

ISTANBUL TECHNICAL UNIVERSITY ★ GRADUATE SCHOOL OF ARTS
AND SOCIAL SCIENCES

BLASPHEMY BETWEEN FREE SPEECH AND HATEFUL SPEECH

M.A. THESIS
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Department of Political Studies

Political Studies Program

MAY 2016

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BLASPHEMY BETWEEN FREE SPEECH AND HATEFUL SPEECH

SUMMARY

In my thesis, I contend that a certain kind of blasphemy can be characterized as hateful speech. More precisely, I attempt to show that this certain kind of blasphemy is not a theoretical disagreement or criticism on the grounds of religion, but it amounts to a defamed representation of religious identities, to a threat to the idea of tolerant society, to an assault on social bonds and to a matter of power relations depending on the subordinate and political condition of speech. My working hypothesis is that blasphemy by a caustic and vituperative language is a form of degradation of the social standing and the moral character of the people who define themselves as religious and, accordingly, it should not be morally considered as free speech.(not legally) This study does not explore the question whether blasphemy should be prohibited or not. Further, it also emphasizes that any hate speech posed by religious people or sermons should be condemned too.

The thesis is divided in three chapters. In the first chapter, I explore three cases of blasphemy targeting Christianity, Islam and Sikhism. In this section, I describe the characteristics of the “blasphemous artifacts”, the reactions of the people and religious figures and the intentions of the “blasphemy-makers”. The chapter aims to present some intuitive cases of blasphemy in their cultural, psychological and political context, and to pave the way to the forthcoming definition of “blasphemy”. In the second chapter, I define “free speech”, “hate speech”, and “blasphemy” in a non question begging way. Moreover, I introduce the distinction between two different conceptions of free speech: the absolutist position and the relativist position. This clear contrast enables me to characterize blasphemy as hate speech by distinguishing how a certain speech is bound to stirring up hate. In the third chapter, I focus on blasphemy as a form of hate speech in secular societies. In this section, I critically assess the positions of some intellectuals on blasphemy in the book *Is Critique Secular*.



ÖZGÜR İFADE VE NEFRET SÖYLEMİ BAĞLAMINDA DİNE HAKARET

ÖZET

Bu çalışma, farklı küfür çeşitlerinden bir türün nefret söylemi olarak karakterize edilebileceği bir zemin bulmayı amaçlıyor. Bu tür küfür, inanç ya da inançsızlığa dair teorik anlaşmazlıklar ya da din üzerine yapılan eleştirilerden bağımsız olarak, dini kimliklerin karalanmış temsiliyetine, toleranslı toplum fikrine bir tehdide, sosyal bağlara bir saldırıya, ve ifadenin araçsal ve politik konumuna bağlı olarak gelişen iktidar ilişkilerine tekabül eder. Tezin savı, bu tür küfür, kınayıcı ve sövüp sayan üslubuyla kendilerini dindar olarak tanımlayan insanların ahlaki özellikleri ve sosyal statülerinin itibarsızlaştırılmasına kapı aralar. Bu sebeple ahlaki anlamda özgür ifade olarak tanımlanmamalıdır. Diğer yandan, bu çalışma küfrün yasal düzenlemesine dair fikir sunmaz. Aynı zamanda, dini kimliğe hakaret nasıl kınanması gerekiyorsa, ‘dini’ nefret ifadelerinin kınanması gerektiğine de vurgu yapar.

Çalışmayı üç bölümde şekillendirdik. Birinci bölümde, Hristiyanlık, İslam ve Sihizm’i hedef alan üç farklı küfür vak’asını inceliyorum. Objelerin karakteristiklerini, insanların ve dini figüranların tepkilerini, ve küfür yapıcılarının maksatlarını tasvir ediyorum. Bu bölüm, küfrün kültürel, psikolojik ve politik bağlamındaki sezgisel koşulları sunmayı amaçlıyor. İkinci bölümde, ‘özgür ifade’, ‘nefret söylemi’ ve ‘küfür’ fikirlerini kavramsal olarak analiz ediyorum. Ayrıca farklı özgür ifade kavramsallaştırmalarını ayırt ediyorum; mutlakiyetçi ve göreceli duruşlar olarak. Bu karşılaştırma, belirli ifadelerin nefreti nasıl körüklediğini göstererek, küfrü nefret söylemi olarak tanımlama imkanı veriyor. Üçüncü bölüm ise nefret söylemi olarak küfre odaklanıyor. Burada *Eleştiri Seküler midir?* kitabındaki bazı entelektüellerin fikirlerini eleştirel olarak değerlendiriyorum.



1. INTRODUCTION

1.1. The Research Question And The Purpose Of The Thesis

In any work on blasphemy, one has to decide to which aspect of blasphemy s/he aims to assess whether its offensive and assaultive expression, or its effects and consequences or the intentions of the blasphemy-maker, or the reactions given against it. For instance, if there were no reactions against blasphemy, we would not argue about it that much. All these factors might influence our evaluation about blasphemy. On the other hand, one has to decide about the definition of hateful speech whether it is defined with regard to people's unchangeable features such as race or sex or it is defined with regard to the possibility of any discrimination or violence. If we define hateful speech as an insult or defamation on certain identity regardless of the changeable or unchangeable features of human-being, how can we deploy blasphemy? This thesis seeks for a reply for this question.

The inspiring urge of studying about blasphemy comes from my personal interest on the dichotomy of the religious and the secular as a member of a society who has a severe tension between the two. Blasphemy as a social, moral and political fact is in the middle of this intersection. Blasphemy might be an expression of truth, or corrective expression on the wrongness. Instead of its original definition -‘evil speaking’ on the sacred or the religious-, the word blasphemy is also associated with the theoretical disagreements or criticism on religion. It might be against the faith or against the confession of faith. These different meanings attributed to it make the notion ambiguous. We have to make a distinction among various attributions that is one of the main questions of this research. I describe three blasphemous artifacts in the first chapter to distinguish a definite type of blasphemy which is the insulting and defamatory speech on the moral character of the religious instead of theoretical claims or criticism. These artifacts do definitely not make a serious argument or critique on the religious, or a judgment of truth but represent the religious with malicious or demeaning themes. With regard to these themes, my research goal mainly focused on one question: Is blasphemy hateful speech? Throughout the research, I ask why is a certain kind of blasphemy described as stirring up hatred?

and how does it lack a critical argument?, Which factors make out the fact of blasphemy? Do merely the reactions given against blasphemy form the sufficient condition to define it as insulting? Or Should we merely assess blasphemy according to its offensive and hateful expression? What is the role of the context in the definition of blasphemy? Can the context justify or incriminate blasphemy?, What about the effects/consequences of blasphemy which has a significant role on the definition of blasphemy as hate speech? or What is the motivation behind the preference of a vituperative speech? These are the main questions that are aimed to be examined in this paper as a theoretical discussion. On the other hand, there are certain cases of blasphemy from our daily life. The form of these cases does not show a great difference with respect to the secular and the religious societies. However, their forms of punishment are quite different. Certain religious countries apply to severe persecutions for the charge of blasphemy including the death penalty. Contrarily, certain secular governments has been legalizing blasphemy, and certain others outlaw the 'blasphemous' artifacts with a fine or ban on the artifact.

One of the recent blasphemy case took place in Pakistan; Mumtaz Qadri who was a bodyguard for the governor of Punjab province, shot him dead in 2011, since the governor was a strong critic of Pakistan's severe blasphemy laws, which contain a mandatory death sentence for people who insult the Prophet Muhammad. And Qadri was executed for killing a governor. His execution has led to a number of demonstrators is said to be about 10,000. (url-1-2) This indicates not only the government but also the public support the persecution for anyone; especially the religious minorities who blaspheme. In another case which took place in Kuwait in 2016; Sheikha al-Jassem stated that the constitution of Kuwait should not be based on the Quran and Islamic law to rule the country. She mentioned about the violence across the Middle East and conflict between Sunni and Shia Muslims, and stated that if you depend on the holy books, society cannot improve. Al-Jassem was called to the public prosecutor's office after legal complaints were filed against her over a recent interview on TV. It is recorded that many people (especially Islamist members of the parliament) condemned her. It is still not certain whether or not she will be put on trial. (url-3) A prominent case is about the imprisonment of Raif Badawi, who is the Saudi Arabian writer and the founder of the website *Free Saudi Liberals*, on a charge of "insulting Islam through electronic channels" in 2012. He sentenced to 10

years in prison, a fine and 1000 lashes. (url-4) In another case, Egyptian Christian boys was sentenced to imprisonment on March 2016, one of them was sentenced to five years since he laughed to his friends who were imitating the Muslim prayers, one slides his hand under another one's neck, imitating the mark of cutting of one's head. And their school supervisor was taking them to the video. (url-5) The other case has realized in Germany in February 2016, a retired teacher Albert Voss has been fined €500 (£400) for defaming Christianity under the country's rarely enforced blasphemy laws. He filled the windows of his car with slogans like: "Jesus, our favorite artist: hanging for 2,000 years and he still hasn't got cramp," or "Kill Pope Francis. The Reformation is cool." In 2006, a man was also given a one-year suspended sentence for distributing sheets of toilet paper with the word "Koran" printed on them. (url-6) These different sorts of cases display diverse characteristics; some of them can be defined as criticism on religion or on the separation of religion and political rule while some can be defined as ridiculous or defamatory expressions about the religious. This distinction is crucial on the definition of blasphemy.

The context of the blasphemous cases has a significant role on defining them as hate speech too. If the targeted community is minority, critics more tend to define it as hateful speech. However, the status of minority is not the mere criterion, being impotent is another context for defining it as hateful speech. Assumption of the impotent minority and powerful majority was question-begging too, since the roles change sides in particular cases. This distinction between minority and majority originates from the presumption that minority groups are more vulnerable to the violation of their rights, while the majority is not. But the question is whether the notion of hate speech does not embrace the majority. If the targeted community is the majority, then another alibi –breaking public order- is used for criticizing the blasphemous artifact. It also underpins the argument of harm-speech relationship that moves the issue of blasphemy into a debate on the effects of speech instead of characteristics of the speech or targeted community.

Another question related to the issue of blasphemy whether it will be examined by a religious or secular framework. However this also poses some problems since there is not a monolithic definition of the religious or of the secular. Moreover, studying about blasphemy also requires discussion on speech not merely within the moral

framework but throughout the legal framework too, that necessitates making moral inferences from the legal reasoning. Nevertheless, making inferences from the philosophy of law confront us with the limited legal terminology such as the argument of offensiveness/offensive speech which seems as an ambiguous notion whether it includes hate or not or how it is distinguished from the hate speech. Or it is a question why an assault to a racial identity is defined as hate speech while assault to a religious identity is defined as offensive speech?

In this sense, the goal of this thesis is to pass beyond the argument of offensive speech or the arguments of religious and secular frameworks as distinctive categories but to have an extensive perspective based on the universal reason. It basically focuses on two effects of insulting speech on the religious that is an assault to a certain identity and breaks the social bonds. The idea of a tolerant society envisioned by the ideas of certain Enlightenment philosophers and provides the right manners that we hold in our ordinary relationship with people and indicates to how certain speeches stir up hatred. Some contemporary scholars also have a similar stance with the philosophers since they defend that offensive speech is harmful too. In other words, this thesis does not involve in the question whether blasphemy should be prohibited or not. But it focuses on the moral, political, social and psychological aspect of blasphemy. This study does not also involve in the diverse kinds of reactions given against blasphemy and the different motivations behind them. I personally denounce any violent reactions given against blasphemy and do not favor any street protests against blasphemy, since religious communities should provide more intellectual replies and tactics. Because any tear seems to degrade the social status of the religious community as much as blasphemy in the form hate speech which degrades community's social status too. Yet my disinterest on the question of legal proscription on blasphemy or objection to the reactions does not eradicate the reality of hate posed by this kind of blasphemy. To lessen the tensions between the secular and religious subjects, rather than simply arguing that blasphemy is an instrument to offend people since religions also produce offensive discourse, we can seek for a universal language and to communicate each other without targeting our identities.

1.2.The Methodology

This thesis purports to search for how a particular type of blasphemy exhibit the features of hate speech as it is explained in the previous part. To support this thesis, I provide three recent cases of blasphemy in order to introduce and substantiate my definition so that I describe the blasphemous artifacts and on the reactions of people and religious officials and intentions of the blasphemers in the first chapter. Then, the second chapter explores a comparative analysis on the notions of blasphemy, free speech and hate speech by a conceptual analysis. In the subsequent chapters, I utilize the post-colonial approach and the communitarian theory on how insult to the religious identity harms to social bonds by mainly referring to Alasdair MacIntyre's criticism on blasphemy and Michael Sandel's ideas on religious identity.

The authors of *Is Critique Secular* -the main target of this thesis- explicitly inclined toward a post-colonialist theory in the third chapter. Talal Asad, in his work, specifically points to how liberal secularism has come into being as a resistance against the power while today it enforces the global power. In this sense, he shows how some Western thinking models 'monopolize the fact, meaning, and content of secularism, rationalism, freedom, and even democracy' by referring to 'imperial and unreflexive Western civilizational discourses of rationality and secularism'. (P. 13) He also points to the imperial distinction between 'the paradigmatically human and candidates for inclusion in true humanity who do not as yet own their bodies, emotions, and thoughts'. Thus he means that how position of the religious subjects who object to blasphemy deemed as 'not fully human' or not self-autonomous. (P. 56) Saba Mahmood makes a similar critique, she points to how Christian missionaries felt a great shock when they come across with moral inferences of the 'non-Christian natives' originating from their epistemological presumptions, in similar way, some Europeans show the similar reactions in front of the Muslim objections to blasphemy. (P. 72) In her account, Judith Butler seems to hold the postcolonialist approach too, she defines blasphemy as a consequence of the injustice of 'hegemonic secularism'. She questions what would mean the notion of freedom when it turns to approve 'xenophobia, racism, and nationalism'. (P. 129)

Their style of the critique of secular societies and the noncritical stance of secular liberalism on the question of blasphemy; Asad's suggestion of how religious perspective can enlighten the liberal idea, Mahmood and Butler's idea of religious perspective such as particular religious injury or personhood show us the resonance with the postcolonial theory which focuses on 'a conceptual reorientation towards the perspectives of knowledges, as well as needs, developed outside the west'. (Young, P. 6) Mahmood and Butler's claim of how the religious community is racialized is another aspect of the postcolonial perspective which produces 'a politics of 'the subaltern', that is, subordinated classes and peoples'. (Young, P.6) In this sense, the aim of the theory and the perspective of *Is Critique Secular* present a considerable affinity since the book also purports to elaborate how blasphemy is instrumentalized to silence the impotent groups of people.

1.3. The Framework For Distillation And Chapter Outlines

Notions of blasphemy, free speech and hateful speech have an aspect of enigma, people generally offer different reasons why they find certain speech as acceptable or unacceptable that amounts to an inconsistency whether how we define certain speech as hateful. This study aims to deploy blasphemy with respect to the discussion between free speech and hateful speech which are not fixed categories, rather preserving their controversy. I point out different positions on speech; ranging from more absolutist free speech positions to the less absolutist in order to appreciate the conditions of blasphemy better. Thus, the reader can appreciate why we cannot regard certain kinds of blasphemy as an absolute free speech but hateful speech.

I want firstly to introduce the third chapter before pointing out the details of these positions that chapter is based on a critical assessment of a recent book: *Is Critique Secular? Blasphemy, Injury, and Free Speech* (ICS). It is the main target of my thesis depending on the debate between Talal Asad, Judith Butler and Saba Mahmood whose essays were edited in this book. I also evaluate Andrew March's critical paper about ICS. The book was sparked by the public discussions with regard to the 'inadequacy' of the secularism of Muslims in America and Europe following the Danish cartoons crisis. The coercive demand -as a requirement of secularism and secular critique- was that Muslims should tolerate the cartoons which humiliate their

‘Prophet’ by portraying him as a terrorist, or in sexual and drunken ways. Writers of this volume ask whether a secular society has ‘right to offend’ and what the limits of secular law are. They suggest that if ‘offense’ does not make sense in order to grasp the complaint of Muslims, there will be a need to evaluate the issue of blasphemy within the religious or Muslim framework; a different form of reason based on religious and moral sensibilities. Thus, the writers reject any taken for granted secularism as a principle of state neutrality toward religion or indifference to religious truth. Hence they deny that critique is always secular and secularism is always critical. They aim to challenge the monolithic secular stories which envision religion as decaying. The book focuses on blasphemy and related issues oriented to Islam. However, I will assess the issue of blasphemy not in particular to Islam but with respect to all religions. So, I wish to infer general premises from the arguments of these three writers: Asad, Butler and Mahmood by avoiding focusing on one religion.

Talal Asad links the restrictions on speech to personhood and traces similarities between the ‘idea of blasphemy’ and secular law’s bans over the ‘liberal idea of the human subject’ and speech. Accordingly, liberal secularism both emancipates and represses; it is not wholly consistent and free, rather than being neutral, imposes a certain moral order. He also defends the view that religious idea can overlap with or enlighten the liberal secular idea. He thinks that secular law determines a criterion for free speech by banning or allowing certain speech. (Asad et al., 2009, P. 25) He points out how past legal cases of blasphemy were shaped according to power relations, more precisely; class inequality. (Asad et al., 2009, P.35) So, the definition and charge of blasphemy was monopolized by power. Asad defines blasphemy as “crystallization of some moral and political problems in liberal Europe”. It is not a free speech or not a novel truth but an affair which breaks the relationship between the speaker and audience as a sort of violence; or as an obsession which has no foundation or content. In other words, he states that if we deem the charge of blasphemy as a threat to freedom we cannot understand it. This is the starting point for my own thesis as well. Further, Asad’s call for defiance against the global inequality rather than defending the right to blaspheme implies that blasphemy is also a part of social and political problems, rather than simply defiance against the religious or defining it as free speech.

This indicates that we have to examine blasphemy in the context of the powerful and impotent that is a question whether a blasphemy-maker is the powerful one or the subordinated. The position of the speaker can justify blasphemy or incriminate it, this leads us to oversee whether its actor is the powerful or impotent regardless of the religious or secular. Asad does not explicitly define blasphemy as hate speech but his description of blasphemy is a clear definition of hate speech.

In her contribution, Saba Mahmood asserts that there is a religious injury caused by blasphemy since there is a deep attachment between the ‘prophet’ and believers. She aims to make this injury intelligible to the liberal secular. However, I disagree that there is an injury peculiar to Islam. The claim of injury implies that believers get injured since they have peculiar religious sensibilities not because the blasphemous artifact is insulting speech. It insults to a person who is adopted as a moral representative of a religious community, so the objection to blasphemy is simply not because of a special relationship between the ‘prophet’ and believers.¹ If the cartoons did not target the ‘prophet’ but the religion itself, followers of the religion could still deem it as an insult. Further, all religious subjects are not equally sensitive to injury. I also disagree that religious injury is not intelligible by liberal secularism, because certain blasphemous artifacts clearly assault and demean to a certain religious identity by targeting religious symbols. Therefore, a liberal individual does not have to be familiar with the religious framework or sensibilities to understand the vituperative language of blasphemous artifact. On the other hand, her claim that this injury is undermined by the secular law and state is significant to understand the issue. She suggests that Muslim sensibilities should also be covered by European hate speech laws, thus we understand that she defines blasphemy as hateful speech. She also defends the view that religion is not a matter of choice and believers of a religion can be racialized.

Judith Butler also adopts the view that everyone should be able to understand the religious framework. She defines blasphemy as part of the injustice of “hegemonic secularism” and as ‘hateful speech’ against the religious minorities since free speech is instrumentalized in order to legitimize state violence and injustice. And this secular

¹ People who reacted to the Danish cartoons were holding placards: “We are not terrorists”, they were not holding placards such as: “We got injured”.

normativity can be overcome by opposing to violence. Butler advocates Mahmood's claim of injury and the claim of unintelligibility of religious framework by the secular people, she even goes so far as to claim that there is a peculiar Muslim personhood in case of blasphemy since they got injured. So she states that blasphemy is a conflict about the subjective ways of life instead of a legal problem between two sides.² However, her assumption that there is a peculiar Muslim personhood in case of blasphemy is quite question-begging. Because there is not a significant difference between the secular and religious personhood when it comes to basic human reactions and senses in any case of assault to identity. Butler as Mahmood also argues that religious minorities can get racialized since it is an 'unjust generalization' over a community. The claim of racialization is more plausible than the claim of particular personhood since it enables us to evaluate blasphemy with respect to its offensive discourse and to its adverse effects instead of a religious framework. In this sense, this study aims to characterize insult, demeaning and defamation as universally recognizable ways of offending someone or a group. It means that it is intelligible to both the secular and religious people. (Anyway, some blasphemy-makers admit that their blasphemous artifact is 'caustic' or offensive.)

These three writers point out that religion is not a matter of choice, thus they call on the defenders of free speech to understand that all believers do not choose their religion by questioning, so if they do not choose religion consciously, without having a genuine knowledge about it; why they're exposed to blasphemy. However, instead of the argument of religion's status of matter of choice, there are other factors to evaluate the notion of blasphemy: For instance; its offensive, assaultive expression, its effects, its assault to social bonds, or its probable assault to truth. The argument of 'religion is not a matter of choice' is not a good basis to assess the notion of blasphemy. For me, the question is: If belief was adopted merely by choice, would it affect our judgments about blasphemy? If blasphemy involves insulting speech we have to be able to judge it regardless of whether religion is a matter of choice or not. But, it (the argument of 'religion is not a matter of choice') might be a good reason to

² She explains the normativity: instead of asking such normative questions whether blasphemy is free speech or whether any attack on religious sensibilities should be prohibited, one should rather to ask: Why do Muslims have a certain kind of global outrage against the cartoons and what does it mean? (P.105)

answer the question why there are violent reactions against blasphemy, or to state that defenders of free speech should not get surprised when they face with violent reactions against blasphemy since religion is not adopted consciously.

Mahmood and Butler's claims of religious injury or the personhood lead us to such a consequence that blasphemy is mainly a religious problem. But one can assert alternatives to their claims, for instance; one can claim of a special kind of injury in the form of a deep attachment to a political leader too. In such condition, would not we be entitled to use offensive speech against a politician? In this sense, the argument of special kind of injury or personhood seems to fail and does not form universal arguments to object to blasphemy. The claim of injury is one expression of the religious, and one can define a theological disagreement as blasphemy within the religious perspective too. In this case, allegations of blasphemy is open to manipulation, one can define most speech as blasphemy due to the theological disagreement by privileging his own religious interpretation.

In his contribution, Andrew March argues that certain emotional or ethical sensibilities of the religious cannot be a reason to object blasphemy and objection to it means that 'certain sacred objects are more valuable than individual self-expression'. (March, 2010, P.322) He also states that insulting speech against the 'prophet' is wrong and should be objected is a 'belief statement'. In fact, someone's main motivation opposing blasphemy is simply not the value of sacred objects, but the defamation of his/her social standing and moral character. Further, he claims that cartoonists targeted the religious attachments rather than the belief or believers, but he does not give any justification. As it is stated above, I defend the idea that the 'prophet' is the moral representative of all 'believers', so any attack on the moral character of the 'Prophet' is an assault on the moral character of Muslims, so it is not a religious belief or injury but a simple logic, people oppose to any defamed portrayal of their identity.

Also, March does not deem insulting speech on the religious as hate speech and objects to the claim that religion is not a matter of choice (unchangeable feature): people do not oppose to hate speech since it targets people's unchangeable features such as race or gender, but they oppose it since it leads to discrimination, therefore

blasphemy cannot be defined as hate speech according to the unchangeable features. However, religiously insulting speech might lead to discrimination or violence too, but March does not give any justification on his claim. He believes that religion's condition of not being a matter of choice does not influence our ideas on blasphemy, and he is right on this. However, we need to state that even though people have chosen religion with their very own choice, this does not warrant the speaker to defame the religious subjects' representations of morality and lifestyle. But, March defends the idea that the speaker can insult on what the religious adopt as a morality or lifestyle, (Although he does not explain whether it is a right in liberal understanding without limits) since religions also produce offensive speech in view of him.³

Consequently, Asad seems to have the most persuasive position among them. He objects to blasphemy by showing how the liberal secular has restrictions on speech or on individual and how speech is a matter of power relations. This is a universal claim. It can enable us to see what the reasons are for an acceptable or unacceptable speech. He implies that there is not a consistent and standard method to restrict speech in liberal tradition. Further, we need to think about Asad's implicit analogy, that copyrights law protects the 'original author'⁴, but blasphemy defies against the 'original author'. In this sense blasphemy might be an assault to truth that provides clues to understand the notion of blasphemy. However I do not totally adopt Asad's viewpoint. Instead of merely indicating to liberal restrictions on speech or adopting a religious framework, we need to justify why we object to blasphemy without distinguishing between the religious and liberal secular frameworks, since the idea of religious framework fails as I explained above. To realize this goal, we need to make distinction among different sorts of blasphemy. The kind of blasphemy that I examine in this paper is not based on a theoretical disagreement or criticism on religion but it is defined as insulting speech on what people adopt as a lifestyle and moral principles. Also, blasphemy in the context of religious rules is not a part of my study.

³ See page 114 for further discussion.

⁴ Asad asks: if an artwork is reproduced "in a distorted form by someone other than the original author with the aim of commenting on it", are property rights violated? If they are violated, "how does the sense of violation differ from claims about blasphemy?" (P. 29)

The second chapter focuses on the debate whether blasphemy is free speech or hate speech by making a distinction among different rates of speech. This debate enables me to examine the issue of blasphemy within a universal framework. However, the notions of free speech and hate speech are mostly discussed within the perspective of the philosophy of law, although there are also arguments within the framework of political philosophy. And ICS writers (Asad, Butler and Mahmood) harshly criticize the language of law and point out the need for remedy to understand the problem of blasphemy by replacing it with the idea of religious framework instead of legal framework. In this sense, this chapter might seem to do what ICS defies since I use the arguments of some legal scholars. However, my thesis does not directly aim to involve in the legal arguments but to use them to infer reasonable points within the secular liberal understanding in order to object to insulting speech against the religious. In this chapter, I aim to refer to contemporary scholars' ideas on free/hateful speech and to the Enlightenment thinkers who advice a moderate speech that forms the universal framework regardless of the secular liberal and religious.

Before going into the details of the second chapter, I have to introduce the first chapter since it provides example cases to evaluate the issue better. In this first section, I analyzed three blasphemous cases that took place in secular societies and were faced with harsh oppositions: 1) Charlie Hebdo: Islam, 2) Piss Christ: Christianity, 3) Behzti: Sikhism. In each case, I point out the reactions of people and author/speaker's intentions. The first one has several cartoons on Islam such as; depicting the 'Prophet' of Islam as a porn star implying he is a womanizer and pedophile or defining Quran as 'a piece of shit'. The second author made an artwork portraying an image of Jesus submerged with urine and calling him as Piss. The third author made a play which portrays a Sikh temple where rape and murder take place. All these works are defined as insulting, defamatory and demeaning by their audience rather than a disclosure of justification for truth or a criticism on religion or a theoretical disagreement. Each work can be characterized differently depending on the point of view; Charlie Hebdo and Behzti portray the religious with vile themes such as terror, womanizing, murder and rape and they directly attack moral characters of religious subjects by means of religious symbols. Piss Christ indirectly

attacks to the moral character of the believers. A common feature of all these works is the defamatory portrayal of religious identity.

Returning to the second chapter, although ICS writers portrayed a monolithic idea of the liberal secular who is assumed as defining blasphemy as free speech ever. (Although they state that it is not monolithic), my search on the literature disproves it. There are different liberal stances on speech ranging from the absolutist free speech position such as libertarians, to a position in which speech rates are limited with reference to the ideas of hate speech. I compare these speech rates; I discuss firstly arguments of free speech, then the arguments based on hate speech:

John Stuart Mill is not clear on whether good or truth will emerge by free speech, or by coercion, this ambiguity shadows his idea of free speech. If we think about the stance of blasphemy-makers, some of them admitted that they use blasphemy to call for their understanding of the good. In this sense, blasphemy might be used as an instrument for paternalism. Mill also states that nobody should assume herself as infallible by claiming that we should prohibit 'propagation of error'. (Mill, 2001, P.20) But three blasphemy cases presented above exemplify insisting propagation without listening the audience; a kind of assumption of infallibility. Mill states that if an opinion is extensively discussed, people will feel a more trust for the truth of this opinion. (Mill, 2001, P.22) But the question is whether the insistent claim of defamatory speech on the religious is extensively discussed. One can claim that blasphemy in the form of insulting speech prevents discussion since it stigmatizes people with malicious themes and polarizes people by breaking the relationship. We need to think how it impacts on people's life in terms of discrimination or violence. Further, while he emphasizes on how censorship is an obstacle for the improvement of society, he does not genuinely point to the hierarchical propagation of certain opinions which might serve as a censorship on certain other opinions or lifestyles. Blasphemy can function as a domination of certain speeches or as a condemnation of certain moral belonging or lifestyle. His idea of harm-speech relationship is also question-begging since his idea of harm mainly depends on the physical harm.

On the other hand, George Kateb favors that speech should not be prohibited since we are always exposed to politicians' hypocritical statements and distorted

information: if speech is regulated by government, it will lead to a subordination of speech under the authority. This is a significant claim but he does not point to how hate speech is instrumentalized by different means of power instead of political or state power. He also does not distinguish between the political identity and religious identity.

In his contribution, Nigel Warburton supports the idea that blasphemy is free speech (although he defines Danish cartoons as very provocative). But, in other sorts of speech, he agrees that there is a need to draw a line on free speech. However, "This line drawing, when subjected to close scrutiny, is rarely completely consistent since it involves resisting very strong pre-existing intuitions for most of us". (Warburton, 2009, P. 72) His idea supports Asad's claim that there is not a consistent method to restrict the speech. Due to this ambiguity, Warburton is wary that when we try to protect certain values instead of speech, it might easily lead to censorship.

Another point is that Warburton emphasizes on defining blasphemy as offensive speech. Therefore, both the theoretical disagreements and insulting/defamatory speech regarded as similar prices under the headline of offensive speech. Warburton and March say that each religion's belief may seem to other religion as an insult or offensive. However, we don't see any reactions or mass protests against the theoretical disagreements or criticism on religion. Theoretically, there are mutual charges in religious and non-religious justification. But in my example cases of blasphemy, a negative or malicious portrayal of certain identity propagated by broadcast publication. Further, we can oppose to offensive speech made by both the religious and non-religious people. Therefore, we have to determine what offensive speech is. The writers are not clear on this.

Contrary to Mill, Kateb and Warburton, Stanley Fish suggests that rather than forming strict rules for speech, we can create a consensus which does not completely ignore certain values. Speech is not something independent from values, it is one of the values like equality or 'prevention of harm'; it is a political value because we have to evaluate its consequences; benefits or harms. (Fish, 1994, P. 111) Therefore, determining on protection of speech is political and open to manipulation of ideological exclusion. (Fish, 1994, P.116)

On the other side, there are relatively absolutist approaches to free speech. One of them is Ronald Dworkin's legitimacy argument: a government without "extensive" freedom of speech is not legitimate or democratic. Accordingly, hate speech and the right to defend discrimination should be allowed for public debate. Dworkin deems two different categories as they are equal, on the one hand, the person utters hate speech and so she is happy that she shared what she thinks, on the other hand, one is exposed to hatred and sad, angry and wary about her social status. And Dworkin equates these two senses as if they are same. When we think about Mill's crucial emphasis on individual happiness as a necessity of the improvement throughout pursuit of individual interests, it is a question how we should evaluate individual unhappiness led by hate speech that might discourage people's improvement. Another relatively absolutist; Jason Brennan describes what libertarians think about free speech: people have right to offend others and to ridicule religion in free society otherwise, every individual's 'sense of indignation' turns to be a weapon, (Brennan, 2012, P. 82) However, one can use her defamatory speech as a weapon too. Further, there are scholars who state that offensive speech poses harm in the form of violence or discrimination contrary to Brennan's ideas.

Instead of Fish, arguments on free speech do not argue about the privilege of the speech uttered by the powerful, they do not touch upon that people in an advantaged position have more opportunity to dominate over speech. Fish's argument seems more powerful among the arguments on free speech because he uses a consistent and standard method to evaluate speech by indicating us how protection of speech is settled according to an assumption of good.

Next to different liberal/libertarian positions to freedom of speech, there are liberal positions which adopt the arguments of hate speech. Wojciech Sadurski points to how hate speech can be harmful both for the victims and society, since it "degrades the standards of everyday life, of civility, of the quality of public discourse." (Sadurski, 1999, P.195) Toni Massaro states that liberals generally assume that "speech is not cruelty in most instances, but they know that this assumption is weak as applied to hate speech". (Massaro, 1991, P.230) Because they also know that intolerance distorts the social circumstances in a liberal society since it is a reality

that all people are vulnerable “to the pain of humiliation”. R.K. Whillock proposes that hate speech leads to a “symbolic code for violence” which incites people, and harms to victims. (Whillock, 1995, P.32) Mari Matsuda favors similar idea that hate speech aims to subordinate and silence victims. (Matsuda, 1993, P.36) Although their definition of hate speech is mainly based on the racist speech, it shows a similar resonance with the characteristics of religiously hate speech. For instance, the claims of blasphemy-makers; such as; to aim making a religion banal, to make religious community accustomed to defamation of beliefs or to define belief with malicious themes seems originating from dominating vertical relationship as a sort of violence.

In his contribution, Jeremy Waldron’s definition of hate speech is mainly based on whether minority’s dignity (social standing/‘the assurance of fair share from society’s protection and concern’) is undermined. But he distinguishes religious hate speech since it is a question whether it targets dignity of believers or belief itself. He states that hate speech laws should protect religious subjects but not the religion or its ‘prophet’. Therefore, he defines Danish cartoons and Piss Christ as offensive speech but not hate speech. (Waldron, 2012, P.115) While Waldron’s focus is based on the assault to the social standing of minorities, he refers to the Enlightenment thinkers who do not distinguish between offensive speech and hate speech they oppose to any speech which stirs up hatred. They also oppose to hateful speech directed to any individual member of society not merely minority. Since they lived in a historical period in which a great struggle given against the monopoly of religious rules, they opposed to the dominant and hateful speech posed by the religious people. But I use their arguments to criticize the dominant hateful discourse towards the religious in secular rules.

John Locke defends “No rough usage of word or action” and “No violence nor injury”, since it might have malicious effect on one’s honor or conditions. (Waldron, 2012, P.212) He states that basic justice is not sufficient for ‘natural fellowship’, there should be a duty of “charity, bounty, and liberality”. Pierre Bayle defends the idea that tolerant society should be free of vilification of clergy people. Voltaire asserts that intolerance breaks the relationship⁵, people should be able to talk with each other and do business especially people from different religions or doctrines,

⁵ ICS writers also state that blasphemy breaks the relationship.

and adds that “I hate calumny”. (Waldron, 2012, P. 216-7) Similarly, Denis Diderot objects to stirring up “hatred, indignation, and scorn”. He suggests “Instruction, persuasion,” as a legitimate method to “spread religion”, his idea can be advised to the people who use defamatory speech on the religious in secular rules and societies.

Turning to the third chapter, I refer to some communitarian and sociological perspectives by Erving Goffman, Michael Sandel and Alasdair MacIntyre who discuss how insulting speech on the identity harms to social bonds that is a very close stance to the Enlightenment philosophers’. While Sandel points to the vitality of religion in one’s life as a form of identity, MacIntyre constructs his argument on the idea of communal society which opposes to insult to anything which is deemed as valuable by people to preserve the bonds and MacIntyre defines blasphemy as an obstacle for the individual to follow the ideal life and virtue. Goffman’s emphasis on how vilification eradicates mutual consideration within society shows the importance of social bonds too.

Finally, ICS writers initially gave in working on the nature of offensive speech by leaning to the religious framework to make the issue of blasphemy intelligible since the most liberals define blasphemy as offensive speech not hate speech. In order to create an intermediate position among different rates of speech: we can work on specifying offensive speech whether it is an insulting-humiliating speech, a criticism, a judgment of truth or intellectual disagreement. Because most defenders of extensive free speech justify blasphemy by the argument of offense, however, some scholars point out that offensive speech can also be sometimes racist or harmful. Also, we know that there is a psychological similarity between assault to the social standing and offense to a person. (as Waldron put) It is also a question: If racist speech did not lead to any discrimination, would we define it not as hate speech but offensive speech? These are the question-marks for some scholars who defend the idea that blasphemy is not hate speech or think that it is harmless. Further, no one justifies the distinction between the racist speech and religiously hate speech. The former assaults to the racial identity and the latter assaults to the religious identity, ultimately both attack to the identity. What is more to the point is that no civilian desires a tarnished reputation neither the religious nor the non-religious regardless of the factors such as; discrimination or harm. Therefore, it does not also seem right to

restrict the discussion on speech into the argument whether speech leads to harm or not.

Taking into account the all, assault or vituperative language on a belief seems as assault to its members, rather than simply as question of judgment. But that does not mean that beliefs cannot be criticized, however as Lord Shaftesbury put that strong disagreement should be uttered in an intellectual way, because it is the only way to make a change on belief: “a sort of amicable collision” without defamation. (Waldron, 2012, P. 230)



2. BLASPHEMY: THREE RECENT CASES

I will firstly introduce three different kinds of blasphemy in different religions:

- 1.Charlie Hebdo
- 2.Piss Christ
- 3.Behzti

The form of blasphemous artifact, and people's alibi to react against it, and author's intentions and general psychological profile will be covered in this part. I've chosen these examples since they took place in secular societies and faced with harsh protests; while Charlie Hebdo and Piss Christ globally echoed in different countries, Behzti relatively experienced a local feedback. Accordingly, information about Charlie Hebdo and Piss Christ is much more, my evaluation on them is shaped according to the plenty of information. These artifacts targeted three religions; Islam, Christianity, and Sikhism.

2.1. ISLAM: CHARLIE HEBDO

2.1.1. Artifact In Question: Cartoons

The cartoons of 2015, which ended with the murder of the cartoonists, are not first works of the magazine. In order to understand the case we need to examine the past process and magazine's work mission. Here a brief definition about the magazine:

Charlie Hebdo(CH) is a weekly satirical French magazine. Its first edition was published in 1969 as an earlier magazine *Hara-Kiri* was closed in 1970 after mocking the death of Charles de Gaulle, who had resigned as President in 1969. It was recreated as *Charlie Hebdo* and closed down for unrelated reasons in 1982] It turned back in 1992 by a group of people who called this reprint as "Kalashnikov Editions", it is the name of gun used in terror attacks. (url-7-8) It defines itself as secular, atheist and left-wing; and in conflict with certain authorities, from politics, military to religion. (url-9-10)The cartoonists come from "the republican tradition" as French call it, which represents a rigid separation between state and church declared by the French Assembly in 1905. (url-11)

In 2006, CH issued reprints of the caricatures ('Prophet' Muhammad as a terrorist) drawn by a Danish newspaper in 2005, which sparked anger across the Islamic world. Many other European papers reprinted the drawings in claim of media freedom. (url-12) It had triggered a severe debate on freedom of speech. The magazine insisted on defending its right to freedom of expression, asserting that cartoons were harmless. That issue sold 400,000 copies, it was a great jump on CH's average sales of about 45,000. (url-13)

In 2007, it published a picture of Muhammad crying and saying "*It's hard to be loved by idiots.*" Under the title *Muhammad Overwhelmed By Fundamentalists*. (url-14) The Grand Mosque of Paris and the Union of Islamic Organizations of France filed defamation charges, however the French court exculpated the magazine. (url-15)

In 2011, CH was firebombed and its website hacked before its next-day issue which was entitled *Sharia Hebdo*, that issue printed right after the Tunisian Islamists' coming to power and featured the 'prophet' Muhammad as guest-editor with saying "*100 lashes of the whip if you don't die laughing.*" Magazine's editor and two co-workers received police protection after it. (url-16-17)

In 2012, the U.S.-produced film "The Innocence of Muslims" on YouTube that describes the 'prophet' as a fraud, womanizer and a child molester led to deadly protests in many countries, and killing of 28 people, including the U.S. ambassador to Libya. (url-18-19) It is a matter of dispute if *The Innocence of Muslims* was the reason for the killing of 28. Following that CH issued a new edition with a cover; an Orthodox Jew pushing the turbaned figure of Mohammad in a wheelchair and inside page he was depicted as a sort of porn star as naked. One, entitled "Mohammad: a star is born"; a bearded figure crouching to display his buttocks and genitals. Thereupon, riot police were deployed to protect the magazine's offices. As protests raged, the French government defended free speech although it scolded CH for inciting tensions. (url-20)

French Foreign Minister regarded the magazine's move as a provocation. (url-21) But also stated it's up to the courts to decide whether the magazine overstepped. (url-22) French Prime Minister said that freedom of expression is guaranteed, but warned that it "should be exercised with responsibility and respect" and France closed its embassies, cultural centers and schools in 20 countries on Friday as a "precautionary measure". (url-23) Also a travel warning issued urging French citizens in Muslim world to avoid public gatherings and "sensitive buildings" such as those representing the West or religious sites. Besides, requests to hold a march against the Mohammad film in Paris were rejected with the reason that does not concern France but the US. And an unapproved protest near the U.S. Embassy in Paris was hindered and about 150 people were arrested. (url-24)

In 2012 again, following the film, a man was arrested for having called for beheading of Charbonnier on a jihadist website. (url-25) Further, upon the increase in its print run, CH was blamed by making advertising over degrading Islam but the editor rejected the implications of the PR trick or cheap advertising. (url-26) However, until the attack, it is reported that CH was not much celebrated publicly, but with the slander cases brought against it led to a certain amount of publicity; from 2012, its weekly print run was about 60,000 copies, about a tenth of what the country's most popular news weeklies sell. (url-27)

In 2013, Charbonnier was accused of another provocation by publishing a book entitled *The Life of Mohamed*. The cover depicted a goofy-looking cartoon of 'prophet' leading a sweating camel through desert. Two months later he was announced on a hit list by a magazine affiliated to Al Qaeda. (url-28) Furthermore, following the killing of a thousand Muslim Brothers in the 2013 Rabaa massacre in Egypt, CH published a cover with a title: "*The Quran is a piece of shit: it doesn't stop bullets*". (url-29)

In 2015, offices of CH was attacked by two men, brothers; Said and Cherif Kouachi who are reported connected to Al Qaeda in Yemen. Eight journalists were killed along with two police officers, a caretaker and a visitor. (url-30) In the last edition before attack, Charb drew a cartoon with a headline "*Still no attacks in France,*" he depicted a jihadist soldier carrying a Kalashnikov rifle and saying, "*Wait! We've got until the end of January to present our wishes*". (url-31) And the cover of magazine

on this day was a book: *Submission*, by a French author Michel Houellebecq wearing a wizard's hat with the title "*Predictions of the seer Houellebecq*" saying: "*In 2015, I'll lose my teeth,*" and, "*In 2022, I'll observe Ramadan.*" (url-32) He presupposes a France ruled by an Islamic party in 2022, where women are encouraged to wear veils, polygamy is legal and the Koran is taught at universities and engages to Islamise the EU, with Turkey and various north African countries. The book, which has a print run of 150,000, has reached the top of Amazon.fr's bestseller list. And Houellebecq has previously claimed that Islam was "*the stupidest of all religions*". (url-33)

Surviving staff declared that they will continue to publishing. A week after massacre, they released a new issue with a cover of the 'prophet' Muhammad in tears under the headline "*All is Forgiven*", holding a sign that says "*I am Charlie*". The newspaper printed 3 million copies, much more than the 60,000 it usually prints. (url-34) Some €250,000 was earmarked to support CH by the Digital Press Fund, paid for by Google, to support the French press, within 24 hours of the massacre. French media groups worked on a plan to contribute a similar amount. (url-35) Like most newspapers today, CH seemed to experience financial problems. It had about 140,000 regular readers a decade ago, but declined to about 50,000 by last year. Last November, the magazine had made a public announcement for donations, saying it was hardly surviving. (url-36)

On the legal challenges, CH faced with 48 trials over the past 22 years, and founded guilty a total of nine times, generally for "*injure*"—personal slander rather than hate speech. For instance, depicting a journalist as "*a complete and utter cretin*" and a right-wing politician as "*the bitch of Buchenwald.*"_But attempts to punish it for religious insults have generally failed, for example; on depicting Pope John Paul II as a "*shitty pope*" or certain depictions of 'prophet' Muhammad. (url-37) In 2006, French Muslim leaders unsuccessfully sued CH in order to hinder the next edition containing satirical images of Mohammed. In 2008 too, the magazine was cleared by a court after the complaint of "*publicly abusing a group of people because of their religion*" by Muslim associations. (url-38) As for the legal affairs related to any terrorist attack possibility, more than 50 cases were sued that people were accused of condoning terrorism or of making threats to carry out terrorist acts, for instance; the

case of the comedian Dieudonne who found guilty over a joke on his Facebook that he implies justifying the attackers, or a French cartoonist Zeon was arrested two months after CH for his “anti-Zionist” cartoon. (url-39-40) Another point about legal applications, courts in France do not include the crime of blasphemy apart from one regional court that keeps part of the old German legal code (it is worth mentioning that the region is Alsace-Lorraine which is famous as a region that has moved between France and Germany a number of times in history), however, the attempt of some Muslim organizations to open a case in this court was rejected too, since this court’s blasphemy law, consists of only Catholicism, Protestantism and Judaism not Islam. And the editor stated that they know this exception. (url-41)

What CH published about other religions? According to statistics, Christianity was the most handled religion in the cover of CH, then Islam comes, besides, all religions were handled together sometimes. (url-42) For instance, on Christianity; a cartoon of the Virgin Mary giving birth to a pig-faced Jesus, cartoons of masturbating nuns; popes wearing condoms, having an amorous embrace with a Vatican guard or dressed as a mafia boss. (url-43) On Judaism; an Orthodox Jew kissing a Nazi soldier or another cover with the title “Shoah Hebdo” says, *“I’ll take 1 million off 6 in exchange for Palestine”*. (url-44-45) Instead of these, there are several cartoons which target three religions. Nevertheless, some claim that Islam is not the only religion targeted by CH. On the other side, some state that the magazine does not approach all religions at a similar level and went on to Islam much more. (url-46) This claim can be right in comparison with CH cartoons on Jews, however, not on Christians. However, the general Islamophobic discourse that is claimed to be created by media is argued to be influential on the Muslim reactions.

Furthermore, the magazine has a dismissal case; Maurice Sinet(Sine) 80-year-old political cartoonist of CH for 20 years, was fired in 2009 for *“inciting racial hatred”*. His cartoons were named as “anti-Semitic” he mocked the relationship of former French President Sarkozy’s son with a wealthy Jewish woman, he showed the son converting to Judaism for financial reasons. Then magazine asked Sine to apologize but he refused, then he was fired. (url-47) In this respect, it is argued that CH’s past has a contradictory content with its leftist ideology. (url-48) As for another case is a

former employee, Olivier Cyran, who later had an open letter to CH editors about how in recent years CH draws racist caricatures against French Muslims:

“you’ve made a nastier place to live in. A country which now forbids a woman to work in a crèche on the basis that the piece of cloth she wears will traumatise the kids. Or a tertiary student, wearing a bandanna judged to be too wide, is excluded from her college with the blessings of a UMP [conservative - trans.] mayor, the socialist Minister of Education, and the rabid press” (url-49)

To summarize, before 2015 attack, CH has a long background and experience about its controversial cartoons, which have been sometimes regarded as provocative by the French state, as scornful by Muslim minority, and also by some intellectuals, activists, while it has number of proponents for free speech. And the claim that CH mocks every religion at the same level and number, is opposed by some and it is accused by stirring up hatred within society. Further, according to a survey, 42% of French population hold that the country should “consider these reactions and avoid publishing these cartoons,” while 57% of respondents supported CH. The remaining 1% adopted “no opinion.” (url-50)

2.1.2. Description Of The Reactions

2.1.2.1. People

Hundreds of people marched in Paris for the victims with holding placards of “I am Charlie”, and around 40 political leaders also marched to condemn. Some attacks followed on certain mosques around the country. A bomb exploded near a mosque destroying the glass front of a kebab shop in east central France. And three grenades were thrown into a mosque in southwest of Paris. And a Muslim prayer hall in southern France was shot at shortly after realizing its evening prayers. A Muslim family’s parked car was also fired in south eastern France. (url-51) In Germany, Pegida led a protest against what it calls the Islamization of Europe. “We want to keep our culture, to keep our traditions, to keep our Christian values. We are all equal and we don’t want to have special rights for Muslims here in this country,” Pegida

spokesman told, adding that they do not adopt disrespect for Islam but they fear that Sharia rules might appear in the Western world. In the US, it is reported that an unknown man threatened with destroying the mosque to people from an Islamic Cultural Center which asked for police protection. (url-52)

On the other hand, Muslim reactions intensified after the first issue following the massacre; the cartoon of “All is forgiven” that was sold in great number. This last cover is regarded by some Muslims as not insulting or consistent with Islamic values and so was supported, on the other hand, some opposed it again and regarded the depiction as insulting. (url-53)

On the part of Muslim community of Paris, Muhammad, who works in a deli in northern Paris, describes the last cover as shocking for himself by stating "The Muslims disagree with this picture because the ‘prophet’ cannot be represented in any way." Contrarily, a butcher, Sliman, in the 17th arrondissement, regarded the latest Muhammad cartoon as not as provocative as some of their previous efforts. He said that "This picture isn't shocking. You can't say it's obscene. It almost makes me want to cry - it's touching". (url-54) A female customer Onel Güller, emphasized on security, she does not think they are in danger but she pointed to a problem that "people feel they are not being respected. Listening to what everyone has to say is important. France has to acknowledge the fact that it is a multicultural country. People must start thinking differently. Freedom of expression comes first.". (url-55) Another Muslim woman called as Salya from a Paris suburb inhabited by many Muslims originally from North Africa points out how the cartoons influence them by saying “They’re free to publish what they like but it affects us, it’s going to hurt us a lot,”. (url-56) Another Muslim butcher by the name of Massi in the 19th district of Paris described himself as unflappable and "I don't care about the cover, they can do what they want. The Muslim community isn't in danger, I don't think I am or my family." he told. (url-57) A man called Soheib told "It is hurtful to Muslims. But as Muslims we must be careful with our reactions, we must simply not acknowledge them or give them attention, because that is what they want." (url-58)

Outside Europe and US, on the other hand, the Islamic countries portray different reactions with respect to their social, political and historical conditions. The press in

Muslim countries did not publish the cover for fear of hurting Islamic sensibilities. The reactions turned into violence. In the Philippines, about 1,500 people protested in the main square and a CH poster was burned. Organisers said “What happened in France, the CH killing, is a moral lesson for the world to respect any kind of religion, especially the religion of Islam. Freedom of expression does not extend to insulting the noble and the greatest ‘prophet’ of Allah.” (url-59) In Niger, protesters set fire to some churches and looted the shops and some Christian homes in the capital Niamey. France's embassy in Niamey advised its citizens not going out to public areas. Five people were killed in Zinder, the second city of the former French colony. In Pakistan, protests also had risen and police took strict measures against demonstrators outside the French consulate. Protests in the Afghan capital turned into violence too. Further Several Algerian police officers were harmed in clashes with demonstrators. (url-60)

Sara Khan, a co-director of the counter-extremism and women’s rights organisation defined the cover image as not offensive or provocative, even saying -it was “very respectful” of Muhammad’s teachings. Khan also explained that how the ‘prophet’ would take an attitude in front of the reactions of his opponents:

“As all Muslims will tell you, the prophet was a man who was regularly ridiculed, mocked, insulted, humiliated and the prophet always used to respond with mercy and compassion and forgiveness.” (url-61)

She also remarked a point that it was the terrorists who were insulting the ‘prophet’ by killing cartoonists rather than the magazine. About how Islam looks to any depiction of ‘prophet’, she stated that many Muslims would find the last cover as not insulting, since there were few edicts in Islam against such depictions. (url-62)

2.1.2.2. Religious Figures

Islamic scholars regarded the cartoons inflammatory and disrespectful. The International Union of Muslim Scholars (IUMS) “It is neither reasonable, nor logical, nor wise to publish drawings and films offensive or attacking the prophet of Islam,” said in a statement. Many religious centers condemned the attack too. Al-Azhar, one of the prestigious Sunni Islam centre of learning condemned the "criminal attack," saying that "Islam denounces any violence". (url-63) It also denounced that the

cartoons stirred up the hatred: “do not serve the peaceful coexistence between peoples and hinder the integration of Muslims into European and Western societies”. Egypt's Islamic authority, Dar al-Ifta, has defined the cover as “an unjustified provocation against the feelings of 1.5 billion Muslims,”. The Egyptian grand mufti, the country's most influential Muslim cleric, identified the cover as “racist”. (url-64)

The Muslim Council of Britain issued an advice paper which was signed by more than 50 Muslim leaders, the imams stated “freedom of speech should not be translated into a duty to offend”, and they urged Muslims to express their “justified displeasure at the mockery that is made of our faith” in a peaceful manner; to respond with “dignified nobility”, enduring patience, mercy, tolerance, gentleness and mercy as a character/teaching of the “our beloved” prophet. (url-65-66) It added that depictions of the ‘prophet’ “cannot tarnish his image” and asked Muslims to speak with their non-Muslim friends and tell them how Muslims love the ‘prophet’ and feel a displeasure at the mockery made of faith. (url-67) The French *Muslim Council (CFCM)* and the Union of French Islamic Organizations condemned the attack and asked the Muslim community to "stay calm and avoid emotive reactions that are incompatible with its dignity ...while respecting freedom of opinion." (url-68)

The Imam of a mosque in northern France, Ahmed Miktar, told he was "really shocked" by the new issue, but also he defended the right to express. "Mocking the most precious person for you is a lack of respect. If they were mocking Jesus or Marianne, it would also be a lack of respect, but it's CH's right to be able to express itself. We are asking for a pacified reaction and for people to keep calm." He added that Muslim community was at risk after the shootings, and that the French government should ensure the same security measures for the Islamic community as it has put at the disposal of France's Jewish population, and he called “for the creation of a France proud of being able to express itself and to respect one another. We are all united with our citizens,” (url-69) The head of a big mosque in central eastern Paris, Hammad Hammami, distinguished the last cover with the previous cartoons by saying “They are not degrading for the Prophet,” unlike previous CH cartoons. (url-70)

Contrarily, Rector of the Grand Paris Mosque Dalil Boubakeur, regarded the last issue as “disgraceful and hateful, useless and stupid provocation,” but also remarked that “We are not like animals of Pavlov to react at each insult.” (url-71) He also questioned content of the magazine and how persons or groups targeted by CH: “If you start by asking whether or not you have the right or not to draw Mohamed... then the next question is ‘Can you put Muslims in the paper? And then, ‘Can you put human beings in the paper?’ In the end, you can’t put anything in, and the ... extremists ... will have won.” (url-72) Abdallah Zekri, President of the Paris-Based Anti-Islamophobia Observatory, published a paper on why Muhammad is so much on the agenda: “This will add fuel to the fire. People want to create trouble in France. I don’t mean to be disobliging about journalists but they are carrying on with their provocation. Muhammad, Muhammad, always Muhammad... he died 15 centuries ago!” (url-73) Zekri also stated that he had received many reactions from outraged Muslims who got uncomfortable with the cartoons, with saying “I understand them.” His group is planning to file a lawsuit but no decision has been made. He also blamed the magazine with seeking a material interest by saying: “CH wants to make money on the backs of Muslims.” (url-74) Exceptionally, Anjem Choudary, an Islamist cleric based in London, who was arrested as part of investigation into Islamist terrorism, called the cover an “act of war” and added that if the “act of war” was tried in a Sharia court it would carry capital punishment. (url-75)

The Pope Francis denounced the attack and defined killing in the name of God as an “aberration.” He also stated that religious freedom and free speech are basic human rights. But they are also not total liberties. “There is a limit, every religion has its dignity. I cannot mock a religion that respects human life and the human person.” he added. However, some statements of him led to anger since he exemplified that if a person swear against his mother, the person would get a punch in the nose, so he insisted on that people’s faith cannot be provoked, insulted or made fun of it. (url-76) This led a great criticism since it is open to misunderstanding. Then, he clarified his comments:

“In theory we can say a violent reaction to an offense or provocation isn't a good thing, -But we are human. And there is prudence, which is a virtue of

human coexistence. I cannot insult or provoke someone continually because I risk making him angry." (url-77)

2.1.3. The Author's Intentions: Cartoonists

In this part, statements of Charbonnier right after the 2012 US film and of magazine's surviving chief editor, Gérard Biard after the attack will be mostly covered. After the tensions led by the US film and following the CH cartoons, Editor Stéphane Charbonnier claimed they do not want to deliberately provoke anyone. In his own words:

My job is to provoke laughter or thinking with drawings.. We publish caricatures every week, but people only describe them as declarations of war when it's about the person of the Prophet or radical Islam...(url-78)

And he believes that any limitation on certain cartoon themes will apply to more harmless representations. (url-79) He rejects the claim of pouring oil on flames during the protests led by US film:

The accusation that we are pouring oil on the flames really gets on my nerves... Other newspapers have responded to the protests with cover stories. We are doing the same thing, but with drawings. And a drawing has never killed anyone. (url-80)

Interestingly, Charbonnier also refutes himself by speaking self-contradictory statements that he equates the religious hardliners with the producers of 2012 US film and regards both of them as idiots and define the film with the statement of "this absurd and grotesque film about Muhammad in the US" (url-81):

"To me, these religious hardliners who protest and kill over a crappy film are no different to the people who made the crappy film. They're all the same pack, a bunch of assholes," (url-82)

Although Muslim majority is uncomfortable with the CH drawings, Charbonnier insists on that they only target the extremists.

"Extremists don't need any excuses...We are only criticizing one particular form of extremist Islam, albeit in a peculiar and satirically exaggerated form."
(url-83)

By writing "Quran is a shit" on the cover (book of general Muslims), how it targets only extremists is a serious question mark. But very contrary to above statements, then he admits that CH criticize not only extremists but also Muslims in general and their 'prophet'. He advises to French Muslims to be equal citizens like others in front of the magazine's cartoons. He says:

"Muhammad isn't sacred to me. I don't blame Muslims for not laughing at our drawings. I live under French law, not under Quranic law." (url-84) If they are not amused by our cartoons, they don't need to buy our magazine. Of course they are allowed to demonstrate. The right to protest needs to be protected, so long as one abides by the law and refrains from violence...If the government believes that Muslims have no sense of humor, then that's an insult...It turns the faithful into second-class citizens. (url-85)

Basically, he assumes the cartoons as giving a sense of humor rather than injure, but also he does not accuse Muslims for not laughing at cartoons and he defends himself with reason that he lives in a secular state. Nevertheless, while he defends CH only targets radical Islam, he clearly discloses that CH also targets mainstream Islam.

Charbonnier makes a comparison between Christian and Muslim reactions as well:

When we attack the Catholic hard right...nobody talks about it. But we are not allowed to make fun of fundamental Islamists. -That is exactly what this small handful of extremists who do not represent anyone want — to make everyone afraid, to shut us all in a cave, It's the new rule...but we will not obey it..."We have to carry on until Islam has been rendered as banal as Catholicism." It should be as normal to criticize Islam as it is to criticize Jews or Catholics,
(url-86-87-88-89)

He further states he does not fear any counter-reaction and seems to devote himself to struggle with Islamist extremists for the sake of his life and of free speech, without taking the extremist mind into account:

"I have neither a wife nor children, not even a dog. But I'm not going to hide...If we worried about the consequences of each of our drawings, then we would have had to close shop a long time ago..I don't feel as though I'm killing someone with a pen. I'm not putting lives at risk. When activists need a pretext to justify their violence, they always find it." (url-90)

He has also written a book, which was completed two days before the murder, titled "*Open Letter to the Fraudsters of Islamophobia Who Play into the Hands of Racists*". Here he argues that all religions, including Islam, are fair game for ridicule in secular Republican France. He also criticizes the media, politicians and some civil society groups by defining as "*disgusting white, left-wing bourgeois paternalism.*" He also remarks on religion:

"The problem is not the Koran or the Bible, which are soporific, inconsistent and poorly written novels," [The problem is with] the believers who read the Koran or the Bible as we read the instruction manual on how to assemble an Ikea shelf." (url-91)

Gérard Biard, mentions about similar reasons with Charbonnier. He lists CH's political stance as fighting against all discriminations; against racism for minorities, women, gay people, weak or poor people and says "we always fight the extreme right wing, even more than the Catholics, even more than religions." (url-92)

Notably and contrarily, he adds that "cultural relativism ...opens the way to only one thing: religious totalitarianism." (url-93) He believes in laicity was empowered after the attack. He regards people who said "I am Charlie" stand for "I am laicity,". He defines the character of CH as "attacking all religions is the basis of our identity," and remarks that CH doesn't want to extinguish Islam. (url-94-95) However, he ignores that people who find CH cartoons as insulting do not believe that Islam will be extinguished by these cartoons, but they denounce their dislike, and feeling themselves in an unreliable atmosphere.

Biard as similar to Charbonnier claims that by mocking with the 'prophet' Muhammad or Quran they are not targeting people, they are targeting the power:

“When we make a cartoon of the prophet Muhammad, or Jesus, or Moses, we don’t mock or attack people. We mock or attack institutions. Representatives. Powers. and, again, political powers.” (url-96)

However, another remarkable claim of Biard is that Islam needs of especially “caustic treatment”, as long as it has prevented its followers from full integration into French society. (url-97) Thus, he confirms that mainstream Muslims deserve their “caustic treatment” too. And he calls people for “Go and buy CH,” and claims “if CH live, ideas live in France and throughout the world – thus they really will have won.” (url-98) As for the magazine’s lawyer Richard Malka, approves “the right to blaspheme” that “We will not give in. The spirit of ‘I am Charlie’ means the right to blaspheme. The edition will ‘obviously’ satirize Mohammed - among other figures - to show staff will not stop although radicalists aim to silence them.” (url-99) The other cartoonists have similar ideas.

2.1.4. Psychological Profile

One-side defends the free speech at the expense of claims of “insult”, and the other part find the cartoons as “hateful”, “degrading”, “degrading”, “hurting”, “useless”, “irrational”, “racist”. Predictably, psychological factors which motivate both the cartoonists and believers seems different; cartoonists define the cartoons as having a sense of humor, but most of the religious community find them as insulting since cartoons do not target only extremists but also the ‘prophet’ and Quran. But synchronically, cartoonists state that Muslims or Islam deserve such “caustic” treatment since they are not fully-integrated into Europe. Another statement of a cartoonist is that “cultural relativism leads to religious totalitarianism” can give a clue for signifying the intention of CH. In this sense, both parts think similar ideas about how cartoons are offensive. But it can be said that there is a confrontation on the level of interpretation of the religion itself rather than cartoons.

It is a question who decides whether an artwork includes “humor” or “insult”, or any objective measure exists to determine it. Also, the excuse of CH is that they target an “institution or power or representative”, in this condition however, it is questionable why they mock Muhammad or Quran rather than certain extremist groups of people who use Islamic references. Powerless people can adopt teachings of Muhammad or

Quran too and those people can oppose to the institutionalization of their religion too. In this sense, deeming a religion, its prophet or book merely as an institution, representative or power seems not to make sense. The author does not make a distinction between the people who forms the power and who is the powerless with respect to the religious. Therefore, the question is how can the image of ordinary members of the religion be protected from “insult” or “degradation”?

On the other hand, as a sociological factor, both extremists and ordinary members of religion claim to reference to the ‘Prophet’ or the ‘Book’ although both have different forms of action. Muslim community, at given image of the ‘prophet’/Islam, they seem to perceive that it’s aimed at Muslims in general because the ‘prophet’/Islam is a role model for them as an example of a high morality. Further, they perceive the cartoons as implicitly attributing of an extremist group’s guilt to a whole community. Therefore, some articulate that the religion turned into a racist instrument throughout the cartoons.

The main motivation for cartoonists as another psychological factor is CH’s desire for making Islam banal as much as other religions. Cartoonists does not give a reason on how they decided blasphemy is the best way for making a religion banal but they state that the freely existence of any kind of blasphemy provide a free-secular environment that is why they are blaspheming. Nevertheless, it is a discussion point whether CH cartoons are able to direct Muslims to question Islam to make it banal or contrarily directing them clinging on Islam much more. Another claim can be that blasphemy may not be a convenient method in order to make a religion banal; vice versa decreasing religious/non-religious extremism, economic amendments, high level of welfare and decrease in political chaotic relationships might be more capable.

As a sociological factor, cartoonists do not also appear to make a distinction between the Catholic hard right and the Islamist extremists by claiming that Islamist extremists are not tolerant to their cartoons by contrast with the Catholic hard right. CH prefers not to mention on any historical, political or economic background while both have different experiences and traditions. Further, it is a debate that mocking the

Christian clerical class and mocking the faith of immigrants who are mostly excluded of power in France require a distinction.

While CH staff claim to be an anti-system/anti-power/anti-racist left, some criticisms point out that CH is unjustly leveling its anti-power stance and does not take a place on behalf of the weak against the powerful. For instance, it is claimed that CH remains silent against the French state's certain restrictions on the immigrants' rights. In this sense, it is a question whether CH defends the rights of immigrants as it claims. All impacts on the perceptions of Muslims about blasphemous artifacts of CH.

Another kind of defense that cartoonists hold is to save of laicity which brings a controversy about the borders of laicity. Conversely, Muslim community claim that religious freedom as an acquisition of laicity contradicts with the "laic" principle of free speech which is used as a right for the "insult/mock" by CH.

Muslim community states that free speech should not be turned into discourse to offend. Other common idea of the community is to compensate the cartoons with dignified nobility not a violent reaction. They also emphasize that targeting the faith of a society via media or art doesn't change its aggressive nature and certain depictions of the 'prophet' cannot tarnish his image.

Nevertheless, the Muslim community has also contrast viewpoints; the positive reactions to the last cover of CH ("All is forgiven") prove how some Muslims distinguish among different depictions of the 'prophet' rather than rejecting all kind of depictions of the 'prophet'. This cover is defined by some as not insulting or respectful of Muhammad's teachings(since it points to one of the Islamic principles: forgiveness) Contrarily, some find this cover as shocking, not reasonable, stirring up hatred. Also, some seems to be unflappable by not caring about any cartoon and featuring that cartoonists can do what they want while some claim that cartoons impacts on Muslims. Some of them state that people who killed the cartoonists are the real offensives to the 'prophet' and Islam by murdering and Muslims are the primary victims of terrorism and the target of retaliatory violence. On the other hand, some groups regarded the death as a moral lesson. It is important to notice the disparity between different kinds of reaction style. All these different perceptions of

blasphemy depend on not only different religious understandings within one religion but also different political, cultural, economic orders; relatively prosperous and politically stable Islamic countries do not display any violence, even some of them any civil protests.

Blasphemy is a threat to the harmony of a multicultural country is another claim of the religious community. Some Muslims call for dialogue about the differences and condemning the disrespect on different faiths which does not allow for communication. But it brings some questions such as Does CH aim for a dialogue or empathy? Can drawing provide a dialogue? Should not free speech serve to the dialogue and empathy rather than conflict? or How can truth be opened to the argument by not mocking/degrading but criticizing and rationally constructing?

After the attack, some mosques were attacked in France, one of them was firebombed or a Muslim family's car was fired. Thus, CH has stimulated some extremists to participate in hate crimes against themselves and Muslims. However, the magazine's famous slogan was "a drawing has never killed anyone", it can be clearly articulated that it may not kill people but it leads to several kinds of hate crimes mutually. In this sense, it does not contribute to a peaceful coexistence and hinder the integration and lead to lost of trust among people. Thus CH risks the violent threat of extremist groups.

Both sides; CH and the religious community accuse each other with being irrational. And on the account of CH, there is a discrepancy of speech and action. While CH defined the US-made film as "crappy", it depicted the 'prophet' as a porn star immediately after the film; while it introduces itself as anti-racist, its cartoons are perceived as stirring up racist and hateful opinions; while it stated that it complained about the extremists by depicting the 'prophet' like a fool or define Quran as shit, it also claimed that they target Muslims in general. While it defines its cartoons as humor, it justifies its caustic language by disintegration of Muslims into European society. In this sense, CH portrays a perplexing view in its intention.

As they state, *CH aims*, according to its editors, to show believers the foolishness of their faith, trying to show how they are man-made and consists of “inconsistencies” and “absurdities”.

In return, religious community rejects this claim. And such confrontation imposes a sort of secular purity which does not provide dialogue and hinders blossoming of a tolerant discussion environment. (url-100)

2.2. CHRISTIANITY: PISS CHRIST

2.2.1. Artifact In Question: Artwork

“Immersion (Piss Christ)” (PC) is a photograph, made in 1987 as part of series of an American artist and photographer Andres Serrano show religious objects submerged in fluids such as blood or milk. (url-101) Serrano made the controversial work by placing a crucifix in urine and blood, which sparked a long-term criticism in different countries. Nearly three decades it has been facing with criticism, censorship and violent reactions.

2.2.2. Description Of The Reactions

2.2.2.1. People

In 1997, while Serrano's work was at the National Gallery of Victoria (NGV) in Australia, Gallery officials knew this image was highly controversial. In material they prepared for the exhibition they stated: “*Piss Christ* was torn up by a member of the US Senate enraged by its blasphemous nature....Serrano has always been provocative, pushing the boundaries between the sacred and the taboo, the acceptable and the pornographic.” (url-102) Then, gallery officials reported receiving death threats in response to *PC*. Before the exhibition, some politicians and church leaders had lobbied to stop its display. The Gallery received more than 800 letters opposing the display. (url-103) First, a Sydney man John Allen Haywood, 51, ripped the work from its wall and kicked it. Soon after two teenagers damaged *PC* with a hammer by distracting guards. The teenager who destroyed the image stated later, he did so after seeing his mother weep at the Gallery's decision to place it on public display.

Further, proponents compare the PC with other Serrano works and question why they are not mentioned by the Church which did not call for a ban “on the photograph of a woman masturbating a horse, on the photos of mutilated and partly decomposed bodies in a morgue, of still-born children, of a man’s ejaculate flying through the air, or of a woman urinating into a man’s mouth,” all were also included in the same exhibition. (url-104)

In 2007, another reaction emerged in Sweden, neo-Nazis looted a Serrano show. Then, in 2011 the image was destroyed after an "anti-blasphemy" campaign by French Catholic fundamentalists in the southern city of Avignon. Before the attack, the photograph had been shown in France several times without incident. For four months, it was displayed in the exhibition “I Believe in Miracles”, at the end of the last two weeks of this show, a protest campaign began. Civitas, a lobby group that says it aims to re-Christianize France, launched an online petition and mobilised other fundamentalist groups. At last week of the show, the gallery complained of "extremist harassment" by fundamentalist Christian groups who wanted the work banned in France. Then, around 1,000 Christian protesters marched to the gallery. The protest group included a regional councillor for the extreme-right Front National, which recently scored well in local elections. The gallery increased its security. One day after, four people in sunglasses aged between 18 and 25 entered the exhibition and destroyed it irreversibly. (url-105) The museum, which closed its doors immediately after the incident, said it would reopen on Tuesday and display the damaged works "so the public can appreciate for themselves the violence of the acts." One museum worker stated that some people among the protestors told “If you open, you're dead”. (url-106)

Supporters of the artwork argued that *PC* is an issue of artistic freedom and freedom of speech. Lambert, one of France's best known art dealers, complained he was being "persecuted" by extremists who had sent him tens of thousands of complaint e-mails and bombarded the museum with spam. He defined the atmosphere to "a return to the middle ages". (url-107)

2.2.2.2. Religious Figures

While Serrano's work was at the National Gallery of Victoria(NGV) in Australia, the Catholic Archbishop of Melbourne, George Pell, sought a legal prohibition to restrain the NGV from publicly displaying *PC*, but it was rejected. He argued showing the photograph would amount to blasphemous libel, or alternatively was indecent or obscene under the Summary Offences Act. Pell told the court *Piss Christ* might be an attractive photograph on its own, “even beautiful” but the title and the presence of bubbles implied the cross had been urinated on: “Both the name and the image *Piss Christ* not only demean Christianity but also represent a grossly offensive, scurrilous and insulting treatment of Christianity's most sacred and holy symbol. It is calculated to outrage the feelings of Catholics and other Christians,” Dr. Pell said in his affidavit to the court. The Catholic and Anglican archbishops also condemned the violence used against the picture. (url-108)

On the other hand, Tony Perkins, president of the Family Research Council, described the event as usual: “You won’t have to worry about a mob of people storming the gallery ...*Christ* has been the subject of attacks for 2,000 years – as have his followers. As Christians, we have learned to turn the other cheek.” He also emphasized on free speech: “They have their freedom to do what’s wrong,” he said.. That’s what’s great about America.” (url-109)

American Family Association (AFA), a right-wing fundamentalist Christian organization, which initiated a campaign against the photograph, petitioning Congress to denounce the National Endowment for the Arts(NEA). (url-110) A member of AFA, called people to react against the artwork: “I would never, ever have dreamed that I would live to see such demeaning disrespect and desecration of *Christ*... Maybe, before the physical persecution of Christians begins, we will gain the courage to stand against such bigotry.” (url-111) Some people asserted that the government funding of *PC* violated separation of church and state and this led to a debate on funding of public arts since the work was displayed at a leading public institution in US. One senator tore up a copy of *PC* in the chambers. Two senators named Serrano is “not an artist, he's a jerk.” (url-112) Also, a piece of Liberal Party

electioneering portrayed art as the domain of the elite. (url-113) Then Serrano received death threats, and due to the controversy, he lost the grants the taxpayer-funded NEA. (url-114)

Bill Donohue, president of the Catholic League in the US, defined as an insult to faith: "I would argue that ethics should dictate that you don't go around gratuitously and intentionally insulting people of faith," (url-115)

In France, the archbishop of Vaucluse, Cattenoz, called PC "odious" and said he wanted this "trash" taken off the gallery walls. The secretary general of Civitas which organized the protests in France, Alan Escada, stated: "I don't support or condemn what happened," adding that the attack "reflects an understandable exasperation" with the museum. (url-116) The group denounced the photograph on its website, saying it "insults and injures Christians at the heart of their faith." (url-117)

2.2.3. The Author's Intentions: Artist

Serrano stated that while he did not intend to denounce religion, but pointed to the misuse of religion implying to a perceived commercializing or cheapening of Christian icons in contemporary culture. (url-118) He defended his photograph as a criticism of the "billion-dollar Christ-for-profit industry" and a "condemnation of those who abuse the teachings of Christ for their own ignoble ends".(url-119) He added:

I started that work as an attempt to reduce and simplify a lot of the ideas and images that I had been doing up until that time. I didn't do it to be provocative, I did it because damn, the colours would look good, you know. I mean, sometimes I just feel like what I do has the simplest answers, but they're not good enough. People want more of a story and I try to give them a story, but sometimes I have to say: look, you're reading too much into this. (url-120)

He also described his work as 'redefining and personalizing' his own relationship with God. (url-121)

In an interview held in 2015, he stated: "'At the time I made *Piss Christ*, I wasn't trying to get anything across..I am neither a blasphemer nor "anti-Christian," as some have called me, and I stand by my work as an artist and as a Christian. Where the photograph has ignited spirited debate, that has been a good thing. Perhaps it reminds some people to question what we unthinkingly fetishize..." (url-122) He also emphasized on value of the artists: "Artists look ahead and plot the future. They map the culture and tell us where we stand. In doing so, artists are a free society's greatest advocates and its best bulwarks. Their triumphs are civilization's triumphs". (url-123)

I want to point to opinions of the Gallery directors who supported the author and exhibited the artwork. The Director of the Gallery in Australia, Timothy Potts, told that banning a photograph on the grounds of blasphemy was "an antiquated concept in a pluralistic society". He accused the church why it reacts to artworks in this way while there are more serious issues with respect to religion:

"Serrano has always been provocative, pushing the boundaries between the sacred and the taboo, the acceptable and the pornographic. There are many things in today's society, such as divorce and birth control that the church finds inappropriate. Why does it seem so much more serious when it occurs in the artistic arena?" (url-124)

In spite of their criticisms, the gallery directory had to cancel the display. Then, Serrano described Director Pott "a coward and a loser" for cancelling. (url-125) Other Director of the Gallery in France, Eric M  zil, said it would reopen with the destroyed works on show "so people can see what barbarians can do". He defined the event an "inquisition". And he linked attackers' destruction to President Sarkozy who had been accused of using anti-Muslim and extreme-right rhetoric to appeal to voters in his speech praising "the Christian heritage of France", at Puy-en-Velay, where the first Crusades were preached. Director added: "Clearly we saw in Saturday's demonstration that a Catholic fringe wanted to take the president at his word, with extremely violent appeals." Further, he stated that protesters insulted museum staff of North African origin. One guard said he heard: "I'm going to pour donkey piss on the

Qur'an." And an email to the museum threatened "plunging the diary of Anne Frank in urine".(url-126)

2.2.4. Psychological Profile

The artist asserts that he does not condemn religion but criticize current commercializing of Christian icons and abuse of the teachings of Christ for people's own interests. He also defines himself as a Christian not as a blasphemer. However, it is perceived as an insult to faith by members of the community and they objected to fund something which seems to demean them. As one wrote in his letter, most members seem to perceive PC as an assault to community in a racist form rather than a criticism of religion. One politician defined PC as a bigotry; both sides accuse each other with bigotry while some politicians defined it as a free speech. The Artist also praises the art while religious community does not define PC as an artwork.

Supporters of PC and the gallery directors regard the objections as against to the pluralistic values. Further they question why church is more intolerant in the artistic field. They asked why church reacts against a negative image on the religious itself while it does not react as well as to divorce, birth control or other works of Serrano. Also they accused church authorities for not condemning the violence sufficiently. One Gallery Director complained on voting interests which led to such radicalism as a product of politicians who feed the hard right for empowering their political stance. It seems that politicians' discourses fortify the perceptions of public on 'blasphemous' items.

2.3. SIKHISM: BEHZTI

2.3.1. Artifact In Question: Play

It is a play depicting of rape and murder within a Sikh temple made by writer Gurpreet Kaur Bhatti in UK in 2004. Its title Behzti means Dishonour. The play is named as a drama or black comedy that examines the traumas which come out when a young Sikh woman takes her sick mother to a gurdwara. The note of the play asks: "In a community where public honour is paramount, is there any room for the truth?"

After the public reaction, the theatre handed out programme notes giving a "positive representation of Sikhism" and a statement written by its critics. It says it has also made changes to the drama, but did not give information in detail. It stressed: "Neither the writer nor the theatre is making comment on Sikhism as a faith or the temple as an entity. Equally, the characters in the play are not intended to be representative of the Sikh community. They are works of fiction characterising the fallibility of human nature and the injustice and hypocrisy that exists in the real world."(ibid)

2.3.2. Description Of The Reactions

2.3.2.1. People

Before its first performance, 400 protesters gathered and damages to the building and injuring three police officers were reported. Protesters said that the play humiliates Sikhism by showing rape and murder within a gurdwara and wished to have their faith treated with dignity. They also deemed the name of play as slurring on their faith. (url-127) It was reported that the playwright was threatened with abduction and murder. Sikh Community leaders demanded from the playwright to transfer the drama's setting to a community centre. But discussions continued several weeks, and demonstrations outside the theatre turned into violence and demands for the play to be banned. Then, the Theatre announced to end the play since it had no alternative. The theatre's executive director, Stuart Rogers stated that community leaders cannot guarantee that there will be no more violent actions. He also stated that they will prepare to stage Behzti at a multicultural centre in Birmingham since they are sure that "it is a work that should be seen and discussed." (url-128)

Sikh Community leaders defined the decision as a victory for common sense, while denouncing the violent acts. Kim Kirpaljit Kaur Brom, a spokeswoman for the protesters said that "There are no winners and no losers.. We congratulate the [Repertory] theatre for making its decision after we exercised our democratic rights to protest" (url-129) Dr Jasdev Rai, director of the Sikh Human Rights Group, said the play was offensive because Sikhism, which has around 600,000 followers in the UK, emphasizes sexual equality. Some younger Sikhs, are more in favor of the play. One reviewer, approved the play and stated on the diversity of the audience.

Proponents of the play said the cancellation was an affront to freedom of speech. More than 700 arts figures signed a letter in favor of Bhatti: “We all have the right to protest peacefully if a work of art offends us. We do not have the right to use violence and intimidation to prevent that work of art from being seen by others” (url-130) Ash Kotak, a playwright stated that it is absurd to think all (Asian) communities as homogenous: “The people who are campaigning are the ones who have oppressed us in the first place: the very people we are writing against _ These are issues which have to be highlighted.” (url-131) Yasmin Wilde a player told that “The message of the play isn't ' religion awful'. It's about how human frailty can take you away from what's true about your religion.”(ibid)

2.3.2.2. Religious Figures

Sewa Singh Mandla, chairman of the Council of Sikh Gurdwaras in Birmingham stated: “The play depicts sexual abuse, homosexual activities, rape and murder. In real life these things do not happen in Gurdwaras.” (url-132)

2.3.3. The Author's Intentions: Playwright

In her foreword to the programme, explains why she wrote the play since she objects to injustices: “Clearly the fallibility of human nature means that the simple Sikh principles of equality, compassion, and modesty are sometimes discarded in favour of outward appearance, wealth and the quest for power. I feel that distortion in practice must be confronted and our great ideals must be restored _ I believe that drama should be provocative and relevant. I wrote Behzti because I passionately oppose injustice and hypocrisy.” (url-133) Bhatti stated that this debate on her work will lead to more questions: “Religion and art have collided for centuries, and will carry on doing battle... The tension between who I am, a British-born Sikh woman, and what I do, which is write drama, is at the heart of the matter. These questions of how differences in perspective and belief are negotiated in Britain today will...continue to bring about a lively and vital debate.” (url-134)

2.3.4. Psychological Profile

In this case, community's main message is that they do not commit murder or rape in their temples. They were discontent with association of a Sikh temple with a name Dishonor and with malicious actions. The programme note: "In a community where public honour is paramount, is there any room for the truth?" implies that since Sikh community fetishizes the public honour they cannot find the truth. On the other hand, after the reactions, the new programme notes announced that the play does not represent Sikhism as a faith or the temple or the players do not represent the people of Sikh community. Author, on the other hand claimed that she criticized how values of Sikhism was distorted not Sikhism itself. But protestors did not seem to believe what programme notes or author say but what they see in the play. Some claimed that their religion order sexual equality not abuse.

Contrary to programme notes, an artist as a defender of the play stated that a religious community cannot be homogeneous, in other words, the play represented certain members of community. Another one stated the message was not religion is something awful, however community perceived the play as an insult to their religion. One Sikh MP criticized the method of playwright, by saying if the aim is to criticize Sikhism they can but using religious symbols is not a right way to criticize. We can say that religious symbols represent religious community as a whole, they oppose to abuse of the religious symbols. Although a community is not homogeneous, negative representation of religion is perceived as an insult or threat to their dignity by members of community.

2.4. Comparative Analysis

In three distinct cases, authors know that their work will cause to reactions. All state that they criticize the power by targeting religious symbols thus they ignore the powerless and right-minded members of religion. They intentionally prefer to charge the religious as a whole without leveling the powerful and the oppressed ones. Contrary to author's anti-power stance, members of religious communities complain from the blasphemous artifacts as a product of artistic elitism. Further, CH opposes to

a religious power, but PC and Behzti criticize the power of capitalism which corrupted religious symbols or values.

In CH and PC the 'prophet' or the book were targeted, but in Behzti; the religious temple was targeted. In three cases, members of religion oppose to the negative image on their religious identity but the authors define the reactions as absurd and extreme. Further, it is a question whether blasphemy is a criticism of religion or negative representation of a certain religious identity. While CH authors have an anti-religious stance, other authors define themselves as a member of their religion that they target. Both parts use the discourse of pluralistic society values, one-side deem blasphemy as contrary to it, the other define blasphemy as a part of pluralism.

Further, CH authors claim that they want to make all religions banal. This means that they assume themselves holding the truth and authorized to defame other possibilities of truth without any discussion, this seems as contrary with their anti-power stance. Religious community objects to this claim of truth held by authors. This different claims of truth confront with each other by means of blasphemous artifact, and it seems to polarize both parts. Thus people who have opportunity to propagate their own truth claims get a superiority over the silent majority and make judgments about their religion.

It is a question why blasphemous artifacts made in the artistic arena take much reactions than the blasphemous statements of a politician or any other author. Further, instead of blasphemy there are many issues which are contrary to the teachings of faith, but members of religion mostly react to the acts which target the religion itself. It seems that blasphemy turns to be an issue of negative representation of the morality of a certain community which is gathered on common religious belief. It is a matter of which group will be praised and which one will be demeaned within a society by means of communicative instruments.

This leads us to think about certain questions whether racism is incorporated into free speech, whether hate speech can be legitimized and whether an artwork which is found insulting by public, serve to the pluralistic society principles or undermine it

and whether blasphemous artifact provide productive discussion environment for different interpretations.

These cases provide intuitive evidence for me for the definitions that will be made in the subsequent chapter.



3. WHAT IS BLASPHEMY?: A CONCEPTUAL ANALYSIS

The word blasphemy takes its roots from very old times, this leads to the ambiguity on the meaning of it since every period has its distinct frameworks of the moral and the scholarly; in other words, blasphemy is loaded with attributions that are not homogenous. Further, blasphemy might be defiance in favor of truth or in the opposite of truth; although it is usually encoded as defiance against the religious, historical experience proves that people who objected to falsity were sometimes charged with committing blasphemy. In this sense, blasphemy as a form of dissent can represent both the religious and non-religious.

In this chapter, I introduce the main concepts and arguments related to the definitions on blasphemy at first. Second, I give a description of freedom of speech, then I point out the definition of hate speech, thus I aim to make a distinction among different rates of speech; there are absolutist positions of free speech and relativist positions based on the idea of hate speech. In the last part of this chapter, I point out the argument whether blasphemy is hate speech. I have to state; from the ancient Greeks to Judeo-Christian history, from early modern times in Western countries to today, definition of blasphemy is mostly attached to its charge or conditions of prosecution and persecution. As a consequence, the literature on blasphemy has been mostly based on the legal aspect of blasphemy rather than the moral. However, legal analyses partly enable us to see what kind of reasoning can be driven on the moral sphere. That is why I sometimes refer to the arguments on the legal.

3.1. What Is Blasphemy?

In English Cambridge dictionary, blasphemy is defined as “something which you say or do that shows you do not respect God or a religion” or “The action or offence of speaking sacrilegiously about God or sacred things; profane talk” in Oxford dictionary. (url-135-36) It has been still debated whether blasphemy is “defilement, desecration, irreverence, profanation, sacrilege or simply ‘verbal offense against the sacred’”. (March, 2010, P.332) The word blasphemy is derived from the Greek word

‘blasphemia’/ blasfeemía which almost mean ‘harmful speech’. (March, 2010, P. 327)

Blasphemy is mostly defined as a “sin of the tongue” by theologians and moralists. In the initial process of Christianity, certain theologians offered definitions for blasphemy: Augustine defined that “in blaspheming, false things are spoken of God himself.”, Aymon d’Auxerre described it as a “verbal offense or insult against God”. (Flores, 2006, P.9) Afterwards, some Christian writers such as Thomas Aquinas tried to synthesize these definitions: he defined blasphemy as “an insult against God, disparaging his divine goodness”. Edwin Craun replied to his definition, “Since God is a being, to speak falsely of him is to defame him, especially when what is represented is his moral nature or his stature.”(Flores, 2006, P.9) Further, an irreverent style by which God was addressed could corrupt the honor of God. Certain statements that assaulted to the Virgin, the saints, or sacred things were also deemed as blasphemous since God is the creator of them. While there were certain endeavours to make include the nonverbal behaviour within definition of blasphemy such as; assault to holy images, the definition of blasphemy is limited to “a form of derogatory speech”. (Flores, 2006, P.9)

However, the criterion seems still ambiguous that defines certain speech as blasphemous as most writers state. From the perspective of theology, it is important to make the distinction between blasphemy and heresy since this distinction is also a part of ambiguity. In view of Aquinas and subsequent writers, the former was regarded as a sin; the latter meant adopting an idea against the Christian dogma regardless of necessarily vilifying or slandering God or taking away from his goodness.⁶

The heretic generally was assumed that she was respecting God. So heresy was regarded as “intellectual error” or ‘wrong choice’, not “an attempt to disparage the Divinity” that is blasphemy also called as ‘evil speaking’. However, blasphemy was a “malicious effort to harm God”. In other words, “blasphemy is not a sin against the Christian faith, but against the confession of that faith, that is, against the reverence and piety expected of all professed Christians vi-a-vis their God.” (Flores, 2006, P.

⁶ English Oxford dictionary defines heresy as a “belief or opinion contrary to orthodox religious (especially Christian) doctrine.”

10) Here I want to take the reader's attention to how blasphemy was regarded not against the faith but against the confession of that faith and against the expected responsibility of respect. Because the kind of blasphemy that I analyze in this paper is in the middle of being against the faith and being against the confession of faith. Because even disintegration of religious minorities is legitimized to make blasphemy. This shows that blasphemy might be an instrument to control society.

Further, blasphemy was distinguished as "non-heretical blasphemy" and "heretical blasphemy" by theologians. The former was "imprecatory or contumelious"(by God's life), the latter consists of an announcement against the Christian faith(I don't believe in God). Nevertheless, permanent and disobedient blasphemers could also be charged by heresy, that made these theological definitions complex. It is important to note that atheists and irreligious people were not generally "victims of blasphemy laws" until the 19th century, blasphemers were mostly devout Christians throughout history. (Levy, 1995, P. ix) This gives us an idea about the definition and function of blasphemy that works as a protection of religious unity within society that unity also functions as a social, political union.

Further, theologians and moralists interested in intentions of blasphemers rather than merely the content of the sayings. They evaluated certain conditions in which blasphemy emerged like anger or drunkenness. Consequently, if the person was conscious what she utters, blasphemy was deemed as a mortal sin and regarded as a proof for willing to insult God. (Flores, 2006, P. 10) In view of Aquinas this was "perfect" blasphemy since the blasphemer both had an incorrect idea about God, and also loudly uttered it with the aim of influencing the perception of others have about the Divinity. In order to call for a responsibility for blasphemy, Christian writers called people to control their tongues which have the potential to put individual and society in danger and to protect virtuous speech and moral excellence. By addressing the "difficulty of controlling injurious speech", moralists of early modernity defined the tongue as having a life in itself. (Flores, 2006, P.11) These descriptions show us how the existing power of the time determined what the appropriate speech is and what the proper life style is by limiting certain speech.

3.1.1. Different Uses Of Blasphemy

Instead of monolithic definitions of blasphemy, there is another aspect that is based on how blasphemy was instrumentalized by people in the context of various social conditions that changes our perceptions of the standard definition. Javier Villa-Flores in his book; *Dangerous Speech: A Social History of Blasphemy in Colonial Mexico* discloses “the instrumental uses of blasphemy” with respect to class, gender, and race relations. In view of him, blasphemy stands for “different things at different times and for different people”.(Flores, 2006, P.7) If blasphemy is studied in the context of particular historical cases and practices, and why people used it in certain circumstances, the complex relationship between “blasphemy, censorship, and unbelief” can be diagnosed. In this sense, blasphemy can be disclosure of both a genuine belief or rebellion to injustice as an efficient verbal instrument to achieve social goals. Flores states that merely through the existence of an audience, blasphemous speech gets its power that is “to do things with words,” such as revolting.(Flores, 2006, P.7) We see that instead of the uttered statement, it is crucial what aim does it intend and its power to gather people around the utterance and the possibility to change something.

The recent studies of ethnographers of speech enable us not only to know about “the social location of speakers and their audiences”, but it was also found that linguistic practices play a significant role on the formation of “social identities” and on the alteration of the conditions related to speech. In this sense, blasphemy “could constitute an attack on the Divinity, provoking fear and scandal, or it could be a strategy for attempting to ‘negotiate’ directly with God in the presence of others”. Or it could object to ‘gendered morality’ or be an instrument for ‘gender assertiveness’. (Flores, 2006, P.8) Flores’ definition is very crucial to understand what blasphemy is and seems contradictory with people who assume one definition for it; sacrilege to the sacred. I infer from Flores’ ideas that blasphemy has the potential to hold truth or falsity. It can be an instrument to defy the injustice or maintain the injustice.

I want to briefly mention about Flores’ specific examples on different uses of blasphemy because the different uses enable us to understand why blasphemy has not

a fixed definition and why it has resulted in various criminal sanctions. One is blasphemy as a “performative anchor of male identity” that points to how blasphemy turned into an instrument of achieving the goal, in order to influence the audience, inflamed men blasphemed to prove that they were able to take revenge (for instance a person who seeks from the one to pay him his money back) Other one is; gamblers’ blasphemy that originates from the belief that gambling is arranged by God’s will, not on the chance. We can infer from that people, in order to legitimize their actions, create an image of God that is proper with their actions. Another kind of blasphemy is the one used by subordinated groups such as women who object to the gender roles based on virginity and obedience. He points to inquisitorial cases that women applied to blasphemy in order to make effective utterances against the people who desecrated their honor. Here we see a kind of blasphemy which aims to make an influential speech in order to disclose the discontent for traditional gender roles.

Flores also examines blasphemy used by slave men and women as a way for resisting unbearable physical sorrow by their masters, then before the inquisition they showed their masters’ cruel behaviours as a justification for blasphemy. Thus, they instrumentalized their “integration” into the Christian society to struggle with maltreatments led by their slave-being.(Flores, 2006, P.18) Here, we see how blasphemy is used for opposition to the powerful by using religious sensibilities. These examples indicate us that blasphemous statements are very context-dependent and has various social uses and further it leads to different social results as Flores asserted. On the one hand, it can function as an objection to the powerful to struggle against injustices, on the other side, it can function as an instrument for people to legitimize their actions or it can function to make the speech more forceful. Blasphemous speech cannot be understood by looking into a list of expressions which are plucked from their context. Flores points to how slaves, gamblers or women used blasphemy since they had an experience on colonial institutions, types of punishment and condemnation, and utterings of Christian salvation which led to a social underpin for their words.(Flores, 2006, P. 19)

While Flores portrays a more positive perspective on blasphemy, Leonard Levy in his book; *Blasphemy: Verbal Offense Against the Sacred*, from Moses to Salman Rushdie, points to mainly one use of blasphemy which is negative; as an instrument

to fortify the political power. He examines the origins of the crime of blasphemy that provides us information about the definition and function of blasphemy by pointing to political religion. Blasphemy as “speaking evil of sacred matters” becomes a taboo, when there is an organized religion. (Levy, 1995, P. 3) He claims that politics is the most determinant factor on the charge of blasphemy. As a rule, it was working like a protector of public order and the values of society. He defines blasphemy as “a litmus test of the standards a society believes it must enforce to preserve its unity, its peace, its morality, its feelings, and the road to salvation.”(Levy, 1995, P. ix)

Not only monotheistic religions implement the charge of blasphemy but also pagan societies assumed superior existences or spirits who influence people’s life. Since blasphemy “affronts the priestly class, the deep-seated beliefs of worshippers, and the basic values that a community shares.”(Levy, 1995, P.3) punishing the blasphemer provides social facilities while warning the others; it prevents public disorder and it was believed that penalty avenges the honor of Gods thus prevent certain divine punishments such as earthquakes, infertility, lost battles, floods. “Public retribution” also exculpates the beliefs of believers and significantly of the clergy; it reapproves social norms and prevents the idea of toleration. Levy asks, if the revenge belongs to the transcendental existence, why people implement punishments? and answers that toleration means permission to the offense and lead others to blaspheme. Toleration also leads to questioning of orthodox beliefs, bringing a doubt on them. Levy’s ideas enable us to see that while public order is crucial for the safe of a society, charge of blasphemy turns to be an alibi to make oppression or to conceal the truth.

Even if some societies respect liberty very much, refused it for blasphemers, such as Athens in the 5th century BC., free speech was an Athenian value, but they have taboos on their Gods which were the images created by them. “Impiety was the Greek equivalent of blasphemy.” (Levy, 1995, P.4) And punishments for the impiety limited free questioning. Levy mentions about Anaxagoras(500-428 B.C.) who might be the first philosopher condemned for his beliefs in Athens, he believed “a superior intellect had imposed a purposeful order on the physical world.” He deemed traditional gods as mythic images formed by anthropomorphic features. He was saved from the death but exposed to live in exile. (Levy, 1995, P.3) Here one can claim that Anaxagoras’ idea was quite consistent with understanding of God in

monotheistic religions, however since it is not compatible with pagan beliefs he was deemed as a blasphemer. This shows us how different societies have formed criteria under the powerful that leads to various understandings of blasphemy.

In view of Levy, throughout history, states mixed politics and religion in the name of public order which was a tool for maintaining political power. For that reason blasphemy was deemed as “treason against God” (Levy, 1995, P.7) In this sense, holders of political power instrumentalized the charge of blasphemy in order to charge the political disagreements and equate themselves with divine power. Levy describes blasphemy as a ‘unique crime’ due to its controversy and ambiguity, because while blasphemy is regarded as an attack to religion, it might not be deemed as blasphemy by the one who offends. No one could be sure on whether one committed blasphemy until the authority decided:

“In contrast to embezzlement, murder or larceny, whose existence has objective reality, no one knows whether the crime of blasphemy has occurred until a jury returns a verdict of guilty. Even then the culprit is guilty of the crime as a matter of law, though he may never have intended to commit it and after his conviction may still believe that he has not done so.” (Levy, 1995, P.568)

Because of this complexity and negative experience related to blasphemy, Levy emphasizes that fair people should have understood that morality can be practiced without religion, or a religion is able to maintain itself without criminal sanctions.(Levy, 1995, P. 579) Implicitly, Levy leads us to question who decides to name certain speech as blasphemous. Having in mind that blasphemy might be genuinely religious or falsely religious; if a statement defined as blasphemous by an authority, it might be a political act.

3.1.2. The Link Among Criticism, Offensive Speech and Blasphemy

However, the cases that I point out in this paper take place in European societies; secular rules acknowledges blasphemy as a right while some object to this argument by claiming that blasphemy is used to assault to people by means of attacking to

belief. The questions of what is genuinely blasphemous and what is genuinely religious leads us to think about certain facts, for instance; each religion's belief can seem to other religion as an insult, or different doctrines within one religion might seem to affront each other: "Christian trinitarianism seems like an affront to Jewish or Islamic monotheism, while Islam's relegation of Jesus to the status of a mere 'prophet', and Judaism's characterization of him as a deceiver, seem like affronts in the other direction." (Waldron, 2012, P.130) For instance, the belief that Jesus is son of God and 'redeemer of mankind' is defined as not a plausible proposition by many religions and secularists. This challenge might be offensive or blasphemous to the Christian believer. (Waldron, 2012, P.134)

On the other hand, it is argued that most 'prophets' and philosophers were charged with blasphemy when they declared their 'prophethood' or disbelief to their community.⁷ This is the most crucial point; while blasphemy, within the historical experience, was defined as sacrilege to the sacred by different authorities, it can be also defined as a sacrilege to the profane by the ones who hold the dominant ideology of that time. Ultimately, defining something blasphemous turns to be a problematic of whether who holds truth and power.

Instead of defining blasphemy as a question of truth, the word blaspheme is also associated with different words such as outrage, offense, respect, defamation or humiliation in the literature. In the first chapter, I point to the examples of blasphemy cases such as; depicting Muhammad as a terrorist or as a pervert, depicting him as a dog-faced or naming the image of Jesus submerged with urine as piss ('Piss' used as a euphemism for fuck) depicting him as a pig-faced, portraying a Sikh temple in which rape and murder are practiced etc. It is clear that common features are used in these cases; that are associating religion and its founder or its practice or temple with malicious themes such as murder, terror, rape, sexual abuse, or demeaning with certain objects such as urine or by attribution to animal features.

These cases do not take a place under the rule of an organized religion as Levy points out and they are different from the blasphemy used as an instrument to struggle

⁷ This is an idea with respect to the Islamic belief and verses of Quran. Further, Asad exemplifies how Jesus was stigmatized by his community as a blasphemer.

against the injustices as Flores states. In case of Charlie Hebdo and the play about Sikh temple; blasphemy mainly seems as an instrument to represent the religious with malicious themes thus both directly related with the moral character of religious subject, but in case of Piss Christ, it seems to demeaning the religious by calling the Jesus as Piss and submerging it with urine so it does not directly refers to a religious moral characteristic. The general claim of the speakers is that assault to religion does not mean assault to its members, or there is not assault to the religious but merely criticism.

Further, blasphemy cases might refer to truth as well, for instance; we are familiar with violent actions of certain extremist groups, however cartoons associate these actions with the 'prophet's teachings that is why the cartoons are defined as provocative. Either sexual abuse or murder might have realized in a particular temple, or people of clergy might involve in sexual abuse in real life, however portrayal of a temple just with such immoral actions leads to the encoding of the religious with malicious acts.

Since there are different understandings of blasphemy as I summarized, we have to decide in which category of blasphemy that we can place this kind of attributions or portrayal of the religious. For instance, an argument about the irrationality of creationism or whether God is the one or three or whether one is the son of God does not seem to define the moral character of the religious, but association of a religion with malicious themes leads to a description on the moral character of the members of this religion. In this sense, there are differences between blasphemy as theological disagreement and blasphemy as portraying the religious with malicious themes due to the ambivalence on the notion of blasphemy. In this Thesis, I examine the latter one, not the former.

For instance, the word blasphemy in Islamic terminology is defined as the act of denying the existence and oneness of God, the act of rejecting the revelation sent by God, the act of mocking with God's divinity or the act of claiming the attributes of deity instead of God such as; the act of attributing son to God. (url-137) Further, the greatest treatise in the Islamic tradition on blasphemy against the 'Prophet' Muhammad written by Ibn Taymiyya (d. 1328) in *al-Sarim al-maslul*

'ala shatim al-rasul, shows how such speech is a violation of three categories of rights: “*God’s* (since it is opposition to His Messenger and most beloved person, a piercing attack [*ta’n*] on His Book and religion, a piercing attack on His divinity since an attack on the Messenger is an attack on the one who sent him, and thus a denial of God and rejection of His attributes), *the Prophet’s* (since slander is an assault on honor, which Islam protects as a right) and *the Muslim community’s* (since their life, religion and afterlife are all dependent on upholding Muhammad’s religion)”. (March, 2010, P.328) However, in case of the Danish cartoons crisis, the World Union of Muslim Scholars did not use the word blasphemy (*tajdif*) but *isaah* (insult, harm, offense). (Asad et al, 2009, P. 38) However, the Danish and Charlie Hebdo cartoons, or Piss Christ are defined as blasphemy in the English literature.

I will not go into detail about distinct terminological descriptions on blasphemy in different religions; because how blasphemy has functioned “within Muslim religious law and its history” or among other religions poses a “problem of translation”. (Asad et al, 2009, P. 103) Judith Butler points out that such a translation should be done by taking into account different frameworks of moral evaluation. It is not an aim of this paper to cover how blasphemy is defined or functions in each religious understanding or law.

Instead of a question of truth or respect, the debate on blasphemy is also discussed on the question whether one have a right to make criticism of a religion. We have to distinguish whether blasphemy examples that I mentioned here make a criticism of the religious or offend, humiliate and insult to the religious.

English Oxford Dictionary defines criticism in three separate forms: 1) “The expression of disapproval of someone or something on the basis of perceived faults or mistakes”, 2) “The analysis and judgment of the merits and faults of a literary or artistic work”, 3) “The scholarly investigation of literary or historical texts to determine their origin or intended form”. It emphasizes on an analysis, investigation or disapproval. In this sense, it is a question where the criticism is in the cartoons, play or an artwork that we argue.

However, Warburton defends that blasphemy law has no rational justification. Because, if blasphemy law includes all religions, the law would turn to be unenforceable, since all religions' sacred topics and figures are numerous. Besides, non-religious people should have their own beliefs that need to be protected, or there should be a reason why they are treated differently. (Warburton, 2009, P. 46) He asks:

“And what of the difficulty that a monotheist might be offended every time a polytheist mentioned multiple gods and vice versa? Religious, quasi-religious, and many non-religious groups each have a range of sacred objects, places, people, myths, and ideas they cherish. To protect all of these from blasphemous mention would be absurd to try and impossible to achieve.” (Warburton, 2009, P.47)

Warburton does not make any distinction between religions' theoretical teachings and offensive speech and assert that any theoretical claim of any religion such as trinity of Christianity, Islam's deeming of Jesus as a 'prophet' or Judaism's deeming of Jesus as a deceiver is offensive to another believer. Waldron also defines disagreement on theoretical teachings as offensive speech. However, it seems as a significant mistake. On the other hand, Warburton also points to a counterargument about his assumption: “blasphemy law only protected against intemperate or offensive ways of expressing views hostile to” religions. He replies to this argument: even “if it is uttered in the most temperate language”, theoretical disagreements will make religious fundamentalists angry or will be defined as blasphemous or deemed as an incitement to religious hatred. (Warburton, 2009, P.47)

In reply to Warburton, we have to ask that is there any example that any members of religion show reaction against theoretical disagreements of another religion? All the cases that I point out in this paper have no link with theoretical teachings, contrarily, people object to humiliating, defamatory speech directed to their religion. In this sense, we have to determine what offensive speech is, he is not clear what “offensive speech” is.

Further, Warburton adds that defining the ‘temperate’ expression is controversial because, in recent years, parody and humour has been regarded as offensive by religious believers⁸. In view of liberal secularists this is a lack of sense of humour, and interference to people’s freedom to enjoy, since it does not give harm and cannot be interpreted as an incitement to violence.(Warburton, 2009, P. 47) According to Warburton, it is also ambiguous why usage of religious stories is found offensive when they are used in different ways like parody, although ‘secular heroes’ are not exempted from parody: The condition that just religious beliefs are specially protected but not others is strange. So Warburton defends that “all types of belief should be open to scrutiny, criticism, parody, and potentially ridicule in a free society.”

However, he also describes the Danish cartoons as “deliberately provocative” and how most people deemed it as “an immoral taunt with a predictable consequence”. (Warburton, 2009, P.20) In this sense, he seems contradictory about the question of whether cartoons are just humour or targeting something from the real life. Further, he does not mention the intentions of the speakers. He does not explain why he defines the Danish cartoons as provocative and does not distinguish between the offensive and the provocative. He defines the condition of legally prohibiting such a provocation as a question, because this is a general application in certain countries so he asks whether their law should be assumed as immoral or not and whether a democratic society should take care of the calls to restrict the speech which is deemed as offensive by believers. (Warburton, 2009, P. 21) In some respects, Warburton is right, because we do not have a concrete list of what believers find offensive, however he seems to equate theoretical disagreements with defamatory speech on the religious. However, our three blasphemy cases are clear examples of defamation and mostly defined as provocative.

Warburton emphasizes on the benefits of offense, by quoting from Oliver Kamm who finds irrational to avoid of the offence, free speech can hurt people and this is not something bad since knowledge progresses with devastation of wrong ideas, he refers to Richard Posner who says that if a certain lifestyle is challenged, this can lead the holder of this lifestyle to question it. However, such arguments undermine

⁸ He references to the cartoons.

the religious subject, and pose a superiority complex over the religious which is assumed as contrary to the ideas of the speaker.

Warburton points to another counterargument; banning the offence may be justified on the grounds of preventing 'deliberate offensiveness'. According to this argument, deliberate taunts of believers' beliefs should be banned because it does not improve peaceful human relations, and permanent offensive speech might lead to not to be taken seriously of the people who are offended. In his view, this argument poses a problem; people who are defined as blasphemers do not have one motive for their works and their work is interpreted in different meanings, for instance; one might aim to liberate religion, so she criticizes this religion but it can be perceived as offensive by the believers too. (Warburton, 2009, P. 52) Arguments on new and critical interpretations within religion is a discussion among the religious community and theologians too, however these criticisms are not exposed to mass reactions as three blasphemous artifacts has led. Warburton does not make a clear distinction between critical speech and offensive or provocative speech and uses them interchangeably. We need a criterion which distinguishes between mocking, demeaning, defamatory speech and theoretical arguments.

This one way thinking brings us to the fact that blasphemy is not a problem of critical thinking but it aims to impose critical thinking to certain people who are assumed as disabled, and the speaker is assumed to thinking critically. In this sense, main problem seems to originate from the fact that one-sided propagation of negative image of the religious and privileging one interpretation about religious matters that annoy the believers. It seems crucial to introduce the claims of both sides to the audience. Otherwise, permanent circulation of one interpretation about the religious constructs an unjustified ideological superiority. Thus blasphemy turns to be an instrument of the one who is privileged and powerful over the impotent while every group of religious people do not take place in media to represent themselves as they desire or while they do not want to make an attempt to negatively propagate about other groups of a society. In this sense, it is crucial to make distinction between people who use blasphemous speech whether they are the ones who are impotent or the ones who are upheld by media, political authority or artistic arena.

Consequently, it requires to be clarified whether blasphemy is just a problem of religion whose members demand immunity on their beliefs or it is a problem of stigmatization of a certain religious identity and defamation of members of a certain religion that might lead to racism, disadvantages and discriminations on them. We can use the term blasphemy as a negative encoding of certain religion and its believers in the form of hate speech in the public sphere in this paper. But before discussing about blasphemy as hate speech, I want to introduce how free speech and hate speech are defined. In this part, I will indicate to different positions on free speech within the liberal secular idea ranging from the absolutist free speech positions such as certain libertarians to a position in which speech rates are limited with reference to the ideas of hate speech.

3.2. What Is Free Speech?

Its dictionary meaning is “the right to express your opinions publicly”, or “the right to express any opinions without censorship or restraint”. (url-138-9) This is the general definition and it does not point to what opinion is; it is “a thought or belief about something or someone” so opinion is not independent from people who are targeted by the speech, people might agree or disagree with any opinion regardless of whether opinion holds truth or not. One of the human rights organizations; Amnesty International defines free speech as not “the right to say whatever you like about whatever you like, whenever you like” but it is “the right to seek, receive and impart information and ideas of all kinds, by any means”. (url-140) So, free speech operates, as we can infer from this description, by making negotiation of ideas; it is for communication, however this kind of blasphemy seems to hinders this communication rather than flourishing of the ideas.

John Stuart Mill, as a prominent defender of free speech, on *On Liberty*, explains how he values free speech: “If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind”. (Mill, 2001, P.18) He defended the marginal ideas and pointed to the significance of dissenting opinions since they have a potential worth which is the possibility of holding the truth. “[T]he peculiar evil of silencing the expression of an

opinion is, that it is robbing the human race.” (Mill, 2011, P.19) One who aims to prohibit an opinion, will lose in both cases; because, if the idea is right, people are hindered to access truth, if the idea is wrong, people can understand truth in a more efficient way when the wrong idea is refuted by truth. Then, Mill states that “We can never be sure that the opinion we are endeavoring to stifle is a false opinion; and if we were sure, stifling it would be an evil still”. (Mill, 2001, P. 19) People who aim to abolish an opinion are not infallible so they do not have right to decide or judge in the name of whole people. If we apply his idea to case of blasphemy in secular rules and societies; we can ask whether who stifles whom; the marginal ideas in a secular rule might be religious beliefs that are propagated negatively. Further we have to think about prohibiting an opinion, we might not prohibit any opinion but we can try to assimilate opposing opinions by propagating defamatory views about it and this is something depending on holding power. However Mill does not mention about the effect of power relations on opinion in detail.

He emphasizes that nobody should assume herself as infallible:

“All silencing of discussion is an assumption of infallibility...for while every one well knows himself to be fallible, few... admit the supposition that any opinion, of which they feel very certain, may be one of the examples of the error... Absolute princes, or others who are accustomed to unlimited deference, usually feel this complete confidence in their own opinions on nearly all subjects...There is no such thing as absolute certainty, but there is assurance sufficient for the purposes of human life”.(Mill, 2001, P. 19-21)

Accordingly, in order to guide our behavior we assume that our opinion is right, but Mill also clearly condemns one's feeling of a limitless trust to herself. (Mill, 2001, P.21) He defines the greatest claim of infallibility when a public authority assumes to be infallible by claiming to prohibit the ‘propagation of error’. (Mill, 2001, P.20) This seems partly a similar method of people who use insulting speech on the religious, although they do not prohibit religious opinion, continuous demeaning might function as silencing the religious which is assumed to be an error. Three blasphemy cases portraying the religious with malicious themes pointed out in this

paper, might be defined as an example of insisting propagation without listening as a kind of assumption of infallibility.

He opposes to censorship and defines the objection against freedom of opinion as “mischief of denying a hearing to opinions” which we denounce them in our judgment:

“Let the opinions impugned be the belief in a God and in a future state, or any of the commonly received doctrines of morality. To fight the battle on such ground gives a great advantage to an unfair antagonist; since he will be sure to say (and many who have no desire to be unfair will say it internally), Are these the doctrines which you do not deem sufficiently certain to be taken under the protection of law? Is the belief in a God one of the opinions to feel sure of which you hold to be assuming infallibility? But I must be permitted to observe, that it is not the feeling sure of a doctrine (be it what it may) which I call an assumption of infallibility. It is the undertaking to decide that question for others, without allowing them to hear what can be said on the contrary side.”(Mill, 2001, P. 24)

Mill condemns such kind of quiescing, and when one, as a strategy of defence, hinders the opinion from being heard with the alibi of “falsity” or “pernicious consequences” or “the immorality and impiety of an opinion”, he attributes himself ‘infallibility’. A religious belief might be fallible too. When one defines an opinion as immoral and impious, this does not make this opinion right or infallible. Contrary, the alibi of immoral or impious is the most dangerous, since many eminent people and precious doctrines were murdered by these alibis. (Mill, 2001, P. 25)

The great deed for the humanity that one person can provide is to prove that humanity is mistaken on a vital issue which has material or spiritual significance. But such people who provided great benefits for humanity were behaved ‘as the vilest of criminals’ and rewarded with martyrdom. (Mill, 2001, P.28) Mill clearly opposes any censorship of speech and states that social intolerance just leads people to hide their opinion or be careful on propagating their opinion, but cannot eradicate opinion. (Mill, 2001, P.31) Intolerance makes a society who compromises with stereotyped

ideas and heretical opinions cannot be argued in its exact sense. (Mill, 2001, P. 32) In view of Mill, freedom to oppose an orthodox opinion is an intellectual and progressive action. If we apply Mill's ideas to a society in secular rule, we can claim that the religious has transformed into the heretical one, and non-religious thought has turned to be the orthodox opinion in some sense and if the religious is prevalently stigmatized with malicious or demeaning themes, how such stigmatization will impact on people's life in terms of discrimination or violence.

But Mill also points to power relations to think about speech that the opinions which are contrary to opinions whose truth is acknowledged by almost everyone can be heard if they use moderate speech, if they do not use moderate language, they can be oppressed easily. But the violent language of supporters of dominant opinion hinders people to disclose their opposite opinions. In this sense, in order to provide truth and justice, Mill defends not to use the 'vituperative language'; "for example, if it were necessary to choose, there would be much more need to discourage offensive attacks on infidelity than on religion". (Mill, 2001, P. 51) Mill's this suggestion is very important, we can apply similar conditions to blasphemy cases in secular rules; we can prefer to discourage offensive attacks on religion rather than infidelity. However, Mill adds that law or authority should not have a duty to restrict either languages. However, in view of Warburton, Mill's harm principle does not envision offense as harmful since every different life style or thinking model might be deemed as offensive to each other. (Warburton, 2008, P.2) But, I think, this poses some questions whether how Mill would evaluate the racist speech.

Further, Mill defends that merely offensive acts should not be prohibited and intervention can just take place in case of harm, but he also states that some harmless acts in private should not be practiced in public (eg.sexual acts), in this sense, Warburton finds Mill inconsistent. I think, offensive speech or harm by speech are argued with respect to whether it should be prohibited or not, but it is not argued in terms of moral limits, and defamatory and insulting speech's consequences in the long term are not pointed out.

Mill states that there is a great distinction between assuming an opinion as right since it could not be refuted although there is opportunity to refute, and assuming an

opinion as right by hindering its rejection. The only criteria to assume an opinion as right is that people should be free to say the contrary of what we say and be free to prove its falsity. (Mill, 2001, P. 21) If an opinion is argued in each different perspective, people will feel a more trust for the truth of this opinion. (Mill, 2001, P. 22) In this sense, we have to think whether people who oppose to defamatory speech on the religious have sufficient opportunities to prove its falsity, if the claim of a blasphemous artifact is an historically untenable issue what could be done? It is also another question whether insulting speech is argued in many perspectives while it is insistently propagated, and when calumny is put into practice, whether it is easy to get rid of its negative propagation.

In view of Mill, most eminent people in the past have adopted opinions that are deemed as mistaken now. If people are limited by other people's interferences, they cannot fulfill themselves. People should be free to commit a foul and they should not be imposed how they should live. This idea of Mill can lead us to think about the stance of blasphemers whether they impose a certain kind of thinking and life style.⁹ On the other hand, according to Mill, the limits of individual freedom depend on people's "maturity of their faculties." (Mill, 2001, P. 14) Although he is against paternalism which is to enforce someone "for their own good", it is suitable for children or "those backward states of society in which the race itself may be considered in its nonage", but such enforcing is not appropriate for the civilized people. (Mill, 2001, P. 14) Such people should be permitted to determine their own actions or style of living. This distinction of Mill can easily turn to be an oppressive instrument over the people who are regarded as uncivilized; for instance blasphemy can be defined as enforcing people for their own good as the cartoonists or artists assume themselves to do this. Thus blasphemy might turn to be an instrument of paternalism although Mill objects and favors it in a contrary way that is against freedom. For instance, the artist of Piss Christ explained his reason to blaspheme in order to draw attention to how Christianity was turned into a part of consumption culture, chief editor of Biard also acknowledged their reason of blasphemy is that Muslim minority has not integrated to European culture. Like Mill, they defend both

⁹ Reminding: Charlie Hebdo editor Gérard Biard stated they mock Islam because Muslims do not integrate to European society.

free speech and call people into their understanding of good and lifestyle by vituperative language as coercion.

Further, Mill states that freedom of action is defined as “absence of external impediments on an agent’s doing what he wants to do”. (Smith, 2012, P. 240) But he also seems to favor ‘the informal and diffuse sanctions of public opinion’. (Smith, 2012, P. 241) G.W. Smith criticizes Mill’s belief that human nature can be educated since this view is contradictory with the liberal idea, and claims that he never succeeded to make clear the complexity of the notion of freedom. (Smith, 2012, P.258) Hence, Smith defines Mill as ‘fundamentally orthodox’, although it is contradictory with his liberalism and generally defined as a negative libertarian, having an ‘empiricist and negative concept of liberty’. Warburton also does not define Mill as absolutist in his conception of freedom, since he envisioned that society cannot be maintained without certain restrictions, however the problem is that he seems ambiguous on drawing this line between absolute freedom and necessary restrictions. (Warburton, 2008, P.1)

Another criticism on Mill’s ideas; his arguments just depend on the truth or falsehood of statements. And this requires an academic discussion environment in which ideas are debated thus the truth is tried to get closer. However human life is not same with academic discussion environment. (Warburton, 2009, P. 31) In other words, Warburton defends that regardless of its truth, people should be free to disclose their opinions. However, in case of religion; he states that speech is debated on the questions of respect and disrespect, not on the questions of truth and falsehood; a religious community deems certain depictions or writings related to their holy beliefs as blasphemous, but the non-religious groups do not hold the same holy beliefs, and this is not a question of truth but it is the question whether there should be topics which are banned zone for non-religious writers, cartoonists, artists etc. Warburton states that Mill was also insensitive to the so called holiness of certain symbols since they hinder free expression since it does not respect to such symbols. Warburton is quite mistaken on this idea, because issue of blasphemy cannot be reduced to a question of respect, even there are laws of blasphemous libel, and there are religious objections which define blasphemy as a libel to religious truth. For instance, arguing about whether a ‘prophet’ is terrorist/pedophile might be a question of truth rather

than a question of respect. Further, another limitation to Mill; arguments about the pornographic images are not discussions of “the truth or falsehood of what is depicted”. Warburton exemplifies that obscene videos take criticism by some feminists since the videos lead to a message that every women demand sexual submission that leads to rape, so adapting Mill’s position in such a condition does not seem possible. (Warburton, 2009, P. 38) As far as I observe, In Mill’s position, we do not see a detailed evaluation on whether how calumny by speech affects human relationships, and the conditions of tolerance.

3.2.1. Mill’s Harm Principle And Its Relationship To Free Speech

Mill’s harm principle is a significant notion as an obstacle to unlimited freedom. Harm principle is related with Mill’s utilitarian understanding: the determining thing on what is morally right is what provides happiness, and since he is an empiricist, truth can be discovered by experiment and if individual has opportunity to follow their interests, a society can improve itself; but censorship on speech decrease happiness and improvement. (Warburton, 2008, P. 1) However, Mill does not mention that insulting speech on a group of people might decrease people’s motivation, happiness and social improvement too. In view of Mill, just in one case an individual can be exposed to force even if it is against his will, this case is “to prevent harm to others”. (Mill, 2001, P.13) But it is not psychological or economic harm, just physical harm since Mill does not regard psychological harms as genuine harms. (Warburton, 2009, P.66) However, today many writers state that psychological harms might be harmful as much as physical ones. (Warburton, 2009, P. 22) But it is difficult to put empirical proof for psychological harms, so Warburton asks: “when is psychological harm of sufficient severity to merit it trumping rights to free speech?” Further, on physical harm, Mill does not put any threshold for harm when prohibition can be justified. (Warburton, 2008, P. 4) G.W. Smith shares similar idea with Warburton, asks that “how we can know how far Mill wishes people to be left free if we are given no sure guidance about what is to count as harming others?” (Smith, 2012, P. 240) Contrary to Mill’s ambiguity on incitement to violence by speech, Wojciech Sadurski points to the intention of the speech; if the speaker aims to provoke the victim to an ‘angry reaction’, the speech turns to be “a part of violent conduct”. (Sadurski, 1999, P.200) Accordingly, if there is a danger for a violent

reaction in reply to insulting speech, the speech itself is responsible for a possible violent act.

David Dyzenhaus approves that Mill does not make any distinction between speech and action such that speech is not able to lead to harmful action to others so cannot lead to coercive action.

He states that Mill did not envision that truth will come into being just by 'free critical discussion' but sometimes by coercion. Accordingly, Mill is not absolutist in his idea of free speech, contrary to the general idea. (Dyzenhaus, 1997, P.45) This also shows the ambiguity on Mill's idea of individual autonomy and free speech.

Conversely, David van Mill claims that Mill has meant by harm to violate one's rights, and since it is hard to assert that most speech leads to harm, limits on speech will be quite limited. And this issue of violation of rights is the exception to free speech in view of most liberals. If we diagnose which sorts of speech leads to harm, we can decide the proper limits for free speech. Mill exemplifies it by referring to corn dealers, expressing that they are starvers of poor people or 'private property is robbery' via press is acceptable, but when it is expressed orally to an angry group gathered before the home of a corn-dealer or when it is delivered among this angry group as placards, it can be punished. The distinction between two is that the latter is a statement "such as to constitute...a positive instigation to some mischievous act," since it can even result in loss of life of a corn-dealer. (Mill, 2001, P.52) However, Mill does not allow restriction to speech just because one is harmed by certain expressions. David van Mill exemplifies that the corn-dealer might be exposed to financial trouble because of accusations, but in Mill's terms, real harm by speech can only be restricted in case of 'direct and clear violation of rights'. David van Mill adds that Mill's harm principle can include libel laws, blackmail or propagating hard false assertions about commercial products. In this sense, it is a question whether harm principle may apply when defamatory speech directed to a religious community, the example of corn-dealers indicates that while Mill would deny that blasphemy could incur punishment or prohibition, this is not to say that blasphemy should not be subject to any regulation at all. But as David van Mill puts, most liberal countries have restrictions on hate speech, however it is controversial whether they are proper with Mill's harm principle since it should be proved that hate speech invaded the

rights. And it is a question whether we can extend the harm principle 'from the physical to the mental realm' to restrict hate speech and violent pornography.

In his own account, Warburton admits that some expressions lead to harmful results; sometimes other things have to be prioritized rather than free speech such as; threat to national security, preventing other killings or a possibility endangering children. Certain expressions can lead to injury, detrimental public information or uncover a private issue. So it is not a complete free area, there are certain risks and problems. For instance, without any real reason, shouting "fire" in a crowded theatre can lead to injuries or deaths so free speech should not include such kind of freedom that condition is called as "clear and present danger" which is able to restrict the free speech. (Warburton, 2009, P.9) On the other hand, Warburton states that "framing the exceptions" for the principle of free speech is not easy because "consistent application of the principle doesn't permit less desirable censorship". He also deems the fear as reasonable that any tolerated censorship leads to future censorships easily. (Warburton, 2009, P. 4) However, he does not mention whether blasphemy itself functions as a kind of censorship in the form of mockery or degradation impact on social relations in a negative way or polarizing way which might lead to violence and discrimination.

Another different perspective by Gerald Dworkin who interprets Mill's harm principle in terms of state intervention, it is believed that state should not hinder people to harm themselves or make others virtuous or not intervene when some people deem themselves as offended by other's doing or speech. (Dworkin, 1997, P. Xi) However, in view of Dworkin, Mill did not also envision a neutral state, state might take into consideration the 'nature of its citizens' character'.

"It would be a great misunderstanding of this doctrine to suppose that it is one of selfish indifference, which pretends that human beings have no business with each other's conduct in life, and that they should not concern themselves about the well-doing or well-being of one another, unless their own interest is involved. Instead of any diminution, there is need of a great increase of disinterested exertion to promote the good of others. But disinterested benevolence can find other instruments to persuade people to their good than

whips and scourges, either of the literal or the metaphorical sort.” (Mill, 2001, P. 70)

Dworkin defines this kind of permission to coercion as the only disregarded point in Mill’s thought. (Dworkin, 1997, P. Xii) But also we know that Mill rejects to coerce people to improve, that seems very contradictory. While Mill opposes any imposition and favors neutral state, he also calls for to be interested in people’s conduct in life.

On the other hand, George Kateb objects to prohibition of speech due to its harm, since we can diagnose many harms in political speech: “Think of the constant stream of outright political lies, distortions, evasions, hypocrisies; they are the primary stuff of free political expression as we receive it in the media, because of the political class or because of the very nature of the media”. (Kateb, 1996, P. 226) When we compare political and religious speech we need to be careful about the relationship between the powerful and impotent although Kateb does not point to it. Further, we might not deem the political and religious identity as same, while the latter represents the moral character of one, the former represents the struggle over power and matters related society, economics etc. Also, religious identity might be more observable than political choice, we can see people who are discriminated because of religious or racial belonging, but political belonging is more concealable so less exposed to discrimination. We have to distinguish whether political or religious speech violates the rights.

Criticism on government policy is one of the key arguments of defenders of free speech as Warburton put, however he does not mention about when blasphemy is instrumentalized by political power. Karl Marx claims that liberal rights preserve the interests of individualistic bourgeoisie not the interests of humanity, but Warburton disagrees with him; announcing a right for “extensive” free speech does not lead to the protection of the speech of certain groups who holds the economic/political power. (Warburton, 2009, P. 3) However, at least, we can say that liberal rights does not prevent the unequal and unjust hierarchy of opportunity for speech, people who hold the power always have more opportunity to impose their ideas or beliefs. This is why our evaluation of blasphemy should take into consideration whether it is produced by the powerful or impotent.

Besides, Marxist thinker Herbert Marcuse, in 'Repressive Tolerance' defends that the absence of censorship does not ensure that freedom will be realized in a beneficial style. If most people have been directed by biased information by certain groups who own the media, free speech can transform into an instrument legitimizing the interests of the powerful and this kind of manipulation looks like a censorship in a non-democratic society. (Warburton, 2009, P.8) Marcuse's idea is crucial to understand how the powerful can dominate our viewpoint or how blasphemy can function as domination on certain speeches or as a condemnation of a certain moral belonging or lifestyle. While blasphemy is generally taken as a victim of censor, by excluding and demeaning certain religion and its moral framework, it can function as a kind of censor in the form of negative representation of certain viewpoints on a certain identity.

Nigel Warburton, in his book *Free Speech: A very Short Introduction*, although he defines the exact practice of free speech principle as "defending vigorously even when you hate what is being spoken" as a necessity of democracy, human rights and "a mark of civilized and tolerant society.", (Warburton, 2009, P.1) he points to many legal systems which adopt extensive free speech principles restrict speech in certain conditions such as; disclosure of state secrets, or endangering of a fair trial, or a severe interference into someone's private life, a copyright infringement, or misleading advertising, or pornography. (Warburton, 2009, P.12) In this sense, while supporters of free speech acknowledge drawing a line at some point, "This line drawing, when subjected to close scrutiny, is rarely completely consistent since it involves resisting very strong pre-existing intuitions for most of us". (Warburton, 2009, P. 72) He assumes that restricting speech is based on our intuitions rather than use of conscious rational processes. Warburton is not an absolute defender of free speech, but he is also very ambiguous on how we can determine the limits of this non-absoluteness. This idea of him approves Asad's claim that there is not a consistent method to restrict the speech.

Contrary to Mill, Warburton and Kateb, Stanley Fish defends restrictions on hate speech even if it does not lead to harm since it is not proper to democratic values(url-141): "...the risk of not attending to hate speech is greater than the risk that by

regulating it we will deprive ourselves of valuable voices and insights or slide down the slippery slope towards tyranny. This is a judgment for which I can offer reasons but no guarantees”. (Fish, 1994, 115) In other words, he states that uttering hate speech might be more harmful than the risk of our deprivation of hearing different ideas.

Fish suggests that rather than forming strict rules for speech, we can create a consensus which does not completely ignore certain values. This is shortly mentioned by Warburton too, however he ultimately decided that when we try to protect certain values instead of speech, this might easily lead to censorship. But Fish says that while we are arguing on free speech, speech is “not an independent value but a political prize” among different competing values and we make choice between value of speech and ‘value of privacy, security, equality, or the prevention of harm’. Because we have to evaluate “what are the risks and gains of alternative courses of action”. (Fish, 1994, P. 111). In view of David van Mill, Mill also approves such a rivalry, he puts it between the power and freedom; we cannot have freedom without authority (url-142):

All that makes existence valuable to anyone depends on the enforcement of restraints upon the actions of other people. Some rules of conduct, therefore, must be imposed—by law in the first place, and by opinion on many things which are not fit subjects for the operation of law. (Mill, 2001, P. 9)

We have to also ask whether speech improve or distort our basic values: “If you don't ask this question, or some version of it, but just say that speech is speech and that's it, you are mystifying—presenting as an arbitrary and untheorized fiat—a policy that will seem whimsical or worse to those whose interests it harms or dismisses” (Fish, 1994, P. 123). So, there should be reasons to speech instead of unrestricted free speech. Determinants on whether speech should be unprotected are political and open to manipulation of ideological exclusion. (Fish, 1994, P.116).

On the other side, there are absolutist approaches to freedom of speech. One of them is Ronald Dworkin's legitimacy argument: a government without “extensive” freedom of speech is not legitimate or democratic. Dworkin states that laws are not legitimate if they are not formed by means of democratic process, so government should not hinder certain people from disclosing their opinions (even hate speech) on

the formation of laws and policies. In a democracy there is not a right not to be insulted or offended for oneself, regardless of the powerful or impotent. Dworkin deems this principle as crucial in case of struggle for racial and ethnic fairness. If vulnerable minorities demand to be protected from economic or legal discrimination by law, they should tolerate any insult or ridicule for public debate, and tolerate those people who object to such law against discrimination, thus they can have legitimate laws. Because, these people have right to express their opposition as fellow voters. Otherwise restriction to hate speech undermines the legitimacy of anti-discrimination laws by hindering people to support discrimination. People have right to express their opinions "out of a compelling desire that truth be known, justice served, and the good secured". (Dworkin, 1999, P. 200)

But he also opposes to discrimination: "We must protect them against unfairness and inequality in employment or education or housing or the criminal process, for example, and we may adopt laws to achieve that protection." (Dworkin, 2009, P. viii) But he defends that even hate speech leads to violence or discrimination, government should not prohibit speech. Because, citizens can show respect or contempt to each other, but government cannot make discrimination against citizens. Dworkin also states that speech "may be overridden in special cases; in deciding, for example, how far military information may be censored". (Dworkin, 1992, P.57) This indicates that Dworkin has also exceptions to free speech.

Dworkin links freedom of speech to its good results since it "will do us more good than over the long run" (Dworkin, 1992, P. 56) Fish criticizes him that this will lead that any opinion taken as good will be protected and promoted by 'a regime of free speech', - this good can be defined as 'discovery of truth, or the realization of individual cognitive potential, or the facilitation of democratic process'- means that a certain kind of speech will overthrow it instead of promoting it. Because "free speech is not identical with the good but is in the service of the good; it is not a prime but a subordinate value, and when its claims conflict with those of its superior, it must give way." (Fish, 1994, P. 14) Fish states that most liberals and Dworkin instrumentalizes speech by this 'consequentialist justification'. In view of Fish, speech cannot have a nonconsequentialist justification. Since protection or prohibition of speech is consequentialist, free speech "is just the name we give to verbal behavior that serves

the substantive agendas we wish to advance", depended on our ideology. (Fish, 1994, P. 102- 19) Therefore, "it makes perfect sense to desire the silencing of beliefs inimical to yours, because if you do not so desire, it would be an indication that you did not believe in your beliefs." (ibid, P. 118). We can say that instead of seeking for truth, free speech is used to pose one's opinion in the hierarchical order of communication.

In reply to Dworkin's argument, Waldron suggests protecting minorities that "perhaps we should be less solicitous of political legitimacy when we decide how to deal legislatively with the harm inflicted on the dignity of minority members by the public expression of these outlier views". He is wary on when the legislation of speech is open to public debate, racists can gain authority. When hatemongers are allowed to express their opinions in public debate, people will be divided as members of a majority and a minority, and hatemongers have the possibility to "persuade the majority of the truth of their position". (Waldron, 2012, P. 196) So he suggests we have to think about matters related to race and how we can hinder "minority groups to bear the costs of such humiliating attacks on their social standing". (Waldron, 2012, P.197)

We can also object Dworkin's ideas in such a way: he behaves two different categories as they are equal, on the one hand, the person utter hate speech and so she is happy that she shared what he thinks in fact, in the other, one is exposed to hatred and sad, angry and wary about her social status. And Dworkin equates these two senses as if they are same, when we think about Mill's crucial emphasis on individual happiness as a necessity of improvement throughout pursuit of individual interests, it is a question how we should evaluate individual unhappiness led by hate speech that might discourage people's improvement.

Instead of Dworkin, another absolutist defender of free speech Jason Brennan, in his book *Libertarianism* describes what libertarians think about free speech:

"Libertarians believe that everyone is sovereign over herself. How we lead our lives is up to us, so long as we respect other's rights. We are free to make stupid, imprudent, or even immoral decisions.. to mock and deride religion...

In a free society, everyone has the right to offend others.. Giving everyone a right never to be offended might seem like a recipe for good community and fellow-feeling. Not so. It makes each person's sense of indignation a weapon.” (Brennan, 2012, P. 82)

They adopt that people have right to watch pornography (Instead of child pornography), and should be free to watch films or games that duplicate violence, people should tolerate the speech that support ‘sedition or terrorism’ (eg. You do not have right to kill someone but you have right to say that you have right to kill someone) or mock society's norms. However they also believe that the right to free speech is not a right to say anything at every time and place, for instance it is not a right to ‘commit fraud’, ‘incite a riot’. Thus they seem to reject the relationship between harm and speech, although even Mill, Warburton and others partially admit it. Besides, in view of Brennan, “[d]etermining the exact extent of the right to free speech is philosophically complicated. But...libertarians interpret the right of free speech as having extensive scope and heavy weight”. (Brennan, 2012, P. 84)

The right to free speech should not depend on the criteria whether it is beneficial for society or not. This libertarian view is contradictory with some liberal ideas on speech since it envisions that free speech should be free since it provides benefits for society. They defend that every individual should be free to determine on her life that is “the power to achieve one's ends was important”. (Brennan, 2012, P.27) No one should be forced to behave in a certain way in the name of ‘greater social stability, economic efficiency or better culture’. (Brennan, 2012, P. 1) However, Brennan states that most libertarians still justify why they defend ‘extensive rights to free speech’ with alibi that it leads to good results. (Brennan, 2012, P. 85) He also states that libertarians support “radical freedom, radical peace, radical equality, and radical tolerance”. (Brennan, 2012, P.18) Libertarians are against any governmental restriction and lack of confidence to government. This is one of the distinctions between libertarians and certain liberals who deem government interruption necessary at some conditions such as Mill. (Brennan, 2012, P. 2)

In addition to liberal/libertarian positions to freedom of speech, there are liberal positions based on the arguments of hate speech.

3.3. What Is Hate Speech?

Hate speech is simply defined as “public speech that expresses hate or encourages violence towards a person or group based on something such as race, religion, sex, or sexual orientation.” or “hostile verbal abuse (though the term is sometimes understood to encompass written and non-verbal forms of expression)”. (url-143-4) Many European countries which practice legal regulations to protect ethnic and racial groups in any case to “excite hostility against them or bring them into public contempt” and these countries do not define these regulations as a ‘violation of individual rights’ by depending on Article 20 of the International Covenant on Civil and Political Rights (ICCPR) states that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”. (Waldron, 2012, P. 29) I’m pointing to certain main legal regulations since definition of hate speech and free speech is mostly shaped with reference to legal aspect of the issue, even the moral evaluations on free speech or hate speech point to main legal premises and harms or benefits of restrictions on speech. Further, some argue that hate speech targets the vulnerable members of society such as minorities, but one minority might use hate speech to another minority within the same society too, in this sense defining the framework of hate speech requires a detailed analysis, however, it is a practical reality that people who have place in media or artistic arena can use hate speech in a more efficient and disseminating way and also can create their own limits on hate speech.

Definition of hate speech is generally associated with the harms assumed to be led by it. Mainly three harms of hate speech are envisioned: 1) the harm led by the victim of group vilification. 2) the harm led by ‘vilifiers’ by attacking to the victims of group vilification. 3) the harms realized by speech and offensive statements as a result of vilification. All these might lead to damage to social peace and harmony, as a result “entire society suffers”. (Sadurski, 1999, P.195) Instead of three, there might be other(weaker) harms. It can be claimed that there is just “a harm to the society generally”, not a ‘specific harm’ directed to the victims of racial vilification. But it can be also claimed that publication of an offensive artifact is harmful both for the

victims and society. Hate speech “degrades the standards of everyday life, of civility, of the quality of public discourse.” (ibid, P.195)

Further, context is another determinant on description and judgment of the hate speech: “Racist hate speech and racial discrimination can be defined only in a context-sensitive way, and the relevant context focuses on the place of the victims in the overall pattern of discrimination, stigmatizing and powerlessness.” (ibid, P.197) For instance, racial statements used at members of subjugated groups are different from racial statements used against people who have “comfortable place in their society and in popular culture” (ibid, P.197) Generally, the people targeted by racial vilification are “dispossessed, disempowered” minorities who are humiliated and insulted by “bigots and racists.” (ibid, P.119) In this sense, hate speech is defined as “a mechanism of subordination, reinforcing a historical vertical relationship”. (Matsuda, 1993, P.36) The claims of people who use blasphemous speech; such as; to aim making a religion banal, to make religious community accustomed to defamation of beliefs or to define belief with malicious themes seems to take its power from vertical relationship. So it is crucial to distinguish between blasphemy in a religious rule and in a secular rule.

Reflecting on legal restrictions on hate speech gives us clue on the framework of hate speech; limits lead to “a moral and philosophical dilemma” among certain principles such as freedom versus equality: the former is freedom of speech, the latter is ‘concern about the possible exclusion of victimized groups from mainstream public life’ due to the ‘stereotypes’ or ‘prejudices’ led by hate speech; or another duality is between ‘formal equality’ versus ‘substantive equality’: the former represents the “equal right to speak on matters of public concern regardless of the worth of one’s views”, the latter is the “concern about the dignity of those hurt by offensive speech”; or the other dilemma might be between the respect for majority opinions versus the respect for minority interests. (Sadurski, 1999, P.181) Issue of equal right to speak is a central question to blasphemous speech because one-sided propagation of negative representation of a religion by means of communicative instruments surpasses the targeted group’s arguments who reject the claims made by opponents.

On the other hand, the orthodox libertarian view asserts that “mere offensiveness” or “even a shock to someone’s feelings” is not adequate to restrict the speech seems ignoring ‘the reality of the harm’ led by hate speech. (Sadurski, 1999, P. 182) Liberals generally assume that “speech is not cruelty in most instances, but they know that this assumption is weak as applied to hate speech”. (Massaro, 1991, P.230) Because they also know that intolerance distorts the social circumstances in a liberal society since it is a reality that all people are vulnerable “to the pain of humiliation” as Toni Massaro states. So he criticizes this perspective on hate speech: “liberalism’s ‘vocabulary is least compelling, most paradoxical, and least responsive to real world conditions and actual human experience’”.

On the account of Warburton; hate speech is generally directed at vulnerable people and minorities too. Extreme liberal stance adopts to defend hate speech as ‘an unfortunate possibility’ since it is a political debate in potential. (Warburton, 2009, P. 56) So defenders of extensive free speech have to make choice between freedom and consequences of extreme statements of racism. Further, he states that some hate speech types targeting the religious are easily described as hate speech while some cases cannot be identified. It should be clear ‘acts of extreme insult provocatively delivered’. (Warburton, 2009, P. 55) On the account of this definition, we understand that any artwork cannot be defined as hate speech since its implication is not a clear act, Jeremy Waldron adopts a similar stance that I will extensively point out his ideas in the end of this chapter.

Warburton suggests the extreme toleration as an expected behavior in reply to hate speech. However he also references to Jennifer Horns who defends that extreme liberal stance result in not protecting freedom. But in view of liberals, free speech brings much more gaining than censorship and justification of hate speech law is related with “the question of deliberate provocation”. (Warburton, 2009, P. 57) However, the relationship between speech and action is defined as ambiguous. Whillock proposes that hate speech works to bring out a “symbolic code for violence” which stirs up the feelings of adherents, defames the marginal groups and impose harm on the victims. (Whillock, 1995, P.32) Most people who are targeted by hate speech have very serious fears due to the speech which will transform into

physical violence.¹⁰. In this sense, it is a question whether hate speech is a separate act from speech. Mari Matsuda fortifies this claim that racist speech leads to damage to liberty of the victims. Speech uttered by the powerful hurts the “other”. She defines racist speech as "presenting an idea so historically untenable, so dangerous, and so tied to perpetuation of violence and degradation of the very classes of human beings who are least equipped to respond that it is properly treated as outside the realm of protected discourse." (Matsuda, 1993, P.35)

All these different conceptualizations of free speech enable me to evaluate the subsequent debate in a non-question begging way.

3.4. Is Blasphemy Hate Speech? Moral Inferences From The Legal Sphere

Jeremy Waldron, in *the Harm in Hate Speech*, defines hate speech, as a legal scholar, he mainly argues to make ‘a characterization of hate speech laws’. (Waldron, 2012, P. 12) Although he defines blasphemy as an offense and envisions no legal sanction, he defines it as “a question of judgment” since it is ambiguous whether assault to a belief is an assault to believers. His reasoning on whether hate speech should be prohibited or which kind of speech should not be prohibited provides us the moral background to understand the issue of blasphemy.

Waldron defines hate speech: “publications which express profound disrespect, hatred, and vilification for the members of minority groups” and ‘calculated affront to the dignity of vulnerable members of society’. (Waldron, 2012, P. 27) Two characteristics of it: 1) Hate speech undermines the ‘public good of inclusiveness’ by posing that some people are “not worthy of equal citizenship”. (Waldron, 2012, P. 4) Each individual should be sure not to be exposed to ‘hostility, violence, discrimination, or exclusion by others.’ This leads to a sense of security in which public good of society comes into being. (ibid, P. 4) 2) It also undermines ‘dignity’ or ‘social standing’ that is not honor or esteem but “person’s basic entitlement to be regarded as a member of society in good standing” and the fair share from ‘society’s

¹⁰ M. Sherry refers to G.P.Mallon’s paper; “Sticks and Stones Can Break Your Bones: Verbal Harassment and Physical Violence in the Lives of Gay and Lesbian Youth in Child Welfare Settings”, 2001, Journal of Gay and Lesbian Social Services, Vol.13, No. 1-2, pp.63-81.

protection and concern'. Hate speech tarnishes their reputation by referring to race, ethnicity or religion. (ibid, P. 6)

Waldron makes a distinction between assault to dignity and offense to a person. He defends the idea that (hate) speech which targets the dignity of vulnerable people should be illegal. However, offense to a person should not be legally penalized. Because a person who assaults to one's dignity aims to lead to some psychological effects among minority by bringing out "a traumatic sense of not being trusted, not being respected, not being perceived as worthy of ordinary citizenship, a sense of being always vulnerable to discriminatory and humiliating exclusions and insults." (ibid, P. 107) However, offense has wounding impacts on feelings or sensitivities "to be displeasing or disagreeable to; to vex, annoy, displease, anger; (now esp.) to excite a feeling of personal upset, resentment, annoyance, or disgust in (someone)". (ibid, P. 107) However, Waldron also admits that there is a psychological complexity since both assault to dignity and offense lead to similar emotions, so he does not want to make sharp lines because of this complexity. But, Waldron emphasizes that he identifies which speech influence "the dignity of members of vulnerable minorities" not which speech impacts on the feelings of victims, law decides according to the former. (ibid, P. 113) This means that if hate speech does not impact on minorities' 'public good of assurance' and fair share within society, it is defined as offense not hate speech.

Further, Waldron distinguishes the case of religiously hate speech, because it is more difficult to make distinction between "offending people and assaulting their dignity" on it. Because, 'religious hatred' or blasphemous libel can be an assault to believers or belief itself. In view of Waldron, if we distinguish between assault to dignity and assault to belief, diagnosis of religiously hate speech will be easy: We make a distinction between 'the respect' assigned to a citizen and the 'disagreement' on one's social or political opinions. (ibid, P. 120) The idea of religious freedom is based on this distinction. Laws against religiously hate speech can be practiced according to this distinction. (Even if hate speech legislation generally ensures the protection of individuals, not groups)

Waldron points to another complexity: “verbal confusion”: “Religious defamation” that is understood as “defaming the religion or its founder, and not just defaming its adherents”. In view of Waldron, individual members are defamed throughout “group characteristics” and these individuals should be protected against it although it is difficult to distinguish the individual and group when the attack is based on “a group characteristic”. However, any assault to a ‘prophet’ or to a belief does not always mean to decrease the believers’ social standing, or decrease the respect accorded to believers as citizens: “that doesn’t mean that the prophet Muhammad is to be protected against defamation or the creedal beliefs of the group. The civic dignity of the members of a group stands separately from the status of their beliefs, however offensive an attack upon the prophet or even upon the Koran may seem”. (ibid, P. 123)

However, Waldron defends that hate speech laws should protect religious subjects but not the religion or its ‘prophet’. For instance, in case of Andres Serrano’s *Piss Christ*, although people may feel certain emotion of hurt, outrage, offense or hurt, the artwork should not be legally penalized because “the primary concern in the hate speech case is with the assault on dignity and the public good of assurance.”.(ibid, P. 115) In my view, Waldron is not clear on why *Piss Christ* is not an assault to dignity but just offense, one reason might be that Christian community is not the minority but majority in the countries where *Piss Christ* was exhibited since he mainly links dignity to vulnerable people’s social standing. Another reason might be that the artifact does not make a clear speech on Christian community or its moral character contrary to the cases of *Charlie Hebdo* or *Behzti*.

On the Danish Cartoons case; by depicting the ‘prophet’ Muhammad as “a bomb-throwing terrorist”, although defenders of blasphemy define it as “a critique of Islam”, contrarily, they make a “connection between the prophet’s teaching and the more violent aspects of modern jihadism”. “They would come close to a libel on Muslims if they were calculated to suggest that most followers of Islam support political and religious violence.” (P.125) He points to a scholar who states, “[c]artoons that associate the prophet Muhammad with terror ... tend to reduce the social status of Muslim identity as they enforce a negative stigma, according to which terror is part and parcel of Islam.”(ibid, P. 125) Therefore, “it might be a

question of judgment whether this was an attack on Danish Muslims as well as an attack on Muhammad” in view of Waldron. (ibid, P. 126) He defines reproduction of the Danish cartoons as “foul in the self-righteousness”. Defenders of cartoons define them as their right, but this is an “unnecessary and offensive” right, however he defends no legal action in such case because “offensiveness by itself is not a good reason for legal regulation”. (ibid, P. 126)

Waldron rejects the claim that cartoons are just a criticism of Islam, he defines the intention of cartoons as linking the modern jihadist terrorism to ‘prophet’s teaching. He leaves a question mark on whether cartoons might have negatively affected the social standing of Muslims. He defines the statement “Muslims are terrorist” as a group libel that should be legally prohibited, however, in view of him, it is not a group libel when a cartoon depicts the ‘prophet’ Muhammad as a terrorist. However, ‘Prophet’s teaching is what all Muslims have to adopt as a moral way of life. We can apply similar logic in case of Behzti which also portrays the religious with abusive acts such as rape or murder.

On the question of whether assault to belief is assault to believers, Waldron does not mention about the intentions of blasphemers, some speak out that they also target the religious subjects while assaulting to the ‘prophet’ or Islam. One Charlie Hebdo editor admitted that Muslims deserve caustic language since they do not integrate into European culture. How would Waldron analyze statements of this editor who discloses their assault on the believers? These statements can be defined as a hate speech against believers with respect to Waldron’s definition.

Waldron seems as contradicting with himself, on the one hand he emphasizes that assault to dignity (social standing) should be prosecuted, on the other, he says; it is not clear that Danish cartoons is an attack to Muslims, but he does not prove that cartoons do not give harm to the dignity of Muslims while they complain from disadvantages in the public sphere or in workplace or difficulties in getting educational or job opportunities. Not only the cartoons, but violent reactions given to them by extremists negatively affect the dignity of Muslims too.

Besides, he claims to make distinction between assault to belief (opinions) and respect to dignity (believer as a citizen). Waldron makes a false similitude between belief and opinion. In fact, an opinion does not have to be related with our moral actions, however beliefs define which acts are moral to believer. A religion or belief, rather than an opinion, represent a certain life style and moral principles/acts which are represented in the morality of the 'prophet', for instance; the meaning of Muslim is the one who adopts Islam, although Muslims show certain differences in practicing Islam, therefore it is not easy to distinguish between the believers and belief.

Waldron mainly constructs his idea of speech on the condition of minority status. However, there are other factors that should be taken into consideration. Sadurski points to the place of speech, such as workplaces or universities which are defined as in need of more protection against racial vilification/hate speech since there is hierarchy and subordination in these places that people cannot easily avoid themselves from the message or cannot object to it, called as "captive audience" in legal terminology. Working is a necessary activity so it is not a solution to tell to people that you can go another place. (Sadurski, 1999, P.183) Further, insulting or humiliating speech may lead to "overall loss of an employee's morale". Sadurski defends that an employer should have the right on prohibitions on speech more than a legislator who regulates a prohibition for an entire society. Similarly, in case of university, some defends the idea that hate speech should be prohibited since it negatively influences the academic success and social integration. Nevertheless, there are theses that universities are places for the search of truth, so hate speech should be tolerated. (ibid, P.184) The context of speech and conditions of audience are important determinants on acceptable speech. Therefore, putting the condition of minority as the only criteria for defining hate speech does not seem plausible. We need a more extensive definition of hate speech without limiting it to minorities, because it is a question whether it is moral to expose people to hate speech even they have 'public good of assurance' from society. Enlightenment philosophers partially point to such an extensive definition of hate speech.

3.4.1. Hate Speech In The Enlightenment: Concerns Within The Moral Sphere

Waldron also examines religious hate speech/calumny as a threat to religious toleration in the Enlightenment. Philosophers; Locke, Voltaire, Diderot and Bayle emphasized on religious toleration with respect to the legal sanctions and physical coercion in the name of religion. The main idea was that not only violence and coercion on religious grounds but also “execration”, religious insult, expressions of hatred should be avoided in a tolerant society since citizen is bound to “a duty nondiscrimination on religious grounds”. People should get along with civility and respect to each other in spite of their religious difference. (Waldron, 2012, P.207) As it is clear, enlightenment philosophers wrote on religious toleration under religious rules, but we can apply their ideas in the cases of blasphemy as an example of intolerance under secular authorities and societies.

Regardless of people’s faith, John Locke envisioned a duty of “charity, bounty, and liberality” as a necessity of “natural fellowship” that bounds all people to each other. (ibid, P.208) Locke defines an intolerant society with the notions of “anger and uproar” led by church authority, and “endless hatreds” among religious groups. In case of excommunication, he suggests adopting the idea of “No rough usage of word or action”. He envisions that even if assault to people’s honor or dignity might lead to promote religion, he does not support coercion. (ibid, P. 212) Waldron portrays three ideas hold by Locke; 1) Hateful expressions and vilifications are feature of intolerant society not tolerant. 2) The duty to avoid from rough utterings since it might have malicious effect on one’s honor or estate. 3) The duty of toleration is connected to other duties such as “charity, civility, and good fellowship” (ibid, P. 213)

[N]o private person has any right in any manner to prejudice another person in his civil enjoyments because he is of another church or religion. All the rights and franchises that belong to him as a man, or as a denizen, are inviolably to be preserved to him. These are not the business of religion. No violence nor injury is to be offered him, whether he be Christian or Pagan. Nay, we must not content ourselves with the narrow measures of bare justice;

charity, bounty, and liberality must be added to it. This the Gospel enjoins, this reason directs, and this that natural fellowship we are born into requires of us. (ibid, P. 213-4)

In view of Locke, people holding different beliefs should not be injured, he also states that basic justice is not sufficient, there should be liberality and kindness as necessity of natural fellowship. We can deploy his understanding in case of three blasphemous artifacts against religious community under secular authority. Further, this definition of Locke is partly contradictory with Waldron's viewpoint since he defines offensive speech as permissible while Locke defines offensiveness as a violation of natural fellowship and of liberality.

Locke mentions about the duty to keep "love and charity in the diversity of contrary opinions," in order to create "an effectual forbearance and good will." (ibid, P. 214) He also points out that nobody should not be blocked from civil rights given by commonwealth: "[I]f we may openly speak the truth,...as becomes one man to another, neither Pagan nor Mahometan, nor Jew, ought to be excluded from the civil rights of the commonwealth because of his religion." (ibid, P. 232) However, this civil rights issue needs to be argued in detail in respect to its relationship to speech and we have to think that hierarchical representation of different communities or thinking models in the public sphere and media is an important factor on the cases of blasphemy; while image of the religious is portrayed negatively, portrayal of the non-religious is positive.

Pierre Bayle, like Locke, defends that tolerant society should be free of vilification of clergy people. Bayle defines tolerant society as a "marketplace" of different ideas and voices. Voltaire defends a similar position on tolerant society "where the representatives of all nations meet for the benefit of mankind.", and can talk with each other and do business especially people from different religions or doctrines. (ibid, P. 216) He says "I hate calumny" (ibid, P. 217) and abhors religious hate speech. However, Waldron assumes that Voltaire would defend the cartoons against Muslims in case of Danish cartoons, although Waldron does not give a reason for his guess.

Denis Diderot defines the hatred on the grounds of religious as impious: “The word ‘intolerance’ is commonly understood as this ferocious passion that stirs one to hate people that are in the wrong. .. Instruction, persuasion, and prayer, here are the only legitimate ways to spread religion. Any means that would excite hatred, indignation, and scorn, is impious.” Diderot like Voltaire, Locke, and Bayle defines intolerance as distorting the ties of sociability. He also defended the idea that not only violent persecution but even ostracism is not proper with the idea of tolerant society. (ibid, P. 218) This is important because most defenders of free speech states that if speech does not lead to violent harm, there is no need for restriction, however Diderot states that even if there is no harm, any form of exclusion should be avoided. People who think differently on religious issues should be able communicate each other in ordinary relations: “Civil *intolerance* consists in breaking all relations with other men and in pursuing, by violent means of every sort, those whose way of thinking about God and His worship is different from our own”. (ibid, P. 218) He uses the statement of not to break relationship, this is important, because blasphemy breaks the relationship.

Locke defines the general idea that people will leave their “deviant beliefs under the lash of public calumny”. (ibid, P. 222) However, Locke opposes it because it might direct people to keep secret their beliefs, and it might not lead to change their religious beliefs since their belief is not depended on the will so it is not affected by this coercion. In our cases of blasphemy, some speakers admitted their intention to lead believers to revise their religion similar to the conditions as Locke points out. Contrary to Locke, Jonas Proast asserted that coercion might end with change in belief too, starting from a change on the behavior firstly. This debate shows us that it is controversial whether coercion makes a shift on belief, but we can say that calumny is a kind of coercion and blasphemy as a kind of calumny might exert coercion on the religious subjects too.

On the other hand, Waldron points to different forms of religious hate speech. It might originate from one’s own theological perceptions: “calumny may be used defensively rather than offensively”.(ibid, P.224) For instance, to claim that members of a certain religion are unreliable such as; asserting that members of a certain religion are infidels and damned. It might also originate from daily perceptions, such

as to claim that all followers of Islam favor terrorism. In view of Waldron, calumny was mostly used as a “form of religious self-expression” rather than as an instrument to reach to an end.(ibid, P.225) He proposes to avoid any kind of statement of hatred. He states that Locke does not point to this possibility. However, Waldron does not point out that there might be defensive non-theological claims. Further, in my cases, rather than self-expression, authors claimed to make religion banal or criticize it or to scorn religious minorities since they do not adopt their lifestyle.

Waldron also points out Locke’s one of the distinctions; damning related to public issue and damning related to abuse or to merely aiming to promote one’s religious stance. If we apply this distinction to our blasphemy cases; they are mostly related with abuse and promoting a certain viewpoint on the religious.

John Stuart Mill pointed to a similar matter on *On Liberty*: how can we overcome the social sanctions envisioned by certain people over the others who do not have similar religious stance with them? (ibid, P. 225) They might defend themselves in such a way: we can behave according to an opinion which is disliked by others, “not to the oppression of his individuality, *but in the exercise of ours*”, since this is a right. Waldron suggests that this idea is applicable to religious insult; he says that it might be used “not for the oppression of anyone else’s individuality, but in the exercise of our own”. (ibid, P. 226) However, this viewpoint is contradictory with arguments of civility and peace in view of Waldron.

Waldron points to the possibility whether toleration leads to prohibition of calumnies, since such prohibition might hinder the disclosure of people’s wrongs or cruelties, so even one demeans dignity of people by abhorring their beliefs or practices, there should not be legal prohibition. He supports his idea by referring to Locke who envisioned toleration for each belief: everyone “has commission to admonish, exhort, convince another of error, and, by reasoning, to draw him into truth.” So, toleration is not an instrument to make people silent.(ibid, P. 228) We have to tolerate the practices or beliefs of people that we find mistaken, and also toleration should enable us to make judgments on the wrong. Waldron is right on these judgments however, we cannot define our blasphemy cases as judging the wrong, the kind of blasphemy explained in this paper exerts a violence by its

insulting-defamatory manner, not because it tries to find the truth. But Waldron does not make such distinctions between blasphemy and judgment on the wrong. However he is against the idea of infallibility:

I mean the kind who take their own vehemence as a mark of the objective truth of what they say, or who regard the offensiveness to others (especially people in other disciplines) of what they say as an honorable badge of their refusal to accept any scruples based on relativism. My own view (for what it is worth) is that it would be no bad thing if this vehemence and offensiveness were curbed, (ibid, P. 228)

His evaluation that forcing and offending people with the alibi of “objective truth”, rather than adopting a hesitation for determining what is right, is applicable to my cases of blasphemous artifacts too. Further, Waldron here states that offensiveness can be restricted while he was, in the early parts of the book, against prohibition on the offensive speech. He also defines the cartoons or some other blasphemous artifacts as offensive but does not envision restriction on them, he seems contradictory in this sense. In the early period of modernity, he also briefly points to the philosophers who even approved ban on offensive speech which is deemed as “the violent potential of insult”. Thomas Hobbes defined a ban on offensive announcements as a significant rule of the law of nature, “because all signs of hatred, or contempt, provoke to fight,” Machiavelli also emphasized that “detestable calumnies” were suppressed in order to protect order and hinder uprisings. (ibid, P. 232)

In view of Locke, “Nothing is to be done imperiously,” that means the sanction is not a good method to change something. Waldron states that we can utter our disagreement with a person who dissents with us in religious grounds, but we should not insult to this person in order to pain him or to penalize him. (ibid, P. 229) Strong disagreement should be uttered in an intellectual way, because it is the only way to make a change on belief: “a sort of amicable collision” without defamation. (as Shaftesbury put) (ibid, P. 230) This idea is easily applicable to our blasphemous artifacts because they were deeply provocative as approved by all. Waldron draws attention: today, most favorers of free speech reduce the problem of hate speech to

notions of “public disorder,” “incitement,” “or fighting words.” However, enlightenment philosophers envisioned a public order which encompasses “a principle of inclusion and a rejection of the calumnies that tend to isolate and exclude vulnerable religious minorities”. Contrary to Waldron, as far as I see, philosophers rather than emphasizing on minorities, reject hate speech for every individual member of society.

To conclude, among different speech rates, Mill is not clear on whether good or truth will emerge by free speech, or by coercion, this ambiguity shadows his idea of free speech. Further, while he emphasizes on how censorship is an obstacle for the improvement of society, he does not genuinely point to the hierarchical propagation of certain opinions which might serve as a censorship on certain other opinions or lifestyles. His idea of harm-speech relationship is also question-begging since he his idea of harm depends on the physical harm. His examples on the threshold of harm contradict with the Enlightenment philosophers’ idea of harm. On the other hand, Kateb favors that speech should not be prohibited since we are always exposed to politicians’ hypocritical statements and distorted information; if speech is regulated by government, it will lead to a subordination of speech under the authority. However he does not point to how hate speech is instrumentalized by different means of power instead of political power. He also does not distinguish between the political identity and religious identity.

Warburton draws an ambiguous position due to his concern for a possibility of censorship and inconsistency in restricting speech, but he clearly defends the right for blasphemy since religions also have offensive speech. Nevertheless, as I stated above, we can object to both kinds of offensive speech instead of favoring one of them, and theoretically both religious and non-religious defense involve in mutual offensiveness but we do not see any reactions against the theoretical disagreements. Dworkin and Brennan’s arguments definitely privilege the speech uttered by the powerful, Dworkin emphasizes on formation of law but not the relationships and he perceives to discriminate and to be discriminated as same prices, however this is not a fair method for public inclusiveness and tolerant society. Brennan defends the idea that people’s indignation should not be used as a weapon but he ignores that one can use his humiliating speech as a weapon too, and he states that people have right to

offend each other, but we know that the powerful always have more opportunity and protection on offending others. Fish's ideas seem more sinewy among the arguments on free speech because he uses a consistent and standard method to evaluate speech by indicating us how protection of speech is settled according to an assumption of good and free speech as not an arrival point or not a means to communicate simply but as an instrument for disseminating everyone's ideology.

In case of liberal positions based on the arguments of hate speech, Wojciech Sadurski points to how hate speech can be harmful both for the victims and society, since it distorts public discourse and reduces the standards of daily life. He emphasizes that the context and conditions of targeted group (generally "dispossessed, disempowered" minorities) also determine the notion of hate speech. Toni Massaro states that liberals generally assume that "speech is not cruelty in most instances, but they know that this assumption is weak as applied to hate speech". (Massaro, 1991, P.230) Because they are also familiar with how intolerance breaks relationship in a liberal society since it is a reality that all people are vulnerable "to the pain of humiliation". R.K. Whillock proposes that hate speech leads to a "symbolic code for violence" which incites people, and harms to victims. (Whillock, 1995, P.32) Mari Matsuda favors similar idea that hate speech aims to subordinate and silence victims. (Matsuda, 1993, P.36) Although their definition of hate speech is mainly based on the racist speech, it shows a similar resonance with the characteristics of religiously hate speech.

In his contribution, Waldron mainly defines the notion of hate speech as an assault to the social standing of minorities. However, there should be a more extensive definition of hate speech without limiting it to the condition of assault to the social standing of minorities. Because it is a question whether it is moral to expose people to hate speech even they have 'public good of assurance' from society's protection and concern. Contrary to Waldron, Enlightenment philosophers, rather than emphasizing on minorities, oppose to hate speech without confining it to minorities and they provide us a more extensive definition of hate speech.

John Locke's idea of no injury and no violence and no rough utterings, and how hate speech is not proper to the duty of tolerance seems more just and humane method for

the relationships. His emphasis on the idea that basic justice is not sufficient is crucial since he defends a contrary position to most liberals who think that if there is not a violation of rights or discrimination people can use the argument of hate speech. Bayle's idea of tolerant society which should be free of vilification, Voltaire's idea of the communication among people of different beliefs, Diderot's objection to any means of "hatred, indignation, and scorn" draws a position which is contrary to the ideas of today's dominant liberal idea which defines stirring up offensiveness, indignation or ridicule as normal and endurable. Enlightenment philosophers are against any means which leads to intolerance and hate within society, they do not make a distinction between hate speech and offensive speech contrary to today's liberal position. This is the moral aspect of ideas of Enlightenment philosophers, while they value freedom, they object to the circulation of hatred in different forms, for instance, Diderot proposes "Instruction, persuasion," as a legitimate method to spread ideas, his idea can be advised to people who use to defamatory speech on the religious in secular rules and societies. He defines intolerance as "ferocious passion that stirs one to hate people that are in the wrong". This is what blasphemy-makers claim to show people their truth by hate speech as it is clear in our three blasphemy cases. As it is clear in their whole argument, the Enlightenment philosophers form the best position among different rates of speech.

Waldron does not define offensive speech as hate speech too. He defines our three cases of blasphemy as offensive not as an hate speech, however philosophers object to any means which stir up hatred, some even approves ban on offensive speech which is deemed as "the violent potential of insult". Locke, for instance, defines offensiveness as a violation of natural fellowship and of liberality. However, neither Warburton nor Mill nor Waldron point out whether offensive speech does not lead to any harm. In this sense, as an intermediate position, rather than stating simply that assault on belief is not assault on believer¹¹, or defining it as a question of judgment, we have to make a distinction between the offensive speech which involves in theoretical/religious disagreements or criticism on religion and the offensive speech which is a defamatory and humiliating speech on the religious and identity. Accordingly, the latter is clearly hate speech.

¹¹ See page: 67-68 for further discussion.

Further, it is one of the crucial questions why most liberals distinguish between racist speech and religiously hate speech, the former assaults to racial identity and the latter assaults to the religious identity, ultimately both attacks to the identity, however they do not attempt to justify this distinction in detail. Another question is why the Enlightenment philosophers approve that speech leads to harm while most liberals find the relationship between harm and speech as ambiguous. The other question is why no one attempts to make a distinction among different types and rates of harm, if hate speech degrades the quality of relationships, even if it does not lead to violation of rights, it is a question how it affects the relationships. It is also a significant question why there is one category of harm: the physical/violation of rights, so, is degrading the quality of relationship in which category of harm? I will use this distinction among different speech rates in order to critically evaluate the debate between some secular intellectuals in the book; *Is Critique Secular* which elaborates blasphemy in secular societies in the next chapter.



4. BLASPHEMY IN SECULAR SOCIETIES: A DEBATE BETWEEN TALAL ASAD, SABA MAHMOOD, JUDITH BUTLER AND ANDREW MARCH

I will discuss the ideas of four interlocutors on blasphemy, by pointing to similar matters on whether assault to belief is assault to religious subjects, how the condition of religion's being not a matter of choice influences the notion of blasphemy, how they evaluate the relationship between speech and action or harm, how we can reflect on blasphemy considering the power relations, or whether blasphemy is offensive speech or hate speech. The main goal of this thesis is to critically assess this debate in *Is Critique Secular*. This book elaborates the blasphemy against Islam but I will infer general premises applicable to all cases of blasphemy in the form of insulting speech on the religious from arguments of the writers.

4.1. The Aim Of The Book

Is Critique Secular? Blasphemy, Injury, and Free Speech is a publication of the papers presented in a conference at the Townsend Center for the Humanities at the University of California, Berkeley in 2007. The book firstly hosts to the chapters from two anthropologists Talal Asad; a scholar of secularism; Professor of Anthropology at the CUNY Graduate Center and Saba Mahmood; Associate Professor of Anthropology at the University of California. Their essays are replied by Judith Butler; a feminist and queer theorist, Professor in the Departments of Comparative Literature and the Program of Critical Theory at the University of California, further Wendy Brown, Professor of Political Science at the University of California, contributes with an introduction. In the last two chapters Asad and Mahmood reply to Butler.

This book purports to provide a genealogical perspective by disrupting a prominent stereotype that the secular depends on the 'reason', 'self-reflection', 'critique', 'democracy' but religion depends on 'belief', 'fealty', 'orthodoxy', 'oppression' and 'injustice'. It examines how secularism offers itself as a supervisor over religion and other human affiliations that resulted in certain epistemological and political conditions. Writers examine these conditions; how certain type of secularism

functions in the West which historically existed together with Islam in an oppositional way that led to a monolithic view of Islam, thus it hindered secular societies to reflect on their own judgments. Interlocutors believe that their work on this dichotomy may open a way for destroying the duality between universality(secularism) and particularity(religion), because secularism offers itself as an arrival point/universal political system that every society has to follow, whereas it has a concrete history.

The debate of the book was prompted by the public discussions with regard to the inadequacy of the secularism of Muslims in America and Europe. It has been intensified by the Danish cartoon crisis in 2005 and republishing of it in 2008. Writers on the preface exemplify that since Muslim reactions against the cartoons were deemed as they have no ability to digest the critique; in order to prove to be integrated to secularism, they have been obliged to show tolerance to the cartoons which defame their 'Prophet'. Therefore the writers open a discussion on a secular society's 'right to offend' and on the limits of secular law and how superiority of West and normativity of secularism cooperate and fortify with each other.

On the other hand, the writers assert that examining the course of modern secularism amounts to examining the course of modern religion. However they profess that this kind of reading will not be welcomed by people who prefer to believe in secularism just as a 'principle of state neutrality toward religion' or 'indifference to religious truth'. That is why writers articulate that 'critique is always secular and secularism is always critical' is an 'uncritical' presumption. These are their aims with regard to the issue of blasphemy.

As for the general aim; writers intend to form another future for the critique in which different histories of secularisms are disclosed, thus monolithic rumours which lead religion wither away can be challenged. Further, they believe that making critique independent of the 'universal reason' and of the conceit of secularism will enable them to be intervenor in formation of secularism. Thus, it will enable them to reflect on not only the debates over veiling, shariah in the West or Danish cartoon crisis, but also the political conflicts led by dominating political regimes in the Middle East and

Asia to provide a more sophisticated sphere for thinking on these. Eventually however, they admit that the headline of the book is not directly answered.

On the other hand, I focus on certain parts of the book related to the controversy on blasphemy. The parts revealing the theoretical analyses on the genealogy of critique is not included. I will firstly summarize main theses of writers, then discuss and compare them.

4.2. Free Speech, Blasphemy, And Secular Criticism: Talal Asad

Asad has certain main theses; first, he traces similarities between ‘idea of blasphemy’ and secular law’s bans over the “liberal idea of the human subject” and speech. Second, he defends that religious idea can overlap or enlighten the liberal secular idea on certain issues because liberal secularism both emancipates and represses; it is not wholly consistent and free, rather than being neutral, imposes a moral order.

I will now discuss each thesis in some details. Asad approaches to blasphemy as “crystallization of some moral and political problems in liberal Europe”. So he does not point out the Islamic thought’s principles, or Muslim behavior but about the modern secular circumstances. He aims to examine “the place of blasphemy—a religious concept—in secular liberal society” while Christianity forms its historical base, and objects to sharp distinctions that freedom attributed to “European civilization” or repression linked to “Islamic civilization”. He disagrees with the claims about the origins of democracy; such as historical roots of democracy assumed to be originated within Christianity so it is not compatible with Islam (that’s why Muslims find blasphemy offensive), are part of political discourse. However, he admits that as long as Muslim countries do not apply to the Western law, they cannot achieve on the principle of “universal legal equality” since democratic institutions are more strongly founded in Western states.

He describes how Western societies have limited certain democratic demands throughout history: “The principle of critical public speech” has led to many internal conflicts, so strong movements have aimed to ‘censor public communication’ or law has restricted certain kinds of speech. (Asad et al, 2009, P. 23) He finds the history of liberalism inconsistent: while ‘liberal European civilization’s historical beginning

based on the opposition against power, today it empowers the global power. Or the French revolution enhanced the democratic values by invasion and initiated to modern wars, nation-states, racism and genocide, or 'racist policies of European imperialism'.

While it is assumed that theology presumes a 'dependence on a transcendental power' and secularism refuses it 'by affirming human independence', secular world consists of restrictions and forms of dependence too such as; laws of copyright, patent, and trademark, and laws protecting commercial secrets, indecency laws or laws on child pornography. Some of these bans take a shape according to capital that led to the manipulation of liberal individual but some are assumed as just an issue of ethics.(ibid, P.30) Law forms a criteria defining "free speech." (ibid, P. 25) He exemplifies it, if an artwork is reproduced "in a distorted form by someone other than the original author with the aim of commenting on it", are property rights violated? If they are violated, "how does the sense of violation differ from claims about blasphemy?"

Liberal individual is open to instrumentalization, for instance; "substitutability" in which each voter is assumed as one and equal that leads to "bureaucratic control and to market manipulation" (ibid, P. 24) which hinders the "liberal notion of personal dignity" thus individual "uniqueness" is ignored. (ibid, P.26) Suicide is another exception to the absolute ownership; regarded with horror by most people of liberal countries. (ibid, P. 28) Another exception is ownership of donated human organs or using of human tissue for medical research. The other one is restrictions on disclosing the voting choice: because in order to vote freely it needs to be secret, since a citizen is tied to certain social relations.¹² (ibid, P. 29)

Another exception to the absolute self-ownership is seduction; an Islamic concept used not just in sexual sense. Liberal thinking presumes individual's body, affections and speech as "personal property", and every individual can display them freely, as long as it does not give any harm to anyone's property. Any ban on these is regarded

¹² From the point of view of a liberal, these examples might sound as caricaturizing of the liberal thought as some liberals point out. Further, my critique of liberal ideas does not rely on these examples of Asad.

as a restriction on liberty. However, the individual is subjected to seduction as consumer and voter for the market democracy that legitimizes feelings of greed, vanity, envy, revenge, which are normally not moral. In liberal thought, although there is a clear distinction between “coercion” and “reasoned choice” as variables of free speech, seduction is something in which both coercion and consent exist.(ibid, P. 31) However, seduction is legal while ‘forcible subjection’ is not legal.

Further he asserts that both blasphemy and secular critique aim to form spaces for new truth by distorting ‘spaces that were occupied by other signs’, like the religious did. (ibid, P.33) Asad exemplifies the ‘prophethood’ of Jesus, he was accused with blasphemy which caused to his death and then to his resurrection. In this sense ‘blasphemy founded Christianity’.¹³ Therefore, Asad defines that ‘every new tradition’ is formed with a ‘discursive rupture—which means through a kind of violence’ and presumes that blasphemy as a kind of violence behind the mask of creative ‘re-instantiation of an established genre’ which has ‘no content’ in fact. (ibid, P.34)

He describes how blasphemy cases depend on power relations. In England, blasphemy became a crime in 17th century with the formation of the modern nation-state and its legal system, and in 19th century, the number of blasphemy charges increased when class system began, certain classes were privileged that “vulgar working class speech was less protected than the polite speech of the middle and upper classes.” So blasphemy is not just a matter of free speech but of hierarchical class relations too. (ibid, P.35)

On Islamic understanding about blasphemy, he defines Islam ensuring freedom of belief for every person and no one should be forced to disclose her beliefs, and objects that Islamic tradition is more restrictive on freedom. For instance, while secular law ensures ‘citizen’s right to privacy’, it can interfere to private sphere: everything is open to questioning (“in cases of suspected incest or child neglect or spousal abuse”).(ibid, P.36) Nevertheless, in Islamic tradition, the private should not be subject to the law because the individual behavior is just limited by public prohibitions. (ibid, P. 37) The right to think freely did not encompass ‘Muslim

¹³ Asad refers to the historian Alain Cabantous.

subject's social practices' (including verbal) but the 'internal thoughts', since the right to think publicly could lead people to wrong judgments. (ibid, P. 40) So it is in the speaker's responsibility regardless of the intention of speaker. This idea is partly close to the modern liberal view. According to liberal view, the problem is between two: the person and her statements that are claimed to be right. These statements are subjugated to verification. (ibid, P. 41) However, knowledge about belief and its verification is defined as problematic.

He questions on which conditions whether a person can choose what she 'truly' believes, or whether expressing of her belief by force is a proof for her true belief or not. He objects to liberal tradition: Mendus and Locke, since their alibis are just based on possibilities; they stated that belief is something difficult to determine whether it is authentic. He describes that in "bearing witness", the person regards herself as 'morally right', so cannot remain silent or cannot say something what she does not believe, and this does not mean that person's belief is inauthentic. Therefore, idea of 'authentic belief' devalues the 'moral passion' of religion. (ibid, P.46)

On the understanding of West about blasphemy; he states if charge of blasphemy is regarded as just a threat against freedom, it cannot be grasped, although charge of blasphemy have a heavy punishing historical past. (P. 46) He finds interesting the insistent repetition of the cartoons and finds the reason simple that Europeans aim to surmount the fear of criticizing Muslims with such publications, therefore he asks whether they try to persuade someone, and defines this attitude beyond a rational secular 'defense of political freedom'. (ibid, P. 56)

Finally, Asad points to an assumption; if "religious language" was not neglected by European secularists, and the deaths from hunger and war in the south of world was to be condemned as blasphemy, what would happen? It does not have to be related with the issue of blasphemy but what would be the results of a rejection for the demand for a 'totalized global control' (ibid, P. 57)

4.3. Religious Reason and Secular Affect: An Incommensurable Divide? by Saba Mahmood

In her contribution, Mahmood firstly articulates that secular liberalism creates a normative understanding of religion by which it controls and amends religious sphere. There are tensions between principles of freedom of religion and freedom of speech, she aims to disturb normative conceptions of “religion” and “proper religious subjectivity” to lessen tensions. (ibid, P. 66) Second, cartoons lead to an injury to Muslims but secular liberal cannot understand it when this injury is undergone into law and politics, it has been undermined. Therefore, the moral controversy regarding blasphemy cannot be solved just by secular ideas.

She points to the irreconciliation between “secular necessity and religious threat” that is based on the threat of ‘religious extremism’, however, it is interpreted in a reductionist way and does not originate from one ‘religious logic’ or a ‘unified political formation’ that leads to biased normative understanding about members of a religion and life style. (ibid, P. 67) On the one hand, some defends that Muslim reactions against blasphemy should be disciplined, and some defends to protect religious or cultural sensibilities. The problem originates from identity politics which is driven by the state and law who are the ultimate judger on the religious difference.(ibid, P. 67)

She states that the depictions of Muhammad were objected by millions of Muslims around world by “silent”, but peaceful refusals, however this attitude of them was turned into the “language of identity politics, religious fanaticism, and cultural/civilizational difference”.(ibid, P. 70) Defining the issue merely with the words “racism”, free speech or “Western irreligiosity” reduces it to restricted poles. (ibid, P. 69) Mahmood asserts that arbitrary and insufficient interpreting of the images and icons lead to poor understanding about the religious subject. However, no attempt is done to make this kind of injury ‘intelligible’ while other kinds of injury regarding “the concepts of property”, “personal injury” “reparation” has been largely discussed at the last century. (ibid, P. 70)

According to semiotic¹⁴ views of liberals; Muslims do not distinguish between “the subject-icon (the divine status attributed to Muhammad) and the object-image (pictorial depictions of Muhammad).” (ibid, P. 73) With a right method of reading they can refuse to take the cartoons seriously or not to get injured, if they agree that images have not “any spiritual consequences in and of themselves”, are not real. Because the image is within ‘interiority of the individual believer’. (ibid, P.73) Mahmood defines this advice as aiming to subordinate religious subjects depending on the power. Mahmood describes a deep relationship between the icon (eg. ‘Prophet’) and the religious subject since ‘the term icon’ refers to not only image but a ‘form of relationality’ that is why Muslims get injured. She describes this relationship by using Aristo’s concept *schesis* which “captures a sense of embodied habitation and intimate proximity that imbues such a relation”.¹⁵ So, icon is a representative of “how one conducts oneself in this world.” “not based on a historical figure but it is a relation of similitude”. (ibid, P.74) So the offense of the cartoons was not against a rule (you should not depict the image of ‘Prophet’) but against a feeling wounded (moral injury). Hence, this ‘injury’ can be redressed with a moral action not by law or protests. In this sense, the problem not only led by “opportunistic religious extremists” or by an ‘ineffective secular state’ but also by the ‘legal and cultural organization of secular societies’. (ibid, P.78)

Mahmood examines what occurs to this injury when it is undergone into the law.(ibid, P.78) Muslims of Europe apply to two options when they feel any attack on their religious and cultural personality: 1) The use of European hate speech laws. 2) The legal practices limiting free speech in favor of social harmony set by the European Court of Human Rights. (ECHR) However their such attempts face with oppositions such as; the prejudice of most Europeans against Muslims, restrictions existing in secular liberal law, its description of religion, and prioritizing of the European majority’s cultural sensibilities.

On why Muslim’s judicial call for hate speech law is rejected, Mahmood indicates to two arguments: 1) Religious belonging is different from racial belonging. 2) There is

¹⁴ Semiotic: “a semiotic ideology in which signifiers are arbitrarily linked to concepts, their meaning open to people’s reading in accord with a particular code they share between them.” (P. 70)

¹⁵ ‘habitus’: its Greek form

no proof for racial discrimination against Muslims in Europe. The main claim is that the person cannot change his race but can change his religion. (ibid, P.80) So according to the secular, religion is “about belief in a set of propositions” so it is just a matter of choice. (ibid, P.81) But she defines religion beyond the choice, a habit determining one’s life. And the cartoons committed the religious not racial according to some. Further, it is claimed that if racialization of Muslims legally recognized, it will lead to an unjustly legal regulation of speech that Muslims regard injurious, and lead to a coercion of “Islamic values”. And when ‘criticism of religion’ is categorized as racism, it will block criticizing religious terrorism made via cartoons therefore cartoons are necessity for the security and welfare of liberal societies. (ibid, P. 83) But Mahmood defines blasphemy as turning to be racialization of certain religious group since it makes generalization on the whole community, and defends that any criticism on the cartoons cannot be reduced to the claim of danger for liberal democracy, arguments regarding to blasphemy are not moral.

She points to the ECHR decisions as a second way for Muslims of Europe since it approved the bans of two states(Austria in 1994 &UK in 1997) on two films which are regarded defamatory by the Christians. (ibid, P. 83) The reason for the bans were stated by the courts with such statements: “an attack on the Christian religion”, “the role of religion in the everyday life of the people”, “there was a pressing social need for the preservation of religious peace; it had been necessary to protect public order against the film.”(ibid, P.84) The ban is formed according to article 10 of ECHR which allow to law to restrict free speech, if it sees a threat to “national security, territorial integrity, public safety, health and morals of a society, or reputations and rights of others.” ECHR approved their decisions with statements: to “protect the right of others” and to protect “against seriously offensive attacks on matters regarded as sacred by Christians.” (ibid, P.85) However, in case of Muslim claims, ECHR exerts double standard since it tends to ‘privilege the cultural and religious beliefs of the majority population’ in order to protect the public order as a duty of law. (ibid, P.85)

Finally, Mahmood suggests Muslims to struggle against this subjugating form of law and she deems it possible with the transformation of cultural and ethical sensibilities

of the Judeo-Christian population who underpin the practices of secular law, not possible with privileging state or law. (ibid, P. 89)

4.4. The Sensibility of Critique: Response to Asad and Mahmood: Judith Butler

Butler claims that there is a conflict among competing moral frameworks over the issue of blasphemy and this normativity promotes ‘cultural ignorance, racism, conquest and domination’. If these different modes (secular or religious) are compared, a critical perspective will emerge. (ibid, P.103) Rather than discussing on normative questions whether speech should be free or not, she suggests to emphasize with different cultures and “mode of living outside of self-identity and self-ownership” thus it can be considered on the injustice of “hegemonic secularism”. Second, there is ignorance on the meaning of injury and why it is a certain kind of injury, and how it should be addressed or redressed. Third, she acknowledges that hateful speech against the religious minorities is celebrated as an indicator of freedom; free speech is instrumentalized in order to legitimize state violence and injustice. Butler defines blasphemy as ‘hateful speech’ and violence used against religious minorities, thus they are racialized, and if racialization is recognized legally, she asks whether legal repair is a preferable choice for injuries.

Butler asks why we ignore some alternative frameworks, the aim is not to adopt a cultural relativity but how would be a judgment out of any framework? This is possible with comparison among frameworks regardless of religious or secular. However, she states, some believe that their framework should be the most influential in order to understand the real faces of events, and Butler finds this claim of superiority as having lack of ethical and rational defense for blasphemy, because it is based on absolutist normativity. This can be overcome by opposing to violence and to the ways that violence is legitimized.

She does not involve in normative questions such as whether any attack on religious sensibilities should be prohibited or whether it is free speech. Because she points to ignored questions: Why do Muslims have a certain kind of global outrage against the cartoons and what does it mean? Why does not the outraged Muslim population attack freedom of speech but something other? (ibid, P.105) She asserts that rejecting

to understand the meaning of injury with the reason that this understanding will lead to a legal ban on speech, is “an anti-intellectualism that characterizes forms of moral dogmatism, whether secular or religious”.(ibid, P.101)

Since relationship of the image as ‘indissociable’ ‘from one’s own sense of self’, she describes that blasphemy against the image of Muhammad is an injury to Muslim “personhood”, and law “misunderstands the ontology of personhood and character of the injury.”(ibid, P.122) So religious subjects have peculiar subjectivities, and rather than a legal question, blasphemy is a question on the conflict about subjective ways of life. She asks whether such religious subjectivity can lead to a change in legal regulations because it is legally prohibited when any injurious statements told to persons. (ibid, P.123) She questions why Mahmood does not prefer this way.

She evaluates “Fitna”, a film made by Dutch politician Geert Wilders, which equates Islam with murder: A depiction or film can describe the violence but can commit violence at the same time, she claims that both was realized in the name of freedom. There is also possibility of violence in response to the film, and all these kinds of violence need to be distinguished. She also suggests to distinguish different freedoms; “Is the freedom in speech the same as the freedom to be protected from violence..Under what conditions does freedom of speech become freedom to hate?”(ibid, P.127) "The question is not whether hateful speech is part of free speech, but rather, why has freedom in certain European contexts come to define itself as the freedom to hate?" and asks “What does it mean when the notion of freedom has been twisted to ratify discrimination, xenophobia, racism, and nationalism?”(ibid, P. 129)

Butler proposes; if a “critical conception of freedom of speech” is made, this conceptualization should be able to legitimize itself and able to criticize the state power as part of its free speech. State protects the right to insult/produce provocative art but when it defends these rights for certain political aims they turn to be dubious. (ibid, P. 132) Butler defines freedom as “No one person is free when others are not, since freedom is achieved as a consequence of a certain social and political organization of life” Therefore, she suggests a left alliance which rejects to “sacrifice one minority for another”.(ibid, P.128)

In the Dutch case, she exemplifies while the state defends sexual freedom, it constraints immigration on racist base. Thus, state manipulates the decision of whether who is individual or not, however, the state or its racist actions assumes no critique, so free speech becomes a formation that protects the state. (ibid, P.132) As a solution for the problem, although some people think that their ideas on sexual freedom or free speech are opposed by some minority religious beliefs, Butler suggests to struggle together “through participation in public discourse, thorough cultural and educational projects,”. (ibid, P.134)

4.5. A Comparative Analysis

At first, the common point of all is to deconstruct the existing normative frameworks with respect to the juridical, moral, philosophical, political or cultural. By distinguishing between reality and misunderstanding, they aim to overcome the normative questions such as whether Is this free speech? Or Should it be protected? etc. Butler emphasizes to change the frameworks which are hold by defenders of both “free speech” and “religious sensitivities”. Asad supports her, and Mahmood shares similar idea. (ibid, P.152)

On their main differences, Asad focuses on the non-existence of an absolute freedom and contradictions on the liberal idea of freedom by which he implies that there is no absolute freedom so why objections to blaspheme deemed as strange. Mahmood emphasizes on why religious people get injured and how the law is not neutral. Butler suggests calling for understanding religious sensibility and personality and points to how state contributes to the discrimination by privileging different kinds of freedom.

Butler assumes, both Asad and Mahmood try to make the meaning of injury intelligible, and they procrastinate making a ‘judgment’ on the issue. (ibid, P.103) However, Asad rejects this claim and states that his aim is not “to seek to expand Western understandings of why so many Muslims felt injured.” He doesn’t also examine on “acknowledging and repairing injury” beyond the ways of law. He is interested in the consistency assumptions underlying the secular liberal

interpretations, how they are ambiguous but keep alive themselves. (ibid, P.137-8) and how Islamic thought can enlighten the liberal ideas.

In order to specify why there is a problem of blasphemy, Asad criticizes the secular liberal distinction between the “paradigmatically human” and people having possibility to be included into the category of “human” who are assumed as not having self-autonomy. This has such connotation that European Muslims cannot control themselves and emotions, so they’re not morally autonomous and not exact humans. This is why they react to the blasphemous artifacts. Butler supports Asad’s idea; she objects to the protection of certain people’s freedom of expression: “If freedom belongs to the individual, it should be questioned that which individuals are assumed as individuals? (ibid, P.131)

According to Butler, Asad’s work enable to overcome normative borders, his question is a good example for this: Why is it that aggression in the name of God shocks secular liberal sensibilities, whereas the art of killing in the name of the secular nation, or democracy, does not? (ibid, P. 107) It enables us to see the mistake that justified violence is just privileged by the states but unjustified violence is practiced by illegitimate states and rebellion movements. Similarly, Asad envisions that law does not come into being as a judge for the existing speech, but it builds the limits for free speech throughout the public sphere.

Butler assumes that Asad and Mahmood indicate that the secular definitions should not have the ability to determine the meaning of religious concepts. She deems this argument significant for struggling with structural injure like the Danish cartoons. But it’s not exactly what Asad and Mahmood say. They point to the non-neutrality of secularism by targeting secular assumptions and by disclosing the contradictions of legal practices.

Butler opposes Asad on secularism by refusing the existence of one monolithic secularism and one secular ontology of the subject.(ibid, P.119) If ‘religious traditions’ perpetuate in ‘postreligious domains’, she asserts; there is not a dichotomy like secularism versus religion, ‘but two forms of religious understanding, intertwined with one another’. However there are breaking points when religious

issues are criticized by secular perspectives or when religious reasoning takes place within secularism. (ibid, P.120)

Butler inspired by Asad's assertion that defenders of free speech call people for rejecting such life via the 'blasphemous' artifact. Therefore, she defines it as a problem of subjective life rather than a legal problem. However, Mahmood defines it as a problem of civil law tradition and identity politics. As for Asad, it is a modern conflict based on assumptions between two civilizations.

Butler criticizes Mahmood's suggestion to reform the law since there is a contradiction between principles of freedom of religion and freedom of speech. She claims that freedom of religion means gathering in private places for practicing religion, so this freedom is regarded as a "protection from coercion and prohibition." and so it just approves the public-private separation; hence, in her account, this principle is insufficient in today's clashes and in certain public formations that religion leads.(ibid, P.120)

Butler questions why Mahmood is wary against the legal ways and she finds her suggestion of cultural and ethical transformation ambiguous because she is hopeless that this kind of transformation can be achieved separate from law, so she asks: Is cultural and ethical domain" certainly separate from law? that are obtained by force from the domination of law. Butler also states that Mahmood is not clear on a legal way for redress, hence she uses the discourse of "moral injury", and advises that current law concepts should not restrict our perceptions on cultural ethical aspects, therefore Butler defines her as culturalist. She defines their aim is to change the sensibilities but separating the issue of sensibility from law might be impossible.

Although Butler criticizes her with being apolitical, Butler herself also seeks for solidarity in public discourse as a solution to blasphemy. She also questions the relation between law and sensibilities; whether law include sensibilities for equality and justice or produce new sensibilities when it is required, whether sensibilities should be extrajudicial. (ibid, P.123) Mahmood calls for "comparative dialogue" and thinking in "unaccustomed ways" but Butler asks for what are the "institutional venues" for doing these? (ibid, P.124)

Mahmood refuses the accuse of being “culturalist”, she identifies her question as political not cultural, she defines herself as examining the ethical structure underlying the issue and does not regard ethics, power and politics separate and points to the nation-state’s privileged expenses on the rights and protection.(ibid, P.148) She is not hopeful on European laws’ influence on the political transformation in case of the Muslim minorities. (ibid, P.149) Her attempts to deconstruct the views on the place of religion in public space are not welcomed. She asks though: Can we draw similarity or difference among different hate speeches which are directed by racial prejudice or religious bias? What are the other ways for a nation-state for negotiating their difference? (ibid, P. 151)

It can be said that all manage to effectively criticize each other, and succeed in making clear where their opinion differ either in oppositional or converging ways.

4.6. Speech And The Sacred: Does The Defense Of Free Speech Rest On A Mistake About Religion? By Andrew March

March defines Mahmood’s notion of ‘moral injury’ as religious injury and questions the existence of it. In view of him, Mahmood does not provide plausible reason explaining the injury, because the idea of injury is very subjective since Muslims adopt conflicting ideas on injury.(March, 2010, P.329) ‘Defense of speech about religion’ cannot depend on a specific emotional/ethical sensibility of the religious. (ibid, P.322) He also opposes to Mahmood’s claim that Muslim injury is unintelligible and to her alibi that there is a failure of translation due to the ‘language of secularized Protestantism’ which deems a “belief-centered, propositional relationship to religion”. March defends that Protestantism or the secular liberal can also envision that religion is not a matter of choice.

He also defines Mahmood’s understanding of belief as “something inherited or naturalized through habitus and which is manifested in bodily practices, lived social relationships and public institutions”(ibid, P.323), he also defines Asad’s similar definition of belief as a ‘lived relationship’, rather than believing in certain propositions. He accuses the writers by making an “unconvincing opposition between

habitus, affect and embodiment on the one hand and a concern with proposition, truth and belief on the other.” (ibid, P.326), thus Mahmood’s injury as ‘an emotional pain’ secularized the Islamic viewpoint on speech. (ibid, P.332)

March points to Islamic thinking models which preach rational reasoning for the exact sense of believing rather than a belief just based on habitus. He also claims that there are many similarities between Sunni Islam and Lutheran-Calvinist Protestantism, they are not totally opposite as contrary to what Asad and Mahmood claim.

The assertion that insulting speech against the ‘prophet’ is wrong and should be objected is a ‘belief statement’ according to March. This belief is a ‘moral belief’ adopted by numbers of Muslims because of certain reasonings, not because of a special relationship with the ‘prophet’. (ibid, P.328) So it is wrong to think that “pious Muslims are not concerned about propositions.” Therefore, March defines Asad and Mahmood as “caricaturizing their account of Muslim piety”. (ibid, P.327) He asks why different Muslim views which approaches religious dogma with ‘irony’, “‘Averroist’ attitude towards Islam” are excluded. (ibid, P.329) Therefore, he finds the criteria ambiguous that how certain speech is defined as “contrary to Islamic commitment’ (ibid, P. 330) He defines Mahmood’s description of Muslims’ relationship with the ‘prophet’ “in terms of assimilation and cohabitation” as a ‘radical misunderstanding’ of Muslim piety. (ibid, P.327)

He also suggests which alibi is proper to object to blasphemy and points to two reasons: an assault to social relationship and to the truth. According to this, March states that blasphemous speech can be called as a transgression of morality while he defends that religiously insulting speech is a right.

According to secular liberals, he states that ‘blasphemous speech’ is not just an assault on beliefs or ‘voluntarily affirmed beliefs’ but it is especially attack on religious attachments or actions.(ibid, P. 333) In liberal thought there is a distinction between religious action and belief, while the former is not always protected, the latter is protected. He defends that the Danish cartoons were not “accidental acts of

injury”, cartoonists intentionally made their depictions about ‘religious attachments’ not just beliefs.

Further, changeability or unchangeability of the features of people should not be a criterion in debate of blasphemy. Because changeability of belonging eliminates protection. (e.g. language which is not a biological feature but people can get injured in any case of insult to their language)(ibid, P.335) The objection to racist, sexist or homophobic speech does not rely on the unchangeable features of people but it relies on that these features should not be undergone into disadvantages. (ibid, P.334) But it is not like this in case of ‘religiously offensive and injurious speech’. (ibid, P.335) The difference here is ‘the world of the speaker’. Because religion is not only related with the religious sphere but also ‘the social world of others’ (ibid, P. 335) By pointing to “normative beliefs about action”, he legitimizes insulting speech on religious.

On the other hand, March acknowledges that anybody should not be exposed to disadvantage due to religious belonging, however religious subject can be exposed to any ‘moral injury from speech’ about her religion. Because religions produce discourses, rules, actions that ‘others experience as part of their social world, offense or injury’ (ibid, P. 336) Religious people want to “embody their own ethical practices” and publicly declare some claims which are not compatible with secular state and this leads to blasphemy. (ibid, P.320) So ‘traditional religious arguments’ which aim to use coercive power to interfere citizens’ ‘belonging to multiple moral communities’ is not acceptable, in other words, “the public cannot *belong* to the religious.” in a pluralist society. (ibid, P.336)

He defines the main argument of his paper: All speech about Muhammad is not speech against Muslims, however this does not mean that speech about Muhammad should never be taken as a speech about Muslims. He does not give any idea how we can distinguish between two. Thus, if these viewpoints are achieved, he assumes that ‘powerful majorities’ will have to treat minorities fairly and provide them a real sense of security. On the other hand, this condition may lead to ‘self-restraint about the sacred.’(ibid, P. 339)

4.7. Evaluations On The Main Theses

4.7.1. On Asad

Asad objects to blasphemy with the alibi of non-existence of absolute freedom/self-autonomy of liberal individual and indicates how speech is a matter of power relations. It also enables us to see that limits on speech are intelligible by liberal secular people. He points out that there is not a consistent method for limiting speech; some are justified with capital and some other taken as an issue of ethics. He provides us perspectives based on universal reason to see what decides on acceptable speech. Thus he has the best position among his interlocutors.

He compares the secular law's ban on speech with claims on blasphemy, he asks how "the sense of violation" of copyrights law differs from the opposing claims against blasphemy. So he points to another aspect of blasphemy which might distort truth in view of audience. He also questions why copyright laws are justified with economic reasons. Interestingly, Nigel Warburton also defines copyrights as an exception to free speech. He says that in all other issues, there is an 'assumption of extensive free speech', and any suggestion to limit it requires justification, but in debate of copyright, the assumption advocates copyrights law and opposes to free speech. Copyright laws are justified by protecting the 'interests of creators and publishers and, by making it possible to earn money from creative activity, thereby stimulate creators to create.' They claim that if there was no copyright, they would not earn their keep, and the support for their creativity would vanish. (Asad et al, 2009, P. 92) However, in view of Warburton, it is difficult to perpetuate the copyright legislation since internet pushes us for free expression, limiting speech getting difficult to sustain. Nevertheless, Warburton asks: Is the statement of 'becoming harder to implement' copyright a justifiable reason for free speech? (ibid, P. 95)

Asad states that in charge of blasphemy there are two aspects, first: there is function in a social relation, second: status of the knowledge on belief. The latter is not a rational or just method to make decision, because it depends on the perspective of judge. Religious belief should not be taken to court not because the court has no ability to determine on absolute truth but the fact that court has no right to interfere.

In this sense, Asad implies that blasphemy can be judged as a problem to social relations instead of a matter of truth.

He claims that blasphemy does not lead to a new thinking style for the religious to revise their religion but just deteriorate the relationship. This idea is more plausible way to explain why people oppose to blasphemy, instead of claiming of a religious injury or personality as Mahmood and Butler claim. Even we can say that blasphemy, rather than leading to a revise of belief, might result in more adherence to religion since blasphemy has an exclusive and defamatory language.

Asad's analysis on the charge of blasphemy shows how it depends on different historical periods, different religions or different religious doctrines of one religion. He states that "from a Christian point of view, the charge of blasphemy was merely an expression of disbelief." (ibid, P.34) According to Islamic tradition, the charge of apostasy/blasphemy was determined according to the social and political consequences of it. Blasphemy trials in nineteenth century England also indicates how there was less protection on working class speech as one scholar defines it as "class crimes of language". In this sense, blasphemy might amount to different social conditions and political aims rather than signifying the defiance against religious.

Asad assumes that the secular liberal with the claim of 'authentic belief' aims to invalidate belief so a secular liberal cannot understand the ideas such as "it is impossible to remain silent when confronted with blasphemy". (ibid, P.46) Thus Asad assumes; a religious subject reacts to blasphemy due to she believes, this idea is close to Mahmood's claim that they react since they are religiously injured. However, it does not seem as plausible; because there is not a certain indicator whether the reactions are just religiously motivated. Impossibility of being silence might be just a result of human relations and bad reputation of identity. A Muslim can easily defend that people should remain silent in case of blasphemy, and can adopt the idea of no need to resort to public protests but using more intellectual instruments in reply to blasphemy.

He also states that reactions against 'blasphemers' are not due to their 'disbelief' but due to 'their alleged violence'. (ibid, P.46) I agree with this claim too, however there is an ambiguity on what kind of violence that the religious are exposed. It is

important to note that the countries in which violent protests emerged in response to the Danish cartoons and Charlie Hebdo are the ones who have negative relations with the Western countries and all deal with great economic and political problems. In this sense, to claim that Muslim reactions against blasphemy are independent from these conditions does not seem to be consistent. Anyway, his call for defiance against global inequality rather than defending the right to blaspheme implies this idea. He is right on questioning why injustice does not annoy secularists but the issue of blasphemy makes them irritated.

4.7.2. On Mahmood

My main disagreement point with Mahmood is about her claim of the existence of an injury peculiar to Islam. Mahmood calls it as ‘moral injury’, however her description indicates that it is an injury originates from Islamic religious sensibilities. On the other hand, she also professes that her suggestion of injury is just one description among others on what kind of relationship that a Muslim have with the personality of ‘prophet’. She also assumes that there are Muslims who disagree with this kind of relationship. (ibid, P. 147) I’m one of the disagreeers and claim that every religious subject does not feel injury, even if they feel injury that is not particular to Islam. On the other hand, she is right that blasphemy is perceived by the religious as a threat to their way of conducting in life since the ‘prophet’ is representative of this lifestyle. So any assault to their representative is also an assault to his followers’ moral character.

Her claim of injury poses certain questions: Do Muslims or member of other religions need to feel any injury as a necessity of religion or Does Islam or other religions command its members to feel injury in case of blasphemy? or What kind of reaction does religion command in case of blasphemy? Although these are questions that the field of theology has to be mostly involved, one might claim that Islam does not order to its members to get injured or make public protests due to blasphemy.

Her claim of the kind of religiosity or injury that Muslims hold is unintelligible by the secular is questionable too. Because some speakers state that they intentionally

target people. For instance, Charlie Hebdo' chief editor professed that Muslims deserve 'caustic treatment' (insulting cartoons) since they are not integrating into European society. The killed editor had said that since he does not believe, he does not have to respect what Muslims hold dear, so he assumes himself to have a right for drawing those depictions and he did not reject that his depictions were insulting/annoying. Further, it is also questionable why Christian kind of religiosity is intelligible to law and state but not the Muslim's.

Mahmood defines the idea that Muslims do not need to take the cartoons seriously or to get injured with a right method of reading as a liberal view, however it can be an Islamic viewpoint too. On the other side, the religious can take the cartoons seriously because it includes insult, mockery, defamation.

Instead of these claims, Mahmood has also crucial evaluations how secular liberalism and supervises the religious sphere, how law is used as an instrument that leads to disappearance of neutrality. There is a contradiction between the principles of freedom of religion and freedom of speech; if there is a freedom of religion, why people are insulted because of their religious identity.

Finally, her solution is not only based on transformation of law but also a change in cultural and ethical sensibilities of the Judeo-Christian population, this suggestion is very precious however, she does not show the ways how can be achieved.

4.7.3. On Butler

Butler, considering Mahmood's definition of injury, assumes that there is a particular relationship between the image and religious subject's self, so blasphemy is an injury to Muslim personhood. She believes that Muslim personhood has its own unique feature of subjectivity as a necessity of Islam, therefore secular law cannot understand it. I object to the idea that a Muslim individual have such peculiar personhood with regard to blasphemy, even it might seem to undermine the personhood of the Muslim subject, since it implies that Muslim devoted people cannot rule their personhood or not command on their will as the secular liberal critics envisages.

Butler does not provide any proof for this claim of special subjectivity. There are other members of religions who are injured due to blasphemy, so would Butler assume the same personhood for them too?

In this sense, we can defend that there is not a significant difference between the secular and religious ontology of personhood with respect to the basic human reactions and senses such as injury, anger, sorrow etc., in any case of attack against their identity. Insult and defamation are universally recognizable ways of offending someone/group that means insult is intelligible by both the secular and religious.

Butler partially approves Asad and Mahmood's claim that religion is not a matter of choice but secular liberals define religion as a 'set of beliefs' and a 'matter of private choice and association' and this definition leads to problems and to blasphemy. Nevertheless, she indicates to another possibility: If religion have a less 'cognitive belief' and mostly based on certain texts and images, what would happen?, and she asks whether there is a solution to this problem within the past and practice of Western law. In this question Butler implies that religion is not based on cognition or rationality and just based on a text and icon, for that reason she asks how blasphemy to this kind of belief can be redressed. Here she calls for reflecting on blasphemy according to what kind of belief that it targets, she implies that speaker should not blaspheme because, people who are exposed to blasphemy have not a cognitive belief. (This is a very normative viewpoint although she opposes to normativity) However, I defend that blasphemy with its defamatory form is independent from such arguments, and its insulting/defamatory content is sufficient reason to object to blasphemy.

It is also important that Butler favors that state can protect the right to insult and produce provocative art as long as it does not intend certain political policies. Namely, her definition of blasphemy depend on the existence of discrimination, however blasphemy has an aspect of breaking human relationships in a civilized society instead of discrimination.

4.7.4. On March

He assumes that people object to religiously insulting speech because religious identity is unchangeable feature of people. He states that racist, sexist and homophobic speeches are objected not because these are unchangeable feature but such speech might lead to discrimination. It leads to such an idea that if there were no discrimination, racist or homophobic speech could be uttered¹⁶. Further, he presumes that religiously insulting speech does not lead to discrimination, although there are researches indicating that religious minorities of the Europe are exposed to discrimination and disadvantages.

Therefore he defines religiously insulting speech different from other hate speeches, it is not hate speech, and the difference is ‘the world of the speaker’, because religions also produce offensive, injurious speech about non-religious or another religion’s viewpoint or lifestyle. Thus, he implies that religious subjects have view on religion, the speaker has also a view, and both are equal to disclose their views, they should tolerate each other. He does not make any distinction between the powerful or subordinated in case of insulting speech.

He does not point out that the writings of non-religious writers on irreligiosity or on religion can be deemed as offensive language. In our case of blasphemy, people do not react to the texts about benefits or propaganda of irreligiosity or negative portrayal of religiosity, but they react to a negative portrayal on their own religious identity and moral character propagated by media in the form of film, cartoon or artwork with a caustic speech, that turns to be a defamatory instrument and brings about disadvantages in social life. On the other hand, if some religious texts contain hate speech, then they should also be morally condemned¹⁷. If religious people or sermons or preachers within the society insult to the members of other religions or non-religion, they should be condemned, so then it is a question why insulting to the religious identity is defended as free speech. We have to condemn the hate speech -

¹⁶ This is contradictory with the ideas of the Enlightenment philosophers.

¹⁷ To what extend religious texts actually contain hate speech is a question that goes beyond the scope of this work.

any kind of "relationship breaking" and "assault on identity", posed by religious people or non-religious people since it has no moral justification. When one directly targets the moral representative of people by broadcast publication or by a public exhibition of art or by a play, by using an advantage position with the help of a vertical relationship, it is a direct assault to the identity of certain groups of people, assault to social bonds and it can be also defined as an assault to truth as March also admits.¹⁸

March also points to the possibility of religious intrusion to the rights of others therefore he defines religiously insulting speech as a right. The argument is that the objection to blasphemy is an intrusion to their right to freedom of speech. However, if one objects to any assault to his/her identity, it is a question why this is defined as an intrusion. In daily life, when an individual insults to another, then the person who is insulted objects to insult or even seek for a legal protection, why it is not defined as an intrusion. Further, in case of Europe, instead of Christian community (majority), other religious communities (Muslim or Sikh) are minority communities which have less power to intrude to the rights of others. These are all what March does not cover in detail.

He states that nobody is bounded to emotional or ethical sensibility of the religious due to the claim of injury. He also states that 'defense of speech about religion' cannot depend on a specific emotional sensibility, however he cannot see that objection to blasphemy is not simply a defense of the sacred or seeking for respect to religion. He does not mention that blasphemy is not an issue of peculiar religious sensibility or special relationship to 'prophet' but it has an insulting defamatory content on a certain identity and moral character and this reason is not a religious reason. For instance, if the cartoons did not target the 'prophet', but the religion itself, people would again object to blasphemy, because it is also a problem of representation. In other words, opposition to blasphemy does not just depend on a special relationship to 'prophet'.

¹⁸ See pages: 117,118,119, 120, 121 for further discussion about the importance of social bonds and social identity.

According to March, it is a 'belief statement' to assert that insulting speech to the 'prophet' is wrong and should be objected; or religious people object blasphemy since their sacred things are more valuable than free speech. (March, 2010, P.328) However, he does not mention what are the motivations of religious people to object. Their motivations instead of respect to religion, might be that the 'prophet' is misjudged and the religion which shape their moral character is equated with malicious themes. (eg. terrorism). March asks how it can be known that Muslims have right reasons in their opposition to blasphemy, thus he caricaturizes the religious subjects as if their objection is very absurd.

He focuses why Asad and Mahmood described how speech influences the religious subject emotionally or religion is not a matter of choice, but they did not work on how it influences truth. (ibid, P.322) However, March does not mention about their other claims, Asad actually points to the propositional aspect of religion: in a condition of "bearing witness", the person regards herself as 'morally right', this means that religious subject decides according to certain propositions. Mahmood also defines religiousity 'belonging to a particular way of life', that means adopting certain propositions in fact.

He does not mention about harms led by speech and states that modern policy takes into consideration merely tangible social harms, yet he warns that speech on the sacred may lead to harm on the fairness and inclusiveness of a pluralistic society.

Among four writers, Asad has the best position although I share similar ideas on certain points with others. Asad shows how the liberal idea of speech or of individual is not totally free, thus he aims to indicate that restrictions or self-control on speech or on individual are not abnormal. Although he does not provide a detailed analysis on our recent kind of blasphemy cases, he questions the truth claim of blasphemy and defines its aim to dominate throughout the truth claim in the form of violence. His emphasis on the privilege of speech according to class distinctions and on how blasphemy is an assault to the relationship instead of a novel truth provides us to think about the issue with universal perspective based on universal reason.

While Mahmood and Butler also point to some universal viewpoints regardless of the secular or religious, their main arguments are formed by a 'religious' framework to evaluate the notion of blasphemy, and it is question begging whether these arguments are genuinely 'religious'. Instead of moral relativism, I defend that blasphemy should be studied by a universal framework. In this way we can overcome the conflict between religious and secular frameworks rather than replacing one over the other. The writers of *Is Critique Secular* claim that they want to form a criticism on secular perspective about blasphemy by a non-normative framework. But Mahmood and Butler do this by pointing out a different ontology of religious subject by using the 'religious' idea, however, it is question-begging whether this ontology is genuinely 'religious'.

On the other hand, March uses a political language, on the one hand he defends the right to insulting speech against the religious since religion produces offensive speech on others, but at the same time he claims that insulting speech about the 'prophet' does not always have to be about the members of this religion, however he does not give supportive information about both claims but just share his ideas in a prescriptive way; he apparently ignores the audience's viewpoint and speaker's intention. He does not mention on the truth claim of the speaker about the 'prophet'. However, his criticism on the claim of injury provides us a right viewpoint to proceed. His one of the most crucial point is that *Is Critique Secular* does not mention about the vastness and complexity of the concept of blasphemy, and it does not make a distinction on speech types whether speech is 'mockery, abuse or scriptural criticism' about the sacred.

On March's description that blasphemy is speaker's world, Sadurski states that how an individual is distressed in case of an offensive speech, a racial group is also distressed by expressions which disclose 'contempt and hostility' which "are social constructs, not just products of the speaker's individual intentions." (Sadurski, 1999, P. 197) Sadurski's idea is crucial, because March ignores the communicative aspect of blasphemy. Sadurski points to some arguments about how an individual truly constructs her identity by belonging to a group: "It is only through strengthening the protection of the groups to which an individual belongs that his own values and his own reputation can be adequately safeguarded" (by David Riesman)(ibid, P.194)

This is related with the argument of racialization of a religious community as Mahmood and Butler claims.

Sadurski also claims that group vilification might be more hurtful to the individuals of a group than directly insulting or defamation to one person since they involve in a larger population and so it is difficult to avoid from it. (ibid, P. 216) And because individual's conducting in life depends on the group that he belongs: "a man's job and his educational opportunities and the dignity accorded him may depend as much on the reputation of the racial and religious group to which he willy-nilly belongs, as on his own merits." (Justice Frankfurter put.)(ibid, P. 216) Therefore, it is claimed that the total harm in group defamation is much more than the individual case because many people are slandered. And individual defamation about a person has a little political role on the debate about the public issues but it is different in case of large groups. (ibid, P. 217)

Further, March and Warburton claims that there is not a rational method to distinguish between speech and action. However, according to Sadurski, "in a liberal state everyone has a moral duty to reject ideas the execution of which would harm other people". (ibid, P. 201) But in order to find a causal connection between speech and action, the only way is to search for 'the substance and the circumstances of the speech' and also 'the mental propensities' of the protestor. On the other hand, a 'given speech' leads to different responses by different people. (ibid, P. 200) It cannot be said that everyone in a society is rational and moral in the same level, or that all individuals in a society have a "perfect rationality and basic morality". Some people are more tend to aggressive ideas than others, so the speaker should take into consideration this fact when practicing freedom of speech. (ibid, P. 202) But this does not mean that blasphemy-makers are morally responsible from the attack on themselves.

In view of March's, Mill's, Waldron' and Warburton's idea, offensiveness is not a good reason to restrict speech (main argument of liberal political philosophy), but Sadurski points out that offensive speech might lead to "harm upon members of the vilified group" as the Enlightenment philosophers claim. However, he also asks: whether this harm led by speech is different from another kind of harm which leads

to the prohibition of speech, and if this harm is different why it is different. (ibid, P. 208) He objects to the liberal argument that any prohibition on speech because of its offensiveness will eradicate the freedom of speech. Therefore, he suggests that the harm led by offensive speech should be evaluated with all harms and benefits before a decision of restriction on speech. He also points to the necessity to distinguish between “‘mere’ offensiveness and offensiveness that directly implicates one’s own identity”. (ibid, P. 214) But he adds that there should be a direct relationship between speech and harm for the prohibition as Mill and Warburton states. He also states that vilification does not always amount to discrimination.

Sadurski also points to how defamatory speech breaks the relationship. He refers to Erving Goffman who defines racial vilification as “Infinite regress of mutual consideration” because it leads to an ‘ideology of stigma: self-isolation, anxiety and uncertainty’: Victims’ relationship with others will not be normal after vilification, because both sides “are entangled in a web of mutually self-reinforcing attitudes of suspicions, fears and dislikes”. (ibid, P.206) Goffman also points to a threat: “Instead of cowering, the stigmatized individual may attempt to approach mixed contacts (i.e. contacts with ‘non-stigmatized’ individuals’ with hostile bravado” (Goffman, 1963, P.29) Sadurski describes it; victim is ‘confused, upset, distressed and angry’ “in this vacillation between cowering and bravado”. (Sadurski, 1999, P. 207) We cannot equate racial vilification with blasphemy, but blasphemy in the form of defamation on certain religious identity, it is a reality that it breaks the relationship as Goffman describes. And it is also a question what the difference between assault to racial and religious identity is.

Asad, Mahmood and Butler point out that religion is not matter of choice. Thus they call defenders of free speech to think that all believers do not choose their religion by questioning, so if they do not choose the religion intentionally or consciously, without having a genuine knowledge about it; why they are exposed to blasphemy. But we have to question that if belief was adopted merely by choice, would it affect our judgments about blasphemy? If blasphemy involves in humiliating speech we have to be able to judge it regardless of whether religion is a matter of choice or not. And even though people have chosen religion by choice, this does not warrant the speaker to defame the religious subjects’ representations of morality. Therefore, the

argument of 'religion is not matter of choice' is not a good reason to assess the notion of blasphemy. But it might be a good reason to answer the question why there are violent reactions against blasphemy, or to state that defenders of free speech should not get surprised when they face with violent reactions against blasphemy since religion is not always adopted consciously. March also states that the condition of being/not being a matter of choice does not influence our ideas on blasphemy. However, he defends that the speaker can insult on what the religious adopt as a morality. In this sense, we have to decide on which aspect we assess the matter of blasphemy whether its offensive, assaultive expression, or its effects and results or the reactions given against it or people's unchangeable features.

According to March, Waldron, and Warburton, assault to belief does not mean assault to religious subjects, or March defends that unchangeability of religious belonging cannot be a reason to object to blasphemy. But Sadurski points to a claim that blasphemy humiliates and insults to people's identity, if they identify themselves with religion deeply. (Sadurski, 1999, P. 210) Therefore, even if religious belonging is mutable belonging (as a secular claim), contrary to race, it is thought that religion should be protected because of its special features; identity formation. Because, 'depth' and 'strength' of religious commitment can be defined as a strong determinant on one's identity. From the communitarian perspective, Michael Sandel has a similar point; liberal view "may miss the role that religion plays in the lives of those for whom the observance of religious duties is a constitutive end, essential to their food and indispensable to their identity". (Sandel, 1990, P.89) These descriptions fortify the difficulty of making a distinction between the racial and religious identity.

The other communitarian philosopher Alasdair MacIntyre points out in *Whose Justice? Which Rationality?* that there is an indispensable link between individual's moral and political reasoning(rationality) and tradition. The former takes place within the latter consciously or unconsciously. Understanding of individual is based on the understanding of community which has an important role on shaping the identity of individual. Therefore, the meaning of individual act is intelligible when it is put into the context of the story of social life of the individual.

MacIntyre states that the modern liberal individualist viewpoint rejects the idea that individual's reason is based on tradition and other diverse traditions might have different kinds of rationality and justice. Rather, it deems tradition as a biased understanding as an obstacle to reasoning:

The standpoint of traditions is necessarily at odds with one of the central characteristics of cosmopolitan modernity: the confident belief that all cultural phenomena must be potentially translucent to understanding, that all texts must be capable of being translated into the language which the adherents of modernity speak to one another. (MacIntyre, 1988, p. 327)

Therefore, contemporary liberal perspective does not define tradition as a way for moral and political reasoning. However, it has also itself characteristics of moral and political tradition. He describes the characteristics of liberal tradition:

Liberalism, beginning as a repudiation of tradition in the name of abstract, universal principles of reason, turned itself into a politically embodied power, whose inability to bring its debates on the nature and context of those universal principles to a conclusion has had the unintended effect of transforming liberalism into a tradition (MacIntyre, 1988, p. 349).

In other words, everyone is in the boundaries of tradition: "There is no standing ground, no place for enquiry . . . apart from that which is provided by some particular tradition or other". He names this as "the rationality of traditions." (MacIntyre, 1988, p. 350). However, these different justices or rationalities do not have to end with cultural relativism. Accordingly, we can infer from his idea that there is no one rationality, if blasphemy is deemed as an assault to identity, the speaker might try to understand this kind of rationality. Nevertheless, it can also be said that people can demand toleration for the kind of rationality of the perspective of blasphemy-maker. But, when both ones; blasphemy maker demand tolerance for the 'blasphemous' artifacts and religious communities demand tolerance for their beliefs, it leads to the question that whose demand of tolerance will be put into practice? Or Which rationality will be respected?

MacIntyre in his book *After Virtue* opposes to the idea of individualism. He describes how we deem humans as members of communities who have certain responsibilities due to our social identities. However, “the self is detachable from its social and historical roles and statuses” in modern individualism. (MacIntyre, 1984, p. 221) But according to MacIntyre “The self has to find its moral identity in and through its membership in communities”. (MacIntyre, 1984, p. 221) In other words, social identity is a requirement for the individual since his idea of excellence or virtue of the individual has also a social aspect.

The virtues find their point and purpose not only in sustaining those relationships necessary if the variety of goods internal to practices are to be achieved and not only in sustaining the form of an individual life in which that individual may seek out his or her good as the good of his or her whole life, but also in sustaining those traditions which provide both practices and individual lives with their necessary historical context. (MacIntyre 1984, p. 223)

His emphasis on how an individual and his/her identity is bound to the community indicates how he values the importance of social bonds among people and links it to the excellence in moral and political understanding of the self. Accordingly if certain kinds of blasphemy are defined as an assault to identity or to social status/standing (as Waldron exemplifies), it will break the relationship, harm to the social bonds. Blasphemy can be objected on the grounds that individual cannot be taken as separate from its social status.

In *Corporate Modernity and Moral Judgment: Are They Mutually Exclusive?*, MacIntyre points out “four ways the moral structure of the modern corporate world can be defined by negation – by the striking absence of honor, of blasphemy, of ceremonial death, and of the story-telling elders”. (MacIntyre, 1979, p. 134) In view of him, corporate modernity does not have a sense of “cosmic order” where there is no communal story or communal ceremony of birth and death, communal religion, or a communal understanding of honor and insult that all have crucial roles. (ibid., p. 133) Thomas D. D’Andrea explains MacIntyre’s ideas on blasphemy by pointing to his distinction on traditional and contemporary societies. Accordingly, ‘social order’

in traditional societies is deemed as a 'microcosm of a sacred cosmic order', so the notions of "honour and insult, obscenity and blasphemy" have a public status contrary to the modern society structure. For instance, since honour amounts to the social status of the individual in the social order, insult is an assault to honour. Or blasphemy is an objection to the 'social-cum-divine cosmic' order or obscenity is 'public challenge' to the social order about the common understanding on the sexual. Further, "the deceased and the elderly are not marginalized or disenfranchised," in this traditional community. In view of MacIntyre, this kind of society enables the proper context to follow the 'good life' contrary to the 'society of free-market capitalism'. (D'Andrea, 2006, P. 81) In other words, he deems insulting speech on the religious identity as an obstacle for the individual to follow the ideal life and virtue. MacIntyre, in *Dependant Rational Animals*, describes the relationships in a market society that "undermine and corrupt communal ties". (MacIntyre, 1999, p. 117) Goffman, Sandel and MacIntyre emphasize on the importance of social bonds and identity. While Sandel points to the vitality of religion in one's life as a form of identity, MacIntyre constructs his argument on the idea of communal society which opposes to insult to anything which is deemed as valuable by people to preserve the bonds. And Goffman's emphasis on how vilification eradicates mutual consideration within society proves the importance of social bonds too.

Further, Patrick Devlin's *The Enforcement of Morals* also emphasizes on the need to protect social bonds against the Millian liberalism very hard. The context for his book is the debate about the decriminalization of homosexuality in the UK in the 1960s. He pointed out that societies' social bonds disintegrate when certain 'vices' are not prevented. Because certain moral ideas form the community about how to behave and rule their living as much as the political ideas. In view of him, society exists by sharing common political and moral values that form the invisible bonds. Any violation to this common morality breaks up the social bonds and leads to a threat of disintegration. Anything that loosens these social bonds threatens society and it is a right of society to protect itself against such threats on social bonds:

"Society is entitled by means of its laws to protect itself from dangers, whether from within or without...Societies disintegrate from within more frequently than they are broken up by external pressures. There is a

disintegration when no common morality is observed and history shows that the loosening of moral bonds is often the first stage of disintegration, so that society is justified in taking the same steps to preserve its moral code as it does to preserve its government and other essential institutions. The suppression of vice is as much the law's business as the suppression of subversive activities." (Devlin, 1968, P.12-14)

Thus, Devlin makes an analogy between law of treason and social rules which form the social bonds. So, he states that such violation should not be free with the alibi that it is private since a common morality is a requirement just as good government is a necessity for the well-being of society. Therefore, it is the right of society to preserve itself against any factor that threatens its common morality in order to hinder the disintegration of social bonds. However, Devlin assumed that the majority of society always will be a religious community, in this sense, his argument does not make sense, since there are societies who have atheist majority who does not deem homosexuality as vice. However, his argument might be crucial on the point that preserving the integrity of society(social bonds) is vital as much as preserving the government and necessary institutions which provide democratic standards if it functions properly. It also poses the main question how a society can exist when vilification and insulting speech prevail on certain groups of people, or how the idea of tolerant society as a requirement of democracy can be sustained.

Legal philosopher Joel Feinberg interpret Devlin's ideas that it might "seem feeble and perfunctory" to a contemporary individual since most people "will probably conclude that there is no salvaging Devlin's social disintegration thesis, his analogies to political subversion and treason, his conception of the nature of popular morality and how its deliverance is to be ascertained, or the skimpy place he allows to natural moral change". (Feinberg, 1987, p. 249) However, Feinberg emphasizes that Devlin challenges liberalism "on the grounds that their nonmoralistic theories cannot account for certain features of our present criminal law that they would presumably be unwilling to have changed. Those arguments deserve our respectful attention." (ibid, 249) Since (he points to the ideas of Hart who is the opponent of Devlin but Feinberg refers to his previous text in order to challenge Hart by his own ideas):

The liberal allows no legitimate role to “the enforcement of morality as such” in the making of criminal law. The only legitimate function of criminal law for him is the prevention of private and public harms and nuisances. In all consistency then, he should not permit any considerations other than harm (and offense) prevention to enter into decisions about the degree of punishment to be assigned to different categories of crime, and to commissions of the same crime by different offenders under different circumstances. (ibid, 250)

Therefore, it poses one main question: why we "treat greater moral blameworthiness ... as an aggravating factor and lesser moral blameworthiness as a mitigating factor in the assignments of punishment". (ibid, 250) Feinberg here emphasizes on the importance of context and indicates to the inconsistency about what the harmful is: If some considerations are defined as harmful and some others are not deemed as harmful, it will not be consistent. Actually Feinberg's argument is very related with the question of harm-speech relationship¹⁹ since the controversy about it also depends on how we define something as harmful. Nevertheless, this thesis does not argue whether blasphemy can be legally prohibited or not. Although the term “hate speech” is generally interpreted in a legal way and I confine my thesis with the moral sphere. But we also need to say that all religions should be treated in an legally equal way rather than protecting certain religions.

Another objection to blasphemy made by Jeremy Shearmur, instead of communitarian viewpoint he points to a different perspective by asserting that no one has a right to challenge people's beliefs as long as they do not ask for it. He states that “free speech is not a license to disregard the sensibilities of others” (Shearmur, 2006, P.21) so that it might be plausible a “legal ban on the most offensive of the cartoons,...and that there is a moral argument against their publication even where it is legal”. (ibid. P.25) He lays out his viewpoint on the fact that people have certain beliefs that they assume as true and form a lifestyle according to this assumption. Throughout life, they do not demand a public inquiry about their belief's truth or falsity. And in view of him, we are not warranted to challenge them as long as we are not asked for doing it, we are not authorized to challenge them as long as they do not

¹⁹ I argue about the harm – speech relationship on pages: 37-41.

interfere to our preferences, but we are authorized for people that we take care of them. In this sense, Shearmur states that the assaults on people's beliefs or questioning or judging them are bound to the context. He states that offence is a harm to be avoided. (Shearmur, 2008, P.137) We infer from his arguments that cartoonists or artists misdo when they ridicule religious symbols or beliefs, or instrumentalize them as a tool for 'aesthetic reasons'. (ibid, 136) Richard Webster extends this argument in *A Short History of Blasphemy*. He states that Western liberals and artists use the discourse of a holy war to defend freedom of speech in similar to what Muslims do to defend Mohammed and the Koran, therefore their viewpoint on freedom of expression seems almost as sacred as an imposition of one's own understanding about the good upon everyone. (as cited in Coleman & Fernandes-Dias, 2008, P.2) Shearmur seems right on the direct challenge, the judgment or target over certain people who do not prefer to be exposed to certain material or argument. Webster also provides us to see how certain kinds of blasphemy can be instrumentalized to impose a certain ideology instead of defining it simply as free speech.

Consequently, the writers of ICS define blasphemy as hate speech contrary to certain liberal defenders of free speech like Mill, Warburton, Brennan or Dworkin and others. Butler obviously uses the statement of 'hateful speech', she defines it as violence used against the religious minorities not because belief is an unchangeable feature, but religious minorities are racialized by leveling among different kinds of freedoms exposed by the state. Mahmood criticizes why Muslim sensibilities are not recognized by European hate speech laws thus she also implies blasphemy is hate speech, she states that a certain religious community can be racialized because religion is not a matter of choice, and blasphemy makes a generalization over a community. In his account, Asad does not use the statement of 'hate speech' but his description of blasphemy implies that he deems blasphemy as hate speech too, but since they oppose to the normative definitions they avoid to use the statement of 'hate speech'. In March's account, blasphemy is not hate speech since unchangeable features of people cannot be a reason to object hate speech but the possibility of discrimination is the reason to object to hate speech, thus he understates the fact that insulting speech on the religious might lead to discrimination to the religious subjects or degrade the quality of relationship. However, in light of the distinction among

different speech rates as I figured out in the second chapter and above, and in the ideas of Enlightenment philosophers and writers of ICS, it is elaborated that blasphemy in the form of insulting speech leads to harm and intolerant society.

It seems that one of the controversies related to the freedom of speech is the matter of harm, some define the physical harm as the merely genuine harm while some deem any speech which undermines the public inclusivity as harmful instead of seeking a concrete physical harm. In this sense, various types of harm need to be distinguished to reach a definite consequence. Further, most of the writers avoid making a distinction between racist hate speech and religiously hate speech from Mill to Warburton, nobody makes an attempt what the difference is while the former is defined as hate speech, the latter is regarded as not hate speech but offensive speech. But as Sadurski put, we need to differentiate between “‘mere’ offensiveness and offensiveness that directly implicates one’s own identity”. Blasphemy in the form of an insult to the moral characteristics of a certain group of people is a kind of offensiveness which targets the identity. Racist hate speech targets the identity too, in this sense, while both religiously insulting speech and racist speech targets the identity of people, it is a question why the former is not defined as hate speech but the latter is deemed as hate speech. Waldron claims that expressing that “members of X religion are terrorist/sexual abuser” is hate speech, but depicting the leader of a religion as terrorist or sexual abuser is not hate speech. Even if all members of X religion should theoretically be the followers of this leader in moral sense. If we logically speaking, we cannot see a difference between targeting all members and targeting the moral representative of all members, in this sense the kind of blasphemy pointed out in this paper obviously exhibit the features of hate speech. On the other hand, one does not distinguish between two statements: “Blacks are inferior race” and “black race is inferior”. Although the latter does not seem directly target the blacks it actually implicitly assaults to the blacks. It can be driven a similar reasoning in case of an assault to religion and its followers.

This also leads to such a question whether who will define the moral character of the prophets and religion, while a blasphemy maker charges a ‘prophet’ with being a terrorist or sexual abuser, blasphemy maker is against terrorism or sexual abuse, on the other hand, religious community makes a similar claim they also oppose to

murder or sexual abuse. Then, if both religious community and blasphemy-maker share similar ideas in opposing to terrorism or sexual abuse why blasphemy-makers insist on to represent the prophets or religions with abusive acts? It seems that the issue of blasphemy is partially a matter of image; every part of society demands to be represented positively rather than by a disparaging or demonizing speech.





5. CONCLUSION

Blasphemy is generally discussed over one main question whether it should be prohibited or not, therefore, other aspects such as; harm, violence or discrimination or assault to the social bonds, hierarchical power relations, or the act of stifling the certain ideas and identities by means of defamation without prohibition is generally understated. Even one oppose to the legal prohibition of blasphemy can also condemn its defamatory and insulting language, therefore, opposition to legal prohibition does not have to mean favoring the insulting speech. While some argue that religiously hate speech undermines the democratic principles, others assert that objections to blasphemy are not proper with democratic requirements or the idea of tolerance. Both proponents and opponents of blasphemy use the same alibi: democratic principles or tolerance: either you endure defamatory speech on the religious as a necessity of democracy or tolerance or you will avoid the defamatory speech on the religious as a requirement of democracy and tolerance. The argument is that the targeted audience does not have to see only the material that it wants, it should also tolerate to the material that they dislike. However, it is a question who should tolerate blasphemy; whether the people who insult on others or the people who are targeted by an insult. While the reactions against the insulting speech are regarded as a violation of freedom, defenders of blasphemy deem themselves as criticizing for the freedom, as Asad put it as a secular taboo.

In fact, the research that I made on the issue has enabled me to see that there are more significant questions which might guide us to understand the issue well. I will summarize these questions which might function as the suggestions further researches about blasphemy: Does blasphemy assault to the dignity of believers or belief itself? What is the distinction between blasphemy (eg. assault to prophet) and religiously hate speech (assault to followers of a certain religion)? What is the distinction between targeting all members of a religion and targeting the moral representative of those people? If there is a freedom of religion, why are people's religious identity assaulted? What is the difference between assaulting to racial identity and religious identity? Both religious communities and blasphemy-makers condemn and criticize murder and sexual abuse, but blasphemy-makers accuse the

religious with same themes: murder and sexual abuse, then what is the conflict? Even hate speech does not violate the rights, can we say that it is not harmful on the natural fellowship among people? Then, what is defined as harmful? Why violation of the rights are defined as harmful but offense not? Then, why some scholars define offense as harmful? Why is there one category of harm: the physical in the debate of harm – speech relationship? Or Why there is no distinction among different types and rates of harm, if hate speech degrades the quality of relationships, even if it does not lead to violation of rights, it is a question how it affects the relationship or what kind of actions that it leads in the long term. Further, blasphemy is also related with the question: Who will define the moral characters of prophets and religions? Or how we can explain why certain speech is right while it makes a judgment without proof that judgment is about the moral character of certain people? These questions are determinant on whether blasphemy should be morally defined as hate speech.

One of the matters related to blasphemy is what the results of a negative propagation on someone, how it impacts on the perceptions and actions of people. While it is claimed that blasphemy makes a criticism, thus we observe an emphasis of the significance of critical perspective. But the criticisms on blasphemy are not defined as a critique but as a non-civilized or intolerant act. Therefore, blasphemy is a question of criticism since there is not a consensus on the definition of critique. It is also a question who decides on making a negative propagation on something. Further, the argument is that public has to be mature to tolerate certain ideas that it dislikes, but it is a question why the negative propagators is free from the negative propagation or toleration to other ideas. A negative representation of something in the public sphere cannot be considered as independent from the targeted one that also means that the speaker objectifies its targets instead of simply manifesting his/her opinions.

Various counter-arguments against the criticisms on blasphemy need consideration too. Some assert that no religion can be allowed to legislate for all people on what can be done in case of blasphemy and anyone's religious beliefs cannot dominate freedom which is a requirement of democracy. However, the kind of blasphemy figured out in this paper is not matter of religion or religious sensibilities but a matter of assault to a certain identity and of a defamatory representation of the religious and

of its moral character. When we examine the statement of the defenders of blasphemy, there are contradictory explanations, some state that we do not believe religion so we do not have to respect to it, on the other hand, some claim that we insult to the religion not to the believers of that religion, some states that his mere aim was criticism on the religion, on the other hand, some acknowledge that they also target the believers of that religion instead of assaulting to religion. Blasphemy is defined as an exception since it does not directly target the religious people but it makes the assault by using the religious symbols or the religion itself and by instrumentalizing the moral representative and character of the religious. In this sense, it can be defined as a tactic to attack to a certain identity.

▣ The right to ridicule or to insult is defined as the weapon of civil or political movements which made a noble resistance to the injustices, thus some liberals make a resonance of it with the insulting speech on the religious. However, no one mentions that such movements were against the power, however the kind of blasphemy pointed out in this paper take place in secular societies and it is done by people who are in an advantaged position in the media or the field of art that objectifies the religious people by means of insulting/defamatory speech on the religious thus it exerts a power on rather than resisting the injustices. In this sense we need to distinguish who use the insulting speech and who are targeted and for what aim it is used.

One of the central questions related to the issue is not much discussed that is what of the consequence of using insulting or ridiculing speech is, especially over the impotent people. The criticism on politicians or state policy is one of the indispensable requirements of free speech in a democratic society, and the main reason for this is that politicians hold the power. However, in case of blasphemy, most of the arguments based on the defense of blasphemy do not point to the condition of the powerful versus impotent as a hierarchy between the speaker and audience. The act of offend is mostly is practiced by the powerful one, therefore it is unjust to pretend as if every member of society has same conditions to offend. The argument of the right to offend or insult is defended regardless of this condition. More significantly, it is a question why the individual cases of insult are taken

seriously or legally prohibited while insult to an identity or to the representative of many individuals should not be taken as seriously.

Another crucial point is how racial and religious identity are distinguished while racist speech is defined as hate speech, the religiously hate speech is generally regarded as offensive speech. While people object to any assault to their identity regardless of the secular and liberal, exclusion of the religious identity as a sort of identity is question-begging. The other point is that extreme liberal position on speech does not protect other's freedom. (as Jennifer Horns put)

Another engrossing point is why certain Enlightenment philosophers (Locke, Bayle, Diderot and Voltaire) and some contemporary scholars objected to offensive speech with the alibi that it harms, while the most of the contemporary liberals define offensive speech as acceptable. They define offensive speech as stirring up hatred but today, it is defined as a right not a hate or offensive speech. This depends on the perception of harm. For instance, Nigel Warburton states that "[a] principle of freedom of speech cannot be used to defend actual harm and coercion" while he also finds the relationship between speech and action as ambiguous. (P. 65) However, the problem is that how we define harm and coercion; while one defines it merely the physical violence, one might define it as degradation in the quality of social relationships. Further, insisting negative conviction about a certain stream or identity that is also rejected by followers of it that can function as a coercion. Further, if we cannot define permanent defamation as hate speech, it is a question how we can define it. If hate speech does not lead to discrimination or violation of the rights, it is a question whether it should be morally free and it is also a question how we can be sure that it does not lead to harm.

Instead of the categories that I used in this paper such as; the right to offend or insult, issue of assault on the identity, defamatory portrayal of things or people, the distinction between the powerful and impotent or the distinction between the racial and the religious, or the distinction between offensive speech and hate speech; conversely *Is Critique Secular* mainly points to the need for making the religious intelligible by a religious framework. However, it ignores that the religious can also be made intelligible by the secular framework. On the other hand, this thesis aims to

make the secular as intelligible by a secular framework, because this thesis defines blasphemy as an assault to certain identity instead of a particular religious injury or personhood, and it questions the right to insult or ridicule and this is based on a universal reason instead of distinguishing among different frameworks regardless of the secular and the religious.

It is believed that if speech is restricted thus the violent reactions shown against the speech/blasphemy are rewarded. Or self-censorship of the press or of people leads to a loss of information and discussion. Nevertheless, one can define this argument of loss of information as exaggerated since a cartoon mocking with the ‘prophet’ or an artwork demeaning the ‘prophet’ does not make a serious argument. Further, it is also asserted that there are many blasphemous artifacts or writings on the Internet, so it is defined as absurd to object blasphemy when blasphemous artifacts are published in a magazine. This viewpoint ignores the effect of broadcast publication. There are many crude racist statements or child pornography on the internet too, but when it is declared in the public sphere or by a broadcast publication, it is charged or legally prohibited in many countries today. Further, in case of Internet, the user can generally select the information that s/he wants to face while the broadcast publication (eg. A magazine or TV channel) can expose many people to a defamatory content. In this sense, the argument of Internet does not seem to be reasonable.

To conclude, this thesis aims to contribute to the field by pointing out how a certain type of speech stirs up hatred and assaults to a certain identity without limiting the issue of blasphemy into the normative legal and political conceptualizations of free speech, hate speech and offensive speech or without limiting it into a religious framework but throughout the arguments of political philosophy. Further, blasphemy is generally studied in particular to a certain religion, but I study it by pointing out three different religious cases and by synthesizing common features of them. Further, this study contributes to the field since it analyzes the issue of blasphemy in secular societies that this kind is generally understated and studied less by an emphasis on the blasphemy in certain religious rules since they exert severe persecution.



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