Religious Reason and Secular Affect: An Incommensurable Divide?

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Any academic discussion of religion in the present moment must countenance the shrill polemics that have followed from the events of the past decade—including 9/11, the subsequent war on terror, and the rise of religious politics globally. What was once a latent schism between religious and secular worldviews has now become an incommensurable divide, and protagonists from both sides posit an ominous standoff between strong religious beliefs and secular values. Indeed, a series of international events, particularly around Islam, are often seen as further evidence of this incommensurability.

Despite this polarization, more reflective voices in the current debate have tried to show how the religious and the secular are not so much immutable essences or opposed ideologies as they are concepts that gain a particular salience with the emergence of the modern state and attendant politics— concepts that are, furthermore, interdependent and necessarily linked in their mutual transformation and historical emergence. Viewed from this perspective, as a secular rationality has come to define law, statecraft, knowledge production, and economic relations in the modern world, it has also simultaneously transformed the conceptions, ideals, practices, and institutions of religious life. Secularism here is understood

not simply as the doctrinal separation of the church and the state but the rearticulation of religion in a manner that is commensurate with modern sensibilities and modes of governance. To rethink the religious is also to rethink the secular and its truth-claims, its promise of internal and external goods.

While these analytical reflections have complicated the state of academic debate about the religious and the secular, they are often challenged by those who fear that this manner of thinking forestalls effective action against the threat of "religious extremism." By historicizing the truth of secular reason and questioning its normative claims, one paves the way for religious fanaticism to take hold of our institutions and society. One enters a slippery slope of the ever-present dangers of relativism. Our temporal frame of action requires certainty and judgment rather than critical rethinking of secular goods. This was evident in the debate that unfolded around the head scarf in France just as it was evident in the justifications surrounding the republication of the 2005 Danish cartoons that depicted Muhammed; if we do not defend secular values and lifestyles, it is argued, "they" (often Islamic extremists) will take over our liberal freedoms and institutions. In this formulation, the choice is clear: either one is against secular values or for them. A moral impasse, it is asserted, is not resolved through reflection but through a vigorous defense of norms and standards that are necessary to secular ways of life and conduct.

In this essay, I would like to question this manner of conceptualizing the conflict between secular necessity and religious threat. To begin with, this dichotomous characterization depends upon a certain definition of religious extremism, often amassing a series of practices and images that are said to threaten the secular liberal worldview: from suicide bombers, to veiled women, to angry mobs burning books, to preachers pushing intelligent design in schools. Needless to say, this diverse set of images and practices neither emanates from a singular religious logic nor belongs sociologically to a unified political formation. Far more importantly, the point I want to stress is that these supposed descriptions of "religious extremism" enfold a set of judgments and evaluations such that to abide by

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a certain description is also to uphold these judgments. Descriptions of events deemed extremist or politically dangerous are not only often reductive of the conditions they purport to describe but, more importantly, are premised on normative conceptions of the subject, law, and language that need to be urgently rethought if one is to get beyond the current secular-religious impasse. Any serious intellectual and political discussion today must therefore critically rethink the epistemological and ontological assumptions that undergird these norms and whose status is more fraught in the academy than meets the eye in these polemical accounts. Such a task of course has bearing upon how one thinks about the project of critique and its various forms of practice.

I want to take the Danish cartoon controversy as a key site from which to think through these issues. For most observers, across the political spectrum, public reaction to the publication of Danish cartoons of Muhammed (initially in 2005 and republished in 2008) is exemplary of the standoff between religious and secular worldviews—particularly in liberal democratic societies. Following the initial publication of the cartoons, while shrill and incendiary polemics were common to both sides, even the calmer commentators seemed to concur that this was an impasse between the liberal value of freedom of speech and a religious taboo. For some, to accommodate the latter would be to compromise the former, and for others an accommodation of both was necessary for the preservation of a multicultural and multireligious Europe. Both these judgments assume that what is at stake is a moral impasse between what the European Muslim minority community regards as an act of blasphemy and the non-Muslim majority considers to be an exercise in freedom of expression, especially satirical expression, so essential to a liberal democratic society. It is this consensus across opposed camps that I want to unsettle in this essay, calling our attention to normative conceptions enfolded within this assessment about what constitutes religion and a proper religious subjectivity in the modern world. I hope to show that to abide by the description that the Danish cartoons exemplify a clash between the principles of blasphemy and freedom of speech is to accept a set of prior judgments about what kind of injury or offence the cartoons caused and how such an injury might be addressed in a liberal democratic society. My aim here is not only to push us to develop a thicker and more robust understanding of the kind of moral injury at stake in the cartoon controversy but also to question whether juridical language and mechanisms of the law are adequate for addressing it. In conclusion I will pose some questions about the presumed secularity of the practice of critique, questions that require thinking across traditional boundaries of academic disciplines and debate.

Blasphemy or Free Speech?

The Muslim reaction to the Danish cartoons depicting the Prophet Muhammed, particularly following the first publication, shook the world.[1] This was in part because of the large demonstrations held in a range of Muslim countries, some of which turned violent, and in part due to the vitriolic reaction Muslim objections to the cartoons provoked among Europeans, many of whom resorted to blatant acts of racism and Islamophobia targeted at European Muslims. Given the scale and passion involved on both sides, it is clear something quite crucial was at stake in this controversy that requires far more discussion, dialogue, and reflection than mere claims of civilizational difference and calls for decisive action.

Despite the volume of commentary on the subject, there were two stable poles around which much of the debate over the cartoons coalesced. On the one hand, many claimed that Muslim outcry had to be disciplined and subjected to protocols of free speech characteristic of liberal democratic societies wherein all figures and icons, no matter how sacred, might be caricatured, satirized, or ridiculed without regard for people's feelings. Critics of this position, on the other hand, claimed that freedom of speech has never simply been a matter of the exercise of rights. It also entails the civic responsibility not to provoke religious or cultural sensitivities, especially in hybrid multicultural societies.[2] These critics charged that European governments employ a double standard when it comes to the treatment of Muslims; not only is the desecration of Christian symbols regulated by blasphemy laws in countries like Britain, Austria, Italy, Spain, and Germany,[3] but the media often makes allowances to accommodate

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1. The cartoons were initially published in *Jyllands-Posten* in September 2005. Large protests within the Muslim world broke out in 2006. The reasons for these protests were diverse, and many critics claimed they were opportunistically exploited by Muslim governments for their own ends. On 13 February 2008 *Jyllands-Posten* and many other Danish newspapers including *Politiken* and *Berlingske Tidende* reprinted the infamous *Bomb in the Turban* cartoon as a statement of commitment to freedom of speech. Several newspapers in Europe and the U.S. followed suit, some of whom had refused to publish the cartoons in the first round. The newspapers claimed this was in reaction to the reported arrest of three men of North African descent who were allegedly plotting to kill the cartoonist Kurt Westergaard. One of the three was released for lack of evidence, and the other two, nonresidents of Denmark, were deported to Tunisia. The reaction to the republication of the cartoons among Muslims was muted this time, and most demonstrations remained peaceful.

2. For two different examples of this position, see Joseph H. Carens, "Free Speech and Democratic Norms in the Danish Cartoons Controversy," *International Migration* 44, no. 5 (2006): 33–42, and Tariq Ramadan, "Cartoon Controversy Is Not a Matter of Freedom of Speech but Civic Responsibility," interview by Nathan Gardels, *NPQ*, 2 Feb. 2006, www.digitalnpq.org/articles/global/56/02-02-2006/tariq_ramadan. Also see Ramadan, "Cartoon Conflicts," *The Guardian*, 6 Feb. 2006, www.guardian.co.uk/cartoonprotests/story/0,,1703496,00.html

3. Among the European countries in which blasphemy laws still exist on the books are

Judeo-Christian sensitivities.[4] Given that most Muslims regard pictorial depictions of the Prophet as either taboo or blasphemous, these critics attributed the gleeful display and circulation of the cartoons to the Islamophobia sweeping North America and Europe following the events of 9/11.[5] For some, this was reminiscent of the anti-Semitic propaganda that portrayed Jews as a drain on Europe's land and resources.[6]

For many liberals and progressives critical of the Islamophobia sweeping contemporary Europe, Muslim furor over the cartoons posed particular problems. While some liberals could see the lurking racism behind these cartoons, the *religious* dimension of the Muslim protest remained troubling. Thus even when there was recognition that Muslim religious sensibilities were not properly accommodated in Europe, there was nonetheless an *inability* to understand the sense of injury expressed by so many Muslims. Tariq Ali exemplified this position in a column he wrote on the controversy. Ali begins by dismissing the claim that Muhammed's pictorial depiction constitutes blasphemy in Islam because countless images of Muhammed can be found in Islamic manuscripts and on coins across Muslim history. He then goes on to ridicule the anguish expressed by many Muslims on seeing or hearing about these images: "As for religious 'pain', this is, mercifully, an experience denied unbelievers like myself and felt only by divines from various faiths, who transmit it to their followers, or by politicians in direct contact with the Holy Spirit: Bush, Blair and Ahmedinejad and, of course, the pope and the grand ayatollah. There are many believers, probably a majority, who remain unaffected by insults from a right-wing Danish paper."[7] In Ali's view, Muslims who express pain upon seeing the Prophet depicted as a terrorist (or hearing about such

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Austria, Denmark, Germany, Greece, Iceland, Finland, the Netherlands, Spain, Italy, Switzerland, and the United Kingdom.

4. For example, shortly after the protests erupted over the Danish cartoons, *The Guardian* reported that *Jyllands-Posten* (the same newspaper that had solicited the Muhammed cartoons) had refused to publish drawings mocking Jesus Christ for fear of provoking "an outcry" among Danish Christians. See Gwladys Fouché, "Danish Paper Rejected Jesus Cartoons," *The Guardian,* 6 Feb. 2006, www.guardian.co.uk/media/2006/feb/06/pressandpublishing.politics

5. See, for example, Tariq Modood, "The Liberal Dilemma: Integration or Vilification?" and "Obstacles to Multicultural Integration," *International Migration* 44, no. 5 (2006): 4–7 and 51–62.

6. As one British Muslim critic put it, there are strong parallels between how Muslims are characterized in Europe today and the Jews in the 1930s: as religious bigots, aliens, and a blight on European civilization. See Maleiha Malik, "Muslims Are Now Getting the Same Treatment Jews Had a Century Ago," *The Guardian*, 2 Feb. 2007, www.guardian.co.uk/commentisfree/story/0,,2004258,00.html

7. Tariq Ali, "LRB Diary," *London Review of Books*, 9 Mar. 2006, www.tariqali.org/LRBdiary.html

depictions) are nothing but pawns in the hands of religious and political leaders.

Art Spiegelman expressed a similar bewilderment: "the most baffling aspect of this whole affair is why all the violent demonstrations focused on the dopey cartoons rather than on the truly horrifying torture photos seen regularly on Al Jazeera, on European television, everywhere but in the mainstream media of the United States. Maybe it's because those photos of actual violation don't have the magical aura of things unseen, like the damn cartoons."[8] Such views crystallized the sense that it was a clash between secular liberal values and a traditional religiosity that was at stake in the Danish cartoon controversy. Stanley Fish opined that the controversy was best understood in terms of a contrast between "their" strongly held religious beliefs and "our" anemic liberal morality, one that requires no strong allegiance beyond the assertion of abstract principles (such as free speech).[9]

I want to argue instead that to understand the affront the cartoons caused in terms of racism alone or Western irreligiosity is to circumscribe ourselves to the limited vocabulary of blasphemy and freedom of speech—the two poles that dominated the debate. Both of these notions—grounded in juridical notions of rights and state sanction—presuppose a semiotic ideology in which signifiers are arbitrarily linked to concepts, their meaning open to people's reading in accord with a particular code they share between them. What might appear to be a symbol of mirth and merrymaking to some may well be interpreted as blasphemous by others. In what follows, I will suggest that this rather impoverished understanding of images, icons, and signs not only naturalizes a certain concept of a

8. Art Spiegelman, "Drawing Blood: Outrageous Cartoons and the Art of Courage," *Harper's* 312 (June 2006): 47.

9. According to Fish, liberal morality consists in "a withdrawal from morality in any strong, insistent form" such that liberals do not care whether their beliefs prevail or not. Muslims, on the other hand, have strong beliefs (however misguided they may be) whose implementation they regard as crucial (Stanley Fish, "Our Faith in Letting It All Hang Out," *New York Times,* 12 Feb. 2006, www.nytimes.com/2006/02/12/opinion/12fish.html?_r=1&pagewanted=all&oref=slogin). Fish's view is problematic on a number of counts. First, liberalism enfolds a conception of religiosity that is not simply negative in its formulation but has a robust sense and feel that is manifest in the place accorded to religious myths, texts, icons, and symbols in the cultural and literary resources of liberal societies. Charles Taylor's recent book *A Secular Age* (Cambridge, Mass., 2007) provides a rich account of this form of religiosity, one to which Fish remains blind. Second, Fish characterizes both free speech and religion as belief systems with one difference: the former is weak whereas the latter is passionately embraced. It is important to note that neither liberal nor Islamic tradition is merely about belief; each is about practices, how subjects come to be attached to authoritative ideas, images, icons, and sensibilities. It is because of this rather impoverished view of liberal ideology that Fish does not appreciate the strong and visceral reaction that Muslim protests provoked among defenders of the cartoons.

religious subject but also fails to attend to the affective and embodied practices through which a subject comes to relate to a particular sign—a relation founded not only on representation but also on what I will call attachment and cohabitation. It is striking that the largely silent but peaceful and emphatic rejection of these images among millions of Muslims around the world was so easily assimilated to the language of identity politics, religious fanaticism, and cultural/civilizational difference. Little attention has been paid to how one might reflect on the kind of offence the cartoons caused and what ethical, communicative, and political practices are necessary to make this kind of injury intelligible. The lacuna is all the more puzzling given how complex notions of psychic, bodily, and historical injury now permeate legal and popular discourse in Western liberal societies; consider, for example, the transformations that concepts of property, personal injury, and reparations (to settle collective historical harm) have undergone in the last century alone.

I want to clarify at the outset that my goal here is not to provide a more authoritative model for understanding Muslim anger over the cartoons; indeed, the motivations for the international protests were notoriously heterogeneous and it is impossible to explain them through a single causal narrative.[10] Instead, my aim in pursuing this line of thought is to push us to consider why so little thought has been given in academic and public debate to what constitutes moral injury in our secular world today. What are the conditions of intelligibility that render certain moral claims legible and others mute? How can the language of street violence be mapped onto the matrix of racism, blasphemy, and free speech but the claim to what Ali pejoratively calls "religious pain" remain elusive if not incomprehensible? What are the costs entailed in turning to the law or the state to settle this kind of injury? How might we draw on the recent scholarship on secularism to complicate what is otherwise a polemical and shrill debate about the proper place of religious symbols in a liberal democratic society?

Religion, Image, Language

W. J. T. Mitchell argues that we need to reckon with images not just as inert objects but as animated beings that exert a certain force in this world. Mitchell emphasizes that this force cannot be reduced to interpretation but taken up as a relationship that binds the image to the spectator, object to subject, a relationship that is transformative of the social context in

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10. For a critical review of the contrasting motivations behind the protests staged in a number of Muslim countries, see Mahmood Mamdani, "The Political Uses of Free Speech," *Daily Times* (Pakistan), 17 Feb. 2006, www.dailytimes.com.pk/default.asp?page=2006%5C02%5C17%5Cstory_17-2-2006_pg3_3

which it unfolds. The "complex field of visual reciprocity," he writes, "is not merely a by-product of social reality but actively constitutive of it. Vision is as important as language in mediating social relations, and it is not reducible to language, to the sign, or to discourse. Pictures want equal rights with language, not to be turned into language."[11]

Mitchell's insistence that the analysis of images not be modeled on a theory of language or signs is instructive in that it reminds us that not all semiotic forms follow the logics of meaning, communication, or representation. Yet the idea that the primary function of images, icons, and signs is to communicate meaning (regardless of the structure of relationality in which the object and subject reside) is widely upheld and was certainly regnant in much of the discourse about the Danish cartoons.[12] Webb Keane traces the imbricated genealogy of this understanding of semiotic forms and the modern concept of religion.[13] He follows a number of other scholars in pointing out that the modern concept of religion—as a set of propositions in a set of beliefs to which the individual gives assent—owes its emergence to the rise of Protestant Christianity and its subsequent globalization. Whereas colonial missionary movements were the carriers for many of the practical and doctrinal elements of Protestant Christianity to various parts of the world, aspects of Protestant semiotic ideology became embedded in more secular ideas of what it means to be modern. One crucial aspect of this semiotic ideology is the distinction between object and subject, between substance and meaning, signifiers and signified, form and essence.[14] Unglued from their initial moorings in doctrinal and theological concerns, these sets of distinctions have become a part of modern folk understanding of how images and words operate in the world. One version of this is evident in Ferdinand de Saussure's model of language, which posits an immutable distinction between the realm of language and the realm of things (material or conceptual), between the sign and the

11. W. J. T. Mitchell, "What Do Pictures Want?" *What Do Pictures Want? The Lives and Loves of Images* (Chicago, 2005), p. 47.

12. Needless to say, such an understanding of language has been challenged and complicated by a number of linguists and philosophers. For an insightful discussion, see Benjamin Lee, *Talking Heads: Language, Metalanguage, and the Semiotics of Subjectivity* (Durham, N.C., 1997).

13. See Webb Keane, *Christian Moderns: Freedom and Fetish in the Mission Encounter* (Berkeley, 2007).

14. These sets of distinctions are predicated on a distantiation between the perceiving subject and the world of objects, a distantiation that many scholars consider to be a distinguishing feature of modernity. See Timothy Mitchell, *Colonising Egypt* (Cambridge, 1988), and Bruno Latour, *We Have Never Been Modern,* trans. Catherine Porter (Cambridge, Mass., 2007). On this point, see the discussion of Mitchell and Latour in Keane, *Christian Moderns,* pp. 10–12, 75–77.

world, between speech and linguistic system. One finds in Saussure, argues Keane, a preoccupation not entirely different from that which agitated Calvin and other Protestant reformers: how best to institute the distinction between the transcendent world of abstract concepts and ideas and the material reality of this world.

Historical anthropologists have drawn attention to the shock experienced by proselytizing missionaries when they first encountered non-Christian natives who attributed divine agency to material signs, often regarded material objects (and their exchange) as an ontological extension of themselves (thereby dissolving the distinction between persons and things), and for whom linguistic practices did not simply denote reality but also helped create it (as in the use of ritual speech to invoke ancestral spirits or divine presence).[15] The dismay that Protestant Christian missionaries felt at the moral consequences that followed from native epistemological assumptions, I want to suggest, has many resonances with the bafflement many liberals and progressives express at the scope and depth of Muslim reaction over the cartoons today. One source of bafflement emanates from the semiotic ideology that underpins their sense that religious symbols and icons are one thing, and sacred figures, with all the devotional respect they might evoke, another. To confuse one with the other is to commit a category mistake and to fail to realize that signs and symbols are only arbitrarily linked to the abstractions that humans have come to revere and regard as sacred. As any modern sensible human being must understand, religious signs—such as the cross—are not embodiments of the divine but only stand in for the divine through an act of human encoding and interpretation. On this reading, Muslims agitated by the cartoons exhibit an improper reading practice, collapsing the necessary distinction between the subject (the divine status attributed to Muhammed) with the object (pictorial depictions of Muhammed). Their agitation, in other words, is a product of a fundamental confusion about the materiality of a particular semiotic form that is only arbitrarily, not necessarily, linked to the abstract character of their religious beliefs.

A critical piece of this semiotic ideology entails the notion that insomuch as religion is primarily about belief in a set of propositions to which one lends one's assent, it is fundamentally a matter of choice. Once the

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15.   See the detailed discussion of this point in chapter 8, "Materialism, Missionaries, and Modern Subjects," of Keane, *Christian Moderns.* See Jean Comaroff and John L. Comaroff, *Of Revelation and Revolution,* 2 vols. (Chicago, 1991); Marcel Mauss, *The Gift: The Form and Reason for Exchange in Archaic Societies,* trans. W. D. Halls (New York, 2000); and Peter Pels, *A Politics of Presence: Contacts between Missionaries and Waluguru in Late Colonial Tanganyika* (Amsterdam, 1999).

truth of such a conception of religion, and concomitant subjectivity, is conceded then it follows that wrongheaded natives and Muslims can perhaps be persuaded to adopt a different reading practice, one in which images, icons, and signs do not have any spiritual consequences in and of themselves but are only ascribed such a status through a set of human conventions. The transformative power of this vision was precisely what motivated the eighteenth- and nineteenth-century missionaries to undertake the pedagogical project of teaching native subjects to properly distinguish between inanimate objects, humans, and divinity. It is this same vision that seems to inform the well-meaning pleas for Muslims to stop taking images such as the Danish cartoons so seriously, to realize that the image (of Muhammed) can produce no real injury given its true locus is in the interiority of the individual believer and *not* the fickle world of material symbols and signs. The hope that a correct reading practice can yield compliant subjects crucially depends, in other words, upon a prior agreement about what religion *should* be in the modern world. It is this normative understanding of religion internal to liberalism that is often missed and glossed over by commentators such as Fish when they claim that liberalism is anemic in its moral and religious commitments.

Relationality, Subject, and Icon

I want to turn now to a different understanding of icons that was not only operative among Muslims who felt offended by the cartoons but has a long and rich history within different traditions, including Christianity and ancient Greek thought. A quick word on my use of the term *icon;* it refers not simply to an image but to a cluster of meanings that might suggest a persona, an authoritative presence, or even a shared imagination. In this view, the power of an icon lies in its capacity to allow an individual (or a community) to find him- or herself in a structure that has bearing on how one conducts oneself in this world. The term *icon* in my discussion therefore pertains not just to images but to a form of relationality that binds the subject to an object or an imaginary.

At the time of their initial publication, I was struck by the sense of personal loss expressed by many devout Muslims on hearing about or seeing the cartoons. While many of those I interviewed condemned the violent demonstrations, they nonetheless expressed a sense of grief and sorrow.[16] As one young British Muslim put it:

16. While violent demonstrations and the boycott of Danish products caught the attention of the world, a far more widespread form of Muslim dissent was hardly mentioned. In Egypt, for example, this consisted of long evenings of worship dedicated to the memory of Muhammed in mosques and the widespread use of the slogan *Ihna fidak ya rasul allah!*

I did not like what those raging crowds did in burning down build-
ings and cars in places like Nigeria and Gaza. But what really upset me
is the absolute lack of understanding on the part of my secular friends
(who are by the way not all white, many are from Pakistan and Ban-
gladesh) at how upset people like myself felt on seeing the Prophet
insulted in this way. It felt like it was a personal insult! The idea that
we should just get over this hurt makes me so mad: if they don't feel
offended by how Jesus is presented (and some do of course), why do
they expect that all of us should feel the same? The Prophet is not af-
ter all Mel Gibson or Brad Pitt, he is the *Prophet*!

When the cartoons were republished in February 2008 in seventeen Dan-
ish and a handful of European and American newspapers, I was conduct-
ing field research in Cairo, Egypt. While the demonstrations were muted
this time, I heard similar expressions of hurt, loss, and injury expressed by
a variety of people. An older man, in his sixties, said to me: "I would have
felt less wounded if the object of ridicule were my own parents. And you
know how hard it is to have bad things said about your parents, especially
when they are deceased. But to have the Prophet scorned and abused this
way, that was too much to bear!"

   The relationship of intimacy with the Prophet expressed here has been
the subject of many studies by scholars of Islam and explicitly thematized
in Islamic devotional literature on Muhammed and his immediate family
(ahl al-bayt).[17] In this literature, Muhammed is regarded as a moral exem-
plar whose words and deeds are understood not so much as command-
ments but as ways of inhabiting the world, bodily and ethically. Those who
profess love for the Prophet do not simply follow his advice and admoni-
tions to the *umma* (that exist in the form of the *hadith*) but also try to
emulate how he dressed, what he ate, how he spoke to his friends and
adversaries, how he slept, walked, and so on. These mimetic ways of real-

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meaning, "We would die for you O Prophet of God!" The expression *fidak* is often used to
express feelings of ardor and love toward one's beloved, and in Sufi discourse it also expresses
one's adoration of God. This particular expression was popularized by an Egyptian soccer
player, pride of the national team, when during a soccer match he unexpectedly showed off to
the media this slogan printed on his undershirt. Thereafter, it caught on like wildfire and was
reportedly displayed in offices and on vehicles, computer screens, and T-shirts; it was even
adapted as a ringtone for mobile phones. Many of those who adopted this form of "silent
protest," when interviewed, strongly rejected the violence of the demonstrations in Nigeria,
Pakistan, and Gaza but nonetheless expressed pain, hurt, and anger at the images.

   17.   For an examination of both historical and contemporary relevance of this relation to
popular culture, see Ali S. Asani, Kamal Abdel-Malek, and Annemarie Schimmel, *Celebrating
Muhammad: Images of the Prophet in Popular Muslim Poetry* (Columbia, S.C., 1995).

izing the Prophet's behavior are lived not as commandments but as virtues; one wants to ingest, as it were, the Prophet's persona.[18] It needs to be acknowledged of course that insomuch as Muhammed is a human figure in Islamic doctrine who does not share in divine essence, he is more an object of veneration than worship.[19]

The point I wish to emphasize is that within traditions of Muslim piety a devout Muslim's relationship to Muhammed is predicated not so much upon a communicative or representational model as an assimilative one. Muhammed is not simply a proper noun referring to a particular historical figure but marks a relation of similitude. In this economy of signification, he is a figure of immanence in his constant exemplariness and is therefore not a referential sign that stands apart from an essence that it denotes. The modality of attachment that I am describing here (between a devout Muslim and the exemplary figure of Muhammed) is perhaps best captured in Aristotle's notion of *schesis*. He used it in *Categories* to describe different kinds of relations, and it was later elaborated by the Neoplatonists (such as Porphyry, Ammonius, and Elias).[20] The *Oxford English Dictionary* defines *schesis* as "the manner in which a thing is related to something else." Scholars commenting on Aristotle's use of *schesis* distinguish it from his use of the term *pros ti* in that *schesis* captures a sense of embodied habitation and intimate proximity that imbues such a relation. Its closest cognate in Greek is *hexis* and in Latin, *habitus*, both suggesting a bodily condition or temperament that undergirds a particular modality of relation.

Particularly relevant to my argument here is the meaning *schesis* was given during the second iconoclastic controversy (circa 787) when, perhaps not surprisingly, it was the iconophiles who used it to respond *against* charges of idolatry and to defend their doctrine of consubstantiality. Kenneth Parry, in his book on Byzantine iconophile thought, shows that Aristotle's concept of relationality became crucial to the defense of the holy image by the two great iconophiles, Theodore the Studite and the patriarch Nikephoros.[21] As Parry shows, what the image and the prototype share in

18. The tradition of virtue ethics, which draws on key Aristotelian conceptions, forms part of the discourse of piety in contemporary Islam. This tradition has been resuscitated by the Islamic revival in a variety of contexts—including media but also practices of the self. On this, see my *Politics of Piety: The Islamic Revival and the Feminist Subject* (Princeton, N.J., 2005).

19. Within Christianity the way Mary is venerated marks the distinction between the divinity of Jesus and the humanness of Mary.

20. In his commentary on *Categories*, Ammonius distinguishes between four types of *schesis*: the relationship between master and disciple; between master and slave; between parent and child; and between lovers. The term is also relevant to the Stoic concept and practice of "cultivation of character." See Alain de Libera, "Voir l'invisible," review of *Image, Icône, Économie* by Marie-José Mondzain, *Critique* 42 (June–July 1996): 420–32.

21. Parry identifies Aristotle's *Categories* and Porphyry's *Isagoge* as crucial to the arguments

their discourse is not an essence (human or divine) but the relationship between them. This relationship is based in homonymy and hypostasis; the image and deity are two in nature and essence but identical in name. It is the imaginal structure shared between them that gives form to this relationship. In the words of Marie-José Mondzain, "to be 'the image of ' is to be in a living relation."[22] The Aristotelian term *schesis* captures this living relation because of its heightened psychophysiological and emotional connotations and its emphasis on familiarity and intimacy as necessary aspects of the relation.

Schesis aptly captures not only how a devout Muslim's relationship to Muhammed is described in Islamic devotional literature but also how it is lived and practiced in various parts of the Muslim world. Even the thoroughly standardized canon of the Sunna (an authoritative record of the Prophet's actions and speech) vacillates between what read like straightforward commands, on the one hand, and descriptions of the Prophet's behavior on the other, his persona and habits, understood as exemplars for the constitution of one's own ethical and affective equipment. For many pious Muslims, these embodied practices and virtues provide the substrate through which one comes to acquire a devoted and pious disposition. Such an inhabitation of the model (as the term *schesis* suggests) is the result of a labor of love in which one is bound to the authorial figure through a sense of intimacy and desire. It is not due to the compulsion of the law that one emulates the Prophet's conduct, therefore, but because of the ethical capacities one has developed that incline one to behave in a certain way.

The sense of moral injury that emanates from such a relationship between the ethical subject and the figure of exemplarity (such as Muhammed) is quite distinct from one that the notion of blasphemy encodes. The notion of moral injury I am describing no doubt entails a sense of violation, but this violation emanates not from the judgment that the law has been transgressed but that one's being, grounded as it is in a relation-

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of later iconophiles—neither of which were used before in the defense of the holy image. See Kenneth Parry, *Depicting the Word: Byzantine Iconophile Thought of the Eighth and Ninth Centuries* (Leiden, 1996); see esp. chap. 6, "Aristotelianism," pp. 52–63.

22. Mondzain, *Image, Icon, Economy: Byzantine Origins of the Contemporary Image,* trans. Rico Franses (Stanford, Calif., 2005), p. 78. Mondzain draws on the patriarch Nikephoros's defense against the charge of consubstantiality through his recourse to arguments about art: "Art imitates nature without the former being identical with the latter. On the contrary, having taken the natural, visible form as a model and as a prototype, art makes something similar and alike. . . . It would be necessary then, according to this argument, that the man and his icon share the same definition and be related to each other as consubstantial things" (quoted in ibid., p. 76).

ship of dependency with the Prophet, has been shaken. For many Muslims, the offense the cartoons committed was not against a moral interdiction (thou shalt not make images of Muhammed) but against a structure of affect, a habitus, that feels wounded. This wound requires moral action, but the language of this wound is neither juridical nor that of street protest because it does not belong to an economy of blame, accountability, and reparations. The action that it requires is internal to the structure of affect, relations, and virtues that predisposes one to experience an act as a violation in the first place.

One might ask what happens to this mode of injury when it is subject to the language of law, politics, and street protest. What are its conditions of intelligibility in a world where identity politics reign and the juridical language of rights dominates? Does it remain mute and unintelligible, or does its logic undergo a transformation? How does this kind of religious offense complicate principles of free speech and freedom of religion espoused by liberal democratic societies?

I will turn to these questions in the section that follows, but before I do so it is best to clarify my recourse to the Greek and iconophile tradition to explicate Muslim reactions to the Danish cartoons. It might be asked how I would reconcile the centrality of the image to iconophile thought and the Muslim taboo against images of important religious figures (Muhammed being one of them). I draw on these traditions because of the relationship they posit between the subject and object of veneration (particularly during the second iconoclastic controversy). Their emphasis on the image is less of interest to me than the concept of relationality that informs this model. This modality of relation I believe is operative in a number of traditions of worship and veneration and often coexists in some tension with other dominant ideologies of perception and religious practice.²³ The three Abrahamic faiths adopted a range of key Aristotelian and Platonic concepts and practices that were often historically modified to fit the theological and doctrinal requirements of each tradition.²⁴ In contemporary

23. Christopher Pinney's work on the political effects of the all-pervasive presence of the images of Hindu icons, gods, and deities in India is an instructive place to think through some of these issues. See Christopher Pinney, *'Photos of the Gods': The Printed Image and Political Struggle in India* (London, 2004).

24. The historical trajectory of these ideas is interesting to trace in this regard. Notably, it was the school at Alexandria that proved to be the most important transmitter of Aristotle's works to the Byzantines. When the school at Athens was closed under Justinian in the sixth century, it was the Alexandria school that continued to flourish first under Christian and then Islamic influence up until the eighth century. Many of the inheritors of this school of commentators ended up in Baghdad, which became a center of Neoplatonist thought in the ninth century. See Parry, *Depicting the Word,* p. 53, and Richard Sorabji, "Aristotle

Islam, these ideas and practices, far from becoming extinct, have been reconfigured under conditions of new perceptual regimes and modes of governance—a reconfiguration that requires serious engagement with the subterranean character of these practices.[25] One does not have to claim uninterrupted historical continuity to be able to detect fragments of shared resources across traditions that might render intelligible how devout Muslims relate to the iconic figure of Muhammed. The quote I offered above from W. J. T. Mitchell on the power of images is a recognition, albeit from a different perspective, of the reciprocal relationship that binds images, icons, and the perceiving subject, a reciprocity that marks social reality in distinctive ways.[26]

Religion, Race, and Hate Speech

An unfortunate consequence of assessing the cartoon controversy in terms of blasphemy and freedom of speech was the immediate resort to juridical language by protagonists on both sides. In what follows, I want to examine two distinct arguments mobilized by Muslims to seek protection from what they regard as increasing attacks on their religious and cultural identity: first, the use of European hate speech laws and, second, the legal precedents set by the European Court of Human Rights (ECtHR) to limit free speech in the interest of maintaining social order. These attempts, as I will show, encounter strong challenges not simply because of the European majority's prejudice against Muslims but because of structural constraints

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Commentators," in *Routledge Encyclopedia of Philosophy,* ed. E. Craig (London, 2002), www.muslimphilosophy.com/ip/rep/A021.htm

25. On this point, see Charles Hirschkind, *The Ethical Soundscape: Cassette Sermons and Islamic Counterpublics* (New York, 2006), particularly the discussion about subterranean perceptual regimes and modern conditions of politics and media.

26. W. J. T. Mitchell analyzes religiously offensive images that have been desecrated by spectators, such as Chris Ofili's painting *The Holy Virgin Mary,* which was displayed in the Brooklyn Museum of Art. Mitchell argues that such images are distinct in that they are

> transparently and immediately linked to what [they] represent. . . . Second . . ., the image possesses a kind of vital, living character that makes it capable of feeling what is done to it. It is not merely a transparent medium for communicating a message but something like an animated, living thing, an object with feeling, intentions, desires, and agency. Indeed, images are sometimes treated as pseudopersons—not merely as sentient creatures that can feel pain and pleasure but as responsible and responsive social beings. Images of this sort seem to look back at us, to speak to us, even to be capable of suffering harm or of magically transmitting harm when violence is done to them. [W. J. T. Mitchell, "Offending Images," *What Do Pictures Want?* p. 127]

internal to secular law, its definition of what religion is, and its ineluctable sensitivity to majoritarian cultural sensibilities.

For many European Muslims the cartoons are a particularly vicious example of the racism they have come to experience from their compatriots in Europe. As Tariq Modood put it: "the cartoons are not just about one individual but about Muslims per se—just as a cartoon about Moses as a crooked financier would not be about one man but a comment on Jews. And just as the latter would be racist, so are the cartoons in question."[27] Modood mobilizes this provocative, if somewhat simplified, comparison with European Jews to challenge the idea regnant among many Europeans—progressives and conservatives alike—that Muslims cannot be subjected to racism because they are a religious not a racial group. Drawing a parallel with the racialization of Jews (initially marked for their religion and later racialized), Modood argues that racism is not simply about biology but can also be directed at culturally and religiously marked groups. Once we move away from a biological notion of race, it is possible to see "that Muslims can [also] be the victims of racism qua Muslims as well as qua Asians or Arabs or Bosnians. Indeed that these different kinds of racisms can interact . . . and so can mutate and new forms of racism can emerge. This is . . . to recognize that a form of racism has emerged which connects with but goes beyond a critique of Islam as a religion."[28] While Modood does not adequately address the distinct histories of racialization of European Jews and Muslims, his viewpoint nonetheless enjoys wide support.

Arguments about the racialization of Muslims provoke the fear among Europeans that if this premise is conceded or accorded legal recognition then European Muslims will resort to European hate-speech laws to unduly regulate forms of speech that they regard as injurious to their religious sensibilities.[29] Many Europeans who champion freedom of speech reject the claim that the Danish cartoons have anything to do with racism or Islamophobia, arguing instead that Muslim extremists are using this language for their own nefarious purposes. A number of legal critics, for example, charge that Muslim use of European hate-speech laws is a ruse by "opponents of liberal values" who understand that "in order to be admitted into the democratic debate, they have to use a rhetoric that hides the

27. Modood, "The Liberal Dilemma," p. 4.
28. Modood, "Obstacles to Multicultural Integration," p. 57.
29. For example, Muslim associations in France unsuccessfully sought to use hate-speech legislation against the French newspaper *France-Soir* that republished the cartoons in support of *Jyllands-Posten*.

conflict between their ideas and the basic tenets of open societies."[30] Such voices caution soft-hearted liberals and multiculturalists not to fall for such an opportunistic misuse of antidiscrimination and human rights discourse because, they warn ominously, "Islam [will] force its values upon Europe" to the ultimate destruction of the "Europe of the Enlightenment."[31]

This rejection of Muslim invocations of hate-speech laws turns upon two arguments: (a) religious identity is categorically different from racial identity; and (b) there is a lack of evidence of racial discrimination against Muslims in European societies. In regard to the former, these critics argue that race is an immutable biological characteristic whereas religion is a matter of choice. One can change one's religion but not one's skin color. The Danish cartoons, however, merely offended "religious belief."[32] According to Guy Haarscher, insomuch as racist behavior refuses to grant equal status to Jews and blacks "because of their [perceived] biologically 'inferior' character," it violates the liberal principle of equality. "Blasphemy," on the other hand, he asserts "is 'normal'—and maybe has a cathartic value—in open societies."[33]

What I want to problematize here is the presumption that religion is ultimately a matter of choice; such a judgment is predicated on a prior notion, one I mentioned earlier, that religion is ultimately about belief in a set of propositions to which one gives one's assent. Once this premise is granted then it is easy to assert that one can change one's beliefs just as easily as one might change one's dietary preferences or one's name.[34] While the problematic conception of race as a biological attribute might be apparent to the reader, the normative conception of religion offered here encounters few challenges. Earlier I explicated the concomitant semiotic ideology this conception encodes; here I want to draw out the implications of this concept when encoded within the law. The legal critics I cite here do not simply misrecognize the kind of religiosity at stake in Muslim reactions

30. Guy Haarscher, "Free Speech, Religion, and the Right to Caricature," in *Censorial Sensitivities: Free Speech and Religion in a Fundamentalist World,* ed. András Sajó (Utrecht, 2007), p. 313.

31. Sajó, "Countervailing Duties as Applied to Danish Cheese and Danish Cartoons," in *Censorial Sensitivities*, p. 299; hereafter abbreviated "CD."

32. Sajó argues, "Undoubtedly, the negative stereotyping of group members plays an important role in racist parlance. The Danish cartoons, however, addressed a religious belief. On what ground can you equate unchangeable race (skin color) and religion, if religion is a matter of choice?" ("CD," p. 286).

33. Haarscher, "Free Speech, Religion, and the Right to Caricature," pp. 319, 323.

34. For an interesting argument about how the "racialization of Jews" in Europe came to be historically linked with the construction of Arabs as quintessentially religious/Muslim, see Gil Anidjar, *Semites: Race, Religion, Literature* (Stanford, Calif., 2008).

to the Danish cartoons but also echo the presumptions of the civil law tradition in which the epistemological status of religious belief has come to be cast as speculative and therefore as less real than the materiality of race and biology. Notably, in the arguments above, the normative conception of religion as belief facilitates other claims about what counts as evidence, materiality, and real versus psychic or imagined harm.

Kirstie McClure has shown how the idea that religion is primarily about private belief is closely tied to the historical emergence of the notion of worldly harm in the eighteenth century when the modern state came to extend its jurisdiction over a range of bodily practices (both religious and nonreligious) deemed pertinent to the smooth functioning of the newly emergent civic domain. As a result, a variety of religious rituals and practices (such as animal sacrifice) had to be made inconsequential to religious doctrine in order to bring them under the purview of the law. This in turn depended upon securing a new epistemological basis for religion and its various doctrinal claims on subjects, space, and time. McClure shows, for example, that the argument for religious toleration in John Locke's *A Letter Concerning Toleration* is grounded in an empiricist epistemology that empowers the state "as the sole legitimate adjudicator of worldly practice. The boundaries of toleration ... [come] to be civilly defined ... by the empirical determination of whether particular acts and practices are demonstrably injurious to *the safety and security of the state or the civil interests of its citizens*, with these latter defined in equally empirical terms."[35] There is little doubt that since the time of Locke the notion of harm has been considerably expanded beyond the narrow confines of this empiricist conception, but the idea that religion is about matters less material (and therefore less immanent and pressing) continues to hold sway in liberal societies. This claim paradoxically provokes contemporary defenders of religion to try to ground its truth in empirical proofs, thereby constantly reinscribing the empiricist epistemology that was germane to Locke's regime of civic order.

McClure's argument draws attention to the ways in which the emergence of the modern concept of religion is intrinsically tied to the problem of governance and statecraft. In the debate about the Danish cartoons, the limits of toleration were quickly set by concerns for "the safety and security of the state." The Muslim charge that the cartoons were racist was often dismissed as nothing but an expression of fundamentalist Islam, and it was not long before Muslim criticisms of the cartoons came to be regarded not

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35. Kirstie McClure, "Limits to Toleration," *Political Theory* 18, no. 3 (1990): 380–81; emphasis added.

simply as a threat to the civilizational essence of Europe but also to European state security and public order. András Sajó has insisted, for example, that to accept the charge that the Danish cartoons are racist is to ignore the real danger of Islamic terrorism that the cartoons highlight: "the cartoons indicate a truly unpleasant *factual* connection . . . between terrorism and one very successful version of Islam. . . . If every critical expression becomes suspicious because of the danger of generalization . . ., [then] this will lead to self-censure. . . . If the criticism of religion is successfully recategorized as racism, then that means . . . that you cannot criticize religious terrorism, even though religion *really* does have its finger in the terrorism pie" ("CD," p. 288).

It is striking that in casting the matter as a choice between Islamic terrorism and open debate, Sajó, like many others, portrays the cartoons as statements of facts that are necessary to the security and well-being of liberal democracies.[36] The performative aspect of the Danish cartoons is ceded in favor of their informational content, painting them as little more than referential discourse. Not only does this view naturalize a language ideology in which the primary task of signs is the communication of referential meaning, but it also construes all those who would question such an understanding as religious extremists or, at the very least, as soft multiculturalists who do not fully comprehend the threat posed to liberal democracy by Islam. Furthermore, inasmuch as the law seeks to make clear distinctions (such as between religion and race), it leaves little room for understanding ways of being and acting that cut across such distinctions. When concern for state security is coupled with this propensity of public law, it is not surprising that the Muslim minority's recourse to European hate-speech laws is judged to be spurious.

Religion, Law, and Public Order

For European Muslims, a second plausible legal option to pursue is the precedent set by the ECtHR when it upheld two state bans on films deemed

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36.   Robert Post expresses a similar view when he argues: "Some of the cartoons do invoke stereotypic criticisms of Islam. They comment on Islamic repression of women, on the use of Islamic fundamentalist doctrines to foster violence, and on the fear of violent reprisal for publishing criticisms of Islam. *These are ideas that have been and will be used by those who would discriminate against Muslims. But they are also ideas about real and pressing issues*. The relationship between Islam and gender is a lively and controversial question. Fundamentalist Islamic violence is a public worry throughout Europe. Fear of reprisal for crossing Islamic taboos is omnipresent. . . . To cut off all public discussion of real and pressing public issues would be unthinkable. And if such issues are to be discussed, the expression of all relevant views must be protected" (Robert Post, "Religion and Freedom of Speech: Portraits of Muhammad," in *Censorial Sensitivities*, p. 350; emphasis added). For my response to this piece, see Mahmood, townsendcenter.berkeley.edu/pubs/post_mahmood.pdf

offensive to Christian sensibilities. The European Convention for the Protection of Human Right (ECHR) is modeled after the Universal Declaration of Human Rights, but unlike the latter it has the power to implement decisions on member states of the Council of Europe. Two recent decisions of the ECtHR are relevant: the *Otto-Preminger Institut* v. *Austria* ruling in 1994 and the *Wingrove* v. *United Kingdom* judgment in 1997. Both banned the display and circulation of films for offending devout Christians. These decisions notably did not ground their judgment in European blasphemy laws but in article 10 of the convention that ensures the right to freedom of expression. Notably, while article 10(1) of the ECHR holds "freedom of expression" to be an absolute right, article 10(2) allows for this right to be limited if the restrictions are prescribed by law and are understood to be necessary to the functioning of a democratic society.[37] It is important to note that this regulated conception of freedom of expression in Europe stands in sharp contrast with the more libertarian conception of free speech in the United States. Most European countries, coming out of the experience of the Holocaust and the Second World War, place strong restrictions on forms of speech that might foster racial hatred and lead to violence.

At stake in the *Otto-Preminger Institut* v. *Austria* case was a film produced by a nonprofit, the Otto-Preminger Institute, that portrayed God, Jesus, and Mary in ways that were offensive to Christians.[38] Under section 188 of the Austrian Penal Code, the film was seized and forfeited before it was shown.[39] The filmmaker appealed the case to the ECtHR, which ruled

37.   Article 10(1) states: "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises." Article 10(2) limits this freedom in the following manner: "The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary" (www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf).

38.   Not unlike the publishers of the Danish cartoons, the filmmaker argued that it was doubtful that "a work of art dealing in a satirical way with persons or objects of religious venerations could ever be regarded as 'disparaging or insulting'" (*Otto-Preminger Institut* v. *Austria*, Eur. H. R. Rep. 19 [1994], §44; hereafter abbreviated *OPI*).

39.   The Austrian government maintained that the seizure and forfeiture of the film was aimed at the "protection of the rights of others," particularly the right to respect for one's religious feelings, and at the "prevention of disorder" (*OPI*, §46). Also see Peter Edge, "The European Court of Human Rights and Religious Rights," *International and Comparative Law Quarterly* 47, no. 3 (July 1998): 680–87, and Javier Martínez-Torrón and Rafael Navarro-Valls,

in favor of the Austrian government and did not find the Austrian govern-ment in violation of ECHR article 10. The Austrian government had de-fended the seizure of the film "in view of its character as an attack on the Christian religion, especially Roman Catholicism. . . . Furthermore, they [the Austrian government] stressed the role of religion in the everyday life of the people of Tyrol [where the film was to be shown]. The proportion of Roman Catholic believers among Austrian population as a whole was al-ready considerable—78% —among Tyroleans it was as high as 87%. Con-sequently . . . there was a pressing social need for the preservation of religious peace; it had been necessary to protect public order against the film" (*OPI,* §52). The ECtHR concurred with this judgment and argued: "The Court cannot disregard the fact that the Roman Catholic religion is the religion of the overwhelming majority of the Tyroleans. In seizing the film, the Austrian authorities acted to ensure religious peace in that region and to prevent that some people should feel the object of attacks on their religious beliefs in an unwarranted and offensive manner" (*OPI,* §56).

A similar regard for Christian religious sensibilities informed the ECtHR's decision in the *Wingrove* v. *United Kingdom* case. The court up-held the British government's refusal to permit circulation of a film found to be offensive to devout Christians. The ECtHR made clear that while it found the British blasphemy laws objectionable, it supported the decision of the government in this instance on the basis of the state's margin of appreciation for permissible restrictions operative in article 10 of the ECHR. The court upheld the government's decision to withhold circula-tion of the film because it had a legitimate aim to "protect the right of others" and to protect "against seriously offensive attacks on matters re-garded as sacred by Christians."[40]

While these decisions of the ECtHR have been criticized for accommo-dating religious feelings at the cost of free speech, I would like to draw our attention to a different issue, namely, the margin of appreciation accorded to the state in determining when and how free speech may be limited. The second clause of article 9 of the ECHR on free speech (which mirrors article 19 of the Universal Declaration of Human Rights) gives the state a wide margin of appreciation to limit free speech if the state deems it to pose a threat to national security, territorial integrity, public safety, the health

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"The Protection of Religious Freedom in the System of the European Convention on Human Rights," *Helsinki Monitor* 9, no. 3 (1998): 25–37.

40. *Wingrove* v. *The United Kingdom Judgment*, Eur. H. R. Rep. 19 (1996), §57.

and morals of a society, or the reputations and rights of others.[41] In commenting upon the centrality of the legal concept of public order undergirding this legal tradition, Hussein Agrama argues that it is part of a broader semantic and conceptual field in which notions of public health and morals and national security are interlinked, and the referent almost always seems to be the majority religious culture.[42] A fundamental contradiction haunts liberal democratic legal traditions; he argues, on the one hand, everyone is equal before the law, and, on the other, the aim of the law is to create and maintain public order—an aim that necessarily turns upon the concerns and attitudes of its majority population.[43]

While some European Muslims see the ECtHR judgments as blatantly hypocritical (they accommodate Christian sensitivities but ignore Muslims ones), I would like to point out that regardless of the social context when this legal reasoning is used, it tends to privilege the cultural and religious beliefs of the majority population. A number of observers of the ECtHR have noted, for example, that "there appears to be a bias in the jurisprudence of the Court . . . toward protecting traditional and established religions and a corresponding insensitivity towards the rights of minority, nontraditional, or unpopular religious groups. . . . Those religions established within a state, either because they are an official religion or have a large number of adherents, are more likely to have their core doctrines recognized as manifestations of religious belief."[44] It is not surprising therefore that when the majority religion was Islam, as in the *I. A.* v. *Turkey* case (2005), the ECtHR ruling was consistent with the reasoning used in the *Otto-Preminger* and the *Wingrove* decisions. The court upheld the Turkish government's ban on a book deemed offensive to the majority Muslim population on the basis that it violated the rights of others who were offended by its profaneness; as such, the Turkish government's decision had met a "pressing social need" and was not in violation of article 10 of the ECtHR.

The ECtHR is not the only legal institution where state concern for

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41. See n. 39.
42. See Hussein Agrama, "Law Courts and Fatwa Councils in Modern Egypt: An Ethnography of Islamic Legal Practice" (PhD diss., Johns Hopkins University, 2005).
43. See Agrama, "Is Egypt a Religious or a Secular State? Reflections on Islam, Secularism, and Conflict," forthcoming in *Comparative Studies in Society and History* (2009).
44. Peter Danchin, "Of Prophets and Proselytes: Freedom of Religion and the Conflict of Rights in International Law," *Harvard International Law Journal* 49 (Summer 2008): 275. Danchin cites a number of critics of ECtHR decisions who hold this view, including Jeremy Gunn, "Adjudicating Rights of Conscience under the European Convention on Human Rights," *Religious Human Rights in Global Perspective: Legal Perspectives*, ed. Johan D. van der Vyver and John Witte, Jr. (Boston, 1996).

security and public and moral order leads to the accommodation of majority religious traditions. Consider, for example, the much-publicized apostasy trial of Nasr Hamid Abu Zayd in Egypt.[45] Abu Zayd was tried for the crime of apostasy on the basis of his published academic writings. The case was introduced and tried based on a religious principle called *hisba* that did not exist in modern Egyptian legal codes before but was adopted in the litigation process to declare Abu Zayd an apostate. Agrama shows that while the principle of *hisba* existed historically in classical Sharia, the form it took in the Abu Zayd case differed dramatically in that it came to be articulated with the concept of public order and the state's duty to uphold the morals of the society in congruence with the Islamic tradition of the majority. The language Agrama analyzes from the Abu Zayd case bears striking similarities with invocations of public order in the ECtHR decisions cited above. Despite the different sociopolitical contexts, the Egyptian legal arguments and those of the ECtHR share the French legal tradition's concern for public order and, by extension, the law's privileging of majority religious sensibilities.

It might be argued in response that the *Otto-Preminger* and the Abu Zayd cases abrogate the secular principle of state neutrality by accommodating the sensitivities of a religious tradition.[46] But such an objection, I would suggest, is based on the erroneous understanding that liberal secularism abstains from the domain of religious life. As much recent scholarship suggests, contrary to the ideological self-understanding of secularism (as the doctrinal separation of religion and state), secularism has historically entailed the regulation and re-formation of religious beliefs, doctrines, and practices to yield a particular normative conception of religion (that is largely Protestant Christian in its contours). Historically speaking, the secular state has not simply cordoned off religion from its regulatory ambitions but sought to remake it through the agency of the

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45. It is important to note that while apostasy existed as a category within traditional juristic scholarship up until the twelfth century, apostasy trials had practically disappeared in the Middle East between 1883 and 1950. It is only in the 1980s that apostasy emerges as a litigable offense for the first time in the modern Middle Eastern history of the penal code. Baber Johansen shows that it was not until the 1980s, under increasing demand for the codification of Islamic law *(taqnin al-sharia),* that classical notions of apostasy came to be integrated into the penal code in a number of countries such as the Sudan (1991), Yemen (1994), and Egypt (1982). Insomuch as the Sharia only applies to matters of Personal Status Law, it is through this channel that apostasy has reentered the legal system in Egypt. See Baber Johansen, "Apostasy as Objective and Depersonalized Fact: Two Recent Egyptian Court Judgments," *Social Research* 70 (Fall 2003): 687–710.

46. Indeed, this is the basis on which a number of legal theorists objected to the ECtHR's decision. See, for example, "CD," and Martínez-Torrón and Navarro-Valls, "The Protection of Religious Freedom in the System of the European Convention on Human Rights."

law. This remaking is shot through with tensions and paradoxes that cannot simply be attributed to the intransigency of religionists (Muslims or Christians). One particular tension is manifest in how freedom of religion often conflicts with the principle of freedom of speech, both of which are upheld by secular liberal-democratic societies.[47] As might be clear to the reader, the contradictions that I have discussed here are not simply the result of the machinations of opportunistic religious extremists or an ineffective secular state but are at the heart of the legal and cultural organization of secular societies. To attend to these contradictions is to admit to the shifting nature of secularism itself and the problems it historically manifests.

Moral Injury and Requirements of the Law

In light of my argument in the first part of this essay, it is important to note how far this juridical language of hate speech and religious freedom has come from the kind of moral injury I discussed under the concept of *schesis*. Muslims who want to turn this form of injury into a litigable offense must reckon with the performative character of the law. To subject an injury predicated upon distinctly different conceptions of the subject, religiosity, harm, and semiosis to the logic of civil law is to promulgate its demise (rather than to protect it). Mechanisms of the law are not neutral but are encoded with an entire set of cultural and epistemological presuppositions that are not indifferent to how religion is practiced and experienced in different traditions. Muslims committed to preserving an imaginary in which their relation to the Prophet is based on similitude and cohabitation must contend with the transformative power of the law and disciplines of subjectivity on which the law rests.

What I want to emphasize here is that European Muslims who want to lay claim to the language of public order (enshrined in recent ECtHR

47. While my argument here focuses more on European legal traditions, a similar tension haunts the American tradition as well. Winnifred Sullivan explores the paradoxical implications of the First Amendment (particularly the freedom of religion clause) in the legal history of the United States. She analyzes a representative court case in Florida in which a municipal authority was sued on First Amendment grounds for banning the display of religious symbols in a public cemetery. In adjudicating this case, the court had to ultimately distinguish and decide which of the religious beliefs claimed by the litigants were real from the standpoint of the law. In doing so, the federal court had to engage in theological reasoning and judgments, an exercise that sharply contradicts the principle of state neutrality with respect to religion enshrined in the First Amendment; see Winnifred Fallers Sullivan, *The Impossibility of Religious Freedom* (Princeton, N.J., 2005). There are other examples in U.S. legal history, as in the Supreme Court ruling that banned the use of peyote in ceremonial rituals of the Native American Church. On the latter, see Vine Deloria, Jr. and David E. Wilkins, *Tribes, Treaties, and Constitutional Tribulations* (Austin, Tex., 1999).

decisions) remain blind to this normative disposition of the law to the majority culture. In the logic of the law, the sensitivities and traditions of a religious minority are deemed necessarily less weighty than those of the majority even in matters of religious freedom. This is not simply an oversight or prejudice; it is a constitutive assumption of free-speech laws of Europe. Furthermore, insomuch as Muslims have come to be perceived as a threat to state security, their religious traditions and practices are necessarily subject to the surveillance and regulatory ambitions of the state in which the language of public order reigns supreme.

For anyone interested in fostering greater understanding across lines of religious difference it would be important to turn not to the law but to the thick texture and traditions of ethical and intersubjective norms that provide the substrate for legal arguments (enshrined in the language of public order). In this essay, I have suggested several reasons why the idea of moral injury I have analyzed remained mute and silent in the public debate over the Danish cartoons, key among them the inability to translate across different semiotic and ethical norms. The future of the Muslim minority in Euro-American societies is often posed as a choice between assimilation or marginalization, but the question of translatability of practices and norms across semiotic and ethical differences is not even raised. I read this elision as simply another means of asserting assimilation as the only solution if they are to find a place in Euro-American societies. It may well be that the political bent of our times is such that no other option is possible. But, for those of us interested in other ways of comprehending the problem, it may behoove us to rethink the evaluative frameworks involved in such standoffs. Ultimately, I would submit, the future of the Muslim minority in Europe depends not so much on how the law might be expanded to accommodate its concerns but on a larger transformation of the cultural and ethical sensibilities of the majority Judeo-Christian population that undergird the law.[48] For a variety of historical and sociological reasons, I believe the Muslim immigrant community is unprepared for such an undertaking.

Conclusion

I would like to offer some final thoughts on how my analysis here bears upon the exercise of critique—a rubric under which this essay might be located and certainly characterizes what most academic work labors to

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48. Here I am reminded of the fact that the relative abatement of racist attitudes against Jews and blacks in Europe and America is not an achievement of the law alone (although the law helped) but crucially depended upon the transformation of the dense fabric of ethical and cultural sensibilities across lines of racial and religious difference.

achieve. It is customary these days to tout critique as an achievement of secular culture and thought. Key to this coupling is the sense that unlike religious belief, critique is predicated upon a necessary distantiation between the subject and object and some form of reasoned deliberation. This understanding of critique is often counterposed to religious reading practices where the subject is understood to be so mired in the object that he or she cannot achieve the distance necessary for the practice of critique. In a provocative essay, Michael Warner argues that such a conception of critique not only caricatures the religious Other but, more importantly, remains blind to its own disciplines of subjectivity, affective attachments, and subject-object relationality.[49] He tracks some of the historical transformations (in practices of reading, exegesis, "entextualization," and codex formation) that constitute the backdrop for the emergence of this regnant conception of critique. Warner urges readers to recognize and appreciate the disciplinary labor that goes into the production of a historically peculiar subjectivity entailed in this conception of critique.

In this essay, I have tried to pull apart some of the assumptions that secure the polarization between religious extremism and secular freedom wherein the former is judged to be uncritical, violent, and tyrannical and the latter tolerant, satirical, and democratic. My attempt is to show that to subscribe to such a description of events is also to simultaneously underwrite a problematic set of notions about religion, perception, language, and, perhaps more importantly, in an increasingly litigious world, what the law's proper role should be in securing religious freedom. I hope it is clear from my arguments above that the secular liberal principles of freedom of religion and speech are not neutral mechanisms for the negotiation of religious difference and remain quite partial to certain normative conceptions of religion, subject, language, and injury. This is not due to a secular malfeasance but is a necessary effect that follows from the layers of epistemological, religious, and linguistic commitments built into the matrix of the civil law tradition. Our ability to think outside this set of limitations necessarily requires the labor of critique, a labor that does not rest on its putative claims to moral or epistemological superiority but in its ability to recognize and parochialize its own affective commitments that contribute to the problem in various ways.

Insomuch as the tradition of critical theory is infused with a suspicion, if not dismissal, of religion's metaphysical and epistemological commitments, it would behoove us to think "critically" about this dismissal: how

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49. See Michael Warner, "Uncritical Reading," in *Polemic: Critical or Uncritical*, ed. Jane Gallop (New York, 2004): 13–37.

are epistemology and critique related within this tradition? Do distinct traditions of critique require a particular epistemology and ontological presupposition of the subject? How might we rethink the dominant conception of time—as empty, homogenous, and unbounded, one so germane to our conception of history—in light of other ways of relating to and experiencing time that also suffuse modern life? What are some of the practices of self-cultivation—including practices of reading, contemplation, engagement, and sociality—internal to secular conceptions of critique? What is the morphology of these practices and how do these sit with (or differ from) other practices of ethical self-cultivation?

The kind of labor involved in answering these questions requires a dialogue not only across disciplines but also the putative divide between Western and non-Western traditions of critique and practice. This dialogue, I would submit, in turn depends on making a distinction between the labor entailed in the analysis of a phenomenon and defending our own beliefs in certain secular conceptions of liberty and attachment. The tension between the two is a productive one for the exercise of critique insomuch as it suspends the closure necessary to political action so as to allow thinking to proceed in unaccustomed ways. The academy, I do believe, remains one of the few places where such tensions can still be explored.

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