

The Place of Religion in the Iconography of Democracy and the Politics/Aesthetics of ‘Representation’ (Race/Religion/Sex)

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Looking (briefly) at a few test cases, this article raises some preliminary questions about crude and aporetic uses of the category ‘religion’ in European law, public policy, and what might be called the cultural aesthetics of the democratic. In particular I explore awkward updates of blasphemy legislation. Symptomatically, these a) pluralise religion to the point where lack of religion, or as the revised German criminal code of 1969 puts it Weltanschauungsvereinigungen (‘World-View Organisations’?) are welcomed under the canopy of protection, provided that they can prove quasi-religious status; and b) rework religion as a category akin to race in legislation against racial and religious ‘hate’. I also briefly probe anti-discrimination legislation in England and Wales, where a so-called ‘philosophical’ belief can qualify as religious belief, worthy of the same protection, if it can be proved that ‘it is a belief and not an opinion or view based on the present state of information available’; it is ‘genuinely held’; it is ‘compatible’ with ‘human dignity’ and ‘human rights’; it is ‘weighty and substantial’ and attains a ‘certain level of cogency, seriousness, cohesion and importance’.

The crude pairings of ‘religion and philosophy’ appear as rudimentary and clumsy counterpoints to subtle theoretical formulations of the theologico-political. But they cry out for exposure and theoretical analysis: the kind of analysis that breaks through the usual division of labour where government-sponsored analysis of the function and force of religion in the public sphere is left to fact-finders who gather empirical data. Force is not an effect of numbers, or intentions, but also of formulations, conceptualisations, deliberate and accidental. It therefore seems important to point out that one strong, basic understanding of religion still operating in the public sphere doggedly follows the centuries-old Kantian subdivisions between believing, opining and knowing. Beyond accusations that modern democratic states are too secular, or too persistently Christian, we need to work open the aporia of democracies seeking to pluralise religion beyond religion, even to the point of non-religion, but at the same time persistently reifying religion as the public gatekeeper for sincerity, rights, weight, height and depth. With inevitably problematic implications, religion seems to function as a tolerated and respected heteronomy, insofar as religion is reformulated, in a late modern ethic of tolerance, as one of those inviolable markers of identity that demand reverence-respect. Religion is being understood as that which defines and exceeds the individual, operating on him/her as an incontestable given such as sexuality or the colour of his/her skin when, in an aesthetics of democracy based on selective ‘representation’ and reification of particular differences, religion is placed alongside sex and ethnicity/race.

1. CURIOUS IMAGES OF THE BIBLE AS A PUBLIC STRUCTURE AND THE BIBLE WITH A FACE

The ideas that I am presenting here in quite a condensed form began as reflections on a spectacular public furore that irrupted over a graffitied Bible exhibited at the Glasgow Museum of Modern Art in 2009.¹ Briefly, a gay Christian artist laid out *Family Faith and Values* edition of the King James Version, with pens and an open invitation 'If you feel you have been excluded from the Bible, please write your way back into it'. The graffiti and marginalia that followed were for the large part entirely predictable; not so the response. Outrage was voiced not just by representatives of religion – no less a figure than the Pope got involved – but far more interestingly and symptomatically by representatives of the civic and public, who joined in the unanimous outrage and, where necessary, acts of repentance and contrition. The wounded Bible was closed off in a glass case for its own protection – then removed altogether and replaced with three pages of justificatory text about intended 'aims' and 'outcomes' and the public goods and 'deliverables' that had been achieved. The artist publicly recanted/repented, as did the museum. Obscenity and blasphemy laws were invoked, explicitly and implicitly. Respondents variously suggested (in an interesting assumption about who owns the Bible) that the Anglican church should 'sue'.² Alternatively, they recommended that a security camera be mounted above the exhibit, together with a clear warning that any improper response could result in 'legal prosecution'.³ The Bible was presented as an assaulted subject, which/who had been 'defaced'. Accusations of metaphorical GBH ('grievous bodily harm') were accompanied by victim shots of the Bible with its biro scars and sutures. 'The copy of the Bible at Glasgow's Gallery of Modern Art has been defaced with abuse and obscenities' lamented the caption in the *Daily Mail*. MP's denounced the act as a clear violation of principles, if not tacit laws or tolerance and anti-discrimination. They regularly described the biro marks as acts of 'vandalism' – hence by implication turning the Bible into public structure like a bus shelter or an art gallery.

These two images intrigued me, and set me thinking: the notion of the Bible as a *vandalised public edifice*; and the image of the Bible as a wounded *subject*, a damaged *face*. Both beg for further analysis and reflection. Both suggest that the relationship between religion and politics is far more complex, aporetic, and tangled than the notion of a public-private dichotomy, with a firewall firmly separating 'church' from 'state'.

2. THE CHANGING SHAPE OF 'RELIGION' IN LEGISLATION ON BLASPHEMY, DISCRIMINATION AND 'RACIAL AND RELIGIOUS HATE'

This case prompted me to carry out some research on mutations of the category of blasphemy – which was only tacitly invoked (unlike obscenity) in this context, and for good reason. In the early years of the twenty-first century, a concerted and strategic invocation of the Islamic other – emblematised in the infamous Mohammad cartoons, or the case of the Sudanese authorities prosecuting the unfortunate British schoolteacher Gillian Gibbons for naming a classroom teddy bear Mohammad⁴ – led to a shaming of the category of blasphemy or, as in England and Wales, the repeal of old antiquated blasphemy laws and their replacement with new legislation against 'racial and religious hate'. Even prior to these major late modern revisions, blasphemy had undergone some major internal shifts. Up until the nineteenth or in some cases the twentieth century, blasphemy was understood as a parallel category to libel. The offended party was God or the public institutions that represented him: Church, Law and State. So for example in the Prussian Criminal Code of 1851, the culpable blasphemer is one who 'blasphemes God or mocks one of the Christian churches ... or the objects of its reverence, its teachings, institutions or customs, or presents them in

a way that exposes them to hatred or contempt'. By the time of the updated statute of 1969, the site of offence has shifted from God, Church and 'objects of reverence' to society and the subject. The focus is now on 'insult[ing] the content of others' religious faith'.⁵ In a similar vein, the English Draft Code of 1879 sees the 'essence of the offence' as lying in 'the outrage which it inflicts upon the religious feelings of the community'.⁶ A major shift is taking place here, from a crime against God/the state to a violation of society or the individual subject and his/her religious feelings. Blasphemy becomes a crime against the subject and her belief, sometimes conceived as if it were personal property. As F. LaGard Smith puts it in *Blasphemy and the Battle for Faith*, blasphemy is 'the feeling that one gets when his [sic.] house is broken into or his car is stolen'; it is the 'righteous indignation' that wells up 'when someone touches your most serious psychological nerves'.⁷ The metaphor is of a thief breaking into one's house/person as a sacrosanct interior and damaging a precious vial of belief.

Long prior to the repeal or obsolescence of European blasphemy laws, God was disappearing as the ostensible target and was being replaced by the believing subject. The problems of who counts as an aggrieved subject were then quite starkly performed in recent legislation on racial and religious hate. Two features of recent UK legislation are worthy of comment: the pluralisation of religion to the point where it includes the lack of religion; and the reworking of religion *as a category akin to race*. Like many Western democracies, England and Wales replaced their fusty old blasphemy law with the new category of 'Incitement to ... Religious Hatred' implemented as part of the anti-Terrorism, Crime and Security Bill and designed to supplement the already existing category of 'incitement to racial hatred'.⁸ In legal terms Jews and Sikhs already qualified as racial groups, covered by legislation about 'racial hatred'.⁹ The supplementary category 'religious hatred' extended the same kind of protection accorded by virtue of racial identity to religious identities that were less clearly 'racial'. But even for groups for whom the equation could be not be so clearly made – for example (and not merely one example among others), Muslims – the implication was that religion was an identity category equivalent to race. The new legislation expanded the category of religion to include all religions and also lack of religion. It defined 'religious hatred' in a deliberately broad and ambiguous fashion as 'hatred against a group of persons defined by reference to religious belief or lack of religious belief'.¹⁰ The glorious paradoxes of our understandings of the secular become apparent in the very attempt to carry out the secular imperative to expand and pluralise the category of religion so that all religions, and everything like religion, including the lack thereof, is represented. A personal favourite is Section 166 of the German criminal code of 1969, struggling to update blasphemy laws in a statute prohibiting '*Die Beschimpfung von Bekenntnissen, Religionsgesellschaften und Weltanschauungsvereinigungen*' – that is, the insulting of faiths, religious societies and literally 'World-View Organisations' or 'Organisations dedicated to a philosophy of life'.¹¹ The category *Weltanschauungsvereinigungen* begs the question of what could possibly qualify as a world view with a similar depth, privilege and power as religion. (the answer being, narrowly, those officially recognised institutions for atheism or free thought that have achieved public status as the official other of religion.¹²) Secularism insists on the pluralising and 'secularising' of religion, but at the same time it requires that we stay close to the category of religion to define forms of personal investment that are similarly deep, inviolable, and worthy of respect.

The curiosities of an ostensibly secular state and its legal system privileging the category of religion were nicely illustrated in a recent ruling in the UK.¹³ When Tim Nicholson, the Head of Sustainability for a leading property company was made redundant in July 2009, he argued before a judge that his redundancy was due to the contempt with which his boss treated his 'philosophical' beliefs about climate change. In this context the word 'philosophy' was being used in the technical legal sense of 'religion or philosophy' – philosophy being the ostensible secular, equal partner for religion. (Again, the act of pluralising religion out until it includes lack of religion is taken as a sign of the good faith of the secular state). But as with *Weltanschauungsvereinigungen*, an inherent

problem lies in the terms of proof of an equivalent status to religion. This leads us into the quite lovely terrain of secularised proofs of sacrality. While lawyers acting on behalf of the property company tried to prove that Nicholson's environmental commitments were (merely?) political and a 'lifestyle choice', Nicholson and his team attempted to prove that it qualified as the equivalent of religion – for very revealing reasons. In media interviews, Nicholson declared 'It is the moral and ethical values that I hold that have motivated me to action on climate change and these moral and ethical values are similar to those promoted by the world's major religions'. Helpfully pointing to those features understood to be defining criteria of the 'religious', culled from widely-recognised features of Christianity, he averred that his beliefs had an *apocalyptic-catastrophic dimension* and demanded *radical self- and world-reorientation*: 'I encourage others to reduce their carbon emissions and I fear very much for the future of the human race, given the failure to reduce carbon emissions on a global scale'. Invoking another widely held perception, and one tenable in law – namely that religious beliefs are particularly deeply held and life-changing – he explained to the media how his green beliefs affected every dimension of how he lived his life 'including [his] choice of home, how [he] travels, what [he] buys, what [he] eats and drinks, what [he] does with [his] waste and [his] hopes and fears'. In his ruling, the judge invoked five tests of whether a philosophical belief could come under employment regulations on religious discrimination, namely:

- The belief must be genuinely held.
- It must be a belief and not an opinion or view based on the present state of information available.
- It must be a belief as to a weighty and substantial aspect of human life.
- It must attain a certain level of cogency, seriousness, cohesion and importance.
- It must be worthy of respect in a democratic society, not incompatible with human dignity and not in conflict with the fundamental rights of others.

In the ruling, depth and genuineness of commitment were taken as the key indicators of 'religion' and its secular cognates. 'In my judgment, his belief goes beyond a mere opinion', the judge said. In short, his philosophical beliefs qualified as a secular cognate of religion on the basis that they exceeded the realm of fact and knowledge, and yet were deeply held.

This is a profoundly Kantian model of religion; and it seems that this three-hundred year old formulation of the place of religion seems to operate by default – by which I mean for lack of meta-philosophical reflection – in the public and legal realm. We can clearly discern the Kantian distinctions between believing (*glauben*) opining (*meinen*) and knowing (*wissen*), and the notion of religious belief as a 'holding something to be true' or *Fürwahrhalten* that is not open to verification. We can also spot the old Kantian axiom that the true core of religion must be fully consonant with human dignity, *Würde*, and the moral foundations of the nascent modern state.

3. REFLECTIONS ON THE PIETIES OF TOLERANCE, THE AESTHETICS OF THE DEMOCRATIC, AND THE 'SECULARISATION' (?) OF REVERENCE AS RESPECT.

In conclusion, I want to reflect a little on what I am calling the 'Pieties of Tolerance', the 'Aesthetics of the Democratic', and the 'Secularisation' (?) of Reverence as Respect'. In her book *Regulating Aversion: Tolerance in the Age of Identity and Empire*, Wendy Brown helpfully documents the transition from the early modern, Lockean formulation of tolerance to its recent renaissance as the emblem of public good. For Locke and his contemporaries, tolerance was based on the premise that 'man' as a universal creature, only contingently divided by language, culture nation or ethnicity, is

free to choose the form of his belief or unbelief.¹⁴ In contrast late modern tolerance takes as its object what sociologists call the 'ascriptive identity' of a person – that which is understood to be rooted in inner nature or manifested in external bodily attributes.¹⁵ Tolerance has to do with identitarian truth, and is tied to the idea of managing particular insurmountable differences. As Brown puts it, there is major shift 'from a universal subject imagined to arrive at particular beliefs or values through revelation or deliberation to a particular subject (of sexuality, ethnicity, etc.) who is thought to have these beliefs or values by virtue of who he or she is'.¹⁶

Tolerance, emblematised in the respect of certain iconic differences, is intrinsic to what I am thinking about as the *aesthetics or iconography of democracy*. Essential to the idea of democracy is equal representation: the substitutability of one individual for another; the notion that we are all the same. But potentially this makes for a bland, faceless idea, or one that seems dismissive or cavalier in respect of our particular personhoods, reducing us all to one person, one vote. So, to counterbalance this, democracies use particular sites of indentitarian difference, particular faces, groups, people, as signs of democracy's concern or investment in care. In the mechanics of democracy, an elected MP represents his/her constituents. In the *symbolism* of democracy, an iconically protected person represents the desire to give all people protection and respect. The modern democratic state represents the dream of a perfect inclusivity/tolerance that will, one fine day, be fully realised. Since it can never be fully realised, the desire to protect every identity needs to be crudely and synecdochally represented in the interim. There is an aesthetics or symbolism of democracy, in which the good faith of a government turned towards the individual is shown through representative, selected, personhoods, or faces. Three particular modes of difference are prioritised: those of race, religion and sex. *Religion is understood as a category akin to race and sex.*

Formulated thus, religion becomes a particular order of believing that is ontologised and essentialised. In modernity, we easily use the shorthand of being or not being religious in a way that we would not talk about being or not being feminist or Marxist. The verb 'to be' here seems to have a certain power, a certain relation to essence. One thinks of the habitually used phrase 'deeply-held convictions' to describe religious believing/affiliation, a phrase used as naturally by vociferous opponents of religion as it is by religion's adherents. Richard Dawkins and his ilk habitually talk of 'deeply held convictions'. All curiously unite in the knowledge that religion is, above all things, the mark of permanence and depth. Unlike a lifestyle 'choice' or a political 'opinion' or 'viewpoint', religion is not seen as something ephemeral, susceptible to change. It is not capable of sliding off the surface of the individual, so to speak. Exceptionally and anomalously, religious belief is defined as a mode of commitment that is not, in a sense, chosen. It is understood as defining or exceeding the individual, operating on him/her as an incontestable given such as sexuality or the colour of his/her skin. 'My God' here functions as the equivalent of my sexual orientation or my race – that which exceeds and defines me, quite genuinely; as that which calls me, incontrovertibly, and so in turn calls for your protection and respect.

Sacrality is thus redefined in a distinctly modern fashion as the protection of a marked site of 'respect'. But this distinctly modern version of making-sacred is vastly different to more traditional ways of marking the boundary line between the sacred and profane. The Holy of Holies, the inner sanctum, is no longer God or even the content or institutions of religion but the inviolable core of the religious subject, marked off as worthy of respect. Subjectivity is emblematised in the sacred text, imagined to be the focus of belief or the object of love/affection for the other. Scriptures in this way become a stand-in for the subject or a group of religious subjects. The fundamental quasi-sacralising principle seems to be that 'We must not be rude to anyone else's scriptures'. The idea that anyone would want to be rude or aggressive to their own scriptures is never entertained. This explains deep background to the case of the defaced Bible, portrayed as an abused subject, and sealed off for its own protection in a glass case. The Bible was understood not as the Book of God but as the Book of the Christian Subject, and the surrogate sign of the Christian subject who must be

tolerated, protected. Defacing the Bible was interpreted as an offence against a subject or a particular group of subjects. In a distinctly and peculiarly modern fashion, the Word once again became flesh.

We have come a very long way from Moses removing his sandals before the burning bush (Exod. 3.5) or Rudolf Otto on the *mysterium tremendum fascinans*.¹⁷ The holy has been relocated in the belief of the other, indicated in the simple bland fact of 'being Muslim' or 'being Christian' and being recognised/respected as such in the public realm. The question of our own believing, involvement in or affection for the sacred text is irrelevant. Tolerance as the respect of difference is indifferent to the question of our belief/investment. Tolerance and tacit rules against blasphemy favour the beliefs of the other; they tend towards the protection of the beliefs of the other. God/the sacred becomes the belief of the other person, just as reverence becomes respect. In sharp contradistinction to pre-modern boundaries between the profane and the sacred, here the call to respect the cordon sealing off the sacred object is entirely separable from the call to believe or to actively involve oneself in the religion or sacred text.

Once the holy is relocated in the religious subject or the text that represents him/her, the zone of reverence or respect can be universally acknowledged and respected. This is why the whole energy of the civic and the public could be energised in defending not the bruised corpus that related specifically to the wounded body of Christ, but rather an offence against a particular subject or a particular group of subjects. The scene is no longer one of the particular individual or community encountering the holy in the fire at the top of the mountain or the scroll revealed from the heavens, but rather a whole society acknowledging the relocated sacred in a functionally bland and easily 'respect-able' way. The distinction is asserted in a gentle way so that all can theoretically participate in a new all-inclusive distinction between the sacred and profane. The sacred is defined as the zone that will permit only appropriately respectful and strictly delimited forms of speech; constructive dialogue as a softer, banalised form of worship. Worshipping turns into respecting. There is a considerable difference – but not absolute antinomy – between being worthy of worship and being worthy of respect.



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¹ This strange case is analysed in more detail in Sherwood, 'The Persistence of Blasphemy: The Bible as a Public Edifice in the "Secular" State' in Sherwood, *Biblical Blaspheming: Trials of the Sacred for a Secular Age* (Cambridge: Cambridge University Press, 2011).

² 'Anon, London 23.7.2009' in reply Graham Grant, 'Fury as Art Exhibition Encourages Visitors to Deface the Bible' www.dailymail.co.uk/news/article-1201568/Art-exhibition-encourages-visitors-deface-Bible.html.

³ 'Catherine' cit. 'Invitation to Deface Bible Withdrawn: Gallery of Modern Art Exhibit Modified'. [discuss.glasgowguide.co.uk/Invitation-Deface-Bible-withdrawn-t16949.html, accessed 16.08.09.] In fairness, the respondent does worry about how this desire for stringent policing might be squared with the laws of privacy. However, in her view the right to privacy is forfeited by such acts of public desecration.

⁴ The now infamous cartoons were first published in Danish newspaper *Jyllands-Posten* on 30 September 2005. On 13 February 2008, *Jyllands-Posten* together with other Danish newspapers including *Politiken* and *Berlingske Tidende* reprinted the so-called 'Bomb in the Turban' cartoon in reaction to the reported arrest of three men who were allegedly plotting to kill the cartoonist, Kurt Westergaard. Several newspapers in the U.S. and Europe followed suit. The numerous articles and reflections on this controversy include the essays in the special edition of *International Migration* 44, no. 5 (2006) dedicated to 'The Danish Cartoon Affair: Free Speech, Racism, Islamism and Integration'; Tariq Ramadan 'Cartoon Controversy Is Not a Matter of Freedom of Speech, but Civic Responsibility' *New Perspectives Quarterly*, February 2, 2006, http://www.digitalnpq.org/articles/global/56/02-02-2006/tariq_ramadan; Talal Asad, 'Reflections on Blasphemy and Secular Criticism' in Hent de Vries (ed.), *Religion: Beyond a Concept* (The Future of the Religious Past; New York: Fordham

University Press, 2007), pp. 580-609; Saba Mahmood, 'Religious Reason and Secular Affect: An Incommensurable Divide?', in Talal Asad, Wendy Brown, Judith Butler and Saba Mahmood, *Is Critique Secular? Blasphemy, Injury and Free Speech* (Townsend Center for the Humanities/University of California Press: Berkeley, California 2009), pp. 64-100.

⁵ All information on the Prussian/German Criminal Code and related translations is taken from Dana Hollander, 'Debating the Criminalization of Blasphemy and the "Protection" of Minority Religions: Section 166 of the German Criminal Code', unpublished paper presented to the Law, Religion and Culture Group on 'Blasphemy in Comparative Cultural Contexts', American Academy of Religion Annual Meeting, Montreal, November 2009. I am grateful to Dana Hollander for sharing this material prior to publication.

⁶ Cit. Jeremy Patrick, 'Not Dead, Just Sleeping: Canada's Prohibition on Blasphemous Libel as a Case Study in Obsolete Legislation', *University of British Columbia Law Review* 41.2 (2008), pp. 193-248 (215).

⁷ F. LaGard Smith, *Blasphemy and the Battle for Faith* (London: Hodder & Stoughton, 1990), p. 48.

⁸ Racial and Religious Hatred Act 2006 (see <http://www.legislation.gov.uk/ukpga/2006/1/contents>)

⁹ This important point was recalled by Laura Tomes, 'The Long and Winding Road to the Abolition of the British Prohibition on Blasphemy', unpublished paper presented to the Law, Religion and Culture Group on 'Blasphemy in Comparative Cultural Contexts', American Academy of Religion Annual Meeting, Montreal, November 2009.

¹⁰ Racial and Religious Hatred Act 2006 section 29a.

¹¹ Text and translation from Hollander, 'Debating the Criminalization of Blasphemy and the "Protection" of Minority Religions: Section 166 of the German Criminal Code', as above.

¹² For this nuance I am grateful to Daniel Weidner, Dana Hollander and the members of the seminar at the Zentrum für Literatur- und Kulturforschung, Berlin, January 2011.

¹³ Karen McVeigh, 'Judge Rules Activists Beliefs in Climate Change Akin to Religion', *The Guardian*, 3.11.2009 www.guardian.co.uk/environment/2009/nov/03/tom-nicholson-climate-change-belief, accessed 30.1.2010; Michael McCarthy, 'Tim Nicholson: A Green Martyr', *The Independent* 19.03.2009, www.independent.co.uk/environment/climate-change/tim-nicholson-and-green-martyr, accessed 30.1.2010. I am grateful to Richard Davie for pointing out this case to me.

¹⁴ Wendy Brown, *Regulating Aversion: Tolerance in the Age of Identity and Empire* (Princeton: Princeton University Press, 2006). For similar accounts see for example Perez Zagorin, *How the Idea of Religious Toleration Came to the West* (Princeton: Princeton University Press, 2003) and W.K. Jordan, *The Development of Religious Toleration in England*, 4 vols. (Cambridge, MA; Harvard University Press, 1932-40).

¹⁵ Brown, *Regulating Aversion*, p. 47.

¹⁶ Brown, *Regulating Aversion*, p. 46

¹⁷ I am referring, of course, to Otto's famous treatise on *Das Heilige – Über das Irrationale in der Idee des Göttlichen und sein Verhältnis zum Rationalen* [The Holy – On the Irrational in the Idea of the Divine and its Relation to the Rational] of 1917. See Otto, *The Idea of the Holy* (trans. John W. Harvey; Oxford: Oxford University Press, 1968).