harm against ethnic and religious groups, most obviously incitements to violence but potentially also holocaust denialism in unfree and anti-Semitic societies.

3. The Classical Liberal Position

The classical liberal position is derived mainly from Enlightenment-inspired theorists in which liberal values such as freedom of association, freedom of religion and freedom of speech and other 'natural rights' are deemed necessary for the functioning of an ideal 'liberal' and free society. Classical liberals focus on the individuals and his or her inherent rights. In exploring the classical liberal view I will consider the view of probably the most famous liberals of all, John Stuart Mill, as well as a contemporary advocate of a similar position, Brian Barry.

3.1 John Stuart Mill

Mill is a nineteenth century English philosopher and social thinker who valued the freedom a person has to pursue their conception of the 'good life'. Mill was a utilitarian but in also believed that there are certain infallible rights that should not be infringed upon. In order to determine Mill's stance toward the two cases one must firstly look at his overall conception of what the free society would look like, and where the issue of free speech fits into this. In his famous book *On Liberty*, Mill deals with the nature and limits of power which can legitimately be exercised by society over the individual. For Mill, there is always a struggle between liberty and authority and in previous times this liberty was understood as protection against the tyranny of political rulers (Mill, 1996, p.5). The state, for Mill, is often a threat to individual freedom and therefore should have clear boundaries to legitimate interference in that individual's life. Individuals' protection against leaders typically took two forms; firstly, there were immunities or political rights which, Mill held, justified rebellion should they be infringed. Secondly, there was the establishment of a constitution and specific checks put into place to safeguard the people against their leaders. Today we would see a Bill of Rights as central to this protection.

Mill also criticised democratic government as insufficient to uphold individual liberty, he notes that even in a democracy there is still the chance of tyranny in the form of 'tyranny of the majority' whereby the majority oppresses a minority using majoritarian rule. Voting to imprison or enslave an ethnic minority is an example of a decision which is simultaneously oppressive but also (feasibly) popular. Hence, while democracy is seen by Mill as necessary for liberty, as electoral competition requires certain political and civil liberties, it is not sufficient, as there is the potential that the majority may oppress minorities. Importantly, Mill argues that the source of this tyranny is not only the laws set by the majority, but also dominant social opinion. Therefore he argues that there must be protection from both the magistrate and from prevailing opinion. 'The murder of liberty he

feared was less than by political oppression than by the social pressure to conform' (Mill, 1996, p. xii). In sum, Mill embraced an individualist view of liberty, and believed that the normative role of political power was to secure 'natural rights' to life, free speech, free worship and property. He wanted to preserve a private sphere that demarcated society's interference with the individual. For Mill, it is this demarcation between the public and private spheres that is important in a liberal society.

The practical problem for Mill is where to draw the line between individual independence and social control. What should these rules be that constitute this boundary between private and public? In practice Mill observes that it is custom which shapes one's beliefs in this regard, and the dominant custom in any society is usually that of the ascendant class. Further, another determining principle of morality has been the servility of man towards his gods, and Mill notes with concern that man has gone to the extent of burning heretics in the name of gods (Mill, 1996, pp. 25-28). For these reasons, Mill would therefore guard against these kinds of customary or religious rules and instead one should follow liberal principles. More specifically, Mill invokes what is known as the 'harm principle'. The harm principle can be explained broadly by stating that 'the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant' (Mill, 1996, p. 13). Over himself, his body, and his mind the individual is sovereign.

In unpacking the harm principle two further distinctions are important for Mill: first, apparent 'inaction' is a form of action. Hence Mill states that man may be compelled to do certain actions for the benefit of others, for example, a man's inaction can be a cause of evil, for example, not saving a life, and he could therefore be held accountable for that. Second, Mill distinguishes between action that affects only the individual, and those that affect others (known as 'other-regarding actions'). Ideally, 'other regarding' actions should not cause harm to others but this principle must be subdivided further into direct and indirect harm. Direct harm is that action which directly affects a person. For example if someone is assaulted by another then this is direct harm. Indirect harm is that harm which is not caused directly by the man's action, and which ought to be tolerated to make freedom possible. In this regard Mill draws attention to the distinction between duty and morality. Where the former involves some kind of explicit promise to others, for example, to care for one's children as a parent, the latter involves a (often cultural and religious) sense of what is required to be a virtuous person. The key difference is that the former is more explicitly and consensually other-regarding than the latter. Individual freedom requires space to lack virtue, but not to forego one's

duty. Thus, individual rights are required to protect those who are different but Mill does not however, assign any collective or group rights/exceptions to cultural or religious minorities. Instead, within his theory the individual would be protected, through individual rights, and therefore no specific group rights would be necessary. Specific group rights would also upset the balance of an equal set of individual rights.

What then of free speech? For Mill only actions that clearly and directly affect others can cause harm, and therefore only those actions ought to be prevented. Hence, with regard to the harm principle the question becomes; is speech clearly other-regarding, and is it ever harmful, and if so under what clearly identifiable conditions? Notably Mill does distinguish between freedom of thought and freedom of speech, and whilst noting a close connection between the two, he does explicitly qualify freedom of expression much more than freedom of speech. Let's begin with the latter. One of Mill's core arguments for freedom of speech is that it allows for liberty and press security against corrupt or tyrannical governments. He goes on to list some arguments why freedom of expression should be allowed as much as possible:

1. 'If any opinion is compelled to silence, the opinion may be true. To deny this is to assume our own infallibility' (Mill, 1996, p. 52). If an opinion is right the people are deprived of exchanging error for truth. If something is true, one must hear arguments from everyone including those against it (Mill, 1996, p. 19).
2. 'Although the silenced opinion may be an error, it may and very commonly does contain a portion of truth; and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.' If the opinion is wrong, they lose the clearer perception and livelier impression of truth, produced by its collision with error. Nothing is infallible and the government has no right to exclude people from judging what they feel to be the truth (Mill, 1996, pp. 20-22,53).
3. 'Even if the received opinion be not only true, but the whole truth unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of prejudice, with little comprehension or feeling of its rational grounds' (Mill, 1996, p. 53).'
4. The meaning of the doctrine will be lost, deprived of its vital effect, the dogma becoming a mere formal profession preventing growth and heartfelt conviction from reason or personal experience (Mill, 1996, p. 53). Everything should be available for discussion and one cannot say it is doctrine and therefore unquestionable. The discussion of this doctrine will give more mental freedom to those

involved. Things will lose meaning if not questioned, thus, discussion gives meaning. One will be able to understand the pros and cons of an argument and make value judgments. It must be borne in mind that men will constantly not unite on truths but this is not a bad thing (Mill, 1996, pp. 20-54).

Following from this, speech that causes harm should be censored, but speech that causes mere offence should be allowed. Notably, harm may be caused by the manner, context and circumstances of speech and not only the content. The classic example of this is the corn dealer case, where claims which may well be true are presented so as to provoke harmful action. In this scenario there is an angry mob outside a corn dealer's home. A person who incites the mob by stating that the corn dealer is starving the poor is guilty of a direct harm due to the circumstances regardless of whether his statements are true or not as the mob may attack the corn dealer. However, if there is no mob and he makes the statement that the corn dealer starves the poor at another place and time where the corn dealer will not be at such a risk, then he should be allowed to express his opinion.

Mill also argues that speech should not stigmatize the contrary opinion as immoral because the contrary opinion is often that of a minority who are few in number and uninfluential, disempowered or marginalized. This kind of protection can be seen as a way of dealing with the influence of the majority.

He also makes important distinctions between truth claims and the politics of presenting truth claims. Therefore Mill argues for speech that is temperate and avoids vituperative language, especially toward the less influential. This is made on the basis that truth and justice may be lost as there are those who are unable to argue the contrary opinion. In other words Mill would be sympathetic towards a small minority who may be of a certain opinion, and therefore their views should be protected from stigmatizing attacks by the majority that would silence their opinion.

Further, Mill guards against what he calls 'mischievous acts' such as the corn dealer example. This takes place when a person is aware of the harm that may be caused but still continues with their actions. Therefore Mill's position towards the cases requires a deeper study into conditions such as whether there was 'harm' or 'mere offence' and whether a 'mischievous act' was perpetrated. This must also be looked at, as well as the manner of speech. I will therefore 'apply' a Millian response to the cases.

3.1.1 Mill Applied

Mill makes mention that statements may be true or have some bearing of truth toward them. With the cartoons for example, the depiction in cartoon (e and j) which tried to express the view that many women are oppressed under Islam has some relevance as the issue of women's rights in an Islamic system has been a major issue of contention, with many scholars feeling that women are unrightfully oppressed by the system. Similarly, there are also beliefs and calls for the Holocaust and the statistics involved to be reinvestigated. Therefore, even though Irving works may be false, there may be certain portions within it that are truthful or that may lead to the discovery of new truths. Following from this, people like Irving who hold contrary opinions to the majority should also be protected from stigmatizing attacks or labelling them as 'immoral'. Views such as Irving's would not be banned but instead fostered for whatever benefit they may have.

However, it seems Mills would also have problems with the speech as practiced in both the cases. Mills position allows for the discussion of beliefs which would allow different 'worlds' to interact. In this case it would allow for the so-called Danish liberals to understand a Muslims point of view and vice versa. The discussion itself will make the acceptance of truth based on rationality rather than belief. In the cartoon case, Muslims would be able to rationally discuss their position on why depictions of the Prophet should be banned. It would also give meaning and one could make value judgments. In this case, beliefs that are just accepted by liberals or Muslims would be assessed and rationally judged with the pros and cons borne in mind. The discussion involved would be beneficial to both parties to better understand each other and their own beliefs. Similarly in the Holocaust denial case, the magnitude of the horrific nature of the crimes would not become a dogmatic reason for Jews to close down further research and reflection on the Holocaust. The continued reinvestigation would bring meaning to the investigators and would make their judgments more relevant. It would be beneficial for the parties involved to continually study their belief systems so that they remain relevant and understood. Thus investigations into the Holocaust should be welcomed for the discussion it brings.

Mill feels that if we never act on opinions because they might be wrong, we would leave all our interests uncared for, and all our duties underperformed. We must therefore, act to the best of our ability and guide our own conduct. Great men of the past have held views that the majority believed to be erroneous and it was only in time that these views became accepted. We must therefore allow differing views to be expressed as they might be correct. There is no need for only what is considered rational opinions and rational conduct (Mill, 1996, pp. 28-31). For Mill, a person like

David Irving could be seen in a few years as a path-breaking scholar if his theories are proven right, or even if they open a new and fruitful line of inquiry. Therefore, why should anyone prevent the expression of something that might be correct?

For Mill, there is no argument against 'being pushed to an extreme'. If everything is to be free, no doctrine should be forbidden because it is certain. No beliefs are so useful and in the interests of society to be prohibited. This protection of doctrine has led to dreadful mistakes when assuming infallibility, and has rooted out the best men. History teems with truth that triumphed after persecution. A sufficient application of legal or social penalties will put down propagation as 'men are not more zealous for truth than they often are for error' (Mill, 1996, p. 30). Therefore, no penalties should be in place assuming Irving's work was done in good faith. What has happened in recent times is that protection of the 'truths' surrounding the Holocaust has become almost doctrine-like. Attempts to argue against these beliefs has been met with such a resistance that this part of history has become protected and the 'truths' are almost regarded as infallible. In the David Irving case, he suffered both legal and financial penalties for his works under free speech.

Although Mill is a classical liberal who believes that principles such as free speech may only be limited under extreme circumstances, it is possible to identify such circumstances using the following terms of reference derived from his arguments on the harm principles: (i) is the majority unjustly enforcing their will over minorities? (ii) is there any direct harm? (iii), are the parties involved in 'mischievous acts' or 'misstating facts', and is the manner of their speech temperate so as to advance truth?

(i) As for the first question of whether the majority is unjustly enforcing their will over the minority, two aspects must be taken into consideration, firstly are liberal principles being followed and secondly, are the minorities views being stigmatized? In the case of the Danish cartoon, the majority in Danish society are 'liberals' in favour of free expression. However, while Mill states that there is both a private and public sphere, and that religion falls under the private sphere, he also warns against the tyranny of the majority through social opinion, and that is precisely what we seem to be witnessing here. The 'liberal' nature of Danish society has shaped their morality into allowing free expression at the expense of the sensitivities of the minority. It has been argued that it is unlikely that Mill also could have foreseen a multiracial society in which complexities and conflicts in freedom are magnified. Therefore, he would not be able to see a conflict of this magnitude, with opposing sides that seem unwilling to compromise. As Baum points out, by regarding cultural

identities and commitments as forms of intellectual immaturity and civilizational backwardness, Mill underestimates their importance and value. He goes on to state that 'Mill also fails to grasp adequately how 'mature' rational agents - men as well as women - enact traditional religious or cultural norms and practices as free agents (Baum, 1998, p. 206).' The second point deals with stigmatizing of a minority, which Mill guards against especially when it comes to debate. As explained before, Mill guards those who hold contrary opinions to the majority view. In this case it would be applied to the likes of David Irving who are regarded as 'immoral' based on their views. They and their views should therefore be protected rather than discouraged in society.

(ii) It is arguable that there was no direct harm coming from the cartoons or the Holocaust denial case. The harm, such as the death and destruction that followed the publication of the cartoons, was caused by others subsequently, and was therefore indirect and not liable for censure. However, one must ask whether Mill would favour censorship given the extremes of hate speech and racist material? There is a definite harm caused by stereotyping Muslims given the rising tensions between Muslims and Europeans. This is especially important when Muslims are trying to integrate and are suffering from religious stereotyping and Islamophobia. However, it must also be borne in mind that we live in a global state where information travels with ease. Thus there is harm caused both within and outside of Denmark. In this regard it is notable that Mill commented in response to a letter by Thomas Carlyle, who argued for slavery, that there was potential harm in his essay justifying the cause of slavery. This implies that this kind of speech crosses the boundary of free speech and becomes harmful action (Bentley 2006, p. 37). It is doubtful whether we can compare the harm of propagating slavery to either of the two cases but it still illustrates the point that Mill believed that certain speech can be harmful and should be restricted. Also, as Cohen-Almagor points out, Mill underestimates psychological harm, and also underestimates how important one's identity, history and religion may be. Finally, the harm in denying the Holocaust may be different for different places (Cohen-Almagor, 2006). For Holocaust denial laws, the historical and cultural context must be looked at. Therefore, in countries such as Austria, Israel or Germany it may be allowed to limit this speech, whereas in other countries there is no need as no real harm comes of it.

(iii) Lastly the cartoons could be argued to be a 'mischiefous act' such as the corn dealer example. The *Jyllands-Posten* journalists were well aware of the effect their cartoons could have and even had a cartoon which stated '*Jyllands-Posten* journalists are a bunch of reactionary provocateurs' (translation of cartoon i). In a way they were inciting the mob. Mill also calls for speech that is temperate against those who are less influential. Therefore, Mill would censure based on the

manner of the cartoons – i.e. those which were arguably ‘intemperate’ or incited harm should not be published such as cartoons c, d and i. In David Irvings case Mill does state that a deliberate misstatement of facts should not be allowed, and in Irving’s case, he was not ignorant or incompetent and therefore makes up the small minority that Mill describes as “morally culpable”. Therefore Mill would theoretically allow Irving’s work if changes are made to the deliberate misstatements of facts. The theories that are questioned should be fiercely debated.

3.1.2 Conclusion

In my view Mill would ban certain cartoons that were deliberately and misleadingly provocative and ‘mischievous’. Many of the cartoons provoked debate and for many non-Muslims the cartoon j showed what they perceive to be the abusive nature of male-female relations in the Muslim world. This is a topic that both Muslims and non-Muslims find particularly relevant given women’s rights in Islamic countries such as Saudi Arabia and Afghanistan as well as in many Muslim societies. Similarly, the cartoons that portrayed Muhammed as a terrorist can also be seen as a way of saying that Islam is a violent religion or has become an increasingly aggressive religion. These assumptions are made after violence between Muslim and other nations. While women’s rights, hostile relations and the use of violence is a definite topic for debate between Muslims and others, the cartoons have created problems in terms of stigmatizing Muslims as well as damaging relations between Muslims and the Western world. The resultant harm that came from the cartoons is from the stereotyping of Muslims and from psychological harm neither of which Mill takes into account.

The stereotyping of Muslims has lead to undoubted Islamaphobia and should be prevented. This would require a restriction of expression on certain cartoons such as a, c, d and h. Mill also does not give the necessary importance to cultural and religious identity. For many it is almost impossible to separate one’s religion from one’s way of life and therefore attacks on this belief is an attack on that person. In a Millian society the content of the cartoons and Muslims sensitivity cannot be used as an excuse to ban the cartoons. However, in my view Mill envisioned a system of deliberation and debate that is far more temperate than what the cartoons created. Given that there are variations in the offensiveness, relevance and harm that came of the cartoons and that Mill believes in the importance of free speech, the cartoons could theoretically be divided into two groups. Some that would provoke important debate and not cause serious harm from stereotyping, such as cartoon e and therefore could be protected and others such as a, b, d and k which are very offensive and have

little to add to the debate. The latter grouping would follow the corn dealer example and fall into a mischievous act.

As for David Irving, his work although controversial would not in my view be limited by Mill, as speech should be limited in very few cases. Instead his works and his person would be protected in the debate. The reason for this is that Mill believes in a system that tries to foster differing opinions, as there may be the slightest of chances that these opinions may be correct. The continued debate around the Holocaust would reinvigorate and re-illustrate the significance and horror of this event. His views would be looked at and studied rather than dismissed. However, the problem would be where Irving deliberately misstated facts. This kind of speech should be restricted.

Mill has many important points about speech and society. The debate encouraged by Mill and the tolerance and respect he shows for minority opinions must always be borne in mind. However, there are some points in which he falls short. He underestimates psychological harm and also underestimates the importance that religion and culture have to people. This becomes especially difficult in a pluralistic society where many different groups live together under a form of liberalism. Another important point is that Mill does not look at things contextually and that different countries and situations may require different sets of laws and rules. This applies especially in the David Irving case where the threat of anti-Semitism varies from country to country.

3.2 Brian Barry

A contemporary liberal philosopher, Brian Barry takes a more hard line approach to free speech in society. Barry feels that certain 'liberals' in the form of liberal nationalists and multiculturalists have strayed away from important liberal values whilst trying to appease different groups. Barry is an egalitarian liberal who believes that should we be given the same rights and opportunities as individuals, there is no need for further rights to be granted on the basis of our culture or religion. Egalitarian liberals like Barry are 'universalist' by nature and are against the politicizing of group identities. Opportunities available to the individual should allow for each person to prosper. These opportunities and rights should be applied equally to all individuals and thus justice is guaranteed on the basis of these equal opportunities. This does not mean people will not feel hard done by, but there is no merit to these complaints as people may opt out of obligations or choose a different path.

Barry's view are in sharp contrast to many other theorists who are 'particularists' and believe that the different statuses of both individuals and groups require different 'rules'. The changing of these 'rules' to suit different groups is based on the notion that systemic flaws in the system have made it harder for different groups to prosper, and thus they do not have equal 'opportunity' to prosper. Therefore different groups should be given special privileges so that they may prosper (Barry, 2001, p. 5). For Barry, however, there should be only one status for a citizen with equal legal and political rights. There should be no special privileges based on group membership, but any help should be based on social and economic elements to give equality of opportunity to the economically disadvantaged. Barry's theory follows Rawls 'difference principle' which states that inequalities should only be allowed if it benefits everybody, especially the worst off socio-economically. Barry believes that multiculturalism undermines these politics of redistribution by helping groups rather than disadvantaged individuals (Barry, 2001, p. 7).

Barry, like most other classical liberals, proposes that instead of highlighting our differences as groups we should try to develop a national identity which appeals on some level to all of us. Our system of laws and rules should be based on Enlightenment principles such as free speech, free association and human rights. Unlike multiculturalists, Barry feels that it is repulsive to change a liberal system so that other systems can fit in more ably. Instead he feels that liberalism is the 'right' way and one that best upholds everyone's freedoms.

For Barry there is a need to distinguish between a private and public sphere. What falls into one's private sphere are things such as religion and culture which one should be able to practice in private, but it should have no bearing on the actions of the state. That which is in the public sphere should remain neutral and actions by the state should be based on liberal principles. If there are certain things which a group would like to prohibit or profess there are legitimate means within the liberal system that allows for it. An example is that groups may finance their own views using their own funds. Similarly, a group may prohibit members from watching or reading certain material. The group may not however call for the majority to follow these rules based on their religious or cultural beliefs. Barry feels that religious bodies should not be given any special privileges based on their religious status. Barry states that the argument made by those who feel religion should be protected on the basis that to undermine beliefs is to undermine a people is weak, as 'literature' (opposing or newer views or ideas) enables us to break out of a limited range of ideas. Since religions claim truth value, there is more reason that members should be able to find out what is said against them. In his view religions must be examined critically and it is not enough for only polite criticisms; 'the right to

mock, ridicule and lampoon is inseparable from free speech. Fanaticism is whipped up by non-rational means and the only way to counteract it is by making people ashamed of it' (Barry, 2001, p. 31).

Barry goes back into history and explains that the Enlightenment was developed in response to wars of religion, and in his view it should be equally applicable now. This can be interpreted in the sense that using Enlightenment principles, the bridge between religious/cultural groups and liberals can be mended. As explained before there is a need for a common national identity to foster inclusion and solidarity. There are however, different views about the way society should be organized and Barry rightly points out that liberal principles are not a 'magic bullet'. He goes on to state, 'Parties want peace enough to make the concessions that are needed to reduce their demands so that they become more compatible, liberalism proposes a formula for doing so. More than that, liberal principles can make a moral appeal as a fair way of solving conflict, because they offer the parties equal treatment' (Barry, 2001, p. 25). The state must take no official line on religion and religion must be neutral between religions. Barry gives two solutions to any problems that may come up between differing groups using liberal principles.

Firstly, if there is conflict between what lies in the public sphere one could use the Rawlsian 'Original Position' and come to a resolution. To explain further, if one is behind the 'veil of ignorance' and one does not know whether one will be a member of a minority then one might choose to limit the principle of freedom from infringing on a core minority group belief. Secondly, Barry also uses the 'rule and exemption' approach in selected cases. The 'rule and exemption' approach is that certain uniform laws will have a greater and more unfair effect on one group than any other i.e. some laws are more burdensome on some people than others. Barry does however feel that this is a choice that certain people undertake. An example is that drinking and driving laws are more burdensome on people who drink but this is not necessarily a bad thing. Barry goes on further to state that a person's beliefs are not an encumbrance as disabilities are, as disability limits opportunity whereas belief does not. A critical distinction must be made between the range of opportunities open to people and the choices that they make. However, if there is merit to these complaints, the rule and exemption approach is followed.

For Barry this approach is sometimes defensible on the balance of advantages. The rule and exemption approach works as follows: (a) one must look at the rationale of the law as the differential impact of a general law cannot in itself found a claim that the law is discriminatory. For

example, the rationale behind restrictions on drinking and driving are to prevent fatalities on the road. Alcoholic drivers cannot claim that this law unfairly discriminates against them. If one looks at the rationale of free speech laws it is to protect against tyranny and to allow the free flow of ideas. In the context of the cartoon controversy and Holocaust denial, putting restrictions on these laws will result in straying away from a critical examination of the issues underlying the two cases. However, when analysing the two cases, the laws that protect against hate speech must also be looked at since the rationale behind hate speech laws is to protect those affected from harm, especially physical harm. (b) The rule should not be an exemption for a group, in that it offers a less restrictive alternative of the form of law which 'meets the objectives of the other law while offering the minority what is important to them' (Barry, 2001, p. 39). In other words, if the objectives are met by the law that appeases the minority, this law should apply to all rather than having two sets of laws. (c) Cases for exemptions must be on alleviation of hardship rather than the demands of justice. (d) One must examine whether the case for the law is strong enough to rule out exemptions or the exemption is strong enough to rule out the law. The collective concern should be taken into account as well as pragmatic considerations (Barry, 2001, pp. 38-62). Application of the rule and exemption approach to the cases is explained under (iii) in chapter 3.2.1.

3.2.1 Barry Applied

Barry seems to take a less tolerant stance than Mill, and holds firm to the view that through liberal principles and rules one can come to more fair resolutions and a way of life. When analyzing how a system like his would deal with the cases one must consider whether (i) liberal systems provide the tools and conditions necessary, (ii) Rawls's 'original position' and (iii) the rule and exemption approach and then weigh it against how strongly he feels about free speech.

With (i) one has to consider the clash of civilizations debate and whether liberalism and national identity actually provide the answers necessary to end conflict. In my view there are many reasons to believe that this is not the case with a growing multiculturalism within countries (Parekh, 2000, p. 5; Kymlicka, 2001, p. 6). Also there is increased globalization and as the cartoon controversy showed, what a liberal country does within its borders may affect its relations out of its borders. Many Islamic countries are not willing to accept freedom of speech when it comes to religion and there is the doubt that liberalism can actually bridge the divide between groups (Huntington, 1993).

Barry goes on to state that the manner of speech is not of importance in criticizing religion. Like Mill, Barry seems to underestimate the importance that religion has to many people and that a

psychological harm may be done. He also does not make mention of the context. As explained, laws protecting the Holocaust may be more necessary at certain times and certain places than others. He also states that groups have their own legitimate ways of supporting themselves, their beliefs and their causes. Groups for example, may prohibit members from watching or reading certain things. Groups may also finance 'awareness' of their particular views through propaganda. With the first point, the prohibition on members not reading the cartoons or Holocaust denial papers does not stop others from reading it. This means that others may stereotype Muslims and further alienate them from society. David Irving's papers may also be read by neo-Nazis and other anti-Semitic groups who would use his 'academic research' to make light of a serious tragedy. While groups may finance propaganda and other means such as boycotts, this may lead to many more problems. Groups may involve themselves in mud-slinging and political showmanship rather than actual debate which leads to resolution and compromise being overshadowed.

(ii) There are many problems that may arise from the ideal of the 'original position' which I will not go into³, however, it is very plausible that by using the 'original position' people will choose a system which will protect their cultural and religious rights, thus conflicting with many of Barry's ideals. Barry believes that liberalism is the 'right' way whereas Rawls is more pragmatic and ambivalent and is instead 'trying to design a tool for use by certain kinds of agents to accomplish certain sorts of purposes in a certain kind of environment, and our problem is one of practical functional design, not of conceptual analysis or metaphysical speculation about The Good or The Right' (D'Agostino, 2003).

(iii) has four major parts:

1. The rationale behind the law should be considered.
2. The rule should not be an exemption for a group by a providing a less restrictive alternative of the form of law which meets the objectives of the other law while offering the minority what is important to them. In other words, if the objectives are met by the law that appeases the minority, this law should apply to all rather than having two sets of laws.
3. Cases for exemptions must be on alleviation of hardship rather than the demands of justice.
4. One must examine the whether the case for the law is strong enough to rule our exemptions or the exemption is strong enough to rule out the law (Barry, 2001, pp. 37-62).

The rationale behind banning the cartoons would use (1) as the cartoons could be argued to be a form of hate speech as it stereotypes Muslims. Further, Holocaust denialism victimizes Jews by

³ See Sandel, Michael, 1982, *Liberalism and the Limits of Justice*, Cambridge University Press, chapter 3

denying facts about the sins committed against them. The hate speech laws are used to protect people against harm, especially physical. In this case, the harm caused was psychological and also lead to stereotyping and polarization from the majority.

The rule and exemption clause would apply to Holocaust denial in terms of (4) as the exemption is not strong enough in a classical liberal sense to rule out free speech and therefore the laws protecting the Holocaust should be removed completely. Explained further, there are certain laws that protect the history of the Holocaust. The question now is whether these laws are necessary to have an exemption. In Barry's belief this must be weighed against the principle of free speech. In my view it is unlikely that these Holocaust laws meet the classical liberal requirements for preventing speech. Therefore the Holocaust laws should be removed completely. Another case would be that Muslims would seek the same anti-blasphemy laws that protect Christianity. But, if one looks at the Christian exemption, it is based on non-secular values and therefore for a classical liberal it should not have a law. The result is that the laws that protect Christianity's prohibition on blasphemy would be removed and no protection would be given to any religion.

Barry does however make reference to the importance of free speech and liberal principles. Freedom of the press and freedom of speech need not rely on a view that the autonomy of individuals is of intrinsic worth but suppressing these freedoms is liable to let corruption flourish unchallenged. 'Liberal principles are the fairest way of adjudicating the disputes that inevitably arise as a result of conflicting interests and incompatible beliefs about the social conditions of the good life' (Barry, 2001, p. 122). Barry makes reference to the Rushdie case, after his publication of *The Satanic Verses* which was deemed blasphemous and insulting to Muslims. Many 'radical' Muslims wanted to punish Rushdie for his actions. From a liberal perspective however, the work may have been in bad taste but, Barry would hold, his work was no real offence and those who wanted to kill Rushdie would be murderers. Barry's liberal society would protect Rushdie, but in other societies he would be executed. Barry cannot believe that liberal principles should themselves be compromised to accommodate the demands of anti-liberals (Barry, 2001, p. 283). Charles Taylor speaks of compromise in the Rushdie affair; however Barry states 'it would be utterly revolting from a liberal point of view, to compromise on the proposition that Rushdie should not suffer a legal penalty for writing *The Satanic Verses*. Compromise over liberal principles is not, and cannot be, a liberal value (Barry, 2001, p. 283).

3.2.2 Conclusion

Barry's uncompromising stance toward the changing of any liberal principles in favour of concession or tolerance to those who do not share these values steers me to the belief that he would allow the cartoons and also lift the rules banning Holocaust denial. One could almost classify Barry as an uncompromising 'fanatical liberal' who believes that his way is the only and right way. For him free speech should be put above any other non-secular value. However there are some problems and when analyzing Barry one must ask the question of whether religion is a belief, or a cultural inheritance central to some identities? To my mind, the latter is clearly the case which means that it acts as a kind of cultural essence which is harder to jettison or change as one might change a belief. Also, Barry, like Mill, underestimates psychological harm and the harm that may be caused by being 'fanatical about liberalism'. As explained before there are also differences between what he proposes and his solution i.e. using the 'original position'. This is because under the original position one might choose to protect minority values which would undermine his belief of a reversion to classical liberal principals.

There are two further problems with Barry, one pragmatic, one theoretical. First, Barry's hardliner stance will lead to increasing problems in a volatile and increasingly mixed state. If one is to take such a stance with regard to others, it seems sensible to infer that others in turn will revert in panic to a religious or cultural fundamentalism to fight for their rights. Many minorities who are already fighting stereotypes will sink deeper into their own communities and the idea of creating a national identity will be lost. Barry definitely undermines the importance of religion and history to many people. A system that does not consider religious sensitivities in a global society with information so readily available is heading for conflict as the state, be it liberal or not, is not the only authority. Other states who share interests in these events will be able to take action as displayed by the reaction for both other states and the inhabitants of those states.

Second, Barry also does not allow for the context of the speech to be examined. Many argue that to prevent the rise of neo-nazism in countries where it is a major problem, speech such as Holocaust denial must be prevented. As illustrated before, the Nazi propaganda machine was also an 'expression of free speech'. However, following Mill ought not speech that causes harm like 'hate speech' to be banned? Indeed, is not speech that humiliates an already marginalized minority on the basis of a core aspect of their belief system clearly harmful? Surely we need to rethink the boundary between individual freedom of expression and the right to dignity to prevent this kind of harm.

Liberal nationalist on the other hand seek to find a more tolerance system to deal with minorities. Instead of only focusing on the individual like Barry, liberal nationalists incorporate group rights and are more understanding and sympathetic to the needs of minorities. It is to this view I now turn.

4. The Liberal Nationalist Position

Unlike Brian Barry who regards of the individual rights as most important, liberal nationalists feel that if one's membership to a minority grouping is an integral part of one's identity one should not therefore have to lose this identity within a larger state. Will Kymlicka and Charles Taylor adopt a theory of 'liberal culturalism' or 'liberal nationalism' which means that they believe that, under specific historical circumstances, various group-specific rights and policies should be followed and implemented, as they enhance the freedom of individual members of minority groups. These policies and rights are intended to recognize and accommodate distinctive identities. However, liberal nationalists do believe that societies should be run, or at least be guided, by liberal principles and frameworks.

4.1 Will Kymlicka

Kymlicka situates his theory within the liberal tradition of individual liberty and autonomy in the pursuit of the good life, but he also believes that the group identity and culture that a person may have should be considered as important to individual liberty. Kymlicka focuses on the rights of minorities (both national minorities and immigrants: the difference will be explained later on) within a liberal democratic framework especially within a context of and as a response to state nation building (Kymlicka, 2001, p. 1). Whereas classical liberals like Barry have believed this nation building to be a positive process, Kymlicka and others have pointed out the potential harm that may come of it. To a substantial extent, Kymlicka sees nation-building as inevitable, and linked to the process of creating equal opportunities in a liberal democratic sense, as to succeed within the system one must have access to education, economic opportunities, the law, government and democratic forums. Furthermore, classical liberals typically hold the view that in order for this to happen there must be some sort of national identity that all citizens share which makes it easier to survive and prosper within the system. However, as Kymlicka points out, this sets up something of a tension in classical liberal thought:

Nationalism tends to assume that people's identity is inextricably tied to their own nation, and that people can only lead meaningful lives within their own national culture. Yet is this not precisely the sort of valorization of ascriptive group identities that the liberal ideal of autonomous individuality was intended to challenge? (Kymlicka, 2001, p. 227)

Rather than rejecting this 'valorization of ascriptive group identities', Kymlicka looks to extend it to minority groups in various ways. However, in order to understand the conditions of this extension, it is critical to understand Kymlicka's views on culture, identity and individual liberty, beginning with the notion of 'societal culture' in particular. For Kymlicka every modern state has a 'societal culture', which is the culture used in public life, especially state and business, and includes, for example, the official language or languages of a country. Typically modern states try to integrate citizens into this culture and, especially in assimilationist states like France and the USA, try to impose this societal culture on minorities as a national identity. This in essence, reflects the classical liberal position as articulated by Brian Barry, and to a lesser extent John Stuart Mill. The reasoning behind this can be crudely attributed to the belief that if we are all guided by, or have similar goals, we may prosper and conflict less. Central here is the view developed in the preceding chapter that certain substantive religious and cultural beliefs are better removed from the public to the private sphere as the state must remain neutral between contending cultural visions of the good life in order to preserve peace.

Kymlicka on the other hand, believes not only that minorities may have their own societal culture, and may wish to remain as distinct identities, but also that some are entitled to these goals. Minority groups within a country may have their own languages, preferences in education and certain distinct cultural practices such as relate to dress, food and special national days. In unpacking which groups are entitled to what, Kymlicka makes a set of crucial distinctions between 'nations', who are in his view entitled to their societal culture as they were forcibly incorporated into the liberal state due to colonialism, for example the Basques in Spain or the First Nations in Canada, and 'ethnic groups' who are subsequent immigrants. Immigrants are those people who move to a country voluntarily and often choose to integrate into the dominant societal culture, (for reasons such as the ability to find work, or education), but may still want to retain certain aspects of their culture.

For Kymlicka the significance of culture is not only linked to giving meaning to group identity, but also as a condition of individual liberty. To put the matter concisely, individual liberty requires the capacity to make meaningful choice in relation to institutions like the state and market which operate in terms of a dominant societal culture. A central part of any child's education is socialisation into the dominant societal culture so as to be able to take the available opportunities for advancement. Hence, learning the dominant societal culture is a condition of individual liberty.

This fact heightens the oppressive character of colonial domination by forcibly separating a nation from their rightful conditions of free existence.

Further, as regards ethnic groups, while immigrants can be argued to have chosen to integrate into the dominant culture, they may nevertheless find themselves at a comparative disadvantage due to cultural difference. This is because, in a multicultural society individual members of minority groups might find themselves at a disadvantage in that they bear additional time and resource costs in learning a societal culture that is different from their home culture. Hence, precisely in order to facilitate integration into the dominant culture on fairer terms, some groups might deserve special cultural rights, which are often temporary, for example accommodations with regard to languages and religious dress. Kymlicka goes on to argue that this is a twofold process: first it involves promoting linguistic and institutional integration, so that immigrant groups have equal opportunity in educational, political and economic institutions and secondly reforming those institutions so that integration does not require a denial of their ethnic identity (Kymlicka 2001, p. 54). Reforms that may be used include:

- The revising of history and literature within schools to give recognition to the contributions of immigrant groups.
- Adopting anti-racism educational programs.
- Adopting workplace or school harassment codes which seek to prevent colleagues/students from making racist statements.
- Adopting government regulatory guidelines about ethnic stereotypes in the media.
(Kymlicka, 2001, p. 167)

For Kymlicka, multiculturalism does not undermine respect for liberal values, instead, specifies how integration should occur, in 'a way that respects and accommodates diversity' (Kymlicka, 2001, p. 176).

In short, where nations are entitled to their own societal culture due to the unjust coercion of colonial incorporation, ethnic groups may qualify for special cultural rights precisely to assist the individual liberty of their group members. Thus although Kymlicka is for many group-specific rights and protections, he bases his theory firmly within the tradition of liberalism and maintains that liberal principles should protect the individual. However, he also adds that within this system of liberalism, group specific rights do not necessarily limit individual freedom but may well add to it.

According to Kymlicka there are however some constraints on the 'liberal nationalist' position. Firstly, membership to a group should not be imposed by a state but it should be the individual's identity of choice. Secondly, the individual should also be free to question and leave groupings. Thirdly, these groupings must not violate civil or political rights or exercise dominance over another group. Hence immigrant minorities must work within the constraints of a liberal framework and therefore a group cannot put a ban or restriction on freedom of association or freedom of speech internal to the minority group. There must be equal opportunity for all and this often means adopting a system of 'difference democracy' which looks at a group's particular situation. Debate is important to understand one another even if it is painful. Kymlicka states that we can defend the claim that our lives are better when we can rationally assess our conceptions of the good life.

Kymlicka believes that these multicultural demands must take place on a case by case basis and must focus on practical issues. A case by case system takes into account scenarios and asks the following questions; what exactly is the disadvantage? Will the proposed multiculturalists' reform remedy the disadvantage? Are the costs distributed evenly? Are there alternative possibilities (Kymlicka, 2001, p. 34)?

4.1.1 Kymlicka Applied

Kymlicka focuses a lot on how the nation state through its societal culture has made it harder for minorities to integrate and be awarded the same opportunities as the majority. In the two cases the problem does not lie in facets such as language but on the intangible aspect of that minority's religion, culture and history. The Muslim tradition of aniconism is closely linked to their 'societal culture' and for many Jews the tragedy of the Holocaust has become part of their history and thus their culture. For Kymlicka the majority should provide the institutions to make it easier on these different cultures within the state. However, it must be weighed against the importance that he places on liberal tradition and so the question becomes, is the group right sufficient to warrant a restriction on a liberal freedom?

When answering this question we must firstly analyze his response to the fact that many Muslims are immigrants in Europe whereas Jews are more plausibly termed 'a nation'. The reasoning behind this is that for Kymlicka immigrants should try to more readily integrate into the majority liberal culture, and although they should not be forced to deny their ethnic identity, it is unlikely that an important principle of liberalism may be restricted for them. European Jews on the other hand are

mostly already long part of the dominant societal cultures culture and therefore do not face the same disadvantages of more recent Muslim immigrants. Thus, it may be harder for them to be awarded special rights.

Secondly, as pointed out before, Kymlicka's system is guided by liberal principles. The principle of free speech is an important principle and following traditional liberal theory may only be restricted in extreme cases such as hate speech. Whether or not these cases fall into such a category is debatable. But, Kymlicka does argue for a liberal system that is more tolerant and understanding toward others. Notably, Kymlicka does not allow for group specific rights to dominate over the rights of others.

The question must now be asked of whether restrictions over these topics does falls into dominance over others right to free speech? In my view the cartoons did not dominate the exercising of free speech as it was not the content of the cartoons but the manner in which they were published that was objectionable. Free speech surrounding topics such as Islamic fundamentalism and women's rights in Islam could be debated in other ways that do not directly insult a tenet of faith. With the Holocaust denial laws however, the laws protecting this part of history can be seen as a kind of dominance over others rights, especially considering the severity of the repercussions of contravening these laws which includes jail time and serious financial harm. Kymlicka does however state that the debate that takes place within a liberal system is important even if it is difficult for groups to hear certain things. Kymlicka believes that this debate will give greater understanding and tolerance between groups. Thirdly, Kymlicka believes that difficult situations must be looked at on a case-by-case basis and that we should look at everything practically asking the following questions: (i) What is the disadvantage? (ii) Will the reform remedy the disadvantage? (iii) Are the costs evenly distributed? (iv) Are there any alternatives (Kymlicka, 2001, p. 34)?

The disadvantage in the cartoon case was that Muslims believed that their culture was being mocked and stereotyped and sought in reaction to ban the cartoons and future depictions of the Prophet. (ii) In my view the reform of banning the cartoons will remedy the disadvantage faced by Muslims by the stereotypical and mocking nature of the cartoons as it will be harder for others to provoke and insult them (Muslims) as a group. (iii) The costs are evenly distributed as the cartoonists did not entirely lose their free speech as there are other outlets to express their views. (iv) Alternatives such as allowing the cartoons provided that those that badly stereotype Muslims are withdrawn exist; however, this must be debated by the groups.

In the Holocaust denial case the disadvantage lies for those who try to find new facts or revisit old facts about the Holocaust. They may be imprisoned or suffer financially and they seek to end laws that protect the 'history' of the Holocaust. (ii) The reform of allowing denialism will remedy the disadvantage as those who wish to reinvestigate the Holocaust may do so, however (iii) the costs of allowing people to deny the Holocaust will be borne by Jews who may suffer from a growing anti-Semitism. (iv) Alternatives to an outright lifting of Holocaust denial laws could be that any work that questions or denies that Holocaust will go under a far more strict and rigorous system of fact checking than that of other works.

Finally, Kymlicka sets forth certain reforms such as the revision of history to show the contribution of minorities, adopting anti-racism codes and guarding against harassment. He also would protect minorities from ethnic stereotypes in the media. With that cartoon case, it could be argued that cartoons such as a, c, d, h, j and k were reinforcing stereotypes of Muslims being violent and fanatical. The portrayal of Muslims in such a light has led to the harassment of Muslims as well as increased conflict between Muslims and other groups. Added to this, Kymlicka makes specific reference to the protection of minorities from being stereotyped by the media. These kinds of cartoons clearly fall within this scope. It has been argued that Holocaust denial literature is a type of hate speech (Cohen-Almagor, 2006) and is racist. Any argument to ban Holocaust denial literature would have to be based along these lines.

From this it can be seen that Kymlicka would follow a more tolerant approach than the likes of Barry. In a more progressive liberal-democratic system, institutions should protect minority groups and make it easier for them to co-exist with the majority. Although Kymlicka and liberal nationalism are guided by liberal principles, I believe that certain cartoons would be banned as they reinforce ethnic and religious stereotypes. I also believe that as Kymlicka looks at things for a case by case basis, he will understand the precarious position of Muslims in Europe and would therefore deem it necessary to ban some of the cartoons so immigrants may find it easier to integrate. I would also assume that considering some of the global repercussions of the cartoons, they cannot be only looked at as an immigrant problem and due to its nature, Kymlicka would arguably allow for more accommodations. One must also remember that Kymlicka is essentially a liberal who holds for freedom of speech.

Similarly, the Holocaust denialism is a form of racism to many and any limitation on denying the Holocaust would stem from these ideas. Jewish minorities would be given protection far more easily

than immigrant Muslims as they are a nation and not immigrants to the country. Therefore they would be afforded the same special rights that Kymlicka gives to national minorities. Added to this is the case-by-case nature of Kymlicka's system. He would look at things more contextually than other theorists and would not allow the Holocaust denialism in countries where there is a strong neo-Nazism or anti-Semitism.

4.1.2 Conclusion

In my view Kymlicka outlines a more ideal system than that of Barry. He also does not fall into the 'slippery slope' argument that many multiculturalists fall into. The strengths of Kymlicka lie in his tolerance to others and the creation of institutions to make it easier for minorities. He also has the strength of liberal principles behind his system which makes it harder for the system and the individual to be abused in the name of minority rights. Although there are objections to the use of liberal principles over other systems, I believe that liberal principles are a good system albeit not perfect. Yet, as Kymlicka has shown, liberal principles may be adapted and, so long as the reasoning behind them is sound, this can provide for a more stable and free society.

I do however feel that by Kymlicka distinguishing between nations and immigrants, Kymlicka falls short. The reason for this belief is that in a global society, problems such as the cartoons may go beyond the state. The actions of the imams in the cartoon case illustrate how transnational actors have an important part to play. Similarly, there are many distinctions within the Muslim and Jewish community. One could only deliberate with 'moderate' Muslims and this would theoretically achieve Kymlicka's goal. However, there are more extreme members of this society whose views need to be heard in the deliberation process. Those involved in the dialogue, even if they seem 'extreme' must have a concomitant commitment to reasonableness or a hope of this commitment emerging from dialogue.

Kymlicka and other liberal nationalists do however have a more sympathetic understanding of others views. It is this kind of sympathetic view that will make deliberation more effective in my view. When one considers this kind of greater understanding and compromise coupled with effective reforms in areas such as the media, one can theorize a more democratic deliberation. He also looks at things on a case-by-case basis and considers the context at the time or place. This is a problem that Barry and Mill do not address as they believe in a single set of rules. However, the rules needed may be different from place to place and time to time. This is apparent from the need of Holocaust denial laws in certain countries but not others.

4.2 Charles Taylor

While classical liberalism and multiculturalism have been seen as the two extremes of liberal theory, Taylor believes that a 'middle-way' is needed. Taylor's political theory can be broken down into two interrelated parts, the demand for recognition and the politics of difference. The demand for recognition follows the theory that identity is very important for people and is based not only upon what people think of themselves, but also on what others think of them. In dealing with minority rights Taylor bases his position on the 'demand' that many minority groups may have, this demand being the 'demand for *recognition*'. This recognition links up with one's identity and this means that it shapes our understanding of who we are and our characteristics:

The thesis is that our identity is partly shaped by recognition or its absence, often by the misrecognition of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves. Non recognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being (Taylor, 1994, p. 25).

Taylor gives the example of how misrecognition may affect a group by illustrating how many blacks were demeaned by white society which gave them a negative image of themselves as a people and as individuals. In turn they began to self-depreciate and this led to behaviour that 'oppressed' themselves further. Therefore, for them to more fully progress they need to lose this destructive self-identity as this misrecognition not only shows a lack of self-respect but also makes the victims hate themselves (Taylor, 1994, p. 25). Similar situations affect a number of other groups and minorities and liberal society should take care in not giving minorities these images of themselves. Instead liberal society should focus on developing a more positive image for these groups. Following from this we can see how communication with others can shape one's conception of one's own identity or culture and give 'recognition'. Therefore, in order to provide different groups or minorities the same rights, society needs to recognize and try to understand their distinct identity. In order for this to happen, different rules may be needed to apply to different groups. This is where the politics of difference comes into play.

With regard to the politics of difference, Taylor differentiates between the politics of equal dignity (the classical liberal position) and 'the politics of difference' which means that people are assessed

and given rights according to their distinct identity and corresponding views of the 'good life'. Taylor states that, in the western tradition, there is a growing belief in one's 'individualized' identity. This means that one must be true to one's own identity as such. Taylor refers to this as 'authenticity'. One must be true to what is important to you and one should not have to model one's life on the demands of external conformity (Taylor, 1994, p. 27-29). This individualized identity is an offshoot of the decline of a hierarchical society. According to Taylor, one's original way or 'individualized identity' must be inwardly generated.

Being true to myself means being true to my own originality, which is something only I can articulate and discover. In articulating it, I am also defining myself. I am realizing a potentiality that is properly my own. This is the background understanding to the modern ideal of authenticity, and to the goals of self-fulfilment and self-realization in which the ideal is usually couched. (Taylor, 1994, p. 31)

These views inform Taylor's conception of liberalism as consistent with substantive goals. Many theorists believe that a liberal society should have no 'substantive goals' but should follow a 'procedural' system as liberal society cannot accommodate publicly espoused notions of the truth. Taylor on the other hand believes that a society can be organized around such 'substantive goals' and cites Quebec as a liberal system that has substantive goals in order to preserve their culture. For Taylor, substantive distinctiveness is inescapable; however, we cannot just draw up these goals by stating 'this is how it is done here'; instead we should look for reasonable and equitable solutions. However, Taylor does believe that there are certain fundamental liberties that may not be infringed upon and that a line must be drawn in this more hospitable variant of liberalism. In other words, certain special goals or rights may seem to pass a liberal threshold and cannot be allowed, an example of this would be forced clitorrectomy. Special rights must be based on principles such as due process and free speech. These rights may only be restricted by the state for strong reasons of public policy. For example, there may be collective goals that a group may want to achieve, often the very survival of their culture. Taylor refers to this as the politics of equal respect which does not try to homogenize difference but allows for the state to protect the collective goals of a community. Unlike classical liberals, Taylor believes that a group's substantive goals are of importance and therefore strictly procedural democracy need not be applied all the time.

In Taylor's view it is impossible to give status or preference to things that are not universally shared. Liberalism itself is not completely secular, and for certain groups it is impossible to separate politics

and religion. Liberalism should not therefore claim cultural neutrality though liberals have often tried to impose this liberal culture over others. We must therefore take this into consideration when dealing with minority groups. These groups may require certain things that procedural liberalism does not provide. Taylor believes that when cultures are being imposed on the culture of others, we must allow for the possibility of the recognition of equal value. Within these minorities there is the struggle to change one's self image. In order to do this we must enlarge curriculums, revise images and have a 'fusion of horizons' whereby we articulate our contrasts and transform our standards. Taylor does make the point that although traditional cultures enjoy the presumption that their traditional cultures have value they cannot demand to be included even if they are inferior in some manner. One has to look at the objectivity versus subjectivity of cultures and one cannot demand to find something of value in a culture (Taylor, 1994).

4.2.1 Taylor Applied

In Taylor's system there is the belief that groups deserve some sort of recognition for their particular belief system. The misrecognition of others towards one's group can be a type of oppression and should be prevented. With regard to the cases an argument along these lines could be made. In the cartoon case, the stereotypical and demeaning nature of the cartoons arguably perpetrated the belief that Muslims are fanatical, dangerous and fundamentalist. By labelling Muslims in this manner, Danish liberals are guilty of not giving the full and positive recognition that Muslims as a group desire and deserve. They are leading Muslims to be ashamed of themselves and their culture. As for Holocaust denialism, there is the belief that what happened in the Holocaust is a part of Jewish culture and now identity and therefore to undermine the tragedy is to undermine the people too.

As it can be argued that there is a lack of recognition in the system, a politics of difference is needed. This means that special laws and rights may be awarded to Muslims and Jews to which others may not be entitled. Therefore from a politics of difference perspective, the sensitivities of Muslims should be borne in mind. This does not mean that they cannot be criticized in different ways, in the name of free speech, but instead the restriction on such offensive material can be seen as a way of giving recognition to their culture. This differs in some respect to Kymlicka, who outlines different treatments to minorities and to immigrants. Kymlicka on the other hand would restrict material so that immigrant groupings may more easily integrate into the mainstream culture. For minorities however, the restriction would be based on a similar principle of 'recognition' and respect. In terms of Holocaust denialism, it is more difficult to gauge the extent of the misrecognition as denialism is a

contemporary phenomenon and its effects on the Jewish population are not as immediate or evident. Overall then, the substantive goals that the minority may seek must also be allowed in Taylor's system provided they do not cross the 'line' i.e. things such as forced clitorrectomy, thus Muslims have the goal of protecting their religion and Jews have the goal of protecting their history.

While Taylor does espouse a tolerant view, it must be stressed that he does believe that a system must be run on liberal principles and that they can only be broken under extreme circumstances. With regard to the cartoons, Muslims have a certain culture of aniconism⁴ but in Taylor's view these cultures do not always have to have some value. Once these cultures are studied and understood they may be given a special status to be protected and held in equal value to liberal principles. If one studies the reasons behind the desire to protect Muslim belief, as well as the desire to protect Muslims from being stigmatized, one could conclude that prohibition on the publication of the cartoons is a valued substantialist goal and should be protected. Similarly, if one studies the horrific nature of the Holocaust and anti-Semitic behaviour in Europe, there is also a need to protect a historically-persecuted minority. Added to this is the belief that Taylor has that it is impossible to find a 'neutral ground' between public and private spheres. Taylor uses the controversy after the publication of *The Satanic Verses* to illustrate this. For him much of the debate involved parties arguing at cross-purposes as they were not understanding or sympathetic to each other's backgrounds. This made each party more aggressive to each other and protective over their way of life. For Islam there is no way to separate religion and politics as Islam describes itself as a way of life that encompasses all aspects of one's life. Liberalism itself is not a possible meeting ground for all cultures as it is grounded in certain beliefs. Taylor does state that the belief in 'secular' ways of thinking developed out of Christian belief and that 'Liberalism can't and shouldn't claim cultural neutrality' (Taylor, 1994, p. 62).

It is evident that Taylor would justify restricting the cartoons on a number of points. Firstly, the cartoons arguably reinforce negative stereotypes which contribute towards the misrecognition of a minority. Secondly, he believes in a politics of difference which outlines different rules for different groups, recognising that liberalism is not entirely neutral or even completely secular and that for many Muslims it is impossible to separate religion from the public sphere. Thirdly, he believes in a more tolerant system and hopes that different groups can 'fuse their horizons' through debate and

⁴ Aniconism is the avoidance of any graphical representation of God, divine beings or prophets. Strict prohibitions lie on the depiction of God or any prophets to many *Sunni* Muslims. Some *Shi'a* and other Islamic groups do however depict the Prophet.

consensus. Similarly, Holocaust denialism could be argued as a type of misrecognition and sensitivity and tolerance is required when dealing with it as a subject.

4.2.2 Conclusion

Taylor outlines many of the problems faced today by classical liberalism of today, such as the claim of cultural neutrality. If there is to be a 'clash of civilizations' as Huntington hypothesizes, liberalism may not be the ideal system; instead, a system such as Taylor's which is more tolerant, sensitive and understanding would be more effective, provided that the groups involved are committed to discussion and compromise. This is more necessary considering the effects that free speech has for one's identity. As discussed under Kymlicka, liberal nationalism provides many reforms and remedies for effective deliberation. This system also tackles the underlying causes for misrecognition between parties. A system such as Taylor's, based on sympathetic understanding, will allow for differing groups to air their views as equals rather than warring parties.

If one was to consider the cases under a system like Taylor's, I believe that a more equitable solution could be found and the hate and hurt caused by such discriminatory speech could be avoided. Taylor also allows for criticisms of other cultures, and therefore liberals cannot claim the end of the liberal principle of free speech. Therefore in the cartoon case, in Taylor's system, liberals can state their problems with women's rights, Islamic violence and aniconism, yet they will be prevented from doing so in a manner that greatly offends Muslims, as the cartoons did. Similarly, those questioning the facts of the Holocaust will try to look at the persecution that Jews may feel they are under before questioning aspects of the Holocaust. Instead of attacking other cultures immediately, a liberal nationalist would try to understand the culture and its history and then make critical comments in a moderate and temperate way.

Barry has argued that the neutral state was founded on the experience of religious wars in Europe and therefore the problem that may belie a liberal-nationalist state is that there may be extremists who are unwilling to compromise. There also may be certain aspects of another culture that may be totally against liberal principles, therefore where do we draw the line? With regard to the question of those who are unwilling to compromise one should try to understand the other culture and their reasoning at a very deep level. If understanding is still not possible or the other party is still unwilling to compromise and reach a level of discussion, one can exercise one's own judgement to reach one's goals even if this leads to conflict. As for the question of where to draw the line, one must fully understand the opposing culture and not just understand it at a superficial, patronizing level. Once

this level of understanding is reached, one can use certain liberal principles, such as human rights laws, to come to conclusions of what is to be allowed or not.

5. The Multiculturalist Position

Multiculturalists like Bhikhu Parekh and Iris Marion Young are in favour of a system that gives distinct cultural, ethnic and religious groups specific group based rights. The idea behind this is that liberalism is not the only cultural system which embodies truth about the world and social relations in particular; and other systems should enjoy sufficient recognition for the good in them. Multiculturalist thinkers such as Parekh, conclude that 'the state need not consist of a single people and could be a community of communities, each enjoying different degrees of autonomy but all held together by shared legal and political bonds' (Parekh, 2000, p. 194). Liberal nationalists often have overlapping borders with multiculturalists.

5.1 Iris Marion Young

Iris Marion Young is a radical multiculturalist who believes that it is the 'inclusion' of various groups in democratic deliberation that make a system more democratic. When analyzing Young, I will explain her structural differentiation model which explains how people should be divided along group lines. I will then look at her model of democracy before describing the additional forms of communication she finds important.

Iris Marion Young follows a system that stresses the importance of the participation and deliberation within a democratic system. For Iris Marion Young 'democratic equality entails a principle that everyone whose basic interests are affected by policies should be included in the process of making them' (Young, 2000: sourced from the cover sleeve). This means that the democratic decision is judged upon how those affected by it have been involved in the decision making process, what she calls for is 'inclusion'. 'Inclusion means explicitly acknowledging social differentiations and divisions and encouraging differently situated groups to give voice to their needs, interests, and perspectives on the society in ways that meet conditions of reasonableness and publicity' (Young, 2000, p. 119). Young calls for a 'deliberative' system that 'emphasizes the ideals of inclusion, political equality, reasonableness and publicity' (Young, 2000, p. 17).

Young differs radically from other theorists in the breaking down of cultural/religious/ethnic or other groups. While many theorists such as Kymlicka have focused on one's particular nationality or grouping, Young believes that a person may have multiple and overlapping identities that she calls 'structural differentiations'. Young explains *structural differentiations* by stating that many groups have 'special interests' and it is important to notice differences. However one must not reduce

politics of difference to identity politics; instead, one must conceptualize social groups according to relational rather than substantialist logic. In other words we should look at a person's or group's situation and context rather than their 'identity' as a group. We should also affirm that groups do not have identities as such, but rather that individuals construct their own identities on the basis of social group positioning (Young, 2000, p. 82). According to Young, differentiations of gender, race or ability are more like a class than an ethnicity and it is argued that they concern structural relations of power. Therefore, communicative democracy needs to draw on social group differentiation, especially the experience derived from structural differentiation as a resource.

Young goes on to state that it is difficult to claim identities, i.e. what it is to be Latino or gay and therefore one must ask the question of 'what will become the essential attributes of such groupings?' Unlike Huntington, in her view this is almost impossible as one's identity may be overlapping or differing from others in the group on a number of plains. For example, one may be Muslim and European and thus one cannot conceptualize groups in this essentialist manner. Added to this is that some sets of attributes that members share may change over time, as for example; blacks in the American ghetto may become wealthier and move out and therefore no longer share that economic linkage to their former peers.

Young differentiates the concept of *a structural group* as distinct from a cultural group. Structural differentiation appeals to structural level of life and exist due to their relations with others groups. These groups thus act in certain ways or are prevented from certain things. Predictable status can therefore be derived. Young explains it as:

A structural social group is a collection of persons who are similarly positioned in interactive and institutional relations that condition their opportunities and life prospects. This condition occurs because of the way that actions and interactions conditioning that position in one situation reinforce the rules and resources available for other actions and interactions involving people in the structural positions. The unintended consequences of the confluence of many actions often produce and reinforce such opportunities and constraints, and these often make their mark on the physical conditions of future actions, as well as on the habits and expectations of actors. This mutually reinforcing process means that the positional relations and the way they condition individual lives are difficult to change (Young, 2000, pp. 97-98).

Young goes on to state that, 'structural groups sometimes build on or overlap with cultural groups, as in most structures of radicalized differentiation or ethnic based privilege. Thus cultural groups and structural groups cannot be considered mutually exclusive or opposing concepts' (Young, 2000, p. 98). The inequality caused by this differentiation is known as structural inequality and Young explains it as the 'relative constraints some people encounter in their freedom and well being and the cumulative effect of their social position as compared to others who have easier access. Therefore one must recognize and consider social difference and not just cultural difference in allowing special group rights (Young, 2000, p. 98).'

Young explains the two different democratic models (aggregative and deliberative democracy) that have taken precedence in recent times. Both these models require certain conditions to be met, such as, the rule of law, voting, freedom of speech, assembly association etc. However, it is the *processes* between these two models that differ. With aggregative democracy, democracy is a competitive process where each group tries to influence parties and policy makers. Everyone must act strategically to get what they want and decisions thus reflect the aggregation of the strongest or most widely held preference. The aggregative model takes no account of the origins of a person's interests or the quality of these interests. It also does not look at how preferences can be changed if one is in contact with others. There is a lack of a public forum for discussion, co-ordination or co-operation, but it is instead based on an individualistic form of rationality that has not been arrived in terms of reason and can be irrational.

Deliberative democracy differs from this aggregative model as discussion and choice must be made in a public arena with people's different experiences and goals being taken into account. The deliberative model sets about creating a public arena of discussion whereby people can change each other's views and more fully understand each other's points' rather than competing for what they deem to be the right way. Individuals must be able to explain their particular way of thinking and reasoning. Deliberative democracy transforms people opinions through public discussion. For Young, the role of the state is to create a common area of discussion. Her ideal model is therefore based on the deliberative model but is slightly different as she believes in a more inclusive system. With Young's model, it is the process of deliberation and the inclusion of all the groups involved that is important rather than just following democratic norms.

This inclusion helps guard against injustices that for Young many forms of democracy may perpetuate or reinforce. Justice is needed when working out problems of the polity and for Iris

Young public discussion gives rise to justice under the correct conditions. It should be acknowledged that there are also inequalities that may be structural or economic etcetera. There is a need to talk and move beyond political manipulation and this takes place through political communication. However, before there can be real political communication there must be certain requirements. For example, there must be political equality and all should be included on equal terms, there should also be the free opportunity to speak and one should be free from domination and coercion. All those involved in the communication must have a degree of *reasonableness* – the willingness to listen to others to explain why they are incorrect. The idea behind this communication is to solve collective problems. One must have an open mind and one cannot assert one's own interests over the interests of others. This inclusion adds political legitimacy to a democracy (Young, 2000, p. 24). During the decision making process groups must realize they are different and do not need to have unity. Instead they should discuss each position and find reasonable compromises. It is this discussion that allows for justice to take place as one arrives at decisions not on numerical support but on reasons for decisions (Young, 2000, pp. 41-44).

Young differs from many other deliberative democratic theorists as she doesn't try to find a common good within the debate – however she does require that protagonists must be committed to engage each other in good faith. A process of decision making can affirm the group's particular positions relevant to the issues. Unlike many other liberal theorists Young feels that groups must work together and know that they are different; they must favour plurality over unity. However Young sets forth certain requirements that should take place when reaching a decision between multiple groups:

- a) The decision making must be inclusive of all groups. In her view critical and differentiated perspectives will give a more impartial view. Groups should not look for generalizations but solutions to particular problems. Therefore in the two cases one should not seek the answer to the broad question of whether or not free speech should be allowed, but instead the merits of the individual cases should be examined.
- b) These problems and solutions do not have to be in the interests of all, but should correct biases and partial perspectives.
- c) There is a need for confrontation and all those involved must understand the position of others. Although complete agreement is rare, the inclusive, deliberative process makes it more democratic.

However, groups may be excluded from the political discussion on two fronts, which would lead to their exclusion from the 'inclusive model of democracy' that Young argues for. Firstly, there is 'external exclusion' where individuals cannot for political, economic, educational or other reason enter into the debate and secondly there is 'internal exclusion' whereby individuals are nominally included but have no real influence or power.

Young also differs from many in terms of the type of speech she feels should be allowed as she does not only allow speech that is dispassionate and articulate. Instead she believes that speech takes place on a multitude of levels and styles, not all carefully rational like an academic seminar, as this excludes many ordinary people. The speech that should be allowed and encouraged is also broad and inclusive, and Young focuses on speech such as rhetoric and narrative which is often disregarded within political discussion. For her this kind of speech is underrated and of great importance.

Young goes on to say that political discussion doesn't have to follow the norm of order. Often disorderly communication is discredited and political actors want 'civility'. Rowdy street demonstrations and the use of banners etc is seen as beyond deliberative 'civility'. Those who engage in such activities are labelled as extreme and their views as unreasonable. However, for Young we must not devalue public political demonstration but bear in mind the norm of *reasonableness* to solve collective problems and promote justice. There are limits that are contestable but it will be mostly in favour of protestors. "Hate speech' aimed at denigrating a person's affiliations or some members of the polity, or which threatens them with violence or aims to incite violence against or harassment of some members of the polity, is rightly condemned as 'uncivil'" (Young, 2000, p. 48). However, a debate about why it should not be allowed would also have to take place. Disorderliness is an important tool of critical communication especially when there are big inequalities as it may be the only means of communication for those with less power.

As mentioned earlier, political communication is often focused on articulate argument; however, there are three types of communication that Young believes should be increased within the political debate, namely, greeting, rhetoric and narrative. Young does not think these three are substitutes for argument but should be added to communication. For Young, greeting precedes, rhetoric accompanies and narratives increases understanding in an argument. While greeting does not apply to the cases, rhetoric is explained by her as speech that 'aims not to reach understanding with others, but only to manipulate their thought and feeling in directions that serve the speaker's own ends' (Young, 2000, p. 63). Narrative or storytelling on the other hand has a demonstrative effect of

showing others the reasons for one's beliefs based on the storyteller's experience. It thus helps the listener understand the speaker's circumstances.

With regard to her views on rhetoric, Young states that rhetoric aims to manipulate thought and feeling. Rhetoric is however a feature of political expression. For Young, one must attend to the role of figurative language and emotional expression as a means to further deliberation. In addition, one must attend to the role of other means of communication such as banners and cartoons. For Young, all communication has a specific effect. It is however appropriate to distinguish that which aims to further understanding and that which is used for own ends. Rhetorical moves often help get issues on the agenda for deliberation:

Demonstration and protest, the use of emotionally charged language and symbols, publicly ridiculing or mocking exclusive or dismissive behaviour of others, are sometimes appropriate and effective ways of getting attention for issues of legitimate public concern, but which would otherwise not be likely to get a hearing, either because they threaten powerful interests or because they particularly concern a minority group (Young, 2000, p. 67).

Young states that issues that are seen to be illegitimate as they do not respect a minority will still be appropriate for discussion as the public must decide and discuss whether or not it is an issue of respect. Rhetoric helps situate claims and arguments that meet the universalistic criterion of publicity within the particular context of discussion. Through rhetoric we construct our views and rhetoric motivates the move from reason to judgment.

Young also stresses the need for narrative and situated knowledge. The assumptions, experiences and values of some members of the polity dominate the discourse and that of others are misunderstood, devalued, or reconstructed to fit the dominant paradigms (Young, 2000, p. 71). Storytelling can become a bridge so that people can understand the experience of others. Narratives can help correct pre-understandings and reveal the sources of values, priorities or cultural meanings. A group's values cannot be justified and these values might seem trivial to others but not to the group. Narratives can create and destroy stereotypes. As with all forms of political communication there is the danger of manipulation. This danger is one of the reasons why many deliberative democrats privilege argument. However, argument is also susceptible to this kind of manipulation. Communication can be superficial, insincere and strategically manipulated (Young, 2000, p. 79).

5.1.1 Young Applied

Young's system looks at one's particular situation and whether a citizen is actively involved in the decisions that affect their lives. Unlike other theorists who broadly define groups through race, ethnicity (Kymlicka) or socio-economic conditions (Rawls, Barry), Young theorizes people into differential structures and therefore people's problems are looked at accordingly. To explain further, Young would not define classify all Muslims as one group and try to find a solution for them. Instead, she would look at various conditions such as whether they are immigrants, whether they are poor, whether they have any real political inclusion, or the different beliefs that they may have (example, whether they are *Sunni* or *Shiite*, *secular* or *Tableeqh*) before reaching any conclusions. For her all these different factions and voices should be included in the debate. Similarly, Jews may have different views about what should happen to Holocaust deniers, while many are against any denial there are some such as Peter Singer who believe that Irving had a right to express his views (Singer, 2006).

As there might be structural injustices in the system, Young believes we should use a deliberative system instead of an aggregative model which does not consider people's goals and experiences. Young also believes that a deliberative and inclusive model will allow for people to change the views of others through public forums and dialogue which the aggregative model does not have. Democracy may lead to injustice if there are structural inequalities and therefore there is a need for real political communication. In the two cases it can be argued that Muslims as a minority in Denmark do suffer an injustice as they suffer from structural inequalities (Rights, 2007, 4)

Therefore Young argues that political communication is needed in which groups can discuss their problems on an equal footing. However, certain requirements must be followed:

1. Degree of reasonableness – the willingness to listen and explain why others are incorrect
2. Equal terms – groups must be on equal terms
3. There must be freedom from domination and coercion
4. Groups cannot assert their interests over the interests of others

With regard to the cases it can be argued that in the cartoon case both sides do not meet the requirement of reasonableness. Both groups were totally set in their views and did not want to budge. Muslims were adamant that their religious rights were being infringed whereas 'liberals' believed their right to free expression was being infringed. As for point 2, the groups are not on

equal terms as there are major structural inequalities between the various players and therefore new institutions would be needed for meaningful political communication to take place. Point 3 states that there must be freedom from coercion; in the cartoon case however, many journalists and cartoonists did not want to write or draw the prophet based on fear. Finally, both groups did assert their interests over the interests of others. Similarly, in the case of Holocaust denialism, some segments of the Jewish population do not meet the required degree of reasonableness as they are unwilling to hear anything that contradicts their particular version of history. This could mean that they are asserting their interests over the interests of others. Furthermore, there is the potential for domination here, as anyone who seriously questions the official history may suffer imprisonment and financial ruin.

Once this political communication takes place, Young argues that groups need not have unity, but should find reasonable compromises and one should look at the reasons behind any decisions. It is difficult to judge what this would mean in terms of the cases. As argued before, compromise might mean allowing some cartoons or in the Holocaust case, looking at denial literature more rigidly. However, decision making must also take into consideration some requirements such as inclusiveness and the correction of biases. Young also argues that agreement will be rare but it is the process of deliberation and confrontation that is important. This is especially difficult in the cases as I have pointed out that both sides in both cases do not fulfil a majority of the requirements for effective political communication.

Young also points out that groups may be externally or internally excluded from the debate. In the cartoon case, the voices that were externally excluded from the debate are those Muslims deemed to be 'fanatical'. Any attempts at communication were made at 'moderate' Muslims. In a system such as Young's 'fanatical' Muslims would be structurally differentiated from more 'moderate' Muslims and therefore should be included in the debate as a separate but important element. Young also believes that the different kinds of communication used to articulate arguments often leads to the privileging of one group over the other. In the Holocaust denial case much of the argument against and by David Irving took place on this articulate, civil sphere; whereas in the cartoon case argument took place both on an articulate level and through other means. Young states additional kinds of communication such as rhetoric and narrative should also be included. The use of rhetoric as explained earlier, deals with forms of communication such as mass manipulation and protests.

The inclusion of different forms of communication applies directly to the cartoon case as Young would seem to be in favour of the controversial cartoons even though they may be seen as mocking in order to engage in debate with the minority group of Muslims. For her, it was the cartoonists right to publish controversial cartoons to get a hearing on a topic which might not get attention due to its sensitivity. The protests that followed after are therefore in Young's view a legitimate response and so the entire episode was for the benefit of both parties. It was a case of effective political communication between the two parties and both used means with which they were comfortable. However, after this communication there is also the need for a reasonable debate and constructive engagement between the parties. Young also believes that narratives can create and destroy stereotypes. Muslims may use narrative to explain their lives and beliefs to those who cannot understand. Jewish people can also use narrative to explain the deep trauma suffered under the Holocaust which would be more difficult to articulate in an argumentative setting.

From Young's overall argument it can be seen that Young favours free speech and would therefore allow both the cartoons and have the Holocaust denial laws repealed. Not only should this kind of speech be tolerated, but in Young's system it should be fostered. An example is that the raucous and often wild street protests that followed the publication of the cartoons would be in her a system a means of effective communication. However, considering the inequalities that lie between Muslims and the rest of the majority, certain institutions and public forums would have to be institutionalized so that communication between groups becomes more inclusive. Added to this, the groups themselves will have to change and become more reasonable, open-minded and accommodating of the differing views.

5.1.2 Conclusion

The main concern that I have with a system such as that proposed by Young is that it may not be practical. In my view, the structural differentiations between people may emphasise differences instead of similarities and grow to the extent that large group-specific goals may be lost. For example if Muslims continually differentiate themselves as *Sunni* and *Shi'a's* they might become more involved in specific *Sunni* or *Shi'a* related goals and in the process lose sight of larger Islamic related goals (which may be more important). Similarly, Young calls for a commitment to reasonableness, but this is subjective and what may seem unreasonable to liberals may be reasonable to others. For many Muslims a compromise on allowing the Prophet's face to be shown is a betrayal of their beliefs but many who do not try to understand Islam will find it unreasonable.

Added to this is the fact that if there is to be constructive engagement, the use of rhetoric and emotion may distort and deflect the issue at hand. For example, in the cartoon case the issue of women's rights was completely overshadowed by what Muslims saw as a Western attack which led to both sides engaging more in rhetoric than in constructive debate. The rhetoric itself may be dangerous as Mill explained with his corn dealer example. Added to this is the danger of allowing mass rhetoric and propaganda to be passed on as legitimate political communication. The Holocaust itself was built on this kind of rhetoric as was the genocide in Rwanda. Young does not offer real sense of when or how to identify the appropriate limits of disorderly and unreasonable action, and how to practically enforce this.

As Young bases much of her system on the use of deliberation and communication and believes that very little communication may be banned, the cases themselves show what may come of this unrestricted free speech. In other words, Young's system does not give an alternative for communication when the communication itself is the problem. The cartoons and the Irving papers were means of communication that caused harm, stereotyping and pain. It is their communication that is the problem and if communication takes place often in this manner the pain will only multiply.

The strengths of Young's argument lie in the fact that she does point out the lack of democratic inclusion in Denmark. She also has some valid points in terms of a readjustment of how we differentiate groups and how many sides of the groups involved should be used. Also her use of narrative is especially important in cases such as the Holocaust denial case, whereby the magnitude of the tragedy is likely to be passed by unless we appeal to a different kind of communication. Also I believe that what Young foresees in the creation of new public forums is especially important in today's society.

5.2 Bhiku Parekh

In his book *Rethinking Multiculturalism*, Parekh theorizes that there are many differing views and beliefs about how life and society should be organized. These views are often based on the beliefs and systems of diverse cultures. Parekh makes the argument for fostering cultural diversity by stating that no culture embodies all that is valuable in human life, and that different cultures correct and complement one another and expand the horizons of other cultures. This diversity helps people step out of their culture making them freer as humans. No culture can be preserved and maintained

by force and cultures are easy to undermine but difficult to create (Parekh, 2000, pp. 167-169). Therefore, these differing cultures are important to a modern society. However, Parekh outlines two ways in which society has come to deal with diversity. If it seeks to welcome the diversity, respect it, understand it and make it central to its self understanding then it is multiculturalist, but if it seeks to assimilate this culture into the mainstream culture then it is monoculturalist (Parekh, 2000, p. 6). Parekh is a multiculturalist whereas the likes of Barry would fall into the category of monoculturalist. To understand Parekh, we must firstly understand his views on the duties and changing nature of the modern state.

In Parekh's view the modern state has enjoyed unprecedented importance. Since the Treaty of Westphalia in 1648, states have been territorially marked as different. Once you enter the state you are subject to its authority (Parekh, 2000, p. 180). The modern state in a liberal democratic sense is unique as it defines a people as an association of individuals under a common authority. It abstracts away from their class, ethnicity, religion, social status and so forth (Parekh, 2000, p. 181). People are regarded as equal and possess identical rights and obligations. The modern liberal state raises the individual above religious or ethnic lines and creates an unprecedented regime of personal liberties and rights as well as establishing equality between members.

The problem with the modern state for Parekh is that it is preoccupied with political and cultural homogeneity. The state expects all citizens to define themselves identically. The modern state makes good sense in a culturally homogenous society, or one that is willing to do become homogenous. However, in multinational and multiethnic societies where society's communities entertain different goals and have different histories and power, they cannot be treated in an identical manner and thus the modern state can become an instrument of injustice (Parekh, 2000, p. 185). Added to this is that in the wake of technology, globalization, multinational corporations and assertions of identity, states, traditional military, political, economic, cultural and symbolic functions have very different logics and these functions do not all coincide or vertically converge on the state. Instead they call for different sub-national, national and international institutions (Parekh, 2000, p. 193). This does not mean the state is disappearing. The state performs a historical role as it provides a stable and democratic structure, establishes and maintains law and order, social justice and conflict. However, many traditional functions have lost relevance. For Parekh the state can no longer lay claim to collective identities and therefore can no longer see itself as a cohesive cultural unit, this is illustrated by the differences in attitudes between immigrants and nationals to many issues. Unlike centuries ago, the state is not fully sovereign over its territory and shares it with local and

supranational agencies. Parekh states, 'in an age of globalization, migration and footloose capital, territory does not enjoy the degree of inviolability and the moral, emotional and political importance it did earlier' (Parekh, 2000, p. 194).

Furthermore Parekh states that the danger of the modern state lies with ethnic or religious minorities demanding special rights. In turn, 'frightened by the spectra of religious militancy, liberal society throws up its own brand of secular militancy, and the consequent polarization of society takes its toll on the normal political process of deliberation and compromise' (Parekh, 2000, p. 198). This reaction by 'liberals' is similar to the beliefs of Barry, which I have branded as a kind of 'fanatical liberalism'. Parekh therefore believes that a re-conceptualization of the nature of the modern state and its role is needed. In his view, 'the state need not consist of a single people, and could be a community of communities, each enjoying different degrees of autonomy but held together by shared legal and political bonds' (Parekh, 2000, p. 194). Parekh believes that we could have culturally based federal structures with unshaped legal and political arrangements. This system might involve having several centres of authority exercising overlapping jurisdiction. Communities may cut across borders and there will no longer be a homogenous legal space either. There will be multicultural societies which will each devise their own political structure. Unlike Kymlicka and others, he does not ground these rules in liberal theory, instead he believes 'we need to rise to a higher level of philosophical abstraction. And since we cannot transcend and locate ourselves in a realm beyond liberal and nonliberal cultures, such a basis is to be found in an institutionalised dialogue between them' (Parekh, 2000, p. 14).

Parekh identifies groups and communities who are different from the majority on various levels and often try to pluralize or change majority views. For Parekh multiculturalism is about the beliefs and practices that a group of people organize their individual and collective lives around. Parekh defines three groupings which make up cultural diversity in a modern society. These being firstly, a community, who although its members share a broad common culture, seek to pluralize the dominant culture (subcultural diversity); an example is gays and lesbians who follow unconventional lifestyles. Secondly, there are groups where some members are critical of the central values of the dominant culture (spectival diversity) such as feminists. Thirdly, self conscious, well organized communities who live by the own beliefs and practices (communal diversity) such as the Amish and orthodox Jews (Parekh, 2000, p. 3-4). When dealing with these different communities and cultures Parekh states that it is sometimes suggested we have a duty to respect them. This involves respecting other cultures and peoples autonomy and their right to live their lives as they please. This

does not however prevent us from judging and criticizing their choices though our judgment should be based on a sympathetic understanding of their culture from their view. If it is still found to be perverse we have no duty to respect their culture.

A multicultural society would develop both unity and diversity instead of homogenizing all its inhabitants. For Parekh, Multicultural society must devise a political structure to both develop a sense of unity and belonging, as well as get deep diversity. The multicultural state does require some structure to function. The basis of this lies on:

The structure of authority. Peace is important and trust needs to be established between communities. The constitution should merely prescribe the basic structure of state authority and area of jurisdiction. There should be a constitutional enshrined system of fundamental rights in a multicultural system and unlike Kymlicka, special rights should be broad and inclusive of both immigrants and nations. This authority should help groups dialogue with each other.

Justice. The state should be the impartial in the treatment of citizens. There should be representative and equal treatment and the absence of direct or indirect discrimination. For a system to be just there should be equality of rights and opportunities and if this not available equalizing measures should be followed. This means that a sensitive approach should be used that helps groups overcome injustice. For example, if a group is disproportionately disadvantaged by a law, accommodations should be made for that group so that it may overcome these disadvantages. Parekh states that, 'equal protection of the law may require different treatment. Given the horrible reality of the holocaust and the persistent streak of anti-Semitism in German cultural life, it makes good sense for that country to single out physical attacks on Jews for harsher punishment or ban utterances denying the Holocaust' (Parekh, 2000, p. 242). The decentralizing of power has an important role to play.

Collective rights/Group rights. Human collectives are the bearers of these rights just as individual rights whereby individuals are the bearers. These rights might be acquired by individuals pooling their rights together, (derivative collective rights) such as trade unions. Secondly, they may acquire the right *sui generis* by virtue of being. Collectivity has a *prima facie* claim to rights if it meets the conditions.

- Means a great deal to members and enjoys moral status.
- Existence is vital to the fundamental interests of members.

- A community is deeply insecure and cannot integrate without certain rights.
- Community has been subjected to systematic oppression.
- Community can make a valuable contribution to wider society.
- Communities have shared doctrines of which they are the custodians.

When questioning whether to grant a community these special right, institutions must look at the impact the right has on the individual and wider society's well being. The only way to reach a decision is by democratic dialogue between the parties.

Common culture. A multicultural system needs a broadly shared culture, and this grows from interaction between different cultures. Cultures must constantly interact formally and informally. He explains how a common culture is created by giving the example of how American culture has developed from many minorities cultures such as the Irish, Jewish and African American communities into an unmistakable collective culture. Interaction between groups causes culture to challenge and grow from each other. While some things will remain in dispute, public opinion can only emerge from dialogue. One should bear in mind however that different groups, 'should enjoy more or less equal power and resources, equal opportunities for self-expression, equal access to private and especially public spaces, equal ability to interrogate one another, and more or less equal power and resources. Once these and other equalities necessary for a fair and effective interaction are ensured, the dialogue follows its own logic and its outcome cannot be predetermined' (Parekh, 2000, p. 221). For Parekh, the state cannot remain uninterested but it should be even-handed in empowering all. Public policies have a facilitating role in creating an even and equal society as even established political values may be unfairly biased toward another culture.

National identity. According to Parekh, the national identity of a country unites and identifies the community. Every political community needs a national identity but this identity should be in the political structure and not the widely shared personal characteristics of individual members. People will have different cultural identities and these identities will overlap. For example, a person might define himself as Muslim, White and South African. The national identity however, should include everyone. This overlapping of identities is similar to what Young calls structural differentiation.

Limits of equality. In Parekh's system one must look at how laws affect different groups and individuals. If there is a disproportionate disadvantage to some group, this should be remedied. What Parekh does state is that laws should also consider secular belief systems as well as other

factors such as religion, culture and ethnicity. For him, conflict is best settled by negotiation, discussion and compromise (Parekh, 2000, pp. 258-261).

Parekh dedicates a chapter in his book *Rethinking Multiculturalism* (Politics, Religion and Free Speech, chapter 10) to the study of free speech, especially when this speech is offensive to religious beliefs. In the chapter he uses the controversy that surrounded the publication of Rushdie's *The Satanic Verses* as a case study. The response to the book was similar to the cartoons in the violent reaction it caused. Parekh states that Muslims reacted this way on three major grounds, firstly, as it gave an inaccurate account of Islam. Secondly, that it is abusive of revered figures in Islam and it violated the norms of civilized discussion. Thirdly, that the book demeaned and degraded them as a people and added to stereotypes. The three objections to the book are similar to the objections Muslims had to the cartoons, but with the cartoons Muslims also objected to the fact that the graphical depiction of the Prophet contravened Islamic norms, in addition to objecting to the portrayal of the Prophet in a demeaning light. For Parekh the problem lies in the fact that different cultures have different perspectives and ways of understanding. He goes on to state:

Parties involved in public debates on important issues in a multicultural society often tend to talk past each other, both because each tends to define the issue in its own terms that are often not intelligible to others, and because they only have a limited understanding of each other's history, background and way of life. Most conservative and liberal British writers argued that Muslims were opposed to free speech, whereas the latter were only asking why free speech should include deeply and offensive remarks about religious and religious communities (Parekh, 2000, p. 305).

For most British Muslims, they were not against criticizing religion but wondered whether mocking and lampooning should be confused with systematic criticism. Parekh feels that dialogue is the only reasonable way of settling controversial issues. However, this dialogue is not always available and protest becomes the only way. This protest should facilitate dialogue rather than being an end result. This thinking is similar to that of Iris Young, who looks at other means of communication to add to the political debate and deliberation. Parekh also believes that persuasion should be used. Persuasion is between personal taste and logical demonstration. Persuasion is necessary when an activity is based on interpersonally shared reasons and leaves room for judgments. Persuasion is articulated in terms of consideration that the persuadee shares or can be persuaded to change. When using persuasion one doesn't need to answer all practical objections. Instead one needs to

reach out behind one's argument to the values, emotions, self-interest, shared bonds and self-understanding. The person persuaded can however reject them. Persuasion is non adversarial and tries to find shared ground on which to build common bonds (Parekh, 2000, pp. 308-311). Added to persuasion there should be appeals to emotions, self understanding, moral values, and sense of identity. Similarly to Young, Parekh believes that reason and emotion are not incompatible. For Parekh, political deliberation is not sedate and cerebral. He states that we base arguments on our own values, intuitions, history memories etc; these in turn shape our ideas. Reason cannot be disengaged from moral values, some of which are incommensurable and all arguments cannot be purged of deep cultural and evocative associations. During political deliberation we should not look to refute others argument but to come to broad consensus which requires sufficient mutual trust.

Parekh believes that debate should be between equals however, there are inequalities in economic, political and cultural power and minorities often lack both the space and ability to explore sensitive issues and are under constant pressure to simplify them. What is needed is for the state to provide a public forum where important issues can be patiently discussed. For Parekh, National parliaments are too divided along party lines and do not represent minorities. He also feels that the courts are to adversarial in nature and do not compromise. Thus there is a need for new institutions. The benefits of deliberation and debate lie in the beliefs that:

Political deliberation is a multidimensional activity and serves several purposes. It deepens mutual understanding between different groups, sensitizes each to the concerns and anxieties of others, leads to an unconscious fusion of ideas and sensibilities, encourages them to explore common areas of agreements, and plays a vital community building role. Since it requires participants to defend their views in a manner intelligible to others, it requires them to appreciate the contingency of and thus to take a critical view of their beliefs (Parekh, 2000, p. 307)

Parekh also asks the question of whether libel, untruthful and damaging remarks should be allowed when discussing communities rather than individuals as these remarks could reinforce stereotypes. Communities being libelled differ from individuals being libelled as individuals are libelled as members of that community and even though they are individuals, they will always be part of that community. Parekh states that communal libel is objectionable on several reasons. Firstly, as it may lead to social and political exclusion. Secondly, that it may be deemed as a declaration of hostility.

Thirdly, it affects job prospects and lowers the social standing of the community and individual and fourthly serious libel may make insecure communities even more insecure. He goes on further to state that arguments that groups shouldn't be so sensitive to criticism falls away as the harm caused by such remarks does not achieve any valuable goals. This discriminatory treatment may become legitimized by each remark and while each incident may be tolerable on its own, added together they contribute to the dehumanizing of a group. When everything is speakable, everything becomes doable for Parekh. For Parekh, communal libel is morally and political unacceptable.

Parekh states that three important questions should however be asked when dealing with communal libel. Firstly, in the search for truth, is the community being insulated from fair criticism? Secondly, through intercommunal marriage and the exit of members several communities have been created. Should all these communities be protected, and what is our criterion of selection? Thirdly, is law the best way to protect the social standing and the good name of the community? With the first question Parekh feels that libel laws are unlikely to pose problems and can be adapted to suit communities as well as individuals. As to which communities should be protected, Parekh feels that these communities should be defined with ease and that the community should mean something to its members i.e. being religions, nationality, culture unlike being middle class or Californian. Finally, a community should be shown to be particularly vulnerable (Parekh, 2000, pp. 315-316).

Parekh feels that although free speech is of high value, it is not inviolable. There are also different types of free speech that result in different logics and consequences. Arguments that the state should separate state and religion is flawed on the grounds that secular reason is not neutral and devalues what gives meaning to a person's life. There is also big social and political involvement from religion. One cannot have the secularist belief to shy away from religion as it discriminates against religious people. It is counterproductive as it alienates religious people which results in a loss of legitimacy. It is also unwise as it deprives political life of the valuable insights of religion. Religion has a part to play in political life and cannot be separated. Religious bodies also offer an important counterweight to the power of the state (Parekh, 2000, p. 325-328).

He goes on further to state that religion is often self-righteous, arrogant and dogmatic and can destabilize society. It is often intolerant of others and of internal dissent. Parekh feels that instead of keeping religion out of political life, we should find ways to benefit from religion and minimize the dangers. One should try to draw religious-minded people into political life and engage in an open minded discussion. Religions that are intolerant and refuse discussion defeat the reason for

welcoming the religion and may be restricted. However, religious bodies should not be able to hide behind what they deem as infallible truths (Parekh, 2000, p. 330).

Parekh also believes that laws need to concentrate on necessary evils and therefore laws can differ with regard to different communities in different countries. He gives the example of how anti-Semitism laws are stronger in some countries than others. In his view the protection should depend on the political context at that time.

5.2.1 Parekh Applied

The important distinctions and changes in modern times that Parekh outlines are of importance when looking at the 'end of history' debate, and what Parekh says about the changing nature of the modern state is of particular relevance. Unlike Mill, Parekh conceptualizes the multicultural character of a modern state and illustrates how these differences can force different groups to act in different ways. Also I believe that what Parekh has to say about secular militancy rising up to deal with religious fundamentalism is significant as it explains the reaction by Danish liberals to the cartoons. However, Parekh's vision of overlapping political and legal borders is a bit extreme in my view and will lead to too many complications.

Parekh develops a political structure that should be followed. He hopes that this structure leads to both a sense of unity as well as healthy diversity. However, in my view it is flawed as it relies heavily on 'difficult negotiations' and is therefore not substantial enough. As this paper illustrates, it may be almost impossible to find fundamental rights that all minorities agree on as, for example, freedom of speech is considered a fundamental right but the boundaries of freedom of speech may differ greatly. What Parekh argues about justice being contextual is important and I believe that he is right in asking for some rights to be based on context. Considering the two cases within their context of Islamaphobia and anti-Semitism in many countries, it is highly likely that Parekh would object to their publication on these lines.

Similarly one must consider the conditions of collective rights:

1. Means a great deal to members and enjoys moral status.
2. Existence is vital to the fundamental interests of members.
3. A community is deeply insecure and cannot integrate without certain rights
4. Community has been subjected to systematic oppression
5. Community can make a valuable contribution to wider society.

6. Communities have shared doctrines of which they are the custodians.

The Muslim belief that the Prophet should not be depicted means a great deal to them and their belief system. Continued publication and provocation by depicting the Prophet will make it harder for Muslims to integrate into the society. The cartoons also stereotyped Muslims as being violent terrorists which in turn discriminates against them. Therefore Muslims can be seen to have important collective rights, and a ban on the depiction of the Prophet would make their integration into society easier. With a ban on Holocaust denial, it can be argued that the Jewish community and countries with a negative history and neo-Nazi problems are insecure. The Jewish community have also been subjected to systematic oppression and if this Holocaust denial is not protected against it might lead to an increase of anti-Semite backlash in many European countries. Therefore, it could also be seen that Jews would have a case for collective rights on the protection of the history of the Holocaust.

Parekh also outlines his limits to equality and the remedy to be used if there is a disproportionate affect to one group. When looking at the cases one must look at both secular and religious views. However, in my view, the cartoons stereotype Muslims to an extent which other groups are not as badly stigmatized. Many of the cartoons, if based on race, would be deemed racist and therefore unequal. With the Holocaust denial case, the trauma of the Holocaust has become a part of Jewish identity and a representation of the trauma they have suffered over the years. Therefore to attack the Holocaust is to attack Jewish identity and it falls into a similar category of identity hate. Therefore, it would also be racist and unequal.

Parekh's insight into *The Satanic Verses* controversy highlights both sides of the story, in a case which is very similar to the cartoon case. As he points out, many Muslims both in *The Satanic Verses* case and in the cartoon case were not upset at the criticism levelled against them, but, were upset at the insulting manner used. In the cartoon case, they were additionally insulted that cartoonists deliberately portrayed the Prophet knowing it would cause harm and anger. For many Jews, their hurt would lie in the belief that old wounds are being deliberately opened. Parekh's belief that deliberation is the only option is similar to Young and so are his appeals to emotion and persuasion and other unorthodox means of communication. Although these appeals bring something to the deliberation, I do not believe that asking for broad consensus based on trust will be easy to come by, especially in the light of the two cases. The reason for this statement is that I believe both the cartoonists and David Irving deliberately undertook their actions to cause trouble and would try to

continue to instigate others to prove their point. As Mill would say, their actions constitute mischievous acts. The only advantages that Parekh would see in allowing the cartoons and the Holocaust denialism is that debate will follow them.

Parekh also believes that communities may be libelled as it may lead to, (1) political and social exclusion; (2) it may be deemed a declaration of hostility and (3) it affects job prospects and makes insecure communities even more insecure. I hold that in respect of the cartoon case, Muslims were communally libelled on the following grounds. (1) The cartoons and the reaction they provoked led to social exclusion by the majority of Danish citizens as they were portrayed in an unflattering light as terrorists and abusers. (2) Cartoon (h) which claimed that the journalists were provocateurs could also be argued to be a declaration of hostility. The mere publication of an off-limits image while knowing it was off-limits is also a declaration of hostility. (3) Muslims in much of Europe and the world are suffering from Islamophobia and therefore the cartoons, which led to Muslims being stereotyped also makes them more insecure. With Holocaust denialism it is unlikely that Irving's paper could have led to political or social exclusion (1). However it affects many Jews and where there is anti-Semitism, it could be seen as a hostile action (2) against them. Finally, given the tragedy of the Holocaust and anti-Semitism, Jews often feel insecure (3) and therefore the publication of such papers which tries to lessen the tragedy can make them feel more insecure. Furthermore, Parekh states that free speech is not inviolable considering the consequences. Similarly to Taylor, he highlights the fact that secular belief itself is not neutral (Taylor feels secular belief is steeped in Christian tradition) and that religion means a lot to many people. To try and separate religion from one's identity is not possible for many and remains a major flaw in classical liberalism. Therefore in the cartoon case he would consider the repercussions as well as the strongly held beliefs of Muslims.

For Parekh the key lies in open-minded and engaging discussion with groups, whereby one tries to understand the groups and their concerns. Importantly, he also pays much attention to the context of the situation. If one looks at the cases from a perspective like this, one might be able to conclude that Parekh would not allow the cartoons as they push people away from discussion. In the Holocaust denial case, if one looks at the context that a country has in relation to anti-Semitism, one could say that the Parekh would not allow the papers in some countries but allow it in others.

5.2.2 Conclusion

Many of Parekh's views on changing the borders of the state are a bit extreme for me. I think it that many overlapping legal and political boundaries will undoubtedly lead to trouble. For example, if one

is to take the two cases and each group was given distinct rights, each would claim that their objections or retaliations are within their rights. To what extent will legitimate criticism of another's culture be stopped on the basis of it overlapping into their political boundaries? If one is offended by someone in another group especially about religious matters, which court will arbitrate? Another factor that dissuades me from endorsing a multiculturalist view such as Parekh's is that Parekh states we need to find 'fundamental rights'. In my view it is the finding of what constitutes 'fundamental rights' that is a major problem. While liberal nationalists have used liberal principles, multiculturalists have a more open view of what should and should not be allowed. For many liberals free speech is a fundamental right whereas for others religion should be placed above all else. Parekh states that in order to do this we need to deliberate with others based on a system on 'trust'. This raises further problems as the *Jyllands-Posten* cartoons described themselves as 'reactionary provocateurs' in cartoon (i). It is therefore not evident how we are to deal and 'trust' with these more extreme sections of society.

The final problem I have with multiculturalism is that of the 'slippery slope' argument. Without defined rules groups may claim cultural importance over most issues and in a multiculturalist system it would be increasingly difficult to resolve and a cultural stalemate of sorts may develop. What Parekh does place importance on is the understanding of others and the context of the situation. If we all were to try to be more understanding of each other, even if this is a somewhat utopian ideal, we would be able to resolve conflicts and compromise more easily. Also, one must bear in mind that people in different places will have different reactions. The reaction of people and therefore the harm coming of Holocaust denial literature would be different in say Brazil than in a country such as Germany.

6. Conclusion

In my view, Huntington's belief in a clash of civilizations is becoming more and more evident, especially with regard to the Muslim world. These clashes between traditional liberal values and those of the Muslim world are taking place on a variety of plains, from immigrant populations being attacked and retaliating in Europe to entire states defying Western values. There is therefore a definite need for a new approach in dealing with these cross-cultural conflicts. There is also a need to prevent debate from being overshadowed by 'fanatics', both liberal and otherwise. Although these groups must be incorporated into the debate, they must not dominate it. As explained in the introduction, communication is the tool to deal with these cross-cultural conflicts and thus by using the different cases as an illustration one can judge with theorist provides an equitable solution for those involved.

Jewish people in Europe and much of the world have become well integrated into the dominant society while often sustaining a clear group identity. The conflict between this minority and the dominant culture is not as open as that of Muslims but still takes place (such as the slaughter of animals for kosher meat). What is interesting in this case is that the Holocaust is not technically part of their religion but part of their history. However, the pain and suffering that Jewish people were put through under the Holocaust has become part of their identity and something that many wish not to forget. One could liken it to how the pain and legacy of colonialism has become a part of African identity. Also, the question must be asked of whether questioning the Holocaust is really anti-Semitic or just something that should be up for debate? Does it fall within legitimate questioning or because of the horrific nature of the Holocaust; does it almost become hate speech?

With many Muslims who believe that the Prophet should never be depicted, the cartoons were clearly an instigation, heightened by their derogatory manner. The cartoons also portrayed Muslims in a stereotypical way by portraying them as terrorists. The question should be asked of whether Muslim sentiment should be protected by preventing depictions of the Prophet? Should depicting the Prophet only be prevented when it is a derogatory manner? And should the cartoons that portray or stereotype Muslims as terrorists be prohibited?

When looking at the different systems and the manner in which they will tackle the issues surrounding the two cases, I have looked at two major factors. Firstly, how does the theory balance

individual freedom with group recognition? And secondly, how does the theory devise ways of constructive dialogue between groups?

For a theorist like Brian Barry the importance of the individual is placed above the group. In his system groups would have to actively support their ideals without the help of government. Similarly, dialogue between groups will have to take place by the groups themselves supporting individuals to tackle issues on their behalf. For example, Muslims in Denmark would financially support the campaign of a Muslim candidate so that he may represent them in government. This theory does however fall short in many aspects due mainly to inequalities in power. Groups may be in such a weak position socio-economically, that they may never have their grievances addressed. The result of this weak power is that any dialogue between groups will be superficial at best. The institutions for dialogue will also be heavily biased toward the majority. In the cartoon case, it would make it virtually impossible for Muslims to get their voices heard or to affect any change to improve their lives. Mill also underestimates the importance of cultural and religious identities and sees it as a civilizational backwardness. But if one is to follow Huntington's hypotheses, one cannot lessen the importance of this cultural and religious identity. Mill also does not envision a multicultural society as we have today where different cultures are all in the same area. Added to this is the fact that he also could not have foreseen the speed at which information is now transferred. This speed can also be used for harm and for racist and hate speech. Classical liberals have however criticized many multiculturalists of being overtly politically correct. In many instances I feel this is a legitimate criticism, though I do believe that liberal nationalism does provide a more balanced response.

In my view I believe that a liberal nationalist position should be followed. The basis for this conclusion is that it provides for a more tolerant approach while still setting forth some rules to avoid the 'slippery slope' effect that many multiculturalist policies are vulnerable towards. It allows us to combine tolerance of groups and cultures with an affirmation of freedom for all humans. Added to this is the fact that liberal nationalism does give rights to groups that are being prejudiced by the system. It also offers hope for building constructive dialogue between groups as it fosters solidarity and understanding. Even though it is argued that the liberal principles that liberal nationalism is based on are not truly cultural or religiously neutral, I think that the understanding and tolerant nature of liberal nationalism is best suited to overcome any major problems that may be had. I do however believe that some aspects of both classical liberalism and multiculturalism should be introduced, such as the more nuanced approach to differentiated minorities that multiculturalism provides for.

Multiculturalism on the other hand falls into the other extreme of being too tolerant to groupings. To me, it remains an ideal that does not take account of the pragmatic considerations that would have to be looked at. If, for example, one considers a system like Parekh's that pays more attention to one's group problems than one's individual problems, the system itself may become so convoluted that the individual becomes less and less recognized. Individual freedom in the traditional sense may be lost. In addition, with respect to Young's theory, I also believe that her use of rhetoric and unrestricted dialogue will hinder progress between groups. However, I do believe that the multiculturalist way of a sympathetic and understanding way is important to healthy dialogue.

In conclusion, I believe that liberal nationalism does provide the most balanced response to group specific questions of free speech. When we do look at creating healthy dialogue we must try to understand each other better and try to develop new institutions in which groups may discuss issues. We must try to find alternative means of communication that will not offend others to the extent that important dialogue is held back, but should also allow for important issues to be discussed. Also one could find other smaller reforms such as checking with religious leaders about offensive material or going more thoroughly through material that is sensitive.

I believe that context and relevance must always be looked at. In the cartoon case, it is evident that the Muslim world has much to discuss with the Western World and vice versa. Both of these groupings have a lot to learn about each other and their cultures and should learn to bear this in mind even before discussions take place. But, the journalists in Denmark should have also realized the climate of Islamophobia in much of Europe. They should also have considered the precarious nature of Islamic and Western relations and considered how their cartoons could dampen more effective and worthwhile communication. Whilst one should not be scared to express one's views, this should not come at the greater expense of others. Others should question and try and engage Muslims in debate about women's rights and violence but this should not be done by degrading their religion. In the Holocaust denial case, many have stated that the Holocaust is a part of history and therefore should be open for reinvestigation etcetera. However, if one looks at the context of the Holocaust and one should realize that the 'Holocaust is a unique crime whose enormity pits it beyond traditional norms of trial and punishment' (Lasson, p. 97).

If one applies a liberal nationalist position to the cases, one can theorize on what ought to have been done. In the case of the cartoons, a liberal nationalist system would look at all the factors involved in

the case. Most importantly it would look at the position of Muslim immigrants in Denmark, Muslims in the rest of Europe and would also consider the global position of Muslims and Islamophobia. The courts and or any newly established institution that deals with sensitive minority issues would try to understand the reasoning for Islamic anger and sensitivity. This would move beyond the general prohibitions that Islam places on graphical representation of the Prophet, but also to the love of the Prophet that Muslims have. Unlike a secular court, a liberal nationalist system would place emphasis on the importance that religion has to people. Once the adjudicating body has a clear understanding of Muslim sentiment, it would consider the journalists side and their reasoning for pushing the publication of the cartoons. It would also consider the importance of free speech as a tenet of liberal society and whether the proponents of the cartoons do actually have a case or whether there are other means of expressing their views, such as written word, which will be less offensive to Muslims. In order to come to a fair resolution, the courts will engage with religious leaders and well as civil society. Debate is important between the groupings in order to reach a fair compromise. This debate would ideally include those who are considered more extreme, as long as they are committed to reasonableness. A liberal nationalist system will try and involve those who do not have power, such as immigrants who cannot speak Dutch. The result of this debate would be a more fair and inclusive compromise.

David Irving's case would also follow a similar set-up, of trying to fully understand a Jewish history and pain while still considering the importance of free speech. As I have explained, many feel that Holocaust denialism is a type of hate speech and therefore a liberal nationalist system would be very cautious of allowing speech that passes the bounds of fair discussion and tolerance. As with the cartoon case, any institution will also have to consult with religious and community leaders as well as those Holocaust deniers. It should try to involve all of those who have an interest in this case. From this debate a fair and equitable compromise between reasonable opposition may eventually be reached.

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(A)



(B)



(C)



(D)

Muhammeds ansigt



(L)



(K)



(J)



(I)



(H)



(E)



(F)



(G)

YTRINGSFRIHED

af **FRANK PETERSEN**
KulturWeekend

■ Korsethede Frank Pihls
reklamer for sig selv, at han
skal - og tager på sit
ansigt for dem to skæmme - for
sig selv, der skal afbilde
profanen Muhammed i sin
formidling, omend at op-
rindte ansigter. Det vil
sige, som vi har set i de
første af os islamiske
medier. Et billede
kan man måske sige er
kun en del af det, der
skal være et billede af
Muhammeds ansigt. I disse
reklamer vil man se
Muhammeds ansigt med
sammen med USA's
præsident George W. Bush,
som det er ikke en
sammenligning med
Muhammeds ansigt og
hans ansigt, og som er
et billede af Muhammeds
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Det er ikke en sammenligning
mellem Muhammeds ansigt
og hans ansigt, og som er
et billede af Muhammeds
ansigt og hans ansigt.

12 Medlemmer
Dette kan bringe ansigt
Muhammeds ansigt
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sammen med USA's
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som det er ikke en
sammenligning med
Muhammeds ansigt og
hans ansigt, og som er
et billede af Muhammeds
ansigt og hans ansigt.

12 Medlemmer
Dette kan bringe ansigt
Muhammeds ansigt
medlemmer af den
Muhammeds ansigt til
at tegne Muhammed, som de
er. Det er, som vi har set i de
første af os islamiske
medier. Et billede
kan man måske sige er
kun en del af det, der
skal være et billede af
Muhammeds ansigt. I disse
reklamer vil man se
Muhammeds ansigt med
sammen med USA's
præsident George W. Bush,
som det er ikke en
sammenligning med
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