

FREEDOM OF SPEECH UNDER ATTACK

AFSHIN ELLIAN
GELIJN MOLIER
(EDS.)



eleven
international publishing

Published, sold and distributed by Eleven International Publishing

P.O. Box 85576

2508 CG The Hague

The Netherlands

Tel.: +31 70 33 070 33

Fax: +31 70 33 070 30

e-mail: sales@budh.nl

www.elevenpub.com

Sold and distributed in USA and Canada

International Specialized Book Services

920 NE 58th Avenue, Suite 300

Portland, OR 97213-3786, USA

Tel.: 1-800-944-6190 (toll-free)

Fax: +1 503 280-8832

orders@isbs.com

www.isbs.com

Eleven International Publishing is an imprint of Boom uitgevers Den Haag.

ISBN 978-94-6290-027-1

ISBN 978-94-6274-233-8 (E-book)

Cover photo: Eustache Le Sueur, *La prédication de Saint Paul à Éphèse* (1649). Louvre, Département des Peintures, INV. 8020. 'When St. Paul entered Ephesus "a number of those who practiced magic collected their books and burned them publicly" (Acts 19:19).'

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Printed in The Netherlands

Cliteur, Paul, Herrenberg, Tom, and Rijkema, Bastiaan, "The New Censorship: A Case Study of Extrajudicial Restraints on Free Speech", in: Afshin Ellian and Bastiaan Rijkema, eds., *Freedom of Speech under Attack*, Eleven, International Publishing, The Hague 2015, pp. 291-318.

15 THE NEW CENSORSHIP

A Case Study of the Extrajudicial Restraints on Free Speech

*Paul Cliteur, Tom Herrenberg and Bastiaan Rijkema**

The central assumption of this contribution is that the limits of free speech are, to an increasing extent, not established by the legislature or the judiciary, but by terrorist organizations and terrorist individuals – in such a way that it amounts to a new kind of censorship. At least, this is the case with regard to a particular kind of speech: Religious criticism or religious satire. Freedom of speech is nowadays ‘freedom of speech in an age of theoterrorism.’¹ This means that freedom of speech is accompanied by many factual constraints which are *real* limits on the free speech for the persons concerned, namely, those targeted by terrorist assault. The general public feigns ignorance, however, along with leading politicians. In a study of five major cases: The Carrell Affair, the Cartoon Affair, the Rushdie Affair, the Terry Jones Affair (better known as the Koran-burning pastor), and the Youssef Affair (better known as the creator of the *Innocence of Muslims* video), we hope to clarify the predicament our civil rights seem to be in.

The three authors of this contribution have all done research on one or more of these cases. Cliteur has studied the Carrell, Cartoon and Rushdie Affairs,² Rijkema has studied the case of the American maverick Koran-burning pastor Terry Jones,³ and Herrenberg has studied the most recent case, that of Mark Basseley Youssef, who was the creator of an insignificant satire on the prophet Mohammed which, months after it was posted on the Internet, was the center of controversy in many parts of the world.⁴ In all of these cases,

* We want to thank the participants in a colloquium at the department of Jurisprudence, Leiden University, for the critical discussion of an earlier version of this chapter. In particular we want to thank: Yoram Stein, Machteld Zee, Roy van Keulen, Janneke Vink, Zhang Tu, Sarah Strous and Mirjam van Schaik.

1 The term “theoterrorism” is used for terrorism which finds its source and justification in a conception of God. We cannot, within the context of this contribution, explain and justify why we think this is useful vocabulary and have to refer to: Cliteur, Paul, “The Challenge of Theoterrorism”, in: *The New English Review*, 30 May 2013, full text: www.newenglishreview.org/Paul_Cliteur/The_Challenge_of_Theoterrorism/.

2 Cliteur, Paul, “Van Rushdie tot Jones: over geweld en uitingsvrijheid”, in: Afshin Ellian, Gelijk Molier and Tom Zwart, Eds., *Mag ik dit zeggen? Beschouwingen over de vrijheid van meningsuiting*, Boom Juridische uitgevers, The Hague 2011, pp. 67-89.

3 Rijkema, Bastiaan, “Vrijheid van meningsuiting in de val tussen religieus extremisme en utilitarisme”, in: *Nederlands Juristenblad*, afl. 44/45, 14 December 2012, pp. 3106-3111.

4 Herrenberg, Tom, “Politici, de vrijheid van meningsuiting en *Innocence of Muslims*”, in: *Nederlands Juristenblad*, afl. 33, 27 September 2013, pp. 2255-2259; Herrenberg, Tom, “Vrijheid van meningsuiting in de multiculturele samenleving: evaluatie van twee tegenstrijdige interpretaties”, in: *Civis Mundi*, 14 January 2014.

threats and (attempted) murders were the results, while western politicians tried to appease the anger of violent crowds and reassure their colleagues in other parts of the world that they did 'not agree' with the expressions. The defense of free speech that some of them presented was so weak that it bordered on making excuses for having a constitution, a democracy, and freedom of the press. The present contribution tries to tie together the research done on the several individual cases.

The Netherlands is an interesting country to start our study of this perplexing phenomenon. The Netherlands is central to our subject, because what took place here could be considered as the catalyst: The cancellation of fourteen seconds of satire by the German-Dutch show master Rudi Carrell in 1987. From here, it seems the story unfolds automatically to the predicament we now find ourselves in. So let us start with this memorable piece of satire in 1987.

THE CARRELL AFFAIR IN GERMANY⁵

On New Year's Eve, 1987 (*Sylvester* in German), German television broadcast some highlights from the 'comedy show'⁶ of Rudi Carrell (1934-2006). Carrell was a Dutch-born entertainer who became one of the most beloved show masters on German television. Successes in his home country led him to seek new challenges. In 1965, he moved to Germany. The *Rudi Carrell Show* (1965-1972) and *Rudi's Tagesshow* (1981-1987) were huge successes. Carrell's audiences made up about two-thirds of all German TV viewers. On at least one occasion, in 1987, he drew a viewership of twenty million people.⁷ The item in question, which was watched by an audience of 20.5 million people,⁸ was the cause of a diplomatic controversy with enormous ramifications. It was a spoof, broadcast on Sunday 15 February, 1987, in which Carrell used cinematic tricks to make it appear as if women were throwing their underwear at the feet of Iran's Ayatollah Ruhollah Khomeini.⁹

Only seconds after Carrell's show aired, Reinhard Schlagintweit (*b.* 1928), the civil servant of the German government responsible for contact with the Middle East, received a call.¹⁰ On the phone was Mohammad Djavad Salari (*b.* 1951), the Iranian ambassador in Bonn since 1984. He was very angry. Was Schlagintweit aware that the 'highest supervisor of all Muslims' (*das geistliche Oberhaupt aller Muslime*) had just been insulted? Not only

5 Parts of the following discussion of the Carrell Affair appeared in: Cliteur, Paul, "The Rudi Carrell Affair and its Significance for the Tension between theoterrorism and religious satire", in: *Ancilla Iuris*, 2013: 15, pp. 15-41, full text: www.anci.ch/paul_cliteur.

6 "Risqué spoof on Khomeini sparks Iranian uproar", in: Associated Press, 17 February 1987.

7 "Rudi Carrell", in: *Britannica Online Encyclopedia*.

8 "Tehran expels two W. Germans", in: *The Washington Post*, 18 February 1987.

9 See for an analysis of Carrell's humor: Lixfeld, Hannjost, "Witz und soziale Wirklichkeit: Bemerkungen zur interdisziplinären Witzforschung", in: *Fabula*, Vol. 25, nr. 3-4, September 2009, pp. 183-213.

10 "Carrell-Affäre: nicht klug", in: *Der Spiegel*, Nr. 9, 23 February 1987, pp. 25-27, p. 25.

had the Iranian people's religious feelings been hurt, but those of Muslims 'all over the world.'¹¹

We have to study the argument disclosed in this conversation carefully, since it is characteristic of a way of thinking which is widespread, and at the heart of the phenomenon we are discussing in this essay. What does Salari contend? He claimed that criticism of Khomeini (a respected cleric from *his* perspective, a brutal dictator from another) was not only the criticism of one specific dictator but an insult to a whole country. And not only an insult to a whole country, but also to its citizens. And not only to its citizens, but also to the religion those citizens are supposed to share: Islam. And not only the specific fundamentalist interpretation of Islam put forward by the Iranian theocracy, but Islam *tout court*. So by a simple sleight of hand, criticism of one specific dictator became criticism of one fifth of the world's population. In the Iranian culture, Salari indicated, it was 'unthinkable' to mock Ayatollah Khomeini.¹² And, most importantly, he promised that there would be consequences, though he did not specify them.

THE CONSEQUENCES OF CARRELL'S SPOOF

One of those consequences proved to be the closure of the Iranian consulates in West Berlin and Hamburg which, in itself, was not a great problem. Another consequence was that an Iran Air flight from Frankfurt to Tehran was delayed for six and a half hours due to an Iran Air personnel strike in protest against the show.¹³ Which was not a great problem either. Tehran had ordered the strike, as Saeed Kamyak, the airline's operations director for West Germany, indicated. Yet another consequence of Carrell's perceived insult was that on 18 February, Iran ordered two West German diplomats to leave Iran in retaliation for Carrell's spoof of Khomeini.¹⁴ Another inconvenience, perhaps, but not something that would unsettle the way the world is organized. Furthermore: Germany's ambassador, Armin Freitag, was summoned to the Foreign Ministry and handed a 'strongly worded protest note on the insulting program.'¹⁵ Also, on 18 February, Iranian students staged a protest at the West German embassy, chanting anti-U.S. and anti-West German slogans. The students demanded an official apology from Bonn about Carrell's spoof.¹⁶ In addition, the Goethe Cultural Institute in Tehran was closed in retaliation for the broadcast of Car-

11 Ibid., p. 25.

12 Ibid., p. 26.

13 "West German spoof of Khomeini sparks Iranian protests", in: Associated Press, 17 February 1987.

14 "Tehran expels two W. Germans", in: *The Washington Post*, 18 February 1987; "Iran expels two German diplomats in retaliation for TV spoof", in: Associated Press, 17 February 1987.

15 "West German spoof of Khomeini sparks Iranian protests", in: Associated Press, 17 February 1987.

16 "Iran miffed over Khomeini spoof on German TV", in: *Tampa Bay Times*, 19 February 1987.

rell's *'Tagesschau.'*¹⁷ Last but not least: Carrell was threatened¹⁸ and received police protection from the German government. *That*, so it has become more and more manifest in the past decades, proved to be something new and extremely unsettling: A German citizen, being threatened on German soil, by a foreign dictator.

THE FOLLOW UP IN THE NETHERLANDS

As might be expected, the Dutch took great interest in the (until then) German Carrell Affair, and the broadcasting corporation VARA wanted to show in its program 'Behind the News' (*Achter het Nieuws*) the fourteen-second clip that had caused all the commotion. This is the ABC of journalism, is it not? Let people decide for themselves what they think about the fourteen-second spoof that had caused so much uproar in a neighboring country, the journalists of VARA must have thought.

It was announced that the footage would air on 23 February 1987, eight days after the German broadcast, but something unusual happened: The Dutch minister of foreign affairs, Hans van den Broek (*b.* 1936), personally called the broadcasting corporation. During his telephone call on 23 February, a few seconds before the network was due to broadcast the program containing the contested item, the minister tried to convince the host, Paul Witteman (*b.* 1946), *not* to air the item discussed. It would be 'too dangerous' for Dutch nationals living in Iran. The reporter, understandably surprised to have the minister of foreign affairs on the phone, took an unusual approach to this dilemma: He invited the minister to call again a few minutes later, when the show was live, and explain his reasons for asking the program to censor the spoof. To the surprise of many, perhaps, the minister agreed, and as a result, all of the considerations about giving in to pressure from Iran (or not) were aired openly on Dutch television. Delicate discussions on what to do when faced with such tricky dilemmas, usually held behind closed doors, were now laid out for all to see. With the wisdom of hindsight we may ask: Was this perhaps one of the most fateful publicly aired dialogues of modern times?

Why fateful? Because now, it was there for all to see: The fourteen seconds of satire were eventually *not* broadcasted on Dutch television (for that was the result of the open discussion) out of fear for an unclear threat from a dictator abroad.

In Iran, a great triumph was booked on that memorable evening of 23 February 1987: An Iranian dictator had successfully intimidated a small country in Europe, a country allegedly committed to the rule of law and democracy. But also, apparently, a country that

17 "Iran angered by ayatollah under undies", in: *The Globe and Mail*, 21 February 1987.

18 Religious fanatics threatened with attacks ("Religiöse Fanatiker drohten mit anschlügen"). See: "Grösstes Witz-Archiv Deutschlands - Aufgewärmte Slips", in: *Der Spiegel*, 27 October 1997.

was quick to relinquish all that when confronted with a much stronger antithetical perspective: The theocracy, led by God's one and only representative on earth.

DUTCH PARLIAMENTARIANS STRUGGLING WITH THE ISSUE

On 26 February, 1987, the minister of foreign affairs, a member of the Lubbers II coalition, comprised of the liberal party and the Christian Democrats, justified the steps he had taken before the Dutch Parliament.¹⁹ During that session, the minister of foreign affairs repeated what he had said during the conversation with Witteman, and claimed that he had only pointed out to the broadcasting corporation what the 'consequences' of the transmission of the program could have been. He explained that he had learned from the Dutch embassy in Tehran that re-airing the clip on Dutch television would be experienced in Iran as a 'profound insult to Khomeini.'²⁰ This could cause an outburst of 'anger' from the 'Iranian public.' The security of the people working at the embassy would not be guaranteed, and diplomatic relations could be severed (this is the worst thing that could happen to a country from the perspective of a diplomat, one may surmise). These considerations, Van den Broek explained, persuaded him to 'seek contact' with the broadcasting corporation. The minister further claimed that he had left the decision, and the responsibility for it, up to the corporation (apparently implying that, from his perspective, the broadcaster would be responsible for any consequences, rather than the ministry of foreign affairs or the Iranian government). The Dutch minister even declared that he had not experienced any 'pressure from the Iranian side.' All things considered, he said he 'could understand' the position of the Iranian government.²¹

The Dutch Parliament did not strongly criticize the minister for his telephone call to the Dutch broadcasting corporation. The Labor faction declared 'understanding' for what the minister had done.²² The Christian Democrat representative stated that 'an insignificant piece of satire should not affect the relationship between two countries.'²³ The Liberal Bolkestein (from the VVD, so in the coalition with the Christian-Democrats at that time) also backed the minister of foreign affairs, reasoning that the security of Dutch people abroad had to be safeguarded.²⁴ Yet, he confided that the whole affair made him feel

19 Before a huge commission in which all the political fractions of the Dutch representative were present: The so-called commission of foreign affairs ("vaste Commissie voor Buitenlandse Zaken"). See for proceedings of the meeting: "Verslag van een mondeling overleg", in: Tweede Kamer, 1986-1987, 19 700, hfdst. V, nr. 79, pp. 1-3.

20 TK 1986-1987, p. 1.

21 Ibid., p. 2: "Daaraan voegde hij toe dat hij de gang van zaken niet heeft ervaren als druk van Iraanse zijde, en dat hij zich, de situatie daar in ogenschouw nemende, de houding van de Iraanse regering kon indenken".

22 Ter Beek (PvdA), in: TK 1986-1987, p. 2.

23 Gualthérie van Weezel (CDA), in: TK 1986-1987, p. 2.

24 Bolkestein (VVD), in: TK 1986-1987, p. 2.

somewhat uneasy. He feared that this affair could set a 'dangerous precedent.'²⁵ The only Member of Parliament who seemed to adopt a straightforward critical stance on the minister's intervention was from the socialist faction. She claimed that there was certainly pressure from the Iranian side, and warned that a threat of outbursts from the Iranian people had to be seen as 'blackmail.'²⁶

The Carrell Affair was soon forgotten. In the history of Dutch media it was even considered to be a funny event. The suggestion given by the journalist, Witteman, for the minister to call in to openly 'discuss' the moral quandary before a television audience was even seen as a good joke. He had brought a member of the government to discuss what to do with freedom of the press in a kind of popular plebiscite. Was this not the epitome of democracy? Or had, with the non-transmission of the program something more serious happened in the world?

THE RUSHDIE AFFAIR²⁷

Was the Carrell Affair indeed a 'dangerous precedent' as Bolkestein feared (without drawing the necessary conclusions from his, in itself, interesting intuition)?

In 1989, two years after the Carrell Affair which ended so gloriously for the Iranian dictator, Khomeini tried to take a further step. This time not to intimidate a Dutch-German show master, but to have an ex-Muslim murdered who had written a blasphemous novel about the prophet of Islam. He declared:

'I inform all zealous Muslims of the world that the author of the book entitled *The Satanic Verses* – which has been compiled, printed, and published in opposition to Islam, the Prophet, and the Koran – and all those involved in the publication who were aware of its contents, are sentenced to death. I call upon all zealous Muslims to execute them quickly, wherever they may be found, so that no one else will dare to insult the Muslim sanctities. God willing, whoever is killed on this path is a martyr.

25 In 2008, so more than twenty years later, Hans van den Broek, now a "minister of state" (an honorary title conferred upon ex-politicians on the basis of great merit), called upon the government to sue Geert Wilders for making the anti-Islam film *Fitna*. Again, the ex-minister of foreign affairs feared that Dutch citizens living abroad would be harmed as a reaction to Wilders' film. See: Koelé, Theo, "Kabinet moet *Fitna* verbieden", in: *De Volkskrant*, 26 March 2008. So over the years Van den Broek's position on these matters has been fairly consistent.

26 Van Es (PSP), in: TK 1986-1987, p. 3.

27 The discussion of the Rushdie Affair in the next sections relies in part on: Cliteur, Paul, "Van Rushdie tot Jones: over geweld en uitingsvrijheid", in: Afshin Ellian, Geliijn Molier en Tom Zwart, Eds., *Mag ik dit zeggen? Beschouwingen over de vrijheid van meningsuiting*, Boom Juridische uitgevers, The Hague 2011, pp. 67-89.

In addition, anyone who has access to the author of this book but does not possess the power to execute him should report him to the people so that he may be punished for his actions.²⁸

Writing and publishing a novel 'in opposition to Islam, the Prophet, and the Koran' is under the Universal Declaration of Human Rights, as issued by the United Nations in 1948, an elementary human right. Article 18 declares:

'Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.'

But for the faithful this Article is far more controversial than many liberals realize. Rushdie had 'changed' his religion! He had become an 'apostate,' as is the right of everyone living under a regime of human rights.²⁹ This was not the case in Iran, however.³⁰

But there is a second remarkable element in this declaration (a fatwa) by Ayatollah Khomeini. Here, a comparison with Galileo might be illuminating. In the year 1632, Galileo published a book of dialogues on the Copernican and Ptolemaic systems, in which, in the words of Bertrand Russell, 'he had the temerity to place some remarks that had been made by the Pope into the mouth of a character named Simplicius.'³¹ The pope was furious. Galileo was living in Florence at that time and was on good terms with the Grand Duke. But the Inquisition sent for him to come to Rome to be tried. The Grand Duke would be threatened if he would continue to shelter Galileo. Galileo however, did not make it easy for them; he claimed he was too old (seventy years) to travel. Besides, he was ill and going blind. But the Inquisition was not so easy to shake off, as one might expect (they had more

28 Ruhollah al-Musavi al-Khomeini, 14 February 1989, quoted in: Pipes, Daniel, "Two Decades of the Rushdie Rules", in: *Commentary*, October 2010, pp. 30-35; Pipes, Daniel, *The Rushdie Affair: The Novel, the Ayatollah, and the West*, Second Edition with a postscript by Koenraad Elst, Transaction Publishers, New Brunswick (USA) and London (UK) 2003, p. 27. Ayatollah Khomeini "knew no English and had apparently never read the novel", writes Bernard Lewis in: "Religion and Murder in the Middle East", p. 105.

29 See on this, Jespersen, Karen, & Ralf Pittelkow, *Islamisten en naïvisten: een aanklacht*. With an introduction provided by Afshin Ellian, Nieuw Amsterdam, Amsterdam 2007, a book translated into French (Jespersen, Karen, & Ralf Pittelkow, *Islamistes et naïvistes: un acte d'accusation*, Editions du Panama, Paris 2007), but unfortunately not into English. An impressive recent book is: Marshall, Paul, and Shea, Nina, *Silenced: How Apostasy and Blasphemy Codes are Choking Freedom Worldwide*, Oxford University Press, Oxford 2011.

30 And also not the situation in other parts of the world where religious extremism gains significance. See: *Freedom of Thought 2012. A Global Report on Discrimination against Humanists, Atheists and the Nonreligious*, International Humanist and Ethical Union, London 2012; *Freedom of Thought 2013. A Global Report on Discrimination against Humanists, Atheists and the Nonreligious*, International Humanist and Ethical Union, London 2013.

31 Russell, Bertrand, *The Scientific Outlook*, Routledge, London and New York 2001 (1931), p. 12.

uncooperative candidates at stake to deal with)³² and Galileo was commanded to come to Rome as soon as he would recover, which he did, in due course, and where he, as we all know, recanted.

Now, Khomeini was no pope. And Rushdie was in another situation than Galileo. Rushdie's 'Grand Duke,' Margaret Thatcher, would not have delivered her heretic, blasphemer or apostate to the supreme leader of Islam, as one may expect.³³ But Khomeini was a much too resourceful man to acquiesce in this predicament. So he took recourse to the same tremendously successful instrument he had tried with so much success with the Dutch: Intimidation.

In the case of the Dutch, only the *possibility* that violence might occur was sufficient for the Dutch government, and the Dutch broadcasting corporation, to back down on freedom of the press. In case of the arrogant British (a former world power, after all) a somewhat stronger medicine might be needed. This was the fatwa. As Mohamed Arshad Ahmedi writes in his *Rushdie: Haunted by His Unholy Ghosts* (1997), since that moment 'even non-Muslims around the world were going to add a new word to their vocabularies no matter what language they spoke – this word was Fatwa.'³⁴ Khomeini, in the words of his declaration, 'called upon all zealous Muslims to execute them quickly.' Two years later, in 1991, the Japanese translator of Rushdie's *The Satanic Verses* was found slain at a university in northeast Tokyo.³⁵ The translator, Hitoshi Igarashi (1947-1991), was also a Japanese scholar of Arabic and Persian literature. The assailant, who was never caught, was probably executing the orders of the religious scholar, whose reputation the Iranian government took great pains to defend: Ayatollah Khomeini. Such killings evince not only an enormous religious zeal (something Khomeini refers to in his declaration: He exhorts 'all zealous Muslims' to execute, what Hitchens has called his 'bribed assassination scheme')³⁶ but also an overwhelming respect for the interpretations of religion by religious leaders. From a modernist perspective, the interpretation of Holy Scripture by a religious scholar is not taken as the final word for religious believers. In that sense, we are 'all

32 In 1632 Galileo had, of course, what happened with Giordano Bruno fresh in his mind: Bruno was caught and burned at the stake at the Campo dei Fiori in Rome in 1600.

33 Although she may have been tempted. In his conversation with Rushdie, the French philosopher Bernard-Henri Lévy indicated that he had heard Margaret Thatcher saying that Rushdie deserved this, and also that Prince Charles was chuckling in Paris about the Rushdie Affair, saying that Rushdie was quite expensive for the British crown. See: Lévy, Bernard-Henri, *Avec Salman Rushdie: Questions de principe six*, Le Livre de Poche, Librairie Générale Française, Paris 1999, pp. 78 and 96. That Prince Charles is also rather expensive for the British crown without having any significant talent for *anything at all* probably did not cross his mind.

34 Arshad Ahmedi, Mohamed, *Rushdie: Haunted by His Unholy Ghosts*, Islam International Publications Limited, Tilford UK 2007 (1997), p. 39.

35 Weisman, Steven R., "Japanese Translator of Rushdie Book Found Slain", in: *The New York Times*, 13 July 1991.

36 Hitchens, Christopher, *God is not Great: How Religion Poisons Everything*, Twelve, New York, Boston 2007, p. 28.

protestants now; even Catholics are.' From a pre-modern perspective, though, which now makes its resurgence in theoterrorism, following the religious leaders is an absolute command, indispensable for personal salvation.

There is one aspect that many missed in Khomeini's declaration and, in a certain sense, this proved also fateful to the Dutchman Theo van Gogh in 2004. Khomeini, referring to the book *The Satanic Verses*, did not only incite the murder of the *author* of the book, Salman Rushdie, but also called for the death of 'all those involved in the publication who were aware of its contents.' Italian *translator* Ettore Capriolo was attacked with a knife on 3 July 1991 in Milan, and the Norwegian *publisher* William Nygaard was wounded by gun shots on 11 October 1993 in Oslo. As Ramine Kamrane writes on the publisher and translator: 'They were no Muslims.'³⁷ Only Rushdie was Muslim, or at least regarded as one.

THE MURDER OF THEO VAN GOGH

This was something that Theo van Gogh must have missed, when he decided to work together with Ayaan Hirsi Ali on the film *Submission* in 2004, a movie dedicated to the plight of women in countries where Islam occupies an important influence. Van Gogh considered himself to be the 'village idiot' of Amsterdam. He was no apostate. He had never been a believer. He was not a Muslim; he was an atheist. So the whole repertoire of punishments religious fanatics have in store for apostates, heretics and blasphemers (so faithfully executed by the Christian state on behalf of the Inquisition)³⁸ would not be applicable to him.

The murder of the Dutch film director, film producer, columnist, author, actor, journalist, public intellectual and – most important of all – 'contrarian' Theo van Gogh (1957-2004),³⁹ abruptly ended the dream of a multicultural paradise that the Netherlands was in the eyes of many progressive and well-meaning leftist intellectuals and politicians.

Van Gogh was born in The Hague, the Netherlands, but lived in Amsterdam, the capital of the country. He was also killed in Amsterdam, on the streets, in broad daylight. He was the son of Johan van Gogh (*b.* 1922), who had worked for the Dutch intelligence agency. Theo's uncle (1920-1945), also called Theo, was executed as a resistance fighter by the Nazis during the occupation of the Netherlands in the Second World War. His

37 Kamrane, Ramine, *La Fatwa contre Rushdie: une interprétation stratégique*, Éditions Kimé, Paris 1997, p. 30.

38 Bennassar, Bartolomé, *Brève Histoire de l'Inquisition: L'intolérance au service du pouvoir*, Fragile, Gavaudun 1999; Green, Toby, *Inquisition: The Reign of Fear*, Macmillan, London 2007.

39 The word 'contrarian' is deliberately chosen because, although a category in itself, the closest analogy to Van Gogh would perhaps be the British-American public intellectual Christopher Hitchens. See his: Hitchens, Christopher, *Letters to a Young Contrarian*, Basic Books, New York 2005.

great-grandfather, also called Theo, was the famous art dealer (1857-1891), younger brother of the world-renowned artist Vincent van Gogh (1853-1891).

Theo van Gogh's life was full of personal quarrels and vehement intellectual clashes with people he deemed to be politically correct (in particular the mayor of Amsterdam, Job Cohen). In the last years of his life he was much impressed by the ideas and work of two other notorious Dutch opinion makers: Pim Fortuyn (1948-2002) and Ayaan Hirsi Ali (b. 1969). Fortuyn was a Dutch politician who was murdered by a left-wing activist, Volkert van der Graaf (b. 1969). Van der Graaf deemed Fortuyn to be a 'danger' who had to be stopped (i.e. eliminated). One of Fortuyn's political issues was criticizing Islam for its anti-Enlightenment stances, in particular with regard to homosexuality (Fortuyn was an ostentatious homosexual himself who openly avowed his sexual preferences). His most controversial statements were about the 'backward nature' of Islam (in Dutch: *achterlijk*).⁴⁰ Hirsi Ali is a Somalia-born writer who, after becoming an atheist,⁴¹ criticized her former religion, Islam, of anti-feminist proclivities.⁴² She made a film together with Van Gogh on this issue, which on 29 August, 2004, was shown on Dutch television.⁴³ The title of the film, *Submission*, refers to the literal translation of the word 'Islam,' but also to the submissive attitude the believers exemplify with regard to the central ideas of their belief, which makes progress difficult, if not impossible. For Van Gogh, Hirsi Ali and Fortuyn, progress in the sense of Enlightenment was only possible by relinquishing religion.⁴⁴

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- 40 Poorthuis, Frank and Hans Wansink, "De islam is een achterlijke cultuur", Interview with Pim Fortuyn, in: *de Volkskrant*, 9 February 2002. Fortuyn's ideas on Islam are explained in: Fortuyn, Pim, "Tegen de islamisering van onze cultuur. Nederlandse identiteit als fundament", in: *De grote Pim Fortuyn omnibus*, Speakers Academy, Van Gennep 2001, pp. 197-283. Fortuyn was influenced by: Goodwin, Jan, *Price of Honor: Muslim Women lift the Veil of Silence on the Islamic World*, A Plume Book, Penguin 2003 (1995). See on his life and ideas in general: Snel, Bert, *Pim 1: De politieke biografie van Pim Fortuyn als socioloog en als politicus 1990-2002*, Uitgeverij Van Praag, Amsterdam 2012; Snel, Bert, *Pim 2: Pim Fortuyn en zijn partijen, Leefbaar Nederland, Leefbaar Rotterdam, Lijst Pim Fortuyn*, Prof. Dr. W.P.S. Fortuyn Stichting 2013.
- 41 She tells her life-story in two autobiographical books: Hirsi Ali, Ayaan, *Infidel: My Life*, The Free Press, London 2007 and Hirsi Ali, Ayaan, *Nomad: From Islam to America, A Personal Journey through the Clash of Civilizations*, The Free Press, London 2010.
- 42 She made her entrée in Dutch intellectual circles in 2001 with an article under the title "Allow us a Voltaire". She means: allow us, Muslims, also critical minds as Voltaire. Do not condemn us, Muslims, to obscurity by criticizing the Enlightenment thinkers who criticize religion. See: Hirsi Ali, Ayaan, "Gun ons een Voltaire", in: *Trouw*, 24 November 2001, also in: Vink, Jaffe and Chris Rutenfrans, *De terugkeer van de geschiedenis*, Uitgeverij Augustus, Amsterdam 2005, pp. 79-85. She further developed her criticism in: Hirsi Ali, Ayaan, *The Caged Virgin: An Emancipation Proclamation for Women and Islam*, The Free Press, New York and Sydney 2006. Her work shows some similarities with that of Taslima Nasrin (France), Necla Kelek (Germany), Maryam Namazi (United Kingdom). See: Cliteur, Paul, "Female Critics of Islamism", in: *Feminist Theology*, 2011, 19(2), pp. 154-167.
- 43 Hirsi Ali, Ayaan, *Submission*, broadcasted in "Guests of the Summer" ("Zomergasten") on 29 August 2004, with an introduction by Betsy Udink, Uitgeverij Augustus, Amsterdam 2004.
- 44 At least Islam. Fortuyn had sympathy for Catholicism. Hirsi Ali and Van Gogh were straightforward atheists and had no sympathy for any religion whatsoever. Hirsi Ali was influenced by the Dutch atheist Herman Philipse. See: Philipse, Herman, *Verlichtingsfundamentalisme? Open brief over Verlichting en fundamen-*

Since the terrorist attacks of 9/11, Van Gogh made criticism of Islam an important part of his polemics. His last film, titled '06/05,' was dedicated to the life and to the murder of Pim Fortuyn, who was killed on that date. In 2003, Van Gogh wrote a book titled *Allah weet het beter* (Allah knows Better).⁴⁵ In circles of artists and writers, Van Gogh was exceptional because he did not subscribe to the left-wing views of many of his colleagues. But he was also hated for this. And for his personal attacks, which were – it has to be admitted – often beyond the pale.⁴⁶

The irony is that for many people his death, and especially the way this came about, actually proved what he had not been able to convey during his lifetime: That radical Islam was a mortal danger to the social cohesion of Dutch society (and, frankly, all democratic and liberal societies).

2 NOVEMBER, 2004

On 2 November, 2004, Van Gogh was murdered by the home-grown jihadist Mohammed Bouyeri (b. 1978)⁴⁷ while cycling to work in the morning. After shooting the filmmaker eight times with a handgun, the killer tried to decapitate Van Gogh with a knife. Bouyeri also stabbed two knives in the chest of his victim, one with a note in which he spelled out his extremist message to the world, and in particular to western democracies, to Jews and to Ayaan Hirsi Ali. Hirsi Ali proved to be untouchable for the killer, while Van Gogh was a soft target. Van Gogh was an easy target for two reasons. The first reason was that he had no police protection, like Hirsi Ali did have. Van Gogh used to make jokes about the Amsterdam police who had offered him protection, but only during and after his public performances: 'I hope that Al Qaeda respects the office hours,' Van Gogh used to say. The second reason is that he himself, as we indicated, believed that he was not in the same way a target for terrorist attacks as Hirsi Ali was, because *she* was a Muslim (or rather an apostate Muslim) and *he* was a Dutch writer with no ties to Islam. So in his case, there was no 'apostasy.'⁴⁸ According to his understanding of Islamist ideology, there would be no

talisme aan Ayaan Hirsi Ali, Mede bestemd voor Piet Hein Donner, minister van Justitie en coördinerend minister in de strijd tegen terreur, Uitgeverij Bert Bakker, Amsterdam 2005.

45 Gogh, Theo van, *Allah weet het beter*, Xtra Producties, Amsterdam 2003.

46 A portrait of Van Gogh is painted by his friends Holman and Pam in: Holman, Theodor, *Theo is dood*, With a foreword by Gijs van de Westelaken, Mets en Schilt, Amsterdam 2006; Pam, Max, *Het bijenspoek: over dier, mens en god*, Prometheus, Amsterdam 2009.

47 Buruma, Ian, *Murder in Amsterdam: The Death of Theo van Gogh and the Limits of Tolerance*, Penguin, New York 2006; Eyerman, Ron, *The Assassination of Theo van Gogh: from Social Drama to Cultural Trauma*, Duke University Press, Durham and London 2008; Llosa, Mario Vargas, "Schießen, schneiden, stoßen: Theo van Goghs schrecklicher Tod", *Die Welt*, 4 November 2006; Chorus, Jutta, & Olgun, Ahmet, *In Godsnaam: Het jaar van Theo van Gogh*, Uitgeverij Contact, Antwerp/Amsterdam 2005.

48 Ibn Warraq, Ed., *Leaving Islam: Apostates Speak Out*, Prometheus Books, Amherst, New York, 2003; Marshall, Paul, and Nina Shea, *Silenced: How Apostasy and Blasphemy Codes are Choking Freedom Worldwide*, Oxford

reason to harm him, let alone kill him. He was, after all, 'the village idiot.' But this proved to be a fatal mistake of not only Van Gogh himself, but also of the Amsterdam police and Dutch authorities in general. The murder took most people by surprise. Especially the politically correct elite that Van Gogh had so vehemently criticized. Now they felt embarrassed, although not many people (frankly, no one) changed their attitudes openly. For Dutch society, though, the murder proved a watershed. The anti-Islam party of Geert Wilders had huge electoral success (like Fortuyn's party had done before).⁴⁹ It is difficult to imagine this taking place without this 'spectacular' murder. A few weeks after the murder of Van Gogh, on 24 November, 2004, Wilders created a foundation aimed at publicizing his ideology and attracting financial support. This organization was the forerunner of the foundation currently named 'Friends of the PVV' (*Stichting Vrienden van de PVV*), which is, of course, closely related to Wilders' political party: the Party for Freedom (*Partij voor de vrijheid*, or *PVV*).

The murderer of Van Gogh, Mohammed Bouyeri, was apprehended almost immediately after his deed and was convicted on 26 July, 2005, to a life-long prison sentence without parole.⁵⁰ This severe sentence was in part the result of the fact that the murderer showed no remorse at all. On the contrary, he used the public trial to explain the jihadist ideology in a manner that must have been a painful experience for many people who had denied any danger.

After the murder, a confusing and heated debate on the 'causes' of this tragedy erupted. This made evident a deep rift in Dutch society. On the one hand, there was the multicultural and politically correct Dutch elite who pointed accusatory fingers at Van Gogh's brutal and outrageous criticism of vulnerable minorities in Dutch society. On the other hand, there were the people that pointed to the nature of jihadist ideology. The two groups could not agree on the causes of the new religious terrorism that seemed to be taking hold.

FROM VAN GOGH TO THE DANISH CARTOON AFFAIR

We ended the Rudi Carrell Affair with the speculation that it is plausible to suppose that there is a connection between the Carrell Affair and the subsequent Rushdie Affair. It is not improbable that Khomeini's success on the evening of 23 February, 1987, having seen a minister of foreign affairs on Dutch television trying to convince a Dutch journalist *not* to criticize his person and regime by re-airing a controversial spoof, has had some effect

University Press, Oxford 2011; Marshall, Paul, Ed., *Radical Islam's Rules: The Worldwide Spread of Extreme Shari'a Law*, Rowman & Littlefield Publishers, Inc., Lanham etc. 2005; Sookhdeo, Patrick, *Freedom to Believe: Challenging Islam's Apostasy Law*, Isaac Publishing, Three Rivers (Michigan) 2009.

49 For a biography of Wilders, see: Fennema, Meindert, *Geert Wilders: Tovenaarsleerling*, Uitgeverij Bert Bakker, Amsterdam 2010.

50 Rechtbank Amsterdam, 26 juli 2005 (Moord op Theo van Gogh).

on the Rushdie Affair one year later. But, let's admit it, this is speculation. We do not have access to the Iranian state archives, nor do we have information from Khomeini himself, or those around him, that the Dutch and the English cases are connected.

The connection between the murder of Theo van Gogh and the next great clash between democratic values and theoterrorism is better documented. Why were the Danish cartoons made? This had something to do with the Van Gogh case. Flemming Rose (b. 1958), culture editor of the *Jyllands Posten*, the daily that published the cartoons, was surprised by the fact that in January 2005, the *International Film Festival* in Rotterdam refused to show the film *Submission* by Theo van Gogh and Ayaan Hirsi Ali due to security considerations.⁵¹ The organization feared 'that the screening might trigger further acts of religious violence.'⁵² Rose considered this to be odd. Would this not imply that free press gave in to threats of violence? Under those circumstances, was freedom of expression not in fact abolished or at least severely limited?⁵³ That was Rose's question.

Another incident that provided food for thought was that writer Kåre Bluitgen (b. 1959) found it impossible to contract an illustrator for a children's book because nobody dared to make a picture of the prophet Mohammed.⁵⁴

This was the background of the cartoon affair. This is important, because if it is true, there were no pestering xenophobic intellectuals trying to target innocent religious minorities, as was contended in many commentaries.⁵⁵ The people who organized the cartoon experiment were concerned. They were concerned about the erosion of civil liberties.

But it soon appeared to Rose that it proved much more difficult than expected to convince people that there was something important at stake. There was no problem at all, many said. Subsequently, the idea arose to 'test' whether there really was a problem. A real empirical test, like the way science tries to prove or disprove something.⁵⁶ To test whether cartoonists exerted self-censorship, he asked forty-two cartoonists to give their view on the prophet Mohammed. Only twelve of those actually sent in a cartoon. It was not clear in advance who would present a critical view on the prophet and who would take a more

51 Troost, Nanda, "Nooit zal ik zwijgen", in: *de Volkskrant*, 9 January 2010, www.volkskrant.nl/vk/nl/2694/Tech-Media/archief/article/detail/977464/2010/01/09/Nooit-zal-ik-zwijgen.dhtml.

52 "Fears prompt withdrawal of Van Gogh film", in: *The Guardian*, 27 January 2005, www.theguardian.com/film/2005/jan/27/festivals.rotterdamfilmfestival.

53 Rose, Flemming, "Why I Published Those Cartoons", in: *Washingtonpost.com*, Sunday, 19 February 2006.

54 Kim, Sebastian C.H., "Freedom or Respect: Public Theology and the Debate over the Danish Cartoons", in: *International Journal of Public Theology*, 1 (2007), pp. 249-269.

55 For example, one of the princesses of Orange, Mabel, stated in an interview that one should not publish something with the sole aim to insult, harm or humiliate other people. See the remarks by Princess Mabel quoted in: Albrecht, Yoeri, and Pieter Broertjes, "Ik kan niet tegen onrecht. Het veelkoppige monster van de onvrije democratie", in: *de Volkskrant*, 10 March 2007.

56 See on the scientific method: Russell, Bertrand, *Religion and Science*, Oxford University Press, London New York Toronto 1935, pp. 7-19.

laudatory stance. The experiment was simply to establish how many people, if any, *would dare* to make such a cartoon. And so the twelve cartoons that would cause such turmoil on the international scene came into being: the cartoons ‘that shook the world,’ to quote the title of Jytte Klausen’s book.⁵⁷

THE BRITISH, THE DANISH, THE DUTCH, AND THE AMERICANS

So far we have dealt with the Dutch, the British and the Danish confrontation with theoterrorism. The Dutch were the first to be tested. And they failed. The British were the second. They fared a little better, perhaps also because of the indefatigable Rushdie himself, who showed great talent in mobilizing the artistic scene to support his case.⁵⁸ Rushdie also had great talent in making clear that this was not about *himself* or about *one book*, but about books in general, about what is called the ‘principle of free speech.’⁵⁹ His case gave rise to some of history’s most beautiful defenses of freedom of speech and freedom in general, including Jeremy Waldron’s early commentary,⁶⁰ and an essay by the always thoughtful Karel van het Reve.⁶¹ These were the ‘Milton’s’ of our time.⁶²

Now it was America’s turn to be tested by the religious fanatics. Let us first state what we do *not* mean by being ‘tested’ in this context. First, the United States had, of course, 9/11. This was indeed a manifestation of religious fanaticism of the most violent sort. But it was not a ‘test’ in the sense that it is discussed in this contribution. A ‘test’ in the sense discussed here means that there is a dilemma with regard to the question: What action should we undertake? Give up on your principles in exchange for temporary peace, or defend fundamental ideas: Freedom of speech, freedom of conscience, freedom of religion, *et cetera*? The Cartoon Affair was a real dilemma for the Danish politicians. What to do?

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- 57 Klausen, Jytte, *The Cartoons that Shook the World*, Yale University Press, New Haven and London 2009.
- 58 A collection of support from fellow writers is: MacDonogh, Steve, Ed., In Association with Article 19, *The Rushdie Letters: Freedom to Speak, Freedom to Write*, Brandon Book Publishers, Kerry, Ireland 1993; Chervel, Thierry, Hrsg., *Redefreiheit ist das Leben: Briefe an Salman Rushdie*, Piper, München, Zürich 1992. French support for Rushdie is to be found in: Abdallah, Anouar, et al., *Pour Rushdie: Cent intellectuels arabes et musulmans pour la liberté d’expression*, La Découverte, Carréfour des littératures, Colibri, Paris 1993.
- 59 Rushdie, Salman, “Coming After Us”, in: Lisa Appignanesi, Ed., *Free Expression is No Offence*, Penguin Books, London 2005, pp. 21-29; Rushdie, Salman, “Do we have to fight the battle for the Enlightenment all over again?”, in: *The Independent*, 22 January 2005; Rushdie, Salman, “In Good Faith”, 1990, in: Salman Rushdie, *Imaginary Homelands: Essays and Criticism 1981-1991*, Vintage Books, London 2010 (1991), pp. 393-414; Rushdie, Salman, *Joseph Anton: A Memoir*, Jonathan Cape, London 2012.
- 60 Waldron, Jeremy, “Rushdie and Religion”, first published under the title “Too important for Tact” in: *The Times Literary Supplement*, 10 March 1989, pp. 248 and 260, and reprinted in: Waldron, Jeremy, *Liberal Rights: Collected Papers 1981-1991*, Cambridge University Press, Cambridge/New York 1993, pp. 134-143.
- 61 Reve, Karel van het, “Achterlijke artikelen”, in: *Elsevier*, 4 March 1989, also included in: Karel van het Reve, *Verzameld Werk*, Vol. 6, Van Oorschot, Amsterdam 2011, pp. 350-353.
- 62 Milton, John, *Areopagitica*, 1644, in: John Milton, *Complete Poems and major Prose*, Edited with notes and introduction by Merritt Y. Hughes, Hackett Publishing Company, Indianapolis 2003 (1957).

Grovel for the fanatics and make excuses about cartoons in newspapers? Try to have the cartoons suppressed, and the makers convicted on some trumped up case about 'blasphemy,' 'insulting a group of people because of their religion' or similar legislation? The Dutch were put to the test in a similar fashion: What to do? Broadcast fourteen seconds of (un)necessary satire on a brutal dictator, or try to pass on this dilemma to others (as the Dutch did *de facto* with the British, who would become the next victim of the zealous fanatics Khomeini had ignited). 9/11 was not a situation of that sort. And neither was the Iran hostage crisis of 1979-1981. Here, Iran seized sixty-six American citizens at the U.S. embassy in Tehran, holding fifty-two of them for more than a year. The crisis, which took place during the chaotic aftermath of Iran's Islamic revolution (1978-1979) and its overthrow of the Pahlavi monarchy, had a dramatic effect on the domestic politics in the United States, it poisoned US-Iran relations for decades, and proved a deadly blow to the popularity of the Carter administration. But in the hostage crisis, the free speech dilemma was not present. It is only recently that the Americans have made their entrance into the brave new world where freedom of speech or the First Amendment is the target. This happened in the Terry Jones Affair and the Youssef Affair.

THE TERRY JONES AFFAIR⁶³

The controversy surrounding Jones started in July 2010, when he used Facebook to announce an 'International Burn a Quran Day,' to be held at his church on 11 September, 2010, in honor of the victims of the terrorist attacks on the World Trade Center in New York, exactly nine years before.⁶⁴ Jones' idea was eccentric, but not entirely new. On 14 January, 1989, in the town of Bradford, in northern England, another book-burning was organized: Salman Rushdie's *The Satanic Verses*. As Kenan Malik (b. 1960) writes in *From Fatwa to Jihad: The Rushdie Affair and its Legacy* (2009), the novel was tied to a stake before being set alight in front of the police station. 'It was an act calculated to shock and offend,' Malik writes.⁶⁵ And it did more than that: 'The burning book became an icon of the rage of Islam.'⁶⁶ After Terry Jones had announced his plans, assistant pastor Wayne Sapp uploaded a video to YouTube in which the church's intentions were explained, and

63 The material on Terry Jones in the following sections is in part a translation of an article that appeared (in Dutch) in the *Nederlands Juristenblad*, the abovementioned: Rijpkema, Bastiaan, "Vrijheid van meningsuiting in de val tussen religieus extremisme en utilitarisme", no. 44/45, 2012, p. 3106-3111.

64 "Florida Church Plans Koran Burning on 9/11 anniversary", *Agence France Presse*, 31 July 31 2010; see also: "Who is Terry Jones? Pastor behind 'Burn a Koran-day'", 7 September 2010, *ABC News*, <http://abc-news.go.com/US/terry-jones-pastor-burn-koran-day/story?id=11575665#.UHCaKs2OL94>.

65 Malik, Kenan, *From Fatwa to Jihad: The Rushdie Affair and Its Legacy*, Atlantic Books, London 2009, p. ix.; Thomas, Dominique, *Le Londonistan: Le djihad au Coeur de l'Europe*, Éditions Michalon 2005, p. 34.

66 Malik, *Ibid.*, p. ix.; Weller, Paul, *A Mirror for our Times: "The Rushdie Affair" and the Future of Multiculturalism*, Continuum, London, New York 2009, p. 2.

– to add force to the announcement – included some images of a burning Quran.⁶⁷ On 21 July, the *Religious News Service* re-aired the announcement,⁶⁸ and in the following days the news spread to, among others, England,⁶⁹ the Netherlands⁷⁰ and France.⁷¹ A few days later, on 31 July, the first terrorist threat was made; members of the ‘Al Falluja Jihadist Forum’ threatened to ‘spill rivers of your (American) blood.’⁷²

So, when the leader of a small church of about fifty members⁷³ in a – by American standards – fairly small town like Gainesville⁷⁴ announced that he intended to burn a Quran, this announcement apparently reached the Netherlands (in this case the, in terms of readership, rather insignificant newspaper, *Reformatorisch Dagblad*) within the same month.⁷⁵ Modern means of communication make the world more closely knit. Marshall McLuhan (1911-1980) described this phenomenon as early as 1962 and coined the now well-known notion of the ‘Global Village.’⁷⁶ Unfortunately, in times of ongoing terrorist threats, we are inclined to say that our stay in the ‘Global Village’ is becoming increasingly less pleasant than the idea of a ‘village’ might suggest. The reality of our time is that what happens in one country is most likely to have effects in other countries.⁷⁷ Contemporary terrorism *is* transnational by its nature and recognizes no international boundaries. This ‘new reality’ was confirmed once again in the Terry Jones affair.

In September 2010, the media attention started to gather momentum and the responses to Jones’ plans also intensified. After protests broke out in Indonesia⁷⁸ and Afghanistan,⁷⁹

67 “Why couldn’t we look away?”, *St. Petersburg Times*, 11 September 2010.

68 Ibid.

69 “Church will burn Koran on 9-11”, *The Guardian*, 27 July 2010.

70 “Kerk roept op tot Koranverbranding”, *Reformatorisch Dagblad*, 28 July 2010.

71 “Une église de Floride propose de brûler le Coran le 11 septembre”, *Agence France Presse*, 31 July 2010.

72 “Florida Church Plans Koran Burning on 9/11 anniversary”, *Agence France Presse*, 31 July 2010.

73 Estimations vary. According to the local newspaper *The Gainesville Sun* the church has 50 members, see: “Petraeus: Dove World’s Quran burning may have global impact”, *The Gainesville Sun*, 7 September 2010, www.gainesville.com/article/20100907/ARTICLES/100909663.

74 Gainesville has approximately 125.326 inhabitants (2011), see: <http://quickfacts.census.gov/qfd/states/12/1225175.html>.

75 “Kerk roept op tot Koranverbranding”, 28 juli 2010, *Reformatorisch Dagblad*, www.refdag.nl/kerkplein/kerknieuws/kerk_vs_roept_op_tot_koranverbranding_1_493456.

76 See McLuhan, M., *The Gutenberg Galaxy: the making of typographic man*, Toronto: The University of Toronto Press, 1962, inter alia, p. 21 and 31. Globalization as such, of course, began much earlier. See e.g. Roberts, J.M., *The Penguin History of Europe*, London: Penguin Books 1996, p. 340-341.

77 See Cliteur, P.B., *Het Monotheïstisch Dilemma*, Amsterdam: De Arbeiderspers 2010, p. 78 and also Singer, P., *One World: The Ethics of Globalization*, New Haven & London: Yale University Press 2004, p. 7.

78 “Protest rallies against “Burn a Quran day” continue”, *Asia-Pacific News Agencies*, 5 September 2010.

79 “Afghans attack NATO outpost; Muslims worldwide outraged at threat to burn Quran”, *Montreal Gazette*, 10 September 2010.

government officials from, among others, Jordan,⁸⁰ Pakistan,⁸¹ Egypt,⁸² and Iraq⁸³ also condemned the proposed burning.⁸⁴ Iran blamed Israel.⁸⁵

WHAT TO DO: DEFEND FREE SPEECH OR GIVE IN TO TERRORISM?

The same type of reaction that in 1987, in the aftermath of the German Rudi Carrell Affair, was presented by the Dutch minister of foreign affairs in the discussion before the Dutch television audience, was now ventilated by a man with high military rank: U.S. General David Petraeus (b. 1952), at that time the ISAF commander in Afghanistan. He condemned the proposed burning of the holy book, and warned of possible consequences. This is what he said:

‘It could endanger troops and it could endanger the overall effort. It is precisely the kind of action the Taliban uses and could cause significant problems. Not just here, but everywhere in the world we are engaged with the Islamic community.’⁸⁶

Following Petraeus, the burning was condemned by a diverse parade of celebrities and government officials, from actress Angelina Jolie (b. 1975)⁸⁷ and the ‘Veterans of Foreign Wars of the United States,’⁸⁸ to the U.S. embassy in Kabul,⁸⁹ the Lieutenant General of the UN-training mission in Afghanistan William Caldwell (b. 1954),⁹⁰ Secretary of State Hillary Clinton (b. 1947),⁹¹ and NATO Secretary General Rasmussen (b. 1953).⁹²

Pastor Jones, however, indicated he wanted to have a reaction from the White House. The president seemed reluctant, though, to make official declarations on the issue. And

80 “Jordan condemns US pastor’s planned Koran burning”, *The Jordan Times*, 10 September 2010.

81 “Worldwide outrage at planned Quran burning”, *Al Arabiya*, 8 September 2010.

82 Ibid.

83 Ibid.

84 For an overview of countries that condemned the burning, see: www.csmonitor.com/World/Global-Issues/2010/0909/11-countries-speaking-out-against-Koran-burning-in-Florida/India.

85 According to Iranian Foreign Minister Manouchehr Mottaki the burning was “orchestrated by the Zionist regime after being defeated in its efforts against Muslims and the Islamic world”, see: “Worldwide outrage at planned Quran burning”, *Al Arabiya*, 8 September 2010.

86 “Petraeus Says Quran-Burning Protest Will Endanger Troops”, *Wall Street Journal*, 6 September 2010.

87 “Angelina Jolie”, *The Hamilton Spectator*, 10 September 2010, www.thespec.com/whatson/article/254810--angelina-jolie.

88 “VWF Strongly Against “Burn a Koran Day””, *Targeted News Service*, 7 September 2010.

89 “Petraeus: Koran burning plan will endanger US troops”, *BBC South Asia*, www.bbc.co.uk/news/world-south-asia-11209738.

90 “U.S. Afghanistan commanders condemn Koran-burning plan”, *Reuters*, 6 September 2010.

91 “Clinton condemns Quran-burning plan”, *CNN U.S.*, 8 September 2010.

92 “Pressure mounts in U.S. against Koran-burning plan”, *Reuters*, 7 September 2010.

how could he? Part of the First Amendment, which protects free speech, is that it is up to the American citizen to choose his own, sometimes unsympathetic, means to get his message across. Book burning, although an archaic approach, used to be practiced widely⁹³ not only in Greek and Roman culture,⁹⁴ but also in Christian Europe. It received a bad press because of the Nazis, whose book burning, initiated by Joseph Goebbels, was still fresh in our minds. But can you forbid this? There were certainly no legal grounds to do so. Besides, how could this be seen as the task of the president? In the American democracy, with the separation of powers, establishing the limits of free speech and developing criteria as to which means are legitimate for expressing your opinion, is the prerogative of the legislative or the judiciary, but certainly not the executive.⁹⁵ What the theoterrorist aims to do (and if not 'aims to do,' he certainly effectuates this) is forcing the executive to transgress its bounds. Again, this can be seen as a success. If a foreign dictator can make a democratically legitimated politician in another country seek refuge in an attempt to stifle the press, this can be seen as a triumph of dictatorship over democracy. If the president of the greatest democracy in the world is forced to call an American citizen to ask him not to use his constitutional right attributed to him in the national constitution, this is not only a triumph of dictatorship, but also a humiliation of democracy with great symbolic significance. The president and his advisors must have been aware of the delicacy of the situation. But, apparently, the president feared the turmoil and looming catastrophe even more than a violation of the constitution. First, a White House spokesman declared that the White House subscribed to Petraeus' warning.⁹⁶ (Again, a breach of the normal situation: A president who agrees with a civil servant). Then things accelerated. Two days after the White House statement, U.S. President Obama (*b.* 1961) appeared on 'Good Morning America,' where he explicitly called on Jones to refrain from the Quran burning. The President said the following:

'What he's proposing to do is completely contrary to our values as Americans; that this country has been built on the notions of religious freedom and religious tolerance. And as a very practical matter, as commander-in-chief of the armed forces of the United States, I just want him to understand that this stunt that he is talking about pulling could greatly endanger our young men and women in uniform who are in Iraq, who are in Afghanistan. We're already seeing protests against Americans just by the mere threat that he is making.'

93 Fishburn, Matthew, *Burning Books*, Palgrave, MacMillan 2008.

94 Cramer, Frederick H., "Bookburning and Censorship in Ancient Rome: A Chapter from the History of Ideas of Speech", in: *Journal of the History of Ideas*, Vol. 6, No. 2 (Apr., 1945), pp. 157-196.

95 One could question how 'involved' judges should be in the lawmaking process, see for instance: Rijkema, Bastiaan, 'Rechterlijke toetsing is een bijzonder slecht idee', in: *de Volkskrant*, 18 February 2014.

96 "Quran burning plan a "concern": White House", *CBC News*, 8 September 2010.

And, when asked what he was worried about, Obama replied: ‘Well, look, this is a recruitment bonanza for al-Qaida.’⁹⁷

That same day Jones declared – despite the pressure from the White House – that he was still determined to burn a Quran on 11 September.⁹⁸ A few hours after Obama’s appearance on ‘Good Morning America,’ Jones received a direct phone call from U.S. Secretary of Defense Robert Gates (b. 1943). Can you, as a largely unknown maverick pastor, force one of the most senior government officials to negotiate with you about what you will do and say? Yes, apparently you can. During a brief conversation, Gates pointed to the potential dangers to American forces and urged Jones to cancel his plans.⁹⁹ Here, the Dutch minister of foreign affairs, Van den Broek, calling to the Dutch television program and advocating a cancellation of the fourteen seconds of criticism of Ayatollah Khomeini, comes to mind.

The comparison between the American president and the American Secretary of Defense trying to dissuade Jones from burning a Quran, and the Dutch minister of foreign affairs trying to influence the media, is interesting, because there are several similarities. During the televised conversation in 1987 between the Dutch minister and the Dutch anchorman of the program, the journalist suggested that by not showing the Khomeini spoof, they, the people from the broadcasting corporation, could do some ‘kind of favor’ to the minister. Van den Broek, however, did not think Witteman was delivering him any service: ‘I only provide the information you need in order to take *your own responsibility* in this matter.’ Witteman disagreed and answered: ‘But you understand, of course, because you are an eminent person, what kind of influence the minister of foreign affairs expounding such a view has. No matter how much we value our freedom of the press.’

Perhaps the journalist should have answered: ‘Excellency, with all due respect, what you suggest is that we change roles. Is it not *my* responsibility to report on what happens in this world and *your* responsibility to protect us against evil?’ What the minister effectively did was foster the impression that he, as an organ of the state, could ‘inform’ the broadcasting corporation of the evils of the world in which we are living, and that the broadcasting corporation had to bear the burden of not making this world unsafe. By a majestic sleight of hand the minister reversed the tasks and responsibilities of the most important actors in this play.

But with his remark, the journalist was also onto something. Apparently, the minister, in pretending only to ‘give advice’ to the broadcasting corporation, tried to make people believe that he acted in his private capacity: As an ordinary civilian ‘giving advice’ to a reporter. And he expected the broadcasting corporation to adopt the role of the state by

97 For a transcript of the interview, see “Opinion Roundup: Burning the Quran”, *National Public Radio*, 9 September 2010.

98 “Florida Pastor Determined to Carry Out Quran Burning”, *AOL News*, 8 September 2010.

99 “Obama’s Pentagon chief calls Florida pastor”, *USA Today*, 10 September 2010.

doing what is necessary to guarantee the security of Dutch citizens. Primarily on the territory of the state, but also abroad. If the state cannot bear that, indeed great, responsibility, the state ceases to be a state. It becomes a 'failed state.'

Now, it may be argued that it is wildly over the top to insinuate that the United States, the United Kingdom, or the Netherlands are 'failed states' because they have not been able to avert some terrorist attacks. The Netherlands is not Somalia, is it?

This is true. But this teasing exaggeration may perhaps sharpen our understanding. What constitutes a 'failed state' is difficult to ascertain. For some religious minorities living in Saudi Arabia, the state is failing to protect their interests and guarantee their personal safety.¹⁰⁰ Christians in that country have a different opinion about the state than the majority of Sunni Muslims.¹⁰¹ And how does the Danish state look from the perspective of Kurt Westergaard, living under 24/7 protection for almost ten years already? He is still alive, the optimist retorts, which is true, but at what personal cost for the cartoonist? And how do the bereaved of Theo Van Gogh look at the Dutch state? As a monument of decency and effectiveness, or at least with some ambivalent feelings about its monopoly on the legitimate use of force?

One may still insist that the notion of the 'failed state' is too rhetorical to use in this context. In that case, we are willing not to use it. As long as the general message comes across that there is an element of perspective in the concept of 'failed state,' this is fine.

Let us underline: It is the state, not the broadcasting corporation, which has a responsibility to guarantee the security of the citizens. What the state may require from its citizens (and from private organizations) is to behave in accordance with the law. This was, effectively, what the television corporation was doing. It was, obviously, not illegal to report on a journalistic event in Germany. Not only was it not illegal, it was precisely what journalists are supposed to do. What the minister asked from the broadcasting corporation was to suspend or annul their primary function (i.e. to inform the public) because the state failed (or anticipated this failing) to fulfill its primary function. When an incumbent minister asks a television host – during a live show – not to broadcast a specific fragment, this is not simply the 'supplying of information,' but a request that a presenter – especially 'on the spot' – can hardly refuse.

100 See Morawiec, Laurent, *Princes of Darkness: The Saudi Assault on the West*, Rowman and Littlefield, Lanham 2005 for a chilling portrait.

101 See on this: Shortt, Rupert, *Christianophobia: A Faith under Attack*, Rider, London 2012; Marshall, Paul, and Nina Shea, *Silenced: How Apostasy and Blasphemy Codes are Choking Freedom Worldwide*, Oxford University Press, Oxford 2011.

THE MARK BASSELEY YOUSSEF AFFAIR¹⁰²

The second American affair that sparked a row was the Youssef Affair. Mark Basseley Youssef¹⁰³ is a Coptic Christian who was born in Egypt, but emigrated to the United States later in his life. He is the *auctor intellectualis* of a short video that became known as *Innocence of Muslims*.¹⁰⁴ Roughly speaking, the video consists of two parts. The first part pictures an angry mob of Muslims rioting in the streets of modern-day Egypt. In the second part, the video shifts to the past and focuses on the prophet Mohammed. This part includes scenes in which Mohammed is talking to a donkey, womanizing, and advocating slavery. Moreover, he is called ‘a murderous thug’ and is, in general, pictured as a warlord. While this video undoubtedly offended many Muslims, it is no more offensive in nature than, for example, anti-Semitic stories that have appeared in Arab media about Jews demanding the blood of a child for their matzos, or about a Jewish conspiracy to rule the world – occasionally regarding the *Protocols of the Elders of Zion* as the brightest star of indisputable science.¹⁰⁵ Apart from this similarity, the greatest difference with those expressions is, obviously, that violent eruptions occurred in the wake of *Innocence of Muslims*. It was reported that 21 countries were the scene of protests or attacks on American and other Western targets in the first week after the video attracted serious attention.¹⁰⁶

Just as with the affairs discussed earlier in this chapter, several political leaders found it difficult to defend freedom of speech in this case. The highest official of the foremost international organization, United Nations Secretary-General Ban Ki-moon (b. 1944), commented that:

‘All human beings have the inalienable right to freedom of expression, freedom of assembly. These are very fundamental rights. But, at the same time, this freedom of expression should not be abused by individuals. Freedom of expression should be and must be guaranteed and protected, when they are

102 The following discussion of the Mark Basseley Youssef Affair is based in part on: Herrenberg, Tom, “Politici, de vrijheid van meningsuiting en *Innocence of Muslims*”, in: *Nederlands Juristenblad*, No. 33, 27 September 2013, pp. 2255-2259; Herrenberg, Tom, “Vrijheid van meningsuiting in de multiculturele samenleving: evaluatie van twee tegenstrijdige interpretaties”, in: *Civis Mundi*, 14 January 2014.

103 Also known as Nakoula Basseley Nakoula.

104 Google, the parent company of video-sharing website YouTube, was ordered by the 9th U.S. Circuit Court of Appeals in February 2014 to remove the video from YouTube. This was due to a copyright claim by one of the actresses in the video.

105 For examples of anti-Semitic expressions, see: “New Trends in Arabic Anti-semitism”, vimeo.com/16779150; “Cartoons from the Arab World”, www.tomgrossmedia.com/ArabCartoons.htm; “Egyptian Scholars: ‘The Protocols of the Elders of Zion’ Is the Constitution of Freemasonry, Whose Goal Is Jewish Domination of the World”, www.memritv.org/clip/en/3039.htm.

106 “Violent protests over US-made film spill into more Islamic nations”, *The Daily Telegraph*, 18 September 2012. Although *Innocence of Muslims* sparked controversy in September 2012, it was uploaded on YouTube two months earlier.

used for common justice, common purpose. When some people use this freedom of expression to provoke or humiliate some others' values and beliefs, then this cannot be protected in such a way. So my position is that freedom of expression, while it is a fundamental right and privilege, should not be abused by such people, by such a disgraceful and shameful act.¹⁰⁷

What is most striking is that Ban Ki-moon's preconditions for protected speech (i.e. the obscure 'common justice' and 'common purpose' requirements) are completely outside the recognized human rights framework and cannot be found in the key human rights instruments adopted by Ban Ki-moon's *own* organization: the United Nations.¹⁰⁸ Even if we would take Ban Ki-moon's requirements as mandatory for protected speech, we are left with the question: What would count as a 'common purpose' or as 'common justice'? It is everything but obvious that ridiculing symbols of power, whether they are political, religious, or economic in nature, fails to serve a 'common purpose,' bearing in mind that critique – which can, of course, take many forms – enables mankind to progress.¹⁰⁹ Ban Ki-moon also referred to a specific kind of reprehensible behavior: 'Humiliation.' A person who humiliates 'makes someone feel ashamed and foolish by injuring their dignity and pride.'¹¹⁰ When exactly is freedom of speech used 'to provoke or humiliate some others' values and beliefs'? Would Ban Ki-moon say that someone who strives for the legal prohibition of male circumcision on religious grounds 'humiliates' the values of others? Or would a capitalist mocking Marx and Engels count as such? Did Marx in turn 'humiliate' religious people when calling religion 'das Opium des Volkes'? Did Monty Python's *Life of Brian* 'humiliate' Christians?

107 www.un.org/News/Press/docs/2012/sgsm14518.doc.htm.

108 Article 19 of the Universal Declaration of Human Rights (1948) reads: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"; Article 19 of the International Covenant on Civil and Political Rights (1966) reads: "(1) Everyone shall have the right to hold opinions without interference. (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. (3) The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals"; Article 20 of the International Covenant on Civil and Political Rights reads: "(1) Any propaganda for war shall be prohibited by law. (2) Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law".

109 See on the importance of critique: Clifford, William Kingdon, "The Ethics of Belief", in: Stephen, Leslie and Frederick Pollock, Eds., *Lectures and essays by the late William Kingdon Clifford*, Macmillan and co., London 1901, pp. 163-205. Clifford is discussed in: Cliteur, Paul, *The Secular Outlook: In Defense of Moral and Political Secularism*, Wiley-Blackwell, West Sussex (UK) 2010.

110 www.oxforddictionaries.com/definition/english/humiliate.

And what is the legal status of ‘humiliation’ precisely? Does Ban Ki-moon propose to introduce a new right, the right ‘not to be humiliated in your beliefs’? And where to include that in the Universal Declaration of Human Rights?

Although his remarks were a threat to the free exchange of opinions, Ban Ki-moon appeared to be in good company. In his response to *Innocence of Muslims*, president of the European Parliament, Martin Schulz (b. 1955), ‘condemned strongly not only the content but also the distribution of such a movie, which is really humiliating the feelings of a lot of people all over the world.’¹¹¹ The problem is not that Ban Ki-moon and Schulz took a stance against ‘humiliation,’ but that they stretched the meaning of that word to such an extent that it comes close to an attempt to immunize such an influential symbol as a prophet from criticism. But, then again, that might very well be their aim, since Schulz literally ‘[criticized] any attempt to ridicule Islam,’¹¹² while Ban Ki-moon said, referring to *Innocence of Muslims* and the *Danish cartoons*: ‘This must stop...’¹¹³ We would be ill-advised to follow these two leaders in their vision on free speech, for if we did, the possibilities of persuading others on topics of public concern would be enormously reduced.

CONCLUDING REMARKS: THE FUTURE OF THIS CONFLICT

This contribution is dedicated to an important modern phenomenon: The tension between the terrorist threat and civil liberties, in particular, the freedom of speech and the freedom of press. The aim of analyzing the five ‘affairs,’ the Carrell Affair, the Rushdie Affair, the Cartoon Affair, the Jones Affair, and the Youssef Affair, is to show a common pattern. We are inclined to affirm that these five cases, usually seen (or rather dismissed) as ‘incidents,’ as having no relation with each other, are somehow connected. It seems not unreasonable to speculate (we concede: This is speculation; there is no hard historical proof) that the Carrell Affair was the beginning of the Rushdie Affair, and from there, the situation developed. One may also say: It is highly unlikely that the successes of the Iranian regime in intimidating the Netherlands did *not* have some impact on the self-esteem of the Iranian leaders and stimulate them to take bolder steps (which they actually did two years later in the Rushdie case). The idea that the Carrell Affair was a specifically local matter with no impact on the Iranians (‘Why would they be interested in a silly little country most people cannot even locate on the map?’) is not very convincing. The Iranian government took an interest in what was said about Khomeini *in Germany*, and on the basis of this firm histor-

111 www.youtube.com/watch?v=FSd2JK78C48, at 2:28.

112 “Schulz on the violent attacks against diplomatic missions”, 15 September 2012, www.europarl.europa.eu/the-president/en/press/press_release_speeches/press_release/2012/2012-september/html/schulz-on-the-violent-attacks-against-diplomatic-missions.

113 www.un.org/News/Press/docs/2012/sgsm14518.doc.htm.

ical fact, it seems likely that they also took an interest in what was being said about them *in the Netherlands*.

Theoretically, it is possible that at some point in the future material will pop up (from government archives or otherwise) which will prove such a historical connection. A pipe dream would be, of course, an entry in some sort of diary, kept by Ayatollah Khomeini, or someone close to him, with a tenor like this: '24 February 1987. Great success in intimidating Dutch infidel nation without firing a shot, or having to kidnap anybody. Unfortunately, proud and stubborn German government did not apologize for disgraceful spoof on German TV, but show master himself so afraid that he tried to appease us. Success with intimidating the Dutch government stimulates us to think about further steps to take in intimidating decadent infidel nations.'

It is certainly very likely that the intuition of the Dutch minister of foreign affairs was entirely right with regard to the seriousness of the situation. But having the right diagnosis does not mean you also have the right therapy. And if crisis management was the strategy, we may ask: Was it also wise to *openly call* the Dutch broadcasting corporation, thereby showing to the whole world, and also to the theoterrorists, how eager the Dutch government was to appease the terrorists?

From a formal constitutional point of view this was problematic, of course. In a democracy, a member of the government (and acting on behalf of the government as a whole)¹¹⁴ is not supposed to call the media, and try to influence the way those media report on matters of politics or anything else. But that is not the main point we want to make in this chapter. This would turn our questions into a manifestation of some sort of scholarly *Prinzipienreiterei*. The point we want to raise, is whether 'only giving advise' to the media by politicians is such an innocent practice. Most people think it is. They have the feeling: 'Why is it wrong to call to the media and friendly *ask* them to take their responsibilities seriously?' The Dutch minister of foreign affairs did not *prohibit* the Dutch media from broadcasting the program critical of Khomeini. There was no *compulsion* involved. Only a call to 'reasonableness.' President Obama also did not *force* pastor Jones to relinquish his plans to burn the Korans. He only made a reasonable appeal for him to not do this. What could be better than to have a president who so humbly enters into a social discussion with some reasonable arguments? A plan to burn a holy book *is a lunatic plan*, is it not? Why be so 'puritanical' in constitutional matters?

The answer is: We do not primarily approach this matter from the angle of what is constitutionally right or not. Our point is: We think those kinds of phone calls could, in all likelihood, have adverse effects. Those phone calls could very well, contrary to the

114 In a parliamentary democracy the minister acts on behalf of the government. See: Visser, R.K., *In dienst van het algemeen belang: ministeriële verantwoordelijkheid en parlementair vertrouwen*, Boom, Amsterdam 2008, p. 19; Driessche, I.A., *Politieke ministeriële verantwoordelijkheid: het Nederlandse begrip in vergelijkend perspectief*, Kluwer, Deventer 2005, p. 147.

intuition of most people, not make this world a safer place, but more *unsafe* instead. After all, behavior that gets rewarded, gets repeated. Obama, Petraeus, Clinton, Ban Ki-Moon, Schulz and all other politicians who engage in such seemingly innocent discussions on what would be a feasible way to behave in such matters, accomplish the complete opposite of what they think and hope. What they accomplish is that terrorists will think they are on the right track. Imagine what a success it is, from the side of terrorist politics, to have the president of a free country openly calling a citizen to *request* this citizen to relinquish his constitutional rights and behave the way people are supposed to behave in dictatorships, i.e. to 'know in advance,' and in their behavior anticipate the preferences of the dictator and, although enshrined in the constitution as your right, 'freely' to forfeit that right, allegedly on the basis of reasonableness and decency (which are in reality considerations of fear; and, what is worse, fear *for all to see*).¹¹⁵

This is precisely what terrorists aim to do: To unsettle the structures in a foreign country by means of intimidation. They force a government to do things it would not do without that intimidation (as the definition of 'terrorist aim' in Article 83a of the Dutch Penal Code rightly points out).

Now, what governments usually do not do voluntarily is give a piece of territory to a group of citizens who have decided that, because they have their own language and culture, they want to secede from the national polity.¹¹⁶ That group of separationists decides, potentially, to resort to arms. What a government usually does not do voluntarily is to denigrate the system of values they have chosen to regulate their community. Usually, governments believe in their constitution, in their human rights, in their system of democracy. So if in the culture wars, between democracy and theocracy, theocratic terrorists manage to force a democratic government to publicly distance itself from, for example, the First Amendment of the American constitution (as Obama *de facto* did in our view) or the Universal Declaration of Human Rights and the International Covenant on Civil Rights and Political Rights (again, as Ban Ki-Moon *de facto* did in our view) this demonstrates *ad oculos* to the citizens in theocratic countries that their system is manifestly better than the democratic system. If you really believe in democracy and the rule of law, you would never speak in such flippant terms about those ideals, would you not? For theocratic leaders this is very important. The significance may be seen as purely 'symbolic,' but symbols play an important role in politics.

The message theocratic leaders want to communicate to their population is: People living in democracies may have televisions, smartphones, luxurious holiday resorts and

115 As Alan Dershowitz writes: *Why Terrorism Works: Understanding the Threat, responding to the Challenge*, Yale University Press, New Haven and London 2002. The difference between "fear" and "fear for all to see" is essential from a Machiavellian perspective, of course.

116 Buchanan, Allen, "Theories of Secession", in: Brooks, Thom, Ed., *The Global Justice Reader*, Blackwell Publishing, Malden, Oxford, Carlton 2008, pp. 94-115.

fancy cars, they still live in a spiritually arid environment with their wives and daughters walking around like prostitutes, while the vilification of the prophet is standard procedure by both governments and citizenry, and even their leaders have to confess that *au fond* their system is inferior to the state where God (Allah) illuminates our path.

This ideological warfare with sometimes violent outbursts may be with us for some time to come. Especially in an increasingly religious world. There is – so it seems – still no solution for this problem. What these five cases also show is that there seems to be no significant difference between the response of politicians in a relatively insignificant country as the Netherlands and their colleagues in the supposedly most powerful country on earth, The United States of America. The reactions of relatively inexperienced politicians as the members of the Dutch government do not differ significantly from important players on the world stage as Obama, Gates, Ban Ki-Moon and Martin Schulz. Whether this can be seen as ‘good news’ or an embarrassment is left to the reader to judge.

We should not make the mistake to think that the cultural expressions we talk about in this chapter are not important enough to defend. This is the most obvious with the book-burning pastor, of course. Book-burning, although a practice of all times and all places,¹¹⁷ is a practice that since the Nazi-period is so much associated with Joseph Goebbels committing German anti-Nazi authors to the flames that we cannot possibly see pastor Jones as some sort of victim. We associate him with one of the darkest pages in human history, as an unsympathetic lunatic, at best. This is, to a somewhat lesser degree, also the case with the other cultural manifestations we have talked about. People cannot take the shows of Rudi Carrell very seriously. It’s dubious humor and not high-standing art, one would think. That the cartoons were made ‘with the sole purpose to hurt,’ to ‘pain’ people,¹¹⁸ is a tenacious prejudice not many people are willing to set aside for gaining a better-informed judgment about the background of the matter.¹¹⁹ Rushdie is reprimanded for being a haughty and self-obsessed person.¹²⁰ Mark Basseley Youssef is a fraud, a man with a criminal record. So why advocate the ‘rights’ of such a bunch provocateurs, criminals

117 Cramer, Frederick H., “Bookburning and Censorship in Ancient Rome: A Chapter from the History of Ideas of Speech”, in: *Journal of the History of Ideas*, Vol. 6, No. 2 (Apr., 1945), pp. 157-196; Fishburn, Matthew, *Burning Books*, Palgrave, MacMillan 2008.

118 To mention only one example out of many: Seidenfaden, Tøger, “Hard secularism as intolerant civil religion: Denmark and the Cartoon Case”, in: Porsdam, Helle, Ed., *Civil Religion, Human Rights and International Relations: Connecting People Across Cultures and Traditions*, Edward Elgar, Cheltenham, UK, Northampton USA 2012, pp. 178-192.

119 Most people do not know what the stance of the editor of the Jyllands Posten who commissioned the cartoons is: Flemming Rose. See: Khader, Naser, and Flemming Rose, “Reflections on the Danish Cartoon Controversy”, in: *Middle East Quarterly*, Fall 2007, pp. 59-66. This is one of the most uninteresting articles for most people to read: Rose, Flemming, “Why I Published Those Cartoons”, in: *Washingtonpost.com*, Sunday, February 19, 2006.

120 This point was made by one of the smartest people of our time whose smartness did not transpire in this contribution to the discussion on the fatwa: Dummett, Michael, “Open Letter to Rushdie”, in: *The Independent*, 11 February 1990.

and, at best, reckless men, in such a fanatical way? Is this not to take Enlightenment too seriously, thereby transforming it into Enlightenment-fundamentalism?¹²¹ Would that not take our ‘Voltairean,’ ‘I disapprove of what you say, but I will defend to the death your right to say it’ a little too far?

As we said, we think this is a mistake. The problem is, what starts with insignificant trifles will end with serious matter: With Galileo,¹²² Bruno¹²³ and Servet.¹²⁴ We are already there, in fact, when we see that it proved possible to stifle several dissident voices in the fields of religious sensibilities and religious criticism. Yale University Press did not include the Danish cartoons in scholarly work.¹²⁵ A book on, mind you, *cartoons in general*, does not contain the most notorious cartoons of our time.¹²⁶ When BBC director general Mark Thompson was asked by the historian Timothy Garton Ash whether he, Thompson, would *not* air a show about the prophet Mohammed that was ‘comparably satirical’ to *Jerry Springer: The Opera*, which was broadcast by the BBC in 2005 and received tens of thousands of complaints for its ‘irreverent treatment of Christian themes,’ Thompson said: ‘Essentially the answer to that question is yes.’ Thompson argued: ‘Without question, “I complain in the strongest possible terms,” is different from “I complain in the strongest possible terms and I am loading my AK47 as I write”.’¹²⁷ Salman Rushdie never made a *The Satanic Verses II* (and no publisher would have published it, to be sure). Kurt Westergaard never made a second cartoon comparable to his first one. So, it seems that – for the time being – theoterrorist intimidation is still fairly successful.

There are glimmers of hope, though. Humorous satire proves to be such a powerful force¹²⁸ that new manifestations keep popping up (one may think of the Jesus and Mo

121 This is the tenor of: Gray, John, “A Clash of ideologies: ‘the Enlightenment’ versus Islamism”, in: *The National*, 2 July 2010; Gray, John, “Evangelical atheism, secular Christianity”, in: Gray, John, *Gray’s Anatomy: Selected Writings*, Allan Lane, Penguin Books, London 2009, pp. 292-307; Gray, John, “Monolithic secularism unsuited to today’s Europe”, Interview with John Gray by Nathan Gardels, in: *New Perspectives Quarterly*, 28 April 2004.

122 Forced to abjure his theses in 1633 before the Inquisition in Rome. See: Russell, Bertrand, *The Scientific Outlook*, Routledge, London and New York 2001 (1931), p. 18.

123 Burned at the stake in Rome. See: Rowland, Ingrid D., *Giordano Bruno: Philosopher/Heretic*, Farrar, Straus and Giroux, New York 2008.

124 Burned in 1553 on the instigation of Calvin. See: Zweig, Stefan, *Castellio gegen Calvin oder Ein Gewissen gegen die Gewalt*, Fischer Taschenbuch Verlag, Frankfurt am Main 1983 (1936).

125 Klausen, Jytte, *The Cartoons that Shook the World*, Yale University Press, New Haven and London 2009 did not comprise the cartoons itself although the author, for scholarly reasons, had wanted to include them in the book. The publisher refused.

126 Navasky, Victor S., *The Art of Controversy: Political Cartoons and their Enduring Power*, Alfred A. Knopf, New York 2013.

127 “Mark Thompson: BBC director general admits Christianity gets tougher treatment”, *The Telegraph*, 27 February 2012, www.telegraph.co.uk/culture/tvandradio/bbc/9107689/Mark-Thompson-BBC-director-general-admits-Christianity-gets-tougher-treatment.html.

128 Davies, Christie, “The Danish cartoons, the Muslims and the new battle of Jutland”, in: *Humor*, 21-1 (2008), pp. 2-7; Morreall, John, *Comic Relief: A Comprehensive Philosophy of Humor*, Wiley-Blackwell, Malden/Oxford 2009.

cartoons). Who would have thought that after the Cartoon Affair, a new satire of the prophet would appear on the Internet? Who could predict that *book-burning* would ever force us to fundamentally consider our commitment to civil liberties? This can be seen as fruitful – at least intellectually.

Of course, we do not want to say that we are fond of *all* satire – certain manifestations are certainly of poor quality. We also do not consider book-burning an elevated form of artistic expression; far from it.

But that is not what this is all about. All of the time, everywhere, new controversial expressions, films, works of art, scholarly treaties and essays are being produced. It is highly unrealistic to think that governments can ‘regulate’ the production and diffusion of these works and ideas. They could not effectively do so in the Enlightenment, and cannot do so now. The Internet adds to that. This means that every ‘solution’ to a crisis is always temporal. The Dutch minister of foreign affairs will have had the feeling that he ‘solved’ the problem. He did not. At least, he might have ‘solved’ a crisis – in crisis management-style – but he did not solve the underlying problem. He passed it on to the British. And the British passed it on to someone else. Now, in the Jones Affair and the Youssef Affair, the Americans are struggling with the problem.

Governments should understand that imposing limitations on free speech – regardless of its relative effectiveness in the short run, mainly the success of catapulting the threat to your neighbors – erodes the foundations of a free society. They should realize that *extrajudicial* limitations ultimately amount to the same as their legal counterparts: They not only unduly restrict the exercise of free speech but deregulate the whole system of government. This ‘new censorship’ is not about explicitly limiting free speech, that is, by force of law, but about restricting it in a more subtle manner, using all sorts of ‘requests,’ ‘suggestions,’ condemnations, and allegations to make people relinquish their free speech rights themselves. This is something Europe, and especially, the bulwark of free speech, the United States, should be deeply concerned about. And *this* is what is at stake in such seemingly frivolous things as the jokes of Carrell, Rushdie’s novel, the cartoon of Westergaard, the film of Van Gogh, the actions of Terry Jones, and the video of Mark Basseley Youssef.