Danish Cartoons: Freedom of Speech *versus* Freedom of Religion?

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“The pious man and the atheist always talk of religion; one speaks of what he loves, the other of what he fears.”

Baron de Montesquieu, in *The Spirit of Laws* 1

I. Introduction

The publication of a series of cartoons by a Danish newspaper that depicted Islam in a derogatory manner and which were accompanied by an editorial criticizing Islam, ignited significant emotions about both the freedom of speech and the freedom of religion or the respect for religion. The reactions of both the Danish authorities and the Muslim community in Denmark and abroad elevated this matter into a cartoon controversy of international proportions.

This contribution examines how international human rights law helps us to understand this controversy. This is the case, even though the controversy is predominately political. Because the controversy took place in a multicultural society, international law provides some guidance, particularly as to how the state authorities might have responded. Moreover, had more attention been

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paid to the guidance provided by international law, it is suggested that, this controversy could have been defused at an early stage.

This contribution is divided into six sections. Following this brief introduction, Section Two recites the main facts concerning the cartoon controversy. Although the recital of facts is brief and somewhat selective, care has been taken to select the facts that are not widely disputed. Section Three describes very briefly the relevant wider context of the multicultural and increasingly globalized world in which this controversy arose. Section Four then reviews some of the jurisprudence and the normative statements of international human rights bodies that have dealt with clashes between human rights. Special attention is paid to decisions concerning the conflicts between the human right to freedom of expression and the human right to freedom of religion. Section Five, using the analysis in Section Four, briefly reflects on some of the lessons learned from international human rights bodies and how they apply to the Danish cartoon controversy. And finally, Section Six comments on how this controversy has been influenced by, and might influence, multicultural relations.

This contribution is, of course, not an exhaustive consideration of a topic about which much has already been written. It is instead merely intended to shed some light on how the controversy might be situated within the realm of international human rights law in a multicultural society.

II. The Facts about the Danish Cartoons

On 30 September 2005 the Danish Morgenavisen Jyllands-Posten (The Morning Advisor Jutland Post, hereinafter the “Posten”), the best-selling daily newspaper in Denmark, published a series of twelve cartoons depicting the last prophet of the Islamic religion in a derogatory manner. The cartoons accompanied an editorial by the newspaper’s cultural editor Mr. Fleming Rose entitled “The Face of Mohammed” that argued that Islam was wrong to impose censorship on the depiction of the prophet of Islam. The editorial was critical of Islam and

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2 The newspaper’s website states that its circulation is 670,000 copies six days a week and 790,000 on Sundays (www1.jp.dk/info/about_jyllands-posten.htm).