

# Journalistic Ethics and Freedom of Expression: Ideals and Realities

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## Introduction

The still ongoing scandal surrounding the *News International* phone-hacking scandal in the United Kingdom, a controversy involving the *News of the World*, a now-defunct British tabloid newspaper, has resulted in several high-profile resignations, arrests, and legal instigations. The scandal eventually also garnered attention in the United States, when in July 2011, the Federal Bureau of Investigation launched its own investigations into the access of voicemails of victims of the 9/11 attacks. The affair has once more brought to the forefront the issue of ethics in today's world of journalism.

Journalistic ethics comprise principles of ethics and good practice as applicable to the specific challenges faced by professional journalists. Historically and currently, this subset of media ethics is widely known to journalists as their professional 'code of ethics'. The basic codes commonly appear in statements drafted by professional journalism associations and individual print, broadcast and online news organisations. The principles of journalistic codes of ethics are designed as guides through numerous difficulties, such as conflicts of interests or to assist journalists in dealing with ethical dilemmas. The codes provide journalists a framework for self-monitoring and self-correction. In the following, we shall have a closer look at some of those perhaps some what self-conceited values and ethics.

## Ideals: Requirements for Factual and Fair Reporting

Indeed, reporters are expected to be as accurate as possible when reporting news much of which is sometimes obtained through reliable sources. Hence, events with a single eyewitness are reported with attribution. Events with two or more independent eyewitnesses may be reported as fact. Controversial facts are reported with attribution. Independent fact-checking by another employee of the publisher is desirable. Corrections are published when errors are discovered. Defendants at trial are treated only as having 'allegedly' committed crimes, until convicted, when their crimes are generally reported as fact (unless, that is, there is serious controversy about wrongful

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conviction). Opinion surveys and statistical information deserve special treatment in order to communicate in precise terms any conclusions, to contextualise results, and to specify accuracy, including estimated error and methodological criticism or flaws.

In terms of slander and libel considerations, reporting the ‘truth’ – whatever one might understand under this term – is almost never considered libel, which makes accuracy very important. Private persons have privacy rights that must be balanced against the public interest in reporting information about them. Compared with Europe, for example, public figures have fewer privacy rights in United States law, where reporters are immune from a civil case if they have reported without malice. Ideally, journalists are required to show compassion for those who may be affected adversely by news coverage. They are to be specially sensitive when dealing with children and inexperienced sources or subjects. They are to be sensitive when seeking or using interviews or photographs of those affected by tragedy or grief. They are to respect religious and cultural settings and sensibilities. Moreover, pursuit of the news is not a license for arrogance. Professional journalists are also expected to recognise that private people have a greater right to control information about themselves than do public officials and others who seek power, influence or attention. Only an overriding ‘public need’ can justify intrusion into anyone’s privacy. Practitioners should be cautious about identifying juvenile suspects or victims of sex crimes, be judicious about naming criminal suspects before the formal filing of charges, and balance a criminal suspect’s fair trial rights with the public’s right to be informed.

## Dilemmas

However, as with other ethical codes, there is a perennial concern that the standards of journalism are being ignored. One of the most controversial issues in modern reporting is media bias, especially on political issues, but also with regard to cultural and other issues. Sensationalism is also a common complaint. Minor factual errors are also extremely common, as almost anyone who is familiar with the subject of a particular report will quickly realise.

Another example is the reporting of preliminary election results. In the United States, some news organisations feel that it is harmful to the democratic process to report exit poll results or preliminary returns while voting is still open. This would be impossible according to European Union standards, and in a country like Germany, for instance. Such reports may influence people who vote later in the day in their decisions about how and whether or not to vote. There is also some concern that such preliminary results are often inaccurate and may be misleading to the public.

Accuracy, too, is important as a core value to maintain credibility, especially in broadcast media. With fierce competition for ratings and a large amount of airtime to fill, fresh material is very valuable. Due to the fast turn-around, reporters for these

networks may be under considerable time pressure, which reduces their ability to verify information.

‘Truth’ may also conflict with many other values. The revelation of military secrets and other sensitive government information may be contrary to ‘public interest’, as recently seen with regard to the *WikiLeaks* issue. However, ‘public interest’ is not a term which is easy to define. Also, juicy details of the lives of public figures are a central content element in many media. Their publication is not necessarily justified simply because the information is considered ‘true’. Privacy, too, is a right and one which conflicts with free speech. The case of the circumstances of the death of HRH Diana, Princess of Wales, is a particularly dramatic example of the activities of the *paparazzi*. In addition, fantasy is considered by some an element of entertainment, which is a legitimate goal of media content. Some of the more shadowy members of the journalistic guild may mix fantasy and truth, resulting in further ethical dilemmas.

## Realities: The ‘Danish Cartoons’ Issue

In democratically-ruled countries, a special relationship exists between media and government. Although the freedom of the media may be constitutionally enshrined and have precise legal definition and enforcement, the exercise of that freedom by individual journalists is a matter of personal choice and ethics. Modern democratic government subsists in the representation of millions by hundreds. For the representatives to be accountable and for the process of government to be transparent, effective communication paths must exist to their constituents. Today these paths consist primarily of the mass media, to the extent that if press freedom disappeared, so would most political accountability. In this area, media ethics merges with issues of civil rights and politics.

One of the perhaps most dramatic exposures of recent date of the discrepancies between ‘freedom of expression’ and ‘freedom of press’ on the one hand and ‘journalistic ethics’ on the other was the so-called ‘Danish Cartoons’ issue – the Muhammad-caricatures controversy which began after twelve editorial cartoons, most of which depicted the Prophet of Islam, were published in the Danish newspaper *Jyllands-Posten* on 30 September 2005. The newspaper announced that this publication was an attempt to contribute to the debate regarding criticism of Islam, political correctness, and self-censorship. Danish Muslim organisations objecting to the depictions responded by holding public protests, attempting to raise awareness of *Jyllands-Posten*’s publication.

Further examples of the cartoons were soon reprinted in newspapers in more than fifty other – not only Western – countries worldwide, thereby further deepening the issue. This led to Muslim protests across the Muslim world – many of which unfortunately escalating into violence and resulting in a total of more than 100 reported deaths. This also resulted in the setting of fires to the Danish Embassies in

Syria, Lebanon and Iran, storming European buildings, and burning flags of Western nations. Various organisations, primarily in the West, responded by endorsing the Danish publication. Then Danish Prime Minister – and current Secretary General of NATO – Anders Fogh Rasmussen described the controversy as his country's worst international crisis since World War II.

As a matter of fact, 'freedom of speech' is guaranteed by the 1953 Constitutional Act of Denmark. 'Freedom of expression' is also protected by the European Convention on Human Rights and the International Covenant on Civil and Political Rights. The Danish newspapers are privately owned and independent from the government and Danish freedom of expression is quite far-reaching – even by Western European standards. In the past, this has provoked official protests from Germany when Denmark allowed the printing of neo-Nazi propaganda. In Denmark, religion is often portrayed in ways that some other societies may consider blasphemy. While *Jyllands-Posten* has published satirical cartoons depicting Christian figures, it also rejected unsolicited cartoons in 2003 which depicted Jesus Christ, opening them to accusations of a double-standard.

Critics of the Danish Muhammad-cartoons described them as 'islamophobic' (a, to my mind, rather shallow and empty catch-all term) or even 'racist' and argued that they are 'blasphemous' to Muslims. Supporters, on the other hand, have stated that the cartoons illustrated an important issue in a period of 'Islamist terrorism' and that their publication is a legitimate exercise of the right of 'free speech', explicitly tied to the issue of 'self-censorship'. They claim that Muslims were not targeted in a discriminatory way since unflattering cartoons about other religions (or their leaders) are frequently printed. To my mind, however, this does not hold water as practicing Catholic Christians, too, might consider derogatory depiction of *their* religious leaders by Western atheists or secularists insulting.

However, one has to be aware that caricatures of 'Westerners' (i.e. 'the Christians') and in particular Jews – long-nosed 'Zionists' – appear quite often also in the media throughout the Muslim world and that double-standards are not only a thing particular to 'the West'. One might even question whether some of the recent riots in the Muslim world were 'spontaneous outpourings' as they took place in countries where no such demonstrations are allowed, and whether images of the Muslim Prophet *per se* are offensive to Muslims, as thousands of illustrations of him have appeared in books written by and for Muslims – in particular in the Ottoman-Turkish and Persianate world. I think, however, what must have angered most Muslims then was not a depiction of their Prophet *as such*, but his association with terrorism and violence – a misrepresentation from their point of view. All the more it is strange that those protests themselves became so violent.

Many Muslims have explained their anti-cartoon stance as directed against *insulting* pictures and not so much as against pictures in general. Some Muslim

commentators saw the publications of the cartoons and the riots that took place in response as part of a coordinated effort to show Muslims and Islam in a ‘bad light’, thus influencing public opinion in the West. The controversy was indeed used to highlight a supposedly irreconcilable rift between Europeans and Islam – many demonstrations in the Middle East were encouraged by some of the now defunct regimes there – many of them with no ‘Islamic’ credentials whatsoever – for their own internal political purposes. Regimes in the Middle East have been accused of taking advantage of the controversy and adding to it in order to demonstrate their ‘Islamicity’, distracting from their failures by setting up an external enemy – ‘the Jews’, ‘the Crusaders’, or just ‘the White Man’ – and using the cartoons as a way of showing that the expansion of freedom and democracy in their countries would lead inevitably to the denigration of Islam. Iran’s *Führer* Mr Ahmadinejad even went as far as announcing a ‘Holocaust Conference’ (which, alas, was supported by the Organisation of the Islamic Conference, OIC), to ‘uncover’ what he called the ‘myth’ used to justify the creation of Israel.<sup>1</sup>

## Conclusions and Recommendations

As a matter of fact, and as just seen in the cartoon issue, tension does exist between ‘political freedom’ – especially ‘freedom of speech’ – and certain examples of art, literature, speech or other acts considered by some to be sacrilegious or blasphemous. The extent to which this tension has not been resolved is manifested in numerous instances of controversy and conflict around the world:

- For instance, although many laws prohibiting blasphemy have long been repealed, particularly in ‘the West’, they remain in place in many other countries and jurisdictions, especially in the Muslim world. In some cases – even in certain European countries – such laws are still on the books, but are no longer actively enforced.
- The conflict between ‘freedom of speech’ and ‘blasphemy’ – which is ultimately a conflict between different political systems – cannot be seen in isolation from the role of religion as a source of political power in some societies, in particular in the Muslim world. In such a society, to blaspheme is to threaten not only a religion, but also the entire political power setting of the society, and hence, the official punishments (and popular responses to blasphemy) tend to be more severe and violent.
- I would argue that legislation based on ‘blasphemy’ would be irreconcilable with the secular values of Western society. Thus protection of religious communities, their faiths and its symbols and major exponents would not be possible when basing legal cases on ‘blasphemy’.

- However, legislation in most Western countries does provide for the prosecution of insult and steering up racial hatred. Germany, in particular, has advanced legislation in this regard. It could (and perhaps even should) be invoked as a useful tool to protect the honour and dignity of individuals or groups. Malaysia, too, has to the mind of this writer, quite useful legislation in this regard.

In closing then, and as very recently shown again by the almost burning of the Qur'ān in the United States by a 'pastor' of a self-styled 'church', stirring up hatred among the Muslim community does not necessarily help Western interests worldwide and goes against common sense – even if 'freedom of expression' is (erroneously) invoked by the perpetrators of such acts of folly.

## Notes

1. In the West, numerous organisations and institutions too used this tactic for different purposes, among them anti-immigration groups, nationalists, feminists, and governments. Other commentators smell 'Islamists' jockeying for influence both in Europe and the Muslim world, trying to widen the split between the United States and Europe, and trying simultaneously to bridge the split between the Sunni and Shi'ite Muslims. On the latter issue, see also Christoph Marcinkowski, "Intra-Muslim Dialogue: The Litmus Test for Islam as a Credible Partner," *Islam and Civilisational Renewal* 2, no. 2 (January 2011), 392-396.