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A liberal defence of freedom of speech and its implications for the Charlie Hebdo cartoons

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Declaration

I declare that this research report is my own unaided work. It is submitted for the degree of Master of Arts, Applied Ethics for Professionals, in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.

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Angelika Ronge

____ day of _____, 20__

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Applied Ethics for Professionals Programme

Research Report

March 2017

A liberal defence of freedom of speech: Were the *Charlie Hebdo* cartoonists morally justified in their depiction of the Prophet Muhammad in cartoons on the front cover of several publications leading up to the January 2015 terrorist attacks?

A) Introduction

A defence of freedom of speech is relevant in both the South African, as well as the international context. Threats to and attacks on liberal ideas are prevalent throughout the world. Terrorism and the response to it by secular countries in the form of increasing prohibitions on liberal values such as freedom of speech, have been labelled by philosopher and author, Anthony C. Grayling (2009: 17), as one of the most 'pressing problems' of our time and an 'urgent question' that needs to be addressed. The link between terrorist attacks all over the world and the discontent felt towards liberal values in practise cannot be ignored. Even within very secular countries free speech has become restricted for various reasons; for example, the enforcement of trigger warnings and language policing on university campuses.

Even though there might be good reasons to restrict speech in certain cases from a legal or practical perspective in order to protect people, the deeper moral question is whether certain free speech practices are morally justifiable or not. Eleven cartoonists/journalists and one policeman were killed in an attack on the offices of the satirical magazine, *Charlie Hebdo*, in Paris on the 7th of January 2015. The attack was allegedly in response to the several cartoons depicting the prophet Muhammad which the magazine had published. While keeping the broader idea of wanting to protect liberal values like free speech in mind, this paper ultimately argues that the *Charlie Hebdo*

cartoonists were morally justified in depicting the Prophet Muhammad on the front cover of some of their magazine issues.

I first provide some relevant detail on the 2015 attack and then elaborate on the *Charlie Hebdo* magazine as a whole. I also discuss some of the cartoons that have caused controversy, several of which are believed to have precipitated the attack. Then I discuss important assumptions and concepts such as liberalism and free speech and how these are to be understood in this paper. A brief discussion of the important aspects of free speech, as well as restrictions of free speech, follows. The main part of this report is then a full analysis of the moral justification of the depiction of the Prophet Muhammad in the *Charlie Hebdo* cartoons.

B) General background and context

The media has largely described the attack on the *Charlie Hebdo* magazine as a terrorist attack. The attackers were reported to have yelled '(w)e have avenged the Prophet' after having shot the 11 Charlie *Hebdo* employees (Burke, 2015). Luke Harding from *The Guardian* (2015) reported on a few details of the attack two days later: the attackers hijacked a car and allegedly said to the driver '(i)f the media ask you anything, tell them it's al-Qaida in Yemen'; the following day there was another attack in Paris which also involved the *Charlie Hebdo* gunmen, as well as further gunmen; some people were taken hostage; the *Charlie Hebdo* attackers were shot dead in a police raid. Their identities were discovered: two Muslim brothers who were born and raised in Paris whom the media had defined as "radical" or "jihadists" (Chrisafis, 2015).

The magazine had allegedly been warned about this particular attack beforehand (Carnegy & Jones, 2015). In the years building up to this attack, there had been a history of threats from ISIS and other terrorist organisations, as well as direct attacks on the magazine in response to various issues that had been published with the depiction of Muhammad on the front cover (Silva, 2015, Taub, 2015). Ten years prior to the *Charlie Hebdo* attack the Danish magazine, *Jyllands-Posten*, had also published a cartoon depicting the Prophet Muhammad which had caused controversy, resulting in law suits and protests, all of which lead to the attempted murders of the Danish cartoonists (*The Telegraph*, 2015). Both *Charlie Hebdo* and *Jyllands-Posten*'s cartoons had been (and still are) interpreted by many to be blasphemous.

According to Maajid Nawaz (Harris & Nawaz, 2015: 33), a British Muslim activist and founder of a counter-extremism think tank, the result of a poll taken after the *Charlie Hebdo* attack showed that 27 percent of British Muslims were sympathetic to the attackers' reasons for the attack. Many did not agree with the brutality of the terrorist attacks and did not think that the murderous actions taken by the terrorists in response to the cartoons was justified. However, many sympathised with

those who might have taken offence to these cartoons, therefore deeming the publication of said cartoons morally unjustifiable.

Charlie Hebdo has been accused of racism and Islamophobia on several occasions. However, many have defended the magazine, for example, Natalie Nougyrède, a respected columnist, lead writer and foreign affairs correspondent for *The Guardian*. Shortly after the attack, she wrote a piece for *The Guardian* on free speech and self-censorship wherein she describes *Charlie Hebdo* as a satirical magazine that has perhaps been anticlerical at worst but not racist or anti-Muslim.

She holds the view that the magazine, historically, has been (and continues to be) aimed at a French audience who understands and appreciates certain nuances and references which others might not. For example, one of their controversial cartoons depicted a naked Prophet Muhammad asking '(A)nd my buttocks? Do you like my buttocks?' This was allegedly meant to parody a well-known scene in the 1964 film *Le Mépris* (transl: *Contempt*) featuring Brigitte Bardot. According to Nougyrède, many cartoons have been misunderstood and misinterpreted and thus have been unfairly viewed as harmful, as was the case with some of the cartoons related to the *Charlie Hebdo* attack.

On their website, the magazine describes itself as 'satirical' and 'secular, political and jubilant' and makes fun of any political or religious ideas (*Charlie Hebdo*, 2017). On their home page it states that '*Charlie Hebdo* is a punch in the face against those who try to stop us thinking. Against those who fear imagination. Against those who don't like us to laugh'. The magazine has attacked all religious ideas and has not exclusively focused on criticising the Muslim faith (Taub, 2015). Furthermore, it has been described as 'anti-institutional' (Taub, 2015), again showing that the magazine did not hold back in making fun of any kind of establishment, institution or religion and most certainly did not focus solely on mocking Islam. 'Its biting satire habitually targeted the government, high-profile politicians, and organised religion' (Taub, 2015).

I have not included any of the controversial *Charlie Hebdo* cartoons which depict the Prophet Muhammad in the body of this paper. This is mainly due to copyright issues. However, there is also a moral reason. Even though I am advocating free speech, I am also advocating free choice and therefore I have not included the cartoons upfront. However, if the readers of this paper wish to see any of the cartoons I have put the links with a short description per cartoon in the Appendix.

In order to provide some context, however, I have attempted some descriptions of the *Charlie Hebdo* cartoons below. Please note that I have used the *Collins Roberts French Dictionary* (2006), as well as my own knowledge of the French language, to translate these cartoons. Furthermore, I have compared these translations with David Rand's interpretation of these (2015), as well as Amanda Taub's (2015), and they are very similar. Of course, interpretations of cartoons of this nature can vary, especially with translated material. They might include a play on words or nuanced, cultural references. Certain idioms and expressions might get lost in translation. However, the exact content of these cartoons is not important for this essay. What is important is that some people found these cartoons to be very offensive for various reasons. Please see below descriptions for context:

a. The Prophet Muhammad looks angry; the caption reads 'Muhammad overwhelmed by fundamentalists' and he says: 'it's hard being loved by idiots!' (2006)

b. What could be interpreted to be the Prophet Muhammad (although this is not explicit or obvious) is a guest editor for the magazine; he says: '100 lashes if you don't die of laughter!' (2011)

c. The parody of the 1964 French film *Le Mépris* (transl: *Contempt*) where a naked Prophet Muhammad says: '(A)nd my buttocks? Do you like my buttocks?' (Again, it is not obvious that this is supposed to represent the Prophet) (2012)

d. The Prophet Muhammad is being beheaded by a fundamentalist in the desert. The caption reads: 'If Muhammad returned…'. Muhammad says 'I am the prophet, fool' to which the fundamentalist says: 'Shut up, infidel!' (2014)

C) Assumptions

Moral and legal questions are usually interlinked but do not necessarily lead to the same conclusions. It would be an interesting and worthwhile project to explore whether the state would be morally justified to censor the cartoons. In other words, an interesting question might be: 'Does freedom of speech justify the absence of state intervention to prevent the cartoon from being published?' There are certainly questions about the justified limitations related to the *Charlie Hebdo* case, where one might argue that the state might have been morally justified in censoring *Charlie Hebdo* in order to protect the cartoonists, as well as other citizens. Considering the history of threats and attacks (such as a bombing on the *Charlie Hebdo* offices) on the magazine, as well as the direct warning preceding this most recent attack, the state had good reason to assume that people would be harmed and killed.

Even if this is true, *Charlie Hebdo* may still have been morally justified in publishing the cartoons. This, rather than the question about state limitations and censorship, is the focus of this paper; i.e. was *Charlie Hebdo* morally justified in publishing cartoons which depicted the Prophet Muhammad. More specifically, does freedom of speech justify the publication of the cartoons, regardless of whether there are other reasons for the state to censor the magazine or not. Hence, this research paper is more about individual and institutional moral choices, rather than moral decisions of the state in relation to its citizens. Most of the literature that I cover in subsequent sections refers to restrictions on liberties such as freedom of speech and largely makes reference to the state in respect of these restrictions. However, I would like to explore *moral* restrictions, which individuals might place on each other. John S. Mill (1869) claims that freedom does not only refer to being free from government restrictions but also means being free of private social pressures.

The section labelled 'D) Important concepts and definitions' in this paper focuses on the restrictions of freedom of speech. The language in the existing literature often focuses on this aspect, namely

the restriction or censoring of speech by the government. Even though, the legal question, as previously mentioned, is completely independent to the moral question, there is overlap in certain cases and contexts. Therefore, I treat the points made in that particular section as referring to legal, as well as *moral,* restrictions.

It is important to distinguish between condoning the attacks and condoning the publication. There were some who argued that 'If you want to enjoy "freedom of speech" with no limits, expect others to exercise "freedom of action"' (Junaid, 2015). However, many people did not think that the terrorist attacks were morally acceptable but also did not agree with *Charlie Hebdo*'s publishing of the Prophet Muhammad, saying that it is not morally permissible to make fun of religion (Devichand, 2016). It must be said that I think the terrorists' response grossly disproportionate and morally reprehensible; however this is largely irrelevant here – at least in a direct sense. In this paper, I focus on the morality of publishing these cartoons and do not explore the moral justifiability of the attacks that ensued. The anticipation of possible threats and attacks does form part of the argument and cannot be ignored; however the terrorist attack itself is not discussed. It is, of course, logically consistent for someone to disagree with the cartoonists' publication of cartoons depicting the Prophet Muhammad but to find the terrorists' response completely unacceptable.

Throughout this essay I assume that liberal values, as defined and expanded on in the following sections, are inherently good values. Liberal values are arguably the most compatible with individual human flourishing and therefore should be protected and defended. By no means should this be misconstrued as a forceful assertion of what typically has been labelled as 'Western' and falsely, by default, non-Muslim. As mentioned by Douglas Murray in a 2007 Intelligence Squared debate on this topic, liberal values should be universal and should be enjoyed by everyone regardless of their religion or culture. While I

do recognise that many might disagree with some, if not all of the aforementioned propositions, it is beyond the scope of this paper to argue for this position. I am merely stating here that my assumption through the paper is that liberal values are good and worth defending.

D) Important concepts and definitions

a. How 'Liberalism' is understood in this paper

Liberalism is central to this paper, even though it is strictly speaking a *political* tradition with many variations, rather than a *moral* theory. In his *Stanford Encyclopedia of Philosophy* entry on liberalism, Shane D. Courtland (2014: 8) summarises a view held by many theorists: 'This is not just a theory about politics: it is a substantive, perfectionist, moral theory about the good.' He highlights the essential idea of any interpretation of liberalism, namely 'liberty.' In essence, liberals advocate that the liberal system is the best to live in because freedom is crucial for any kind of human development and flourishing. Therefore any state restrictions on its citizens' liberties must be justified (Courtland, 2014). There have, however, been many disagreements about and alterations to the classically liberal view.

Arguably the biggest debate among liberals has been about the relationship between private property and liberty. Classical liberalism has its roots in trying to improve the lives of the working class in the 17th century. It claims that liberty and private property are intertwined and that one cannot truly be free without various kinds of property. The revised 'social justice' version of liberalism has questioned the relationship between liberty and property in light of resulting economic inequality and so is more focused on redistribution of wealth (Courtland, 2014).

Furthermore, there have been varying perspectives on what 'liberty' even means and how far liberalism can be applied to different contexts that may be less liberal in nature. Despite these divergences, however, Courtland (2014) summarises some of the most important and key traditional liberal ideas as follows: a) no person or entity should have arbitrary power or authority over another; b) individuals should be able to freely choose their own life and develop their own talents and c) every individual has the right to freedom of speech.

Classifications of liberal values that are important for this paper can be found in the Liberal International's[1] Oxford Manifesto[2] from 1997 which reaffirms some of the key liberal values set out during its 1947 manifesto: individualism and personal liberty, equality of opportunity, democracy, political freedom, Rule of Law, freedom of speech, freedom of assembly and access to information (Liberal International, 1997).

I use the term 'liberal' as understood by John Stuart Mill (1806 – 1873), arguably one of the most important proponents of liberalism. In other words, I adopt classical liberalism throughout my paper. Mill's *On Liberty* is about 'the nature and limits of the power which can be legitimately exercised by society over the individual' (1869: 7). For Mill (1869), an individual is free to do what they want as long as they do not harm others in the process. Only then is the government allowed to get involved in order to protect others. This version of liberalism places strict constraints on state interference. According to Mill (1869), the three fundamental freedoms possessed by each individual are as follows:

> 1) '[L]iberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical and speculative, scientific, moral or theological' (1869: 26). This includes expressing that opinion and making it public. Mill (1869) places almost the same importance on the principle of freedom of expressing an opinion as he does on the freedom to have this opinion at all.
>
> 2) Doing what you like according to your 'tastes' even if these are not moral, as long as you do not harm someone (1869: 26).
>
> 3) Freedom to group together in the form of an association – again, as long as this does not harm anyone in the process.

[1] Liberal International (LI) is a political international federation for liberal political parties around the world.
[2] The Oxford Manifesto is a document describing the basic political principles of the Liberal International. It was drawn up in Oxford in 1947 and was revised slightly in 1997.

However, it is not only freedom from the state which Mill advocates. There is a much deeper, moral reason to protect free speech. For Mill (1869), one of the main components of well-being, which is inherently valuable, is individuality. In order to create our own individuality, we need to be able to form our own opinions. We can only do this if we have access to as much information as possible. Mill (1869) proposes that the key to human happiness is being able to think independently without having to adopt other people's doctrines. Not only do we need to be able to access information; we also need to be able to express our opinions if we are to exercise our own individuality. We should be able to do this 'without reserve' (Mill, 1869: 100). This could be interpreted as 'without any legal *or moral* restrictions'. Only then can we achieve true individual and social development.

Even though there may be different interpretations of 'liberal', this report will adopt the traditional perspective that the individual is at the centre of any liberal view; that an individual's actions should be restricted (legally or morally) if these cause harm to others; and that freedom of expression is crucial for society's progress. Alan Haworth (1998) states that we need to ground a defence of free speech in a broader liberal framework which values the individual, and Grayling (2009) claims that 'free speech' is the most important fundamental liberal principle because it is necessary to express and protect all other liberal principles.

b. Freedom of speech

i. Attempting to define 'speech'

Most of the literature on free speech seems to use very broad definitions of 'expression' and 'speech' in the context of 'freedom of speech'. In his paper, Thomas Scanlon (1972), for example, uses the term very broadly and tests the limits of freedom of speech rather than defining what is meant by speech. He does not seem to think that there is an adequate definition of expression or

speech in current literature. To him it is more valuable to justify the principle of freedom of speech, rather than attempting to pin-point precise classes of acts which belong to speech.

The closest to a definition of speech provided by Scanlon (1972: 206) is as follows: he defines 'acts of expression' as 'any act that is intended by its agent to communicate to one or more persons some proposition or attitude.' He concedes that speech belongs to the umbrella term of 'expression', however, it still does not become clear what exactly he means by speech itself. He himself admits that this is a very broad classification. He does, however, contrast speech to other forms of expression such as 'symbols, failures to display them, demonstrations, many musical performances, and some bombings, assassinations, and self-immolations'.

According to Scanlon, some try to distinguish between 'speech' and 'action', whereas others think that, for example, something written or printed can also count as 'speech' even though it is not strictly 'verbal' in the sense that saying something out loud would be. He also uses Mill's definition of 'speech' as 'arguments' and 'discussion' when justifying freedom of speech but it is not clear whether he subscribes to this classification .

Frederick Schauer (1982: 91) attempts to define speech as the 'communication of ideas, information, and artistic sentiment through means that are either linguistic, pictorial, or traditionally artistic'. By his own admission, this by no means covers all the different types of speech that might be defensible. He does however admit that an attempt at a simple definition of the term would be insufficient. Similar to Scanlon, Schauer views speech to be more than just speaking. By focusing on 'communication' as the key term, Schauer (1982: 96) suggests that we should mainly focus on 'spoken and written words'; i.e. language and symbols, when deciding which acts need to be protected by a principle of free speech.

Furthermore, and perhaps slightly more relevant to this paper (if we are to regard the *Charlie Hebdo* cartoon as 'art'), Schauer argues that 'art' should also belong to the kinds of 'acts' that should be protected by a principle of freedom of speech. However, this is also still very broad.
Another attempt at a definition is provided by Haworth (1998: 8), who defines those speech acts that should be protected by a principle of freedom of speech as acts which convey a message. The examples which he provides for these range from simple conversations to any messages conveyed in the press to artistic representations or street marches. Thus, as with the above-mentioned authors speech does not only include speaking. He identifies an important aspect of this kind of speech: there is a recipient. This could be the primary recipient of the speech or anyone else who might come across it. This seems plausible because the protection of recipients of speech is pivotal when deciding whether that speech is morally justifiable or not and should be protected.

Eric Barendt (2005: 419) argues that 'freedom of speech' has historically often been equated to 'freedom of the press,' which implies that the freedom of editors, journalists, cartoonists etc. is no different to the freedom enjoyed by other citizens who are not directly involved with the media. Others have claimed that the press has a privileged status over other individuals when it comes to being able to disseminate knowledge as they play an important role in doing so. Schauer has a completely different view, mainly that the press is merely *one* possible medium for speech to be expressed publically but is by no means the only way (or the most important way) to do so. It does not deserve special status.

Rae Langton (2012) raises an important issue. Even though speech can be viewed as a tool for communication she makes the point that words *do* things; i.e. perform actions over and above simply expressing or communicating an idea. Therefore it is inaccurate to claim that words are merely words and cannot harm. She also stresses the importance of the identity of the speaker and

what he or she is trying to achieve with any given speech. It is especially pertinent when people in powerful positions commit certain speech acts, e.g. a general giving an order.

Hence, taking all of the above into account, it seems as if the 'speech' we are interested in could take the form of any medium, but at the very least has to communicate an idea and has to have some sort of recipient. In order to remain focused, the research report aims to provide arguments for freedom of speech in the context of printed material such as the cartoons published by *Charlie Hebdo*. However, throughout the remainder of the paper the term speech remains broad because the authors whom I refer to do not always clearly define what they themselves mean by speech. For the purposes of the report I appeal to the reader to keep the broad definition of speech (can take the form of any medium but must communicate an idea and have a recipient) at the back of his/her mind. However, I am defending a narrower kind of speech; namely, print media. More specifically, I am defending the *Charlie Hebdo* cartoons on the front cover of their weekly magazine.

Perhaps, as both Schauer and Scanlon seem to suggest, it might prove to be more helpful to focus on the justification of free speech rather than trying to define the term. This will be explored in the next section.

ii. Hate speech vs free speech

A further distinction is necessary at this point. In its defence of free speech this paper is not advocating hate speech. Generally, hate speech involves some sort of incitement to hatred, harm or violence based on ethnicity, nationality, race, religion, sex, or sexual orientation, or because of a handicap (Langton, 2012). Langton (2012) makes a further distinction, though, between hate speech in the form of propaganda and what she terms 'words that wound.' These are words which directly target an individual or group rather than incite other people to harm them. This definition is problematic. It only lists a limited number of various groups people might identify with. There are

many groups missing, however. However, what is useful and important to note for our purposes is that free speech should not include any incitement to violence. I argue at a later stage that the *Charlie Hebdo* cartoons were by no means an incitement to violence or even discriminatory against Muslim people. In addition, no Muslim people were directly targeted in the cartoons.

iii. The importance of freedom of speech

In his *Stanford Encyclopedia of Philosophy* article, 'Freedom of Speech', David van Mill (2012) argues that the current defence of freedom of speech does not defend an absolute kind of freedom. The current argument is not about defending a completely unlimited freedom of speech but rather about how much value should be attributed to speech in relation to other liberal values, such as privacy, security and democratic equality (Barendt, 2005; Van Mill, 2012). Freedom of speech, as a liberal value, must be restricted in some circumstances as it may conflict with and undermine other liberal values. It seems of moral relevance to know how much value can be placed on freedom of speech in relation to other values. Van Mill (2012) warns the reader about taking for granted that the right to freedom of speech is absolute.

Before looking at any restrictions of free speech it makes sense to explore the reasons to protect it. Restrictions on freedom of speech not only affect the rights of possible recipients of speech acts but also individuals who wish to perform these acts. For both parties there are various benefits of freedom of speech and various reasons to defend its existence (Barendt, 2005; Van Mill, 2012). Some of these reasons are outlined below.

Barendt's 'Free Speech Principle' (2005: 6) claims that the right to freedom of speech should be granted with limited government interference. He claims that speech has value and cannot simply be restricted for no good reason. By consolidating many different sources he summarises the different arguments for the importance of freedom of speech into four very helpful categories: i) The

importance of discovering the truth; ii) Self-discovery/Self-fulfilment; iii) Citizen participation in a democracy and iv) Suspicion of the government.

1. The importance of discovering the truth

Haworth (1998) claims that the main reason to defend freedom of speech is because it expands our knowledge. The kind of speech which is valuable is the kind that contributes to ideas. Schauer (1982: 16) provides a helpful analogy: just like the economic 'invisible hand' rules the market, so does free speech 'regulate the market of ideas'. Similarly, Barendt (2005: 8) echoes Mill's views about the value of truth and claims that freedom of speech is crucial to learning more about the truth because 'living truth' must constantly be questioned and not treated as a 'dead dogma.' He places value on debate and a constant revision of what one thinks is the 'truth' so that individuals and society can progress.

Mill (1869) himself thinks that free speech is crucial for this process: if the content of the speech is accurate, then people have the opportunity to learn something new or relevant. If the free speech in question reflects a false or incorrect view, on the other hand, then it is equally beneficial because being exposed to false views can strengthen the truth that is already known. Preventing people from engaging in this process is doing them a disservice:

> (…) The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error (Mill, 1869: 33).

It seems as if Mill (1869) is arguing that an exchange of ideas is vital for our own social progress. We should not simply believe blindly in something but rather either change our mind if we are wrong or be more convicted in our belief in something if it turns out that we are right.
Society needs debate and criticism to improve and to 'silence people who say things you do not like to hear (is) regressive and unacceptable' (Grayling, 2009: 63). Grayling refers to this as 'bullying' (2009: 63). Instead of placing limitations on free speech Grayling (2009: 73) proposes to 'defeat bad free speech with good free speech'. Bad ideas should remain out in the open so that they can be reasonably argued against and debated.

It must be noted, however, that an ideal dissemination of knowledge, which the above-mentioned authors are alluding to, is not present in all societies. Not every individual in a particular society will necessarily understand the facts and knowledge presented to them. Freedom of speech can therefore largely only benefit individuals if they understand the content to a certain extent.

However, it is still important to offer everyone the opportunity to gain knowledge and get closer to the truth. A lack of knowledge might also mean that a bit of regulation is necessary to ensure that false information does not dominate the public space and hide any true information. Barendt (2005), for example, warns that not all free discussion within society will necessarily lead to truth in a democratic society. This, however, seems more like a caution about regulating the dissemination of knowledge, rather than a reason to restrict freedom of speech. Looking at the false information disseminated in relation to the Trump election one could argue that this sort of information should be prevented from reaching the public because of the harm it has caused and could cause in the future. Again, this is more of a question for regulating this speech. The advantage of protecting free speech is that the media or the public are free to expose these lies too.

Schauer (1982) questions whether the truth and knowledge are really inherently good. There are some cases where disseminating the truth could put people's lives in danger (Schauer, 1982). Then the consequences of allowing this particular information to be disseminated must be weighed up against those which will transpire if the information is not disseminated. If the harm caused by not showing a particular piece of information is worse than when showing it, then we need to have it out in the open. I will attempt to weigh up the consequences in relation to the *Charlie Hebdo* case at a later stage in the report.

2. Self-discovery/self-fulfilment

The re-evaluation of ideas and opinions through freedom of speech can support self-discovery and self-fulfilment. According to Barendt (2005), every individual should have the right to express their ideas and beliefs or listen to those of other individuals. Barendt (2005) high-lights how important it is to acknowledge the rights of not only those individuals who wish to perform speech acts, but also recipients of speech acts. In a TVO YouTube video called 'Free Speech', Christopher Hitchens (2011) posits a similar view:

> It's not just the right of the person who speaks to be heard; it is the right of everyone in the audience to listen and to hear and every time you silence somebody you make yourself a prisoner of your own action because you deny yourself the right to hear something. In other words, your own right to hear and be exposed is as much involved in all these cases as is the right of the other to voice his or her view.

This quote from Hitchens implies that by denying someone freedom of speech you are negatively affecting yourself and others in the process, as you cannot hear what was going to be said and learn from it in some way. Hence, both Barendt (2005) and Hitchens (2011)

claim that both ‘speakers’ and ‘recipients’ have the chance for self-development through ‘speech’.

Grayling (2009: 31) also holds the view that society can only progress if people are free to question various beliefs, opinions and ways of life. These need to be tested and tried out and each person can only fully develop if they have a chance to do so. Freedom to explore is imperative in order to improve one’s own life and society as a whole, according to this author. Once again, in line with the classically liberal view, the crucial part of his argument is that individuals should be free to do and say what they want to, as long as they do not harm others in the process.

One might argue against the relative importance of ‘self-development’ in this sense versus other important aspects of life. Why should we worry about arguing for freedom of speech in the context of improving someone’s life when actually there may be other more urgent matters to attend to, such as ensuring that people have enough to eat, have shelter and access to adequate medical care? However, Barendt (2005) claims that there is something especially liberating and valuable about intellectual progress and development. Freedom of speech can educate and thereby liberate people who might then be in a better position to make decisions in their lives. Grayling (2009) argues that this aspect of freedom of speech is vital to someone’s well-being.

It must however be noted that it is sometimes taken for granted that having a certain amount of freedom or agency will automatically improve their well-being. This cannot simply be taken for granted and it is not clear how freedom relates to this. Self-development is also not always necessarily directly linked to happiness (Schauer, 1982). Sometimes what makes us grow can be very unpleasant. The position taken in this paper, however, is that being exposed to as much information

as possible can put one in a better, more empowered position to make decisions which *could* improve one's life.

A further element within this argument is provided by Ronald Dworkin (cited in Barendt, 2005: 19) who advocates that each person must be 'treated with equal respect and concern'. Hence, this argument follows from the previous two arguments about truth and self-fulfilment: 1) in order to strive for the truth every individual, including those who form minority groups, should have the equal right to express their opinions and 2) equal rights should be given to all citizens as contributions to dignity and self-development.

For Barendt this particular point 'draws attention to one reason why the suppression of speech is wrong: it prevents free people from enjoying access to ideas and information which they need to make up their *own* minds' (Barendt, 2005: 18, emphasis added). Individual autonomy is so crucial to liberals that this kind of freedom implies that individuals must be allowed to make their own decisions even if these decisions are the wrong ones.

3. Citizen participation in a democracy

Underpinning the next argument in favour of free speech is the concept of self-governance and the sovereignty of all citizens in a democratic society (Barendt, 2005). Free speech plays a central role in shaping people's opinions about political issues. It is a medium by which people are provided with sufficient information to make political decisions (Barendt, 2005).

Barendt (2005: 18) cites Alexander Meiklejohn's idea (1961) that it is important to 'protect the right of all citizens to understand political issues in order to participate effectively in the working of democracy'. Barendt also draws on Schauer's definitions of 'democracy':

> A system that acknowledges that ultimate political power resides in the population at large, that the people as a body are sovereign, and that they, either directly or through their elected representatives, in a significant sense actually control the operation of the government (Schauer, 1982: 36).

According to Schauer (1982: 38), free speech can provide a platform where relevant information and knowledge is made available to people so that they can make better decisions when voting and evaluating various proposals suggested by the government. In essence, if this access to information is not present then this is the same as an infringement on someone's right to vote and self-governance is inhibited (Schauer, 1982: 38). Once again, one could argue that in our world today this information is not always accessible; the point here is that free speech is a platform where this knowledge can be made accessible and therefore should only cautiously be restricted. If correct information is crucial for a democratic process to function then one could argue that there would be some justification to censor some false information if this were to interfere with the democratic process.

The other point which Schauer (1982: 37) makes is that this type of self-governance does not mean that the population is always right, but that they are all given the equal opportunity to test out ideas, even if these end up being wrong.

Barendt (2005: 20) suggests that the argument from democracy can be interpreted in two ways: either democracy itself justifies free speech as it is in line with other democratic values, or freedom of speech is crucial to create a democratic society in the first place. The way in which free speech directly supports a democratic system is by giving people the opportunity to vote, as well as voice their opinion; i.e. free speech is the medium by which we can exercise our democratic rights. Without being able to vote or provide our opinion on something, we would not really be

participating in a democratic society. Also, it seems as though none of the other liberal values would be possible without free expression to be able to protect and fight for these values (Grayling, 2009).

4. Suspicion of the government

Whereas the above three arguments are positive, as they argue for the good of freedom of speech, the final argument is negative because it focuses on the disadvantages of restricting speech too much. Schauer (1982: 86) claims that freedom of speech

> [I]s based in large part on a distrust of the ability of the government to make the necessary distinctions, a distrust of governmental determinations of truth and falsity, an appreciation of the fallibility of political leaders, and a somewhat deeper distrust of governmental power in a more general sense.

Schauer (1982: 36, emphasis added) shows that in a democratic society the government is viewed as *serving* the population rather than *ruling over* it. People can use free speech to criticise the government and thereby hold them accountable for their actions and their effectiveness in serving the population. 'Suspicion' here is meant to show that citizens do not have to take what the government says or does at face value. The sovereign population does not have to accept what the government deems to be the truth, but rather the people decide what is true or false through public debate and argumentation (Schauer, 1982: 38).

I think this shows that the point can be extended to all types of 'authorities' which can and should be criticised and evaluated constantly, and whose ideas and actions should be consistently debated and exposed in the public domain so that they can be questioned. One can also be suspicious of private companies, religious institutions, large corporations etc. in this same way. *Charlie Hebdo*, for

example, criticises all religions and therefore some cartoons are intended to make people think critically about their own religious ideas instead of accepting them blindly.

Even though Barendt (2005) generally positions the four above-mentioned arguments in favour of freedom of speech as very helpful, he does highlight the inherent contradiction that emerges when examining them closely. He claims that sometimes the content of the free speech you wish to protect actually threatens the very democratic and liberal values you wish to uphold in the long run (Barendt, 2005: 19). This point is crucial for the justification of free speech in the context of a liberal society and therefore will need to be explored further.

iv. Restrictions of and limits to freedom of speech

Despite the importance of protecting freedom of speech, various authors have highlighted the need for caution. Scanlon (1972: 206) claims that the value of free speech must be compared to other social and moral goods and the relative value of all goods must be weighed up. There are ways in which unrestricted speech can bring about or threaten to bring about harm: it can cause physical or emotional injury; damage someone's reputation; result in negative consequences of a false alarm or incite someone else to commit a crime (Scanlon, 1972: 210 – 211).

Stanley Fish (1994: 102) claims that ''Free Speech' is just the name we give to verbal behaviour that serves the substantive agendas we wish to advance'. Hence, when we speak about protecting 'speech' it is not the content of the speech itself that we wish to protect but rather the *value* which it is attempting to portray (Fish, 1994: 106). According to him, we need to ask: What does the speech do? Do we want this done, and could more be gained or lost by curtailing it? According to Fish (1994: 102), we have to regulate it in some contexts, as some verbal behaviour is simply used to push certain agendas and some acts are not strictly only speech as they serve to incite others to act. So, for example, we cannot protect 'speech' if it incites others to act violently (Fish, 1994: 105). Similar

to Scanlon (1972), Fish (1994) advocates the idea that 'speech' must be restricted if it jeopardises other important values.

I think when it comes to inciting violence we should protect any potential victim from harm; however, when it comes to compromising other liberal values we should explore this on a case by case basis and if the negative consequences outweigh the positive, then we should not go ahead with the speech act so as not to compromise any other liberal values. Notwithstanding the difficulty of defining 'harm' the general rule should be that we should be able to say what we would like to say as long as it does not harm anyone.

For any discussion on free speech and the restrictions thereof, it is important to define what is meant by 'harm'. The obvious and commonplace understanding of harm is *physical harm*. This understanding of harm is relevant for this paper. However, there are many other kinds of harm which also need to be discussed. For example, Dimbleby (2012) distinguishes between three types of harm: *physical* damage, harm to *rights* and harm to *freedoms*. The following classifications of harm by no means represent a comprehensive list; however, they do describe two very important types of harm which are crucial for this paper.

Joel Feinberg (1984: 32 - 34) distinguishes between three different kinds of harm: a) harm in a '*derivative or extended* sense'; b) harm as in 'thwarting, setting back, or defeating of an *interest*' and c) harm as in '*wronging*' someone else or treating them '*unjustly*'. What Feinberg means by the first sense is when property, for example a building or a window, is damaged and this harms the interests of the owner of this property. Even though discussions about harm in this sense are important, I will only be focusing on Feinberg's other two types, as these are more relevant to the *Charlie Hebdo* discussion.

By saying that someone is harmed if one has thwarted their interests is to say that one has jeopardised their well-being (Feinberg, 1984). A person's flourishing and well-being is contingent upon whether their interests have been satisfied. If an individual is somehow prevented from acting out their interests or if these interests have somehow been set back, then we can say that this individual has been harmed. If these interests are worse off than what they were before someone interfered, then harm has occurred. This seems like a very plausible position to hold. Our well-being is inextricably linked to what we care about or what is in our best interests.

The third sense which Feinberg describes goes one step further: if one has violated someone's rights with no justification, then one has harmed them. He highlights the fact, however, that people's interests are often in conflict with each other. The problem is how to decide which interests should be prioritised over others. In the *Charlie Hebdo* case, how should we decide whether the value of free speech (which was the interest of the *Charlie Hebdo* cartoonists and their readers) or whether the religious expression of Muslim people should be prioritised. I return to this point later in the section pertaining to the moral analysis of this case.

Both Mill (1869) and Feinberg (1984) have provided useful principles to govern restrictions on freedom of speech, which will be discussed below. The views of both authors are informed by classical liberalism.

1. Mill's 'Harm Principle'

Mill (1869), who has arguably offered one of the strongest and earliest defences of freedom of speech, himself argues that there are cases when restrictions - albeit limited - should be placed on free speech. '… even opinions lose their immunity, when the circumstances in which they are expressed are such as to constitute their expression a positive instigation to some mischievous act.' (Mill, 1869: 100). He claims that freedom of expression is necessary for human dignity (1869: 63) but

that it can harm people too. In very basic terms his 'Harm Principle' stipulates that freedom of speech must be restricted if it could result in the harm of another person or is a direct violation of someone's rights. Outrage or being insulted does not qualify as harm, whereas actual intentions expressed in speech to harm someone could (Mill, 1869: 101). Furthermore, the more certain the harm or injury is, the more the state is allowed to interfere (Mill, 1869: 173). However, once again, he does not merely refer to legal restrictions; he also claims the following: 'Acts, of whatever kind, which, without justifiable cause, do harm to others, may be, and in more important cases absolutely require to be, controlled by the unfavourable sentiments' (Mill, 1869: 101). In other words, *morally* this is also unacceptable.

However, the difficult challenge is to know how we determine what is sufficiently harmful or harmful at all. Furthermore, it is not so clear, at first glance, how much harm cartoons or publications could cause or to what extent these should be restricted. However, I will return to the application of this to the *Charlie Hebdo* case at a later stage.

2. Feinberg's Offence Principle

Partially in response to the 'Harm Principle', Feinberg (1985) proposes 'The Offence Principle' which is broader than the 'Harm Principle'. Feinberg's principle is stated as follows:

> It is always a good reason in support of a proposed criminal prohibition that it would probably be an effective way of preventing serious offence (as opposed to injury or harm) to persons other than the actor, and that it is probably a necessary means to that end (Feinberg, 1985: 1).

Feinberg distinguishes harms such as those described above from offences. 'Offence is surely a less serious thing than harm' (Feinberg, 1985: 2). Even though Feinberg thinks that harm and offence are

different experiences altogether and not on the same scale, he still thinks that a person is worse off if they have been harmed rather than offended. Experiences can still offend us even if they have not set back our interests or violated our rights. According to Feinberg (1985: 2), to be offended is to 'experience a mental state of a universally disliked kind'. This disliked experience, however, must be linked to the wrongful actions of another person; i.e. there needs to be an offender who has committed an offensive act which is not justified. Finally, the offended must also 'resent' the offender for this wrongful action.

Very importantly, however, Feinberg (1984) makes us aware of the danger of any offensive experiences which are prolonged. These could lead to harm because they may eventually interfere with our interests. Feinberg (1985: 3) claims that the offended state in and of itself is morally 'relatively trivial' but it is morally problematic when it leads to harmful consequences. An undesirable experience will only be harmful if it hampers an interest sufficiently. If an offence is repeated or prolonged it could lead to psychological harm and distress.

The problem with this view, however, is to know how to measure this. It is difficult to establish when an act has *sufficiently* impeded an interest. On the one hand it is important to take into account how an individual has perceived an act and if they perceive it to be sufficiently offensive and blocking their interests. However, on the other hand some people can be hypersensitive and become unreasonably offended at certain things, so there must also be some kind of objective measure to establish whether something has been sufficiently offensive. Once again, I discuss this at a later stage in connection with my moral analysis of the *Charlie Hebdo* case.

To answer this question, Feinberg (1985) suggests various considerations which need to be taken into account when justifying freedom of speech, which may have varying weightings depending on the situation. In essence, he claims that when we live in a society together there will always be a

balancing act between different interests and there will always be a level of reasonable interference of some actions in other people's lives. Even though his suggestions are mainly linked to actions, broadly speaking, they can be applied to speech acts.

Feinberg (1985: 5) uses an element of *The Nuisance Law*, namely that '(e)xtreme nuisances can actually reach the threshold of harm' as a basis for understanding offensive actions. He also draws on and adapts William Prosser's (1947) method for evaluating an offence. According to Prosser (1947, cited in Feinberg, 1985: 7), when we evaluate whether an action is 'sufficiently' offensive, we need to weigh up the *severity* of the offence and the *reasonableness* of the response to this offence. Ultimately, Feinberg (1985: 26) adapts Posser's list of criteria and suggests that we examine the following, in order to establish the *seriousness* of the offence:

1) The extent, duration and intensity of the act
2) The ease with which the act can be reasonably avoided
3) The extent to which the offended act was voluntarily experienced
4) The extent to which the response to the offence can be ignored due to an abnormal vulnerability or hypersensitivity

These must then be weighed up against the measures of the *reasonableness* of the offensive act:

1) The personal importance of the act for the actor
2) The motives of the actor
3) The general interest for the community
4) The social value
5) The possibility of alternatives

Hence, the *Offence Principle* can be enforced by weighing up these two sets of conditions. However, even with this revised principle there remains the difficulty of judging what could be harmful or offensive. Some individuals might find something offensive which others find very humorous. The above aspects are critically applied to the *Charlie Hebdo* case at a later stage in the report as part of the argument to show that the cartoonists were morally justified in publishing the cartoons of Muhammad.

In contrast to Feinberg's view (1985), Grayling (2009) claims that no form of 'offence' can ever be a reason to prohibit free speech. He refers to the outrage experienced in response to the depiction of the Prophet Muhammad in the Danish magazine, *Jyllands-Posten* in 2005. He suggests 'anyone can incite themselves into feelings of outrage; why should this be allowed to censor others?' (Grayling, 2009: 34). He goes on to say that the offence caused by cartoons is not a just cause to censor the magazine; whereas any physical harm that is caused by a terrorist attack, for example, should be prevented. This view can be applied to the *Charlie Hebdo* case too.

The above views imply that a theory on the restrictions or limits of free speech must take into account the interest and well-being of the audience who receives the ideas and the content of various 'speech.' This paper will also consider and explore the extent to which vulnerable people need to be protected by placing appropriate restrictions on freedom of speech.

E) An analysis of the moral justifiability of the *Charlie Hebdo* cartoons

In this section I explore various moral arguments for and against the publication of the *Charlie Hebdo* cartoons depicting Muhammad. In his article, 'A Storm in a Turban', David Benatar (2006) asks whether the cartoonists of the Danish magazine *Jyllands-Posten* did anything morally wrong by publishing their cartoons which depicted the Prophet Muhammad. Most of the arguments he presents are also applicable to the *Charlie Hebdo* case. Therefore, I have incorporated some of Benatar's points which I find relevant to my argument and have responded to, as well as expanded on, some of these. This only forms part of my discussion; however. The majority of points raised are not factors which Benatar discusses.

Benatar examines various arguments which have been presented *against* the publishing of the cartoons and one by one shows how these are not sound arguments. Thus, this is a negative substantive argument as he does not directly show that the publishing of the cartoons was morally *right or justifiable*; rather he shows that some of the arguments brought forward to show that it was morally *wrong* are not successful. He deals with each argument separately. Most of the arguments are independent from each other i.e. the discussion of one does not necessarily rely on the discussion of another. Due to this I have changed the order of these to better suit the flow of my argumentation. I have left his order as is where logically necessary.

As Benatar has done, I wish to argue that a) the arguments which claim that the publishing of the cartoons was wrong are not sound arguments, but I would like to build on this and make a stronger claim, namely b) that the cartoonists were *morally justified* in publishing these cartoons due to the long-term benefit of protecting free speech.

a. Questions about *harm*

i. The *physical harm* which did/could have resulted

This sub-section is specifically about the *publishing* of the cartoons, rather than the *content* of the cartoons. What I mean by this is that, in this sub-section, I exclusively explore whether the cartoonists did anything wrong by *publishing* the cartoons even though they had reason to believe that this may result in an attack. I do not address the potential offensive or harmful nature of the *actual content of the images*. I deal with this point at a later stage.

Some might argue that the decision to go ahead with the publication of these cartoons was dangerous and reckless. There had been protests, damage to property and death threats following the *Jyllands-Posten* cartoons depicting Muhammad in 2006. Similarly, *Charlie Hebdo* had also received warnings, attacks and death threats leading up to the 2015 attack. So, while the Danish magazine might not yet have known the severity and seriousness of the harm that might result from publishing their cartoons, the *Charlie Hebdo* cartoonists had ample evidence and reason to believe that the publishing of their cartoons could result in their death, as well as potential harm to others and damage to property. Taking into account the context of the years building up to the *Charlie Hebdo* attack, it was very reasonable to assume that publishing these cartoons would have harmful, if not deadly consequences.

Another argument could be that because there *actually* was an attack that occurred, it makes the action even more morally dubious. Whether one can judge a moral action retrospectively like this or not is beyond the scope of this essay. This question is largely irrelevant, however. What is relevant in this case is the fact that the cartoonists did in fact have good reason beforehand to think that their actions could have detrimental effects.

For the purposes of this discussion I assume that it is morally wrong to do something if that action results in harm - or there is good reason to believe that it would - unless it is for a very good morally justified reason. It is beyond the scope of this paper to argue for this position; however, I do think it is a reasonable position to hold. This view is also consistent with classical liberalism; i.e. that we should be free to do as we please as long as we do not harm anyone (Mill, 1869). It is reasonable to want a situation where there is as little harm as possible inflicted on people. The next two sub-sections include discussions about all the different ways in which the *Charlie Hebdo* cartoons could have or did result in various different kinds of harm.

1. The death of the *Charlie Hebdo* cartoonists

Some might argue that it was morally wrong for the cartoonists to put their own lives at risk and publish the cartoons when they had good, strong evidence to believe that this was going to provoke a violent response and possibly result in their death. So, a basic form of this argument might be stated in the following way: publishing cartoons of the Prophet Muhammad was morally wrong because it was reasonable to assume that it would result in the loss of life.

However, from a classically liberal perspective, individuals should be able to do what they please as long as they do not harm anyone (including themselves) in the process (Mill, 1869). To the best of my knowledge all of the *Charlie Hebdo* cartoonists who drew cartoons of Muhammad did so of their own volition. None of them were coerced by the magazine to do so. In response to death threats he received in the years prior to the attack for drawing cartoons of Muhammad, Stéphane Charbonnier, the director of publication at *Charlie Hebdo*, said in an interview with *Le Monde* (2012): 'I'd rather die standing than live on my knees' (*The Telegraph*, 2015). This sentiment seemed to be representative of all of the *Charlie Hebdo* cartoonists. In an online interview shortly after the attack, one of the only surviving cartoonists, Rénald Luzier (2015), claimed that they were willing to risk

their lives for what they thought was a cause worth fighting for; namely protecting free speech (Luzier, 2015).

One might disagree with this and not find the cause worth risking one's life for and one might be concerned about their families who would suffer their loss; however, considering that we are talking about harm in the form of loss of life here, this was ultimately still their own decision and their own lives.

Therefore, the publishing of these cartoons is not rendered morally impermissible by the fact that the cartoonists were likely to lose their lives as a result because they made this choice of their own free will.

Where it does seem to get a bit more complicated is thinking about the harm caused or potential harm to others besides the cartoonists.

2. The *potential harm* to the innocent

From a liberal perspective one may accept that the cartoonists were morally justified in risking their own lives because we value individual choice; however, what about the potential harm to others or damage to property that was also reasonable to expect. Looking at the various terrorist attacks that have occurred in various contexts in the past, it could have been plausible to expect the 2015 *Charlie Hebdo* attack to take the form of a bombing or the like that could very easily have killed innocent bystanders. Hence, the cartoonists put other people's lives in danger.

However, I think that this view is mistaken. The perpetrators who pulled the trigger and killed the cartoonists were the actual cause of harm or potential harm in this case. One could even argue that had there been someone who had ordered the attackers to perform this murder that they would

also have been partially responsible. However, to attribute any responsibility to the cartoonists is too far down the causal chain.

Furthermore, it does not seem fair to give the cartoonists the responsibility to protect citizens. That is not their role. It is the role of the state to do so. This was very clearly a terrorist attack. The state should have protected the *Charlie Hebdo* magazine and any other newspapers who wanted to publish the cartoons in questions and implemented the relevant security measures to ensure the safety of its citizens (Murray, Harris & Nawaz, 2015, Nougyrède, 2015).

A possible objection to this might be that there is a moral responsibility attached to someone's role in creating dangerous conditions, in which others would act immorally, even if there was no direct causal link. The cartoonists had been warned that there would be an attack if they continued to publish images of Muhammad. Therefore, the attacks were predictable. Publishing the cartoons created a context in which they knew the attackers would act immorally.

Benatar (2006) points out the circularity of this kind of argument. According to Benatar, if an action is morally wrong because the response to that action is violent and leads to harmful consequences, then any action no matter how benign could end up being perceived as morally wrong because it evoked a harmful or violent response; even if this response were completely disproportionate.

In his response to Benatar's paper, Mikel Burley (2007) cautions against using this as a hard and fast rule in every case and suggests that we should examine this case by case. If it turns out that there is a high possibility of bad consequences which outweigh the benefits of an action, for example publishing the cartoons, then we should refrain from doing so.

Benatar (2008) responds by saying that it is important to look at the greater context and that sometimes the negative consequences of a terrorist attack following the publishing of a cartoon depicting the Prophet Muhammad can be justified in the name of a greater long-term benefit of the publishing the cartoons, namely not giving into terrorism and protecting free speech.

A discussion about weighing up the consequences warrants a more detailed exploration. I return to this point at a later stage when applying Feinberg's maxims for evaluating the seriousness and reasonableness of an offence.

ii. Were the cartoons racist or examples of hate speech?

Reza Aslan (2015), a religious Iranian-American author, claims that the *Charlie Hebdo* cartoons in question were racist, and even though violence such as the terror attack is not a justifiable response, the cartoons should still have been banned due to their racist and attacking nature.

Furthermore, Richard Harries (*Independent*, 2015) claims that

> Much of what passes for humour today is puerile and vulgar, directed at soft, obvious targets. The purpose of satire, and its justification, is to expose the injustice, blindness and hypocrisy of the powerful, and that can include religious institutions and figures. But there is no justification for deliberately belittling any community that already feels marginalised and vulnerable, as does the Muslim community in France.

On closer inspection, however, it does not seem to be a reasonable and fair judgement to say that the cartoons targeted Muslim people and belittled them. The cartoons showed pictures of the Prophet Muhammad or extremists; not ordinary Muslim people. By ridiculing the extremists the cartoons can be seen to be addressing the severity of issue of fundamentalism. Prophet Muhammad,

on the other hand represents a religious idea and, like with any religion, *Charlie Hebdo* often questioned religious ideas.

Some people have suggested that there is a moral difference between demeaning an *individual or group of individuals* and criticising an *idea*. In his book *Islam and the future of tolerance*, co-authored with Harris, Nawaz (2015: 88) claims that the *Charlie Hebdo* attack brought 'to the fore the importance of distinguishing between critiquing an idea and inciting hate crime against a specific cultural grouping of people'. He wants to show that we should restrict the content of a cartoon if it targets a certain group of people; e.g. a particular race because this may instigate hatred and harm towards that race. According to Nawaz (Harris & Nawaz, 2015: 89), this is very different to questioning and re-evaluating an idea such as religion.

Martin Rowson, a British editorial cartoonist and writer whose cartoons often appear in *The Guardian* and the *Daily Mirror*, has a similar view. He claims to not insult people but insults their opinion: 'I don't attack people for what they are; I attack people for what they think' (Rowson, 2012: 4). According to him, religion is a matter of opinion, hence if you criticise someone's religion you are merely criticising their thinking. However, it is morally wrong to make fun of someone's gender or ethnicity because this is about who they *are* and not what they *think*.

Similarly, for Grayling (2009: 67), no one and nothing (not even religion) is or should be safe from criticism. He condemns discrimination against people due to characteristics such as their age, sexuality, gender, ethnicity, disability etc. because these aspects are strictly speaking not in our control to change. However, he believes that free speech is morally justified in criticising anything which we can choose such as our thoughts and opinions. For him, religion is a matter of opinion.

One objection to this, though, is that religious opinion is not always that voluntary. In some cases, it is very difficult - sometimes even life threatening - to reject one's community's religion. Often people are ostracized for rejecting their religious beliefs. Also, it is questionable to what extent a religious person really has control over what they think in relation to a religious belief because they might have grown up with it.

This, however, merely illustrates that it is important to constantly challenge, question and revise religious - or any other – ideas and practices. The key question still remains, though: is there is an important moral difference between criticising an *idea* as opposed to a *group of people*? For some people their religious ideas are integral to their identities and far more important than other identities. Even though gender or ethnicity have a biological component, one could argue that even these are voluntary depending on what an individual identifies with.

There might not be a clear, morally relevant difference between criticising an idea as opposed to a person. However, there is a difference between inciting violence or hatred onto a group of people or and individual as opposed to making a joke about a religious figure. The *Charlie Hebdo* cartoons did not incite violence on any Muslim people. Therefore, they were not morally wrong.

b. Questions about *offence*

Even if we decide that the cartoonists were morally justified in publishing the cartoons despite the harm caused, we may still deem them as morally wrong due to the offensive nature of the cartoons.

i. *Making an image* of the Prophet Muhammad

Many Muslim people expressed outrage at the depiction of the Prophet Muhammad in several *Charlie Hebdo* cartoons. They claim that portraying the Prophet can lead to idol worship which is a sin. According to Akbar Ahmed, from the Islamic Studies department at American University (as cited

by Burke, 2015), creating any kind of image of Muhammad is problematic in Islam because it might lead a Muslim person to start worshiping him, who in fact is merely a man rather than the Islamic God, Allah. Benatar (2006: 18) expresses this as 'Islam forbids making visual images of Muhammad'. To be clear, this point is about the fact that *Charlie Hebdo* made an image of a holy figure regardless of what the content of those images were. So, for this sub-section, even if the images of Muhammad had been complimentary and positioned the Prophet in a positive light, it would still be problematic for Muslims to see their Prophet depicted in an image.

An argument against this is that in many interpretations of Islam, it is in fact not forbidden to depict Muhammad; there is no evidence in the Qur'an for this religious law. Even though one might think that there is no point in getting into various interpretations of Islam here I address this argument because it has often come up in open dialogue and in the media. Irshad Manji, an author and advocate of reform within Islam, is a religious Muslim who claims that the Qur'an - the holiest of the Muslim religious texts - actually does not explicitly ban the depiction of Muhammad (2012). Further sources confirm this: for example, Christiane Gruber (2015), a historian who specialises in Islamic paintings, argues that the Qur'an does not ban the depiction of the Prophet Muhammad and there has been a long history of imagery of the Prophet in ancient Islamic art which has celebrated and praised the Prophet.

An important objection to this, however, is that it does not matter what the correct interpretation is. The fact was that it was made clear, prior to and after the attack, that the actual portrayal of Muhammad, regardless of the tone or thematic content of the cartoons, would offend, and did offend, many Muslims.

Based on the arguments he presents, Benatar (2006: 18) would reject this claim. He claims that just because making an image of Muhammad is banned by Islam, does not mean that non-Muslim

people also need to abide by this rule. This is in line with liberalism: religious people should have the freedom to exercise their own beliefs; however, they should not have the right to coerce others who do not share these beliefs into obeying any religious rules or laws (Courtland, 2014). Liberalism requires that people should have no arbitrary power over others (Courtland, 2014). Blasphemy laws enforced onto those who do not believe in these laws would be an example of arbitrary power over others.

To me, this means that a) we cannot expect non-Muslim people to know all of the Muslim religious laws and rules which need to be adhered to, as much as we cannot expect Muslim people to know all of the religious laws of any other religion. More importantly, however, this means that b) we cannot expect non-religious people or people of another religion to abide by laws which are not theirs. Journalists might *know about* these laws, especially in a heightened context, but this does not mean that they should *abide* by them; especially if the country they live in, France, does not have blasphemy laws and they do not follow any religion which has blasphemy laws.

Some might object to this by saying that we need to respect everyone's beliefs in a pluralistic society. Aslan (2015), for example, is of the opinion that France is to blame for the *Charlie Hebdo* attack as they have not dealt with multiculturalism effectively and have not successfully integrated Muslim communities into French society. He claims that the appropriate way for *Charlie Hebdo* to react to the initial threats would have been to refrain from publishing the cartoon in question, as it was made clear to them that this was provocative and offensive. Considering that the French population consists of many Muslim people (one of the biggest Muslim populations in Europe) who could potentially form part of the *Charlie Hebdo* readership some might argue the cartoonists and other non-Muslim French citizens should abide by their religious laws.

However, it seems very strange to require everyone to abide by Muslim religious laws in order for people to be integrated into a country. Surely integration should be based on commonalities between people rather than their differences. Also, Benatar (2006: 18) makes the point that this would imply that everyone would have to abide by all religious laws which means that Muslim people would also have to abide by the rules of other religions. This seems very demanding of a society to follow so many different rules, especially as these rules are likely to be mutually exclusive.

Furthermore, Benatar (2006: 19) asks why religion should have any special status over other political, moral or any other perspectives a person might identify with. In the *Charlie Hebdo* case one could argue that the cartoonists' liberal political convictions and desire to protect a liberal value, namely free speech, was more important to them than any religious conviction. There does not seem to be any compelling argument which shows that a religious rule, such as banning the creation of an image of Muhammad, overrides any other rule by which a person might abide.

Rand (2015: 2) even goes further in saying that to force people to abide by religious rules they do not believe in is a 'blatant violation of their freedom of conscience.' Considering that there has been a history of religion preventing people from thinking freely and autonomously, this is not an unreasonable claim to make. If one is forced to abide by rules which one does not believe in, this amounts to unwanted control over your thoughts and opinions.

Ultimately, it is not morally required for anyone to abide by religious laws which they do not believe in and therefore, the cartoonists did nothing morally wrong by depicting an image of Muhammad. Some might argue, however, that the real moral issue is more about the disrespect inherent in the actual cartoons rather than the fact that the cartoonists made an image of the Prophet. The next section deals with this point.

ii. Making a *demeaning, disrespectful and blasphemous* image

Whereas the previous section explored whether it was morally wrong for the *Charlie Hebdo* cartoonists to have created a portrayal of the Prophet, this section is about the actual content of this portrayal. So, the problem here is not *that* Muhammad was depicted but rather *how* he was depicted. Many have described the cartoons as biting, insulting, disrespectful and blasphemous. It is important to separate the two points: one could think that it is permissible for the cartoonists to show images of the Prophet for various reasons outlined above but only accept this if the images of the Prophet are respectful and put the Prophet in a positive light. This could allow one to accept the fact that an image of the Prophet was created but condemn the fact that, as was the case with the *Charlie Hebdo* cartoons, the cartoons are poking fun at the Prophet. The truly disrespectful act is embodied in the '… vulgar manner in which Muhammad has been portrayed' (Bill Donahue, cited by Dolan, 2015).

To begin with, I would like to address the point about the moral unacceptability of blasphemy; where blasphemy is understood to be 'the action of speaking sacrilegiously about God or sacred things; profane talk' (Oxford Dictionary, 2017). It is very difficult to argue that the cartoons were not blasphemous. Considering that there was a naked depiction of the Prophet Muhammad and other jokes made about him, there is a strong argument to be made that these cartoons were examples of profanity. The interesting question, however, is whether this is morally problematic.

Similar to the point above regarding expectance of non-Muslim people to abide by Muslim laws, the question is, again, whether blasphemy is wrong in this case. Murray, Harris and Nawaz (2015) think that expecting the cartoonists to not be blasphemous can be labelled as 'theocratic' and that the terrorist attack itself was a type of violent enforcement of non-liberal blasphemy laws. They raise the question of why a liberal society like France should have to adopt non-liberal values and

succumb to the fear of offending a religious group of people. Again, why should certain religious rules apply to non-religious people or people of a different religion?

An important point to make here is that France has had a long history of separating church from state. Blasphemy laws were abolished in 1791 in most of France (Doe, 2011). It is not clear why this long history of French liberal values needs to give way to accommodate blasphemy laws which were abolished so long ago and are not compatible with liberal values.

Furthermore, how can someone be blasphemous if they either do not believe that there are any entities at all to be blasphemous about or do not think that the entity in question is sacred because they believe in another entity? Logically it is not possible to insult an entity if you do not think that this entity exists or if you do not believe anything is sacred. Rand (2015: 2) cites Pierre Bayle (1647 – 1706) who states that 'blasphemy is scandalous only in the eyes of one who worships the reality being blasphemed'. How can we hold the cartoonists accountable for blasphemy if they do not even believe in Muhammad or any aspect of the Muslim religion? (To the best of my knowledge, none of the *Charlie Hebdo* cartoonists who drew the cartoons depicting Muhammad were Muslim.)

Timothy G. Ash (2013), however, highlights that the real issue with blasphemy is not about respecting the *actual beliefs* but it is more about respecting *those who believe*. So, while you do not have to believe what someone else believes and you can criticise their ideas, you should still respect that someone else has these beliefs. Some people might argue that the cartoons are still blasphemous because they are interpreted as such by those who do believe in Muhammad and his sanctity. They might also say that one need not *intend* to be blasphemous, or *think* one is being blasphemous, to *be* so. From their perspective, this would be blasphemous and blasphemy is morally wrong; therefore the cartoons should not be published.

However, this sounds like a very subjective measure. Being offended is a subjective feeling and whether or not someone is offended is really a function of how they feel. It is difficult to control whether someone feels offended or not, or what they feel offended about. However, if we leave the measuring of the *severity* of the offence of a particular action up to *only* that subjective judgement then we run into a problem. What is important for the moral question, is whether someone's taking offence is a reasonable reaction. Benatar (2006: 19) raises the issue that by leaving the offensiveness of a particular speech act up to the subjective perception of the recipient of that speech act one 'effectively gives a moral veto to hypersensitive people.' If measuring the offensiveness of an action is *only* up to subjective perception then theoretically anything could be offensive no matter how reasonable this action is. Someone could be overly sensitive, and offended by things most people think are innocuous. Benatar also points out that this implies that the limits on free speech are without boundaries. All that one needs to do is say that something was offensive to make it morally wrong regardless of how ludicrous this claim might be.

Rénald Luzier (2015), *Charlie Hebdo* cartoonist, reflects the same sentiment when he explains how the magazine tried to make a point at one stage by publishing an edition of the magazine with completely blank pages. On the front cover they wrote something that suggested this is what the magazine would look like if they wanted to make sure that they would not offend anyone. Once again the point is that anyone can get offended about anything.

We cannot possibly be sensitive to everyone's needs. It might also be the case that some people are unreasonably hypersensitive (Benatar, 2006). While the onus always seems to be on the speaker to *not offend* anyone, at some point it seems justified to put the onus on the recipient of that speech to *not get offended*. In some cases it seems warranted to simply tell those who get offended to simply 'shrug it off and move on'. There will always be someone who will be reasonably or unreasonably offended.

Someone might respond to this by saying that in the context of Islamophobia in various countries, we need to take emotions of Muslims into account and cannot underestimate the harm of insulting a deity they care about (Choudary, 2015). As a marginalised group in France, Muslim people are vulnerable and cannot simply 'shrug it off.' They may argue that the cartoons discriminated against Muslim people and therefore were morally wrong. The next section will explore whether it was reasonable for Muslim people to feel offended by being targeted by the cartoons.

Manji (2012) criticises this view by saying that we actually show disrespect when we assume that a certain group is vulnerable and therefore will not be able or willing to engage in healthy debate about their beliefs. Taking the broader context into account, of protecting free speech and associated values, I think the cartoonists were morally justified in criticising any idea or institution despite how people may have perceived the cartoons.

c. Evaluating the severity of an offence

Haworth (1998) recommends that we always examine whether the offensiveness of any speech is severe enough for us to restrict this speech in any way. As discussed in the previous section, Feinberg's 'Offence Principle' (1985) and his application of a balancing test might help us to establish whether the *Charlie Hebdo* cartoons represent a serious offence. It must be noted that Feinberg offers this strategy as a guide to help decide whether certain speech should be *legally* restricted or not; i.e. it is a way of 'mediating the "Offence Principle"' (Feinberg, 1985: 25). However, I think an application of these various aspects can be helpful in this discussion in order to establish whether the cartoons were *morally* wrong due to the offence that resulted.

Looking at each of these criteria, per se, I will ultimately argue that the cartoons, despite being interpreted as offensive by some, are not a serious enough offence to call them morally unjustified. Even though this list of criteria might not be exhaustive it still provides guidance on how to balance

the interests of the speakers with those of the audience. The inclusion of multiple factors from both perspectives mitigates the risk of being too one-sided.

i. Applying Feinberg's criteria to establish the *seriousness* of the offence

This discussion elaborates on elements which relate to the *offended* parties. I first discuss each element separately; however, at a later stage all aspects will be grouped together when being weighed up against the grouped *reasonableness* factors.

1. The extent, duration and intensity of the published cartoons

One way of measuring the seriousness of the offence of the cartoons is to establish how widespread the offence could potentially be. More concretely, we could ascertain the number of people offended by the cartoons. Unfortunately, this is empirically very difficult to do. Furthermore, it is also difficult to gauge exactly how many people would be 'enough' to say that the cartoons were seriously offensive. However, I am not making an empirical claim here about how many people were *actually* offended. I simply want to explore whether the cartoons *could* have reached and offended a large number of people.

In the week after the 2015 *Charlie Hebdo* attack the magazine sold approximately 3 million copies in newsstands and book stores in France and many other countries, as well as online (Walker, Penketh, Glenza, Sweney & Sandeman, 2015). This is a very high figure compared to other magazine sales (About-France, 2017; Mezzomedia, 2017). However, it is to be expected that sales would be high after such an attack. Even though this provides some indication of how widespread the magazine was after the attacks, this is not of interest for this discussion. What I am exploring here is rather what evoked a negative response in the first place. For the purposes of this paper, I am exploring the moral justifiability of publishing the cartoons before these attacks occurred.

Before the attacks and subsequent popularity, *Charlie Hebdo* was almost exclusively sold at newsstands across France and did not sell many copies online (Weaver, 2015). According to Matthew Weaver from *The Guardian* (2015), *Charlie Hebdo* usually printed about 60 000 copies per week and these were sold in newsstands across France. Brendon James from *International Business Times* (2016) claims that *Charlie Hebdo* sales in 2014 before the attacks were lower than 30 000 per week. This is much lower than the 410 000 copies of *Le Figaro Magazine*, the 2.2m copies of *Le Figaro Newspaper* or the 1.9m copies of *Le Monde* sold every week in France in 2014 (About-France, 2017; Mezzomedia, 2017). Therefore, it is reasonable to assume that not many people could have been offended because they simply were not exposed to the cartoons.

This might provide some rough indication of how many people might be exposed to the magazine; however, the following challenge remains: how do we know what number of people constitutes enough to deem the offence serious enough or not. Feinberg (1985) suggests that if the *majority* of a particular population would find something offensive then it is offensive *enough*.

First of all, however, it is not clear who this 'population' should consist of. This could be the French population; i.e. all people living in France; it could be only the Muslim population living in France; it could be all Muslim people in the world or even all people in the world. It is difficult to know where to set those parameters and make sure these are relevant. However, considering that the magazine, at least before the 2015 attack, was distributed almost exclusively in France, it is reasonable to say that a relevant population would be all people living in France. It seems that actual citizenship is less relevant in this case than residence because this point is about the proximity to the magazine. Of course, some might argue that citizens have and should have special rights that should be prioritised over the rights of others. This would require an entirely separate and thorough discussion and therefore, is out of the scope of this essay. Hence, I will assume that there is no moral difference between a citizen and any other person living in that country.

However, there is a much deeper problem with simply taking the majority's interests into account. It is necessary to caution against the application of Feinberg's principle here. One might argue that it is the very fact that the Muslim population is a minority in France that might make the cartoons even more problematic. So, in the case of the *Charlie Hebdo* cartoons it is not clear that offending a larger group of people is necessarily worse than a smaller group of people. Someone might argue that the offence of the cartoons is actually more severe because it has targeted a minority. The offence experienced by a marginalised group might be more serious than another group because that offence might make them feel even more marginalised and not integrated into French society.

As mentioned before, however, the magazine criticised many different religious perspectives and did not exclusively focus on Islam. However, that is irrelevant for the point made here. The point here is that, in the case of the *Charlie Hebdo* cartoons it may not be so important that the cartoons did not offend a large group of people.

Some might argue that the Muslim population in France is a vulnerable minority group and if we ignore their interests because we are only concerned with what the majority might be offended by, then we may be contributing to Islamophobia, which is already a problem in France, specifically, and Europe as a whole (Aslan, 2015). On the other hand, one could argue that having to restrict free speech because people will get offended might also lead to hatred or bigotry and ultimately, Islamophobia. Either way, Islamophobia is a much larger problem to deal with and it seems as though fundamentalism and terrorist attacks are a far greater catalyst for Islamophobic feelings towards Muslims than a particular cartoon.

The point is, that in this particular case it might not be very helpful to look at the number of people offended but rather how accessible the cartoons were. *Charlie Hebdo* was a niche magazine with a very narrow reader base before the attacks, making the extent and reach of the cartoons very

limited (Luzier, 2015). Of course, after the attacks the magazine has become much more popular and well-known, with the cartoons depicting Muhammad easily accessible over the internet. However, as before, it is only relevant to discuss what the magazine was like before the attacks for this particular point.

Also, *Charlie Hebdo* is a weekly magazine which means that one is not likely to see the front cover in newsstands for a very long time. It is difficult to find out how long an edition actually stays on store shelves for; however, it is reasonable to believe that an older edition does not stay on shelves for too long and is replaced by the new week's edition. So, you might see a Muhammad cartoon on one day and a cartoon about something else (for example, a French politician) in the next week. This implies that the length of time that the potentially offensive cartoon is easily available in shops is never really long.

One could argue, however, that because cartoons of Muhammad have been published by *Charlie Hebdo* and other magazines such as *Jyllands-Posten* for over 10 years the perceived offence of these has been going on for a very long time. To be subjected to content which someone deems to be offensive for 10 years seems like a very long time. Feinberg (1984) stresses that even a seemingly harmless act can become harmful if repeated or prolonged.

In conclusion, the cartoons were not that widespread and any particular issues had never been on sale for too long at any particular time. In the case of the *Charlie Hebdo* cartoons, however, it is not clear that this criterion of duration and extent is as important as the others might be. It is plausible to imagine that someone who would be offended by what they deem to be a blasphemous depiction of a holy figure would be offended by this even if they only saw this once. Perhaps there are other criteria which are more pertinent to the *Charlie Hebdo* case.

2. The ease with which the cartoons could be reasonably avoided

'The easier it is to avoid a particular offence, or to terminate it once it occurs, without inconvenience to oneself, the less serious the offence is' (Feinberg, 1985: 32). Feinberg distinguishes books, for example, from other forms of speech by exploring to what extent these can be avoided. He claims that one has the choice to read a book or not; hence, if you are unsure of the content or if you know that the content might affect you in a harmful way then you can choose to not read it. In this sense, a book is more avoidable than say a street demonstration or billboard which people may come across even if they have not directly chosen to do so. Similarly, cartoons and print media which are not advertised on billboards are also easily avoidable in this way. They are more easily avoided than speech displayed on television or other more 'unavoidable' mediums.

On the other hand, one could argue that the *Charlie Hebdo* cartoons are in fact not that easily avoided as the cover is exposed in any store or vendor that stocks it, thereby making it visible to anyone. Unlike the written content of a book which is hidden behind a cover, the cartoons depicting the Prophet Muhammad were on the front cover of the magazine. If someone were to walk into the store it would be very likely that they would be exposed to the cover.

An objection to this would be to say that one could simply look away when seeing an offensive cartoon. However, for some people, merely catching a glimpse of the cartoons might be distressing. Avoiding those stores which sell the magazine entirely might be very inconvenient for that person as they may want to buy something at that store.

However, as mentioned above, there were relatively few *Charlie Hebdo* magazines in circulation each week compared to other magazines and newspapers. Also, prior to the attack at least, *Charlie Hebdo*, was a niche magazine with a very narrow reader base. This implies that it is likely that the

magazine was not necessarily sold at every newsstand; only a select few. Therefore, there were probably quite a few newsstands available which people could go to if they wanted to avoid the cartoons. Furthermore, there were not many Muslim people who formed part of this reader base (Luzier, 2015). So, once again there were probably not very many Muslim people who bought the magazine and thus avoided being offended.

One could argue that this is unfair. Even though probably unlikely, one could imagine a situation where a Muslim reader might like to read the magazine but is then deterred by what they deem to be an offensive front cover and so cannot enjoy the magazine because of the offensive material. In the majority of cases what we consume is an individual choice. We need to decide for ourselves whether the benefits of a particular product we might want to buy outweigh the negative aspects thereof. If the material is too offensive it is very easy to refrain from buying the magazine and thereby avoid the offensive material.

Considering the above discussion, it seems as though the cartoons were easily avoidable. This reduces the severity of their offence.

3. The extent to which the offensive act was 'voluntarily' experienced

The next factor to consider in the discussion about the seriousness of an offence is whether one has engaged in the offensive activity voluntarily or not. Feinberg (1985: 33) claims that 'voluntarily suffered offences do not count as offences at all'. By this he means that if one has consented to an activity and it ends up being offensive to oneself then it actually cannot be described an offence.

Before applying this to the *Charlie Hebdo* case, it is important to note an objection to this maxim. Consider that one consents to an activity, thinking that it will be one thing and it turns out to be

something else because one has been lied to. It seems unfair to say that the offence is less severe just because one agreed to it in the first place. Therefore, it is important to apply this variable very cautiously.

A possible claim might be that Muslim people *tacitly* agree to France's laws and rules by deciding to live in France. France had abolished blasphemy laws almost 300 years ago. Liberal values such as free speech are both legally protected and celebrated among many French people. France has a long history of satire and religious jokes which have been largely accepted by society. Therefore, choosing to live there partially involves adopting these laws and rules. So, one could argue that by virtue of living in France one tacitly accepts these rules and laws. This implies that one would also tacitly agree to activities which are in line with these rules and laws. Therefore, one could argue that the Muslim population in France, albeit indirectly, has consented to free speech and religious jokes and by extension the cartoons depicting Muhammad.

There are a few objections to this. Firstly, some Muslim people may have moved to France for better economic opportunities or more political stability and therefore it is questionable whether their choice to move was in fact really *voluntary*, rather than out of desperation. Furthermore, just because one has indirectly agreed to some laws and rules of a country by deciding to live there, does not mean that one agrees with all of them. It is very possible that a religious Muslim person might find many of these ways of living compatible with their faith or culture but might still disagree with allowing satirical cartoons which demean their holy Prophet. Finally, it could be that a Muslim person might agree with all of the values espoused by French society but that a cartoon depicting the Prophet Muhammad is not an acceptable manifestation of these values. I return to this discussion at a later point, when I explore alternatives to the cartoons.

The above views might be criticised for treating 'French' separate from 'Muslim'. Of course, there are many Muslim people who were born in France and therefore have not *chosen* to live there directly. There could be an argument for multiculturism and allowing many different cultures to live together in the same place; thereby accepting multiple values and manifestations thereof. At the core, this is most certainly a liberal perspective: everyone should be free to express and exercise their culture, religion or any other beliefs.

However, publishing a cartoon does not directly prevent anyone from continuing to go to their place of worship or pray to their God of choice or participate in any religious activities; therefore no one's religious rights are being infringed upon. Whereas, restricting someone's free speech (morally or legally) is a direct infringement on their right to free expression which is one of the key liberal principles. As discussed in one of the upfront sections of this paper, not all harm is *physical*. Feinberg (1984) discusses harm as the thwarting of interests or violation of rights. By coercing people, through violence or otherwise, to refrain from exercising their rights can be regarded as a harm. So, while a cartoon depicting Muhammad might deeply anger a religious Muslim person, they can still exercise their right to religious freedom and expression. However, if we impose blasphemy laws on someone then they are prevented from exercising their right to freedom of speech.

It is difficult to argue that Muslim people directly voluntarily agreed to the cartoons being published. However, I do think it is reasonable to say that had the cartoons been published in a very religious Muslim country then the offence would have been worse because publishing the cartoons was not in line with the moral and legal rules of that country. Conversely, the offence of publishing the cartoons in France was significantly mitigated - albeit not entirely nullified - by the fact that there is at least a tacit agreement to liberal values such as free speech by virtue of living there.

4. The extent to which the response of the offence can be ignored due to an abnormal vulnerability or hypersensitivity

Sometimes people can be completely mistaken about the severity of an offence. Feinberg (1984) makes the point that many people take offence to many social activities which are necessary and valuable. This does not mean, however, that these actions are morally impermissible merely because some people find them offensive. His example is the offence that someone takes when seeing a homosexual couple walking in the street holding hands. Their offence is caused by their prejudice to homosexual couples and therefore, cannot and should not be taken seriously.

To illustrate this point, Feinberg (1984: 34) provides a powerful analogy: 'If a mere sneeze causes a glass window to break, we should blame the weakness and brittleness of the glass and not the sneeze.' As much as the speaker should be responsible in their speech; the recipients of any given speech must also be held responsible at times for being hypersensitive and for being too easily offended. As discussed in previous sections, it is dangerous to have a purely subjective measure of offence. To base the severity of an offence purely on how people perceive it could lead to theoretically any activity being offensive no matter how benign.

There the context of the *Charlie Hebdo* case there is no evident reason to believe that anyone who was offended by the cartoons was reacting in an abnormally hypersensitive way; however, we need to be cautious when examining someone's subjective response or feeling about a cartoon.

Herewith a sub-conclusion on the *seriousness* of the offence caused by the *Charlie Hebdo* cartoons. Before the attack, the *Charlie Hebdo* magazine was a niche and small magazine compared to other magazines and newspapers in France. Hence, it was not widespread and not likely to have been found in a multitude of stores. Each issue also had a relatively short shelf life. Furthermore, it could

easily be avoided. For these reasons the seriousness of the offence is not that severe. The cartoons were published in a liberal, secular country and those living in France have tacitly agreed to liberal values which support the publishing of these cartoons. This mitigates the seriousness of the offence slightly; however, it is still problematic that this consent is only *tacit* and not fully *voluntary*. Finally, there is no reason to believe that the people who have been offended or who wold be offended by the cartoons are hypersensitive or being unreasonable; so, the seriousness cannot simply be ignored. Considering all of the above, the offence seems to have only been slightly serious.

ii. Applying Feinberg's criteria to the *reasonableness* of the offence

In order to establish whether an offence is morally justifiable or not, Feinberg (1985) suggests that we not only examine the *seriousness* of the offence from the perspective of the recipient, but also the *reasonableness* of the action which caused or resulted in the offence from the speaker's perspective. So, in the *Charlie Hebdo* case, this is about publishing the cartoons and their content, rather than the offence experienced by those who saw the cartoons.

1. The personal importance of the cartoons for the cartoonists

Feinberg (1985) makes the point that an otherwise offensive act might be deemed reasonable if it is in some way important to the actor; for example, if it forms part of their job. The *Charlie Hebdo* cartoonists drew cartoons for a living. Preventing them from drawing cartoons would, as Feinberg (1985: 37) puts it: 'harm his economic interest'. This ties in again with a previous discussion on the different kinds of harms which Feinberg (1984) identifies; for example, harming someone by obstructing their interests.

One could, of course, think that the *act* of drawing cartoons is reasonable because this is a profession, but curtail the *content* of the cartoons. The cartoonists could merely draw different

content that would be less offensive and could thereby still make a living with a skill that they know and can perform, without offending anyone in the process.

However, the cartoons are not only valuable to the cartoonists from an economic perspective. The *Charlie Hebdo* cartoonists who were killed in the attack were satirical cartoonists. Their reputations and career development depended on how humorous and biting their cartoons could be. This is how good satire is measured. One could argue that satire is morally dubious in the first place but that is not the point here. The cartoonists operated in a system where satire was morally accepted – even celebrated – and so, their reputations relied on how good their humour was. From a liberal perspective, individuals should be able to freely choose which talents they would like to develop and how to do this. So, in a liberal society, the cartoonists were free to decide how best to build up their reputation as good satirical cartoonists.

Also, on numerous occasions (as mentioned above) the cartoonists were openly defiant against terrorist attempts to curtail their free speech. They claimed to continue drawing cartoons depicting Muhammad in order to not give in to terrorism and stand up for free speech. So, more than a vested interest in the cartoons for economic reasons or career development reasons, the cartoonists also continued to publish cartoons for ideological reasons.

Taking the above into consideration it seems that the cartoons and publishing thereof contributed significantly to the interests of the cartoonists. This, according to Feinberg's views (1985), would enhance the reasonableness of publishing the cartoons. However, it might be unclear why the cartoonists' *individual* interests should count more than the interests of those who were offended. From a liberal perspective, the individual and the expression of his or her individuality is crucial for well-being (Mill, 1869); however, why should some interests count more than others? As Feinberg

(1985) mentions, it is important to weigh up the *seriousness* criteria against the *reasonableness* criteria cumulatively by grouping them rather than examining them in isolation.

2. The motives of the cartoonists

Based on what the *Charlie Hebdo* cartoonists have said (e.g. Charbonnier, 2012, Luzier, 2015) it seems plausible to assume that the cartoonists were not intending to harm anyone by drawing the cartoons depicting Muhammad. Their intention, as with any cartoons they draw was to criticise a religious idea to make people question and think about all sorts of religious beliefs. They intended to criticise ideas; not insult or disrespect people. The cartoonists, themselves did not want to refrain from publishing the cartoons because they wanted to protect secularism and freedom of speech. The cartoons did not target any individuals with the intention to harm. The intention, as with any of their cartoons, was to get people to think about taken-for-granted beliefs and question these. This demonstrates a liberal value: the revaluation of what is believed to be the truth.

An objection to this, however, is that even though the intention of the cartoonists was not directly to harm someone, they knew that it would offend people. From the reactions to the *Jyllands-Posten* cartoons; protests, threats and other kinds of negative responses it was quite clear that publishing the Muhammad cartoons would offend people. It might not have been directly *intended*; however, it was *expected*. Therefore, one could argue that the decision to go ahead with these cartoons was morally questionable because they knew what the likely consequences would be.

It is, of course, possible that the cartoonists revaluated their original intentions and claimed, after the fact that they did not intend to harm anyone. It is certainly plausible that they at the very least wanted to offend someone or did not care if they did because the consequences of their actions were predictable before they published the cartoons.

Langton (2012) claims that a speech act can end up being hate speech even if one does not know that it will be. In this case one might not intend to harm at all but because one might not have all of the required background information one might end up harming someone. It seems questionable, however, as to how morally culpable the speaker is then. In the *Charlie Hebdo* case I think it is sufficient to make the above point that their intention might not have been to offend; however, that it was expected that the cartoons would be offensive and therefore their good intentions are actually irrelevant.

Feinberg (1985: 41) claims that if an act is intentionally 'malicious' and 'spiteful' it is morally questionable. Even though I would not describe the *Charlie Hebdo* cartoonists as entirely innocent with only good intentions; I do not think that there is sufficient justification to believe that they published he cartoons out of malice. To put it in Feinberg's words (1985: 41): the cartoonists seemed to go ahead with publishing the cartoons 'despite' the anticipated, subsequent offence rather than doing do 'because of' the offence. I think it would be very difficult to support the claim that their sole purpose of the cartoons was to offend.

Some might argue that it is easy to say after the fact what one's intentions were and claim an intention that might not have been there before acting. However, *Charlie Hebdo* fired a cartoonist in 2009 because he drew an anti-Semitic cartoon (Samuel, 2009). This implies that there were limits to their freedom of speech which they had implemented in their company policy. Nawaz (2015) points out that by doing this, they showed that they tolerated criticising ideas, such as religion, but were not condoning any racism or attack on a group of people. It seems fair to say that because these rules were part of company policy, the cartoonists took them seriously enough and did not intend to harm anyone.

In conclusion to this sub-section, it seems as though the cartoonists did not directly intend to offend but rather published the cartoons despite knowing they would offend and therefore, according to Feinberg's maxims, the publishing of the cartoons seems reasonable.

3. The general interest for the community

The general interest of any community is at the heart of all liberal principles; especially free speech. For Rand (2015), liberal values such as freedom of thought and being able to express this is crucial for society and he questions why the dignity of Muslims should override the dignity of cartoonists to do so. The cartoonists' decision to go ahead with publishing the cartoon is part of their larger project to fight for freedom of speech. They thought that if they decided to not publish the cartoons due to these threats, they would end up harming French secularity in the future or long term (Taub, 2015). Salman Rushdie (2015) as cited by Nolan Feeney (2015), supported the magazine and claims that 'Respect for religion has become a code phrase meaning "fear of religion". Religion. Like all other ideas, deserve criticism, satire, and, yes, our fearless disrespect.'

An objection to this might be that this is only one perspective and concepts such as free speech do not hold much value in Islam. If we want to have the interests of the whole community at heart we need to accommodate everyone's values.

Manji (2012) argues that free speech is an important component of Islam but has not been nurtured or supported in Muslim societies as much as it should. William Dalrymple, a historian, and Tariq Ramadan, an academic, also claim that certain liberal values which are often associated with the so-called 'West' actually have their origins in Islam (2013). So, it seems as though promoting and protecting liberal values such as free speech is in line with the Islam faith.

Jonathan Dimbleby (2012), a TV presenter of current affairs and political radio and television programmes in Britain, thinks that it is dangerous to restrict people's right to express themselves. A healthy society needs a platform where difficult and dangerous topics can be discussed. It is much healthier to keep such topics out in the open where they can be criticised.

Furthermore, the cartoons criticised dogmatic ways of thinking. Whether one agrees with the method of using satire to do this or not, is irrelevant. What is important is that the cartoons offered a platform for ideas to be criticised. According to Mill (1869: 105), we are not exercising our autonomy, individuality and freedom if we simply follow custom blindly. Making the active choice to believe something is important for developing moral preferences and judgements. We need to learn how to make decisions based on information around us. We cannot make these decisions if we do not have information readily and freely available. The cartoons, thus, performed an important role of making information and provoking ideas readily available to everyone to challenge existing ways of dogmatic thinking.

4. The social value

According to Feinberg (1985: 44), '(t)he greater the social utility of the kind of conduct of which the actor's is an instance, the more reasonable is the actor's conduct.' Although the previous sub-section and this one are very closely related, I would like to focus more in detail here on some of Mill's (1869) important aspects of freedom of speech as laid out earlier in this paper. I argue that the content of the *Charlie Hebdo* cartoons deliver on some of these and are in line with these values. It must be said here that I think artistic aesthetics can hold a certain amount of social value; however, I am not advocating that the *Charlie Hebdo* cartoons offer any aesthetic value. This is not relevant for this discussion, however.

One of the important aspects about free speech identified by Mill (1869) is that it provides a mechanism for questioning whatever is currently seen to be the 'truth' at any given moment in time. The *Charlie Hebdo* cartoons aimed to question any version of truth. Considering that it is not always taken for granted that the media provides the public with honest and truthful information, it is crucial to have as many different sources of information available. In the case of the *Charlie Hebdo* cartoons, it was important for the cartoonists to address important issues such as fundamentalism. In the case of the *Charlie Hebdo* cartoons it could be argued that the magazine was engaging in a critical debate about a particular religious idea. They might have thought that it is important for people to think critically about and revaluate their initial ideas and opinions about their religious beliefs. Being exposed to various ideas allows one to confirm, reject or transform one's beliefs and opinions instead of taking these for granted. This exercise of constantly evaluating and revaluating ideas, then in turn contributes to self-development.

Furthermore, another liberal value which was expressed by the cartoonists was the idea of challenging authority. *Charlie Hebdo* was known to challenge any kind of authority and religious leader or holy figures formed part of this. Once again, the cartoons represent one way of questioning an idea.

5. The possibility of alternatives

Many might agree with the fact that Charlie Hebdo had valuable ideas to convey; however, might argue that there are far less undermining and demeaning methods of criticising or questioning ideas such as healthy debate or discussion. This relates to Feinberg's point about measuring the reasonableness of an action based on the alternatives available: the more available alternatives there are without causing too much inconvenience to the actor, the less reasonable it is to execute this behaviour. In essence, this means that if one can avoid offending someone but achieve the same goal with doing something else, one should take that route.

Importantly, though, not everyone has access to official debates or academic papers. Humour which is readily available to the public is a much more effective way to get people to think about an issue. Sometimes humour, especially satire, can exaggerate an issue and hence, highlights the severity of a particular situation. So, rather than undermining the issue, humour can be a mechanism to make us realise how important an issue is. In addition, humour is also more accessible most of the time, in contrast to many other mediums like difficult academic journal articles. Hence, one could argue that satire is more effective because it is likely to be understood by more people than other methods of expression.

Furthermore, as mentioned before, the cartoonists' skill set included being able to draw cartoons and caricatures. They were not necessarily skilled at other forms of expression; for example, debating or writing articles. It does not seem fair and would not be in line with liberal values to say that the cartoonists cannot express their views due to the medium they have chosen to do so.

In addition, Rowson (2012) argues that countries such as France and Britain have a very long history of harsh, offensive political satire. There is a long tradition of this kind of freedom of speech. He thinks that this tradition needs to be upheld.

However, just because something has always been part of a country's tradition or culture, does not make it make it automatically right or valuable. The effect of continuing to publish cartoons which some people might find offensive might be the alienation of these people as opposed to encouraging people to engage in open, healthy debate. This means that even if the cartoons were intended to engage people in debate it will have the opposite effect by cutting some people off from conversation.

Even though I think this is a very important point and one of the strongest arguments against the moral permissibility of the cartoons, I still think it is important to have as many different methods and mode of expression out there in the open for everyone to criticise. In conclusion, there were alternatives available to express the cartoonists' ideas in a more respectful manner, and in order to mitigate the offensiveness of the cartoons, these alternatives should have been explored.

F) Conclusion

Considering all of the arguments discussed in this paper, several conclusions can be made. Firstly, the cartoonists did not do anything morally wrong by *publishing* the cartoons despite the harm which was caused because they were either exercising their own free will to risk their own lives or were not responsible for the potential harm to innocent people; the attackers and their associates were responsible for this. When looking at the actual *content* of the cartoons, there was no incitement to violence and because the cartoons criticised an idea rather than being blatantly racist, they cannot be interpreted to have caused harm in that sense.

There are various ways in which the cartoons caused offence. However, this does not mean that the cartoonists did anything morally wrong. There was nothing morally wrong with making an image of the Prophet Muhammed because we cannot expect the cartoonists to abide by religious laws which are not their own.

Furthermore, the cartoonists were morally justified in drawing and publishing these cartoons. When balancing Feinberg's maxims (1985) on the *seriousness* of an offence with the *reasonableness* of the action which caused this offence, it becomes clear that the protection of liberal values justifies the offense caused by the cartoons. The seriousness of the offence seems to be significantly reduced by the fact that the cartoons, at least before the attack, were not very widespread and could easily be avoided. Furthermore, the tacit agreement of people to adhere to and be exposed to the expression of liberal values by living in France, a secular, liberal country, also mitigates the severity of the offence. Hence, the seriousness of the offence, according to Feinberg's maxims does not seem that severe.

On the other hand, it seems as though the action which caused this offence; i.e. the publishing of the cartoons, was a reasonable action. Considering that there was no malicious intent and the cartoons

were aimed to provoke and encourage people to think about dogmatic ways of thinking, it seems as though the benefits of the cartoons, as well as allowing them to be published overrides the seriousness of the offence. Allowing for free speech of this kind is at the heart of the liberal perspective. For a liberal society to grow it is crucial that all ideas and institutions are challenged in order for society to progress. Curtailing free speech due to the possible offence experienced by some people (which, after inspection, is not even such as serious offence) can be detrimental to the growth of any society.

In the broader context of protecting free speech and its related benefits for society, the publishing and content of the Charlie Hebdo cartoons was not morally wrong. In fact, the cartoonists were morally justified to do so in their aim to protect liberal values such as free speech.

G) Appendix

Please follow the links below to see the *Charlie Hebdo* cartoons in question, if you wish:

a. The Prophet Muhammad who looks angry; the caption reads 'Muhammad overwhelmed by fundamentalists' and he says: 'it's hard being loved by idiots!' (2006) http://i.huffpost.com/gen/2462652/thumbs/o-OVERWHELMED-570.jpg

b. The Prophet Muhammad as a guest editor for the magazine saying: '100 lashes if you don't die of laughter!' (2011) http://i.huffpost.com/gen/2462554/thumbs/o-100-LASHES-570.jpg?5

c. The parody of the 1964 French film *Le Mépris* (transl: *Contempt*) where a naked Prophet Muhammad says: '(A)nd my buttocks? Do you like my buttocks?' (It is not obvious that this is supposed to represent the prophet) (2012) http://4.bp.blogspot.com/-50FQaPRWJB4/VLIQkJ5kA5I/AAAAAAAAGJE/hdcjj3o59bg/s1600/Et%2Bmes%2Bfesses%2Btu%2Baimes%2Bmes%2Bfesses.png

d. The Prophet Muhammad is being be-headed by a fundamentalist in the dessert. The caption reads: 'If Muhammad returned…'. Muhammad says 'I am the prophet, fool' to which the fundamentalist says: 'Shut up, infidel!' (2014) https://twitter.com/charlie_hebdo_/status/516881590405046272

e. An image of what resembles a Rabbi, a Bishop and an Imam; probably representing the three big religions of the world. They all look angry and say: 'We must veil *Charlie*

Hebdo' (which could be taken to mean 'We should hide/conceal/censor *Charlie Hebdo*'.

(2015)

http://i.huffpost.com/gen/2462932/thumbs/o-VEILED-570.jpg

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