



Rally in Strasbourg following *Charlie Hebdo* shooting, January 11, 2015. Photo: Claude Truong-Ngoc.

INTERSECTIONS

Blasphemy and Democracy

Interview with Anastasia Colosimo

Translated by Michael Berrigan Clark

French law does not recognize the notion of “blasphemy” in the sense of insult or outrageous utterance directed to God, the Church, or sacred matters. The Catholic Church, however, still considers blasphemy—expressed in word, act, image, or the like—to be among the gravest of sins. The act of blasphemy is always evil, independent of circumstances or intentions. Does the judicial repression of blasphemy have meaning only for a Christian society and Christian institutions?

*A “Notice” in the French Senate on the suppression of blasphemy in several different countries and an essay by Anastasia Colosimo on the notion of blasphemy and democracy appeared at roughly the same time, in January 2016. In 2013, Colosimo defended a thesis at the Institute for Political Studies entitled “Does Religion Make Law? The Metamorphosis of Blasphemy.” In the three years since, she has been preparing a doctoral dissertation, the subject of which is “Judging Religion? Law, Politics, and Liberty in the Face of Blasphemy in a Democratic Society.” Although still a doctoral candidate, she teaches on theology and politics at the Institute for Political Studies in Paris. At the age of 25, she has just published her first book, *Les Bûchers**

de la liberté [The Funeral Pyres of Liberty], a brilliant essay on blasphemy and liberty of expression that does not shrink from challenging ideas. Anastasia Colosimo, who is an Orthodox Christian, was willing to respond to some questions on these subjects.

Yves Chiron: Following the assassination of the cartoonists at *Charlie Hebdo* one year ago, your book is a plea for total liberty of expression. Is that because this liberty is constitutive of the human being or is it because the notion of blasphemy is meaningless in a secular society?

Anastasia Colosimo: To say that liberty of expression is constitutive of the human being is both true and misleading at the same time, because the very term “liberty of expression” is an invention of political modernity. That does not mean, however, that thoughts on liberty are absent from the premodern world. I would even say that such reflections are essential, because they define the figure of the Just One, of the person who does not fear to question the established or-

Note: This interview originally appeared in French in the online and print newsletter *Aletheia* (no. 243, January 28, 2016). The editor, Yves Chiron, wrote the introductory remarks in order to explain the significance for contemporary French society of Anastasia Colosimo’s new work. His five questions addressed to Ms. Colosimo form the substance of the interview.

der and to tell the truth about the world as it is. This dimension is central in the dialogues of Plato. It is for having made too much of his freedom of speech that Socrates is condemned to drink hemlock. The other important figure is obviously that of Jesus Christ—who, interestingly, was condemned to crucifixion for having blasphemed. But if freedom of speech in the premodern world is intimately correlated to the search for truth and its affirmation, modern liberty of expression depends rather on the idea of the fundamental rights of the human person and refers to an individual's right to express an opinion in the public sphere.

The premodern world, if we had to define it in two words, was the world of transcendence and heteronomy, which implied that temporal power found its legitimacy in divine authority and that there was a perfect congruity between the political community and the spiritual community. Thus the blasphemer in the premodern world was the one who would question the truth that was not only shared by all but was constitutive of the unity of the community. The one who blasphemed was already excluded *de facto* from the community, but also had to be explicitly excluded by others, since the blasphemer imperiled the very truth that was the foundation of society.

On the other hand, the modern world, or rather the contemporary world, defines itself through immanence and autonomy. Thus in the secularized context, the unity of the political community is no longer founded in a shared revealed truth, but in the contract to which each member of society adheres. In this sense, the notion of “blasphemy” becomes without effect, since religious conviction is relegated to the status of one opinion among

others. Therefore, it is entirely logical that the offense of blasphemy should be abolished in contemporary democratic societies. In other words, liberty of expression is constitutive of the human being in the premodern world as well as in the contemporary world, but according to different modes, the passage from one mode to the other following the irresistible movement of secularization.

Y.C.: The 1881 Law on the Freedom of the Press, passed in a context of secularization and anticlericalism, abolished criminal offense for the expression of opinion. In 1972, the Pleven Law restrained liberty of opinion by declaring punishable anything that would tend to promote “discrimination, hate, or violence with regard to a person or group of persons respecting their ethnicity, national origin, race, or religion.” In what way does this latter law open the way for what you call the “judicialization of thought”?

A.C.: The 1881 Law on the Freedom of the Press is one of the great laws of the Third Republic. It follows the Law on Freedom of Assembly (1880) and precedes the Trade Union Act (1884), the Associations Bill (1901), and finally the formal law on the Separation of the Churches and the State (1905). These laws constitute the bulwark upon which the contemporary French order of liberties depends.

The Pleven Law (1972), which modified the Law on the Freedom of the Press of 1881, was approved unanimously by the National Assembly in the international context of an initiative against racism and in a national context of rediscovered guilt with respect to France's Vichy past. The formulation of this law, however, introduces ambiguity by placing ethnic,

national, racial, and religious identity on the same level; it also shows a certain ignorance of the religious reality common enough at the time, since the great return of the religious question didn't manifest itself until the end of the 1970s. Most surprising, however, is that with the Pleven Law, lawsuits can be filed not only by individuals but also by "any association set up within five years of the facts in question that proposes, by means of these statutes, to combat racism." This law represents a fundamental break from the previous understanding in its apprehension of the limits to liberty of expression; it allows associations to file suit on behalf of communities, leading to the introduction of the American model of "class action."

The most edifying example is the suit brought against *Charlie Hebdo* in 2007, on the basis of the Pleven Law, by the Union of Islamic Organizations of France and the Paris Mosque, because of the weekly magazine's publication of caricatures of the Prophet Muhammad. The formulation of the law gave the impression that all the Muslims of France were suing *Charlie Hebdo*, even though the overwhelming majority was not even aware of the existence of the journal. This also introduced to public discourse the notion of the "Muslim community," without anyone knowing exactly what this expression referred to, since the reality of Muslim life in France is just as complex as the reality of Christian or Jewish life. It should be noted, furthermore, that even though the 2007 lawsuit against *Charlie Hebdo* was the most far-reaching and the most thoroughly covered in the media, the majority of lawsuits based on the Pleven Law were brought by Catholic associations. What I try to demonstrate in my book is that these lawsuits are, in reality, blasphemy suits in all but name. Since it

is no longer possible to speak of a ban on blasphemy in secularized societies, confessional groups have adopted the language of modernity and make reference to "offense against believers." From a dead-end debate between a religious argument (the ban of blasphemy) and a secular argument (the freedom of expression), the debate becomes a systematic one between two human rights, namely the protection of others—or the protection of the feelings of others—and the freedom of expression.

This diversion is extremely problematic, because not only does it force citizens to be enrolled in a community, but it also introduces a genuine competition between communities. The "memorial laws" that followed represent the logical continuation of this misdirection.

Y.C.: There is a paradox in American society. Offenses against opinion do not exist there, as it is solemnly affirmed in the First Amendment to the Constitution (1791) and in the 1952 U.S. Supreme Court ruling that you cite. At the same time, anti-religious caricatures such as those published by *Charlie Hebdo* would never appear. Is it simply self-censorship and the effect of being "politically correct" and "religiously correct"? Or is it because American identity is so intrinsically religious (in all its diversity of denominational confessions)? Is the controversy over religious caricatures a sign that, in the end, France is not clear in its definition of secular society [*laïcité*] and in the affirmation of its identity?

A.C.: The United States and France represent two different, not necessarily contrary, models. It should be noted there is no exact equivalent of the French word *laïcité* in English—the best approximation is the word *secular*.

If the secular [*laïcité*] in the American understanding stands for the idea that the public sphere is a space where all religions have the right to be represented, *laïcité* according to the French understanding asserts the idea that the public sphere is a space where *no* religion should be represented. This is easily understood if one tries to analyze the social and political structures of the two countries. Whereas the United States is marked by a good measure of mistrust of the state on the part of its citizens and by the distinct presence of communities that often present themselves as intermediaries between the state and its citizens, France, on the other hand, is a country with a strong state-oriented tradition, where national identity takes precedence over community identity, since the state addresses itself to citizens and never to communities. This is what differentiates the American communitarian idea and the French republican idea.

To this must be added the fact that the United States has constructed for itself a veritable civil religion—witness the fact that one swears on the Bible to take a public oath, and public officials routinely intone “God bless America!”—though no one knows to which god the phrase refers, if not the uniquely American god. Therefore there exists a “religiously correct” aspect to American life, since religion plays such a central role in the construction of the American nation; the American identity is intrinsically religious, as you said so well. Nevertheless, it is necessary to keep in mind that this civil religion was constituted in reference to Protestantism. It is only by understanding this direct connection that one can understand the role played by puritanical Protestantism in the insanity of the American “politically correct” language debate.

This leads us to the paradox that you mention. The United States is the country of the First Amendment and thus of near total liberty of expression and at the same time the country where, the day after the attacks on *Charlie Hebdo*, not a single one of the offending caricatures appeared on television. Although judicial pressure is very weak, societal pressure is extremely strong.

The controversy that took place in France regarding the religious caricatures after the attacks, but also before, is the sign, in my opinion, of a crisis in the definition of the secular [*laïcité*] according to the French model. While some would prefer to perpetuate the republican tradition, others think that the fracturing of French society into distinct communities is unavoidable, and instead of merely succumbing to it, one should make an effort to frame the new structure as best one can. Ignorance of both the forces present and of religious reality leads repeatedly to confusion, preventing the definition of a clear vision of secular society [*laïcité*] as it finds itself confronted by new contemporary issues. For my part, I remain convinced of the superiority of the French model.

Y.C. The Pleven Law and the memorial laws (against Holocaust denial, on the Armenian genocide, etc.) put French society at a double risk, in your view: of accentuating communitarian fracturing and of giving more power to what you call the “language police,” what Annie Kriegel and Jean Madiran used to call “the thought police.” How do we escape from this impasse? Does repealing the Pleven Law (and those that followed it) seem possible to you?

A.C.: The Pleven Law and the memorial laws (which were often presented as necessary under the circumstances

of the time) have in reality done far more harm than good. In addition to unleashing competition between communities, they have contributed, through the systematic judicializing of language, to the state's abandoning its essential role as educator.

It seems unthinkable today that a representative in the Assembly might propose the abolition of these laws, because, in that case, what would be the message sent to civil society? One can easily see the trap set by these laws, which now cannot be unwound or unraveled. The only solution would be to avoid the obstacle by saying it was necessary to recast the press freedom law of 1881, which would send a less negative signal, but I am afraid that no one has the courage to do it.

Y.C.: "One does not penalize error, one combats it," you write in the conclusion to your book. As a Christian, how does one "combat" an insulting caricature of the Pope or a scandalous film about Christ?

A.C.: First of all, I do not defend total liberty of expression: I find it perfectly just that one should be able to defend oneself in court against an offense to oneself personally. After all, this conception is the one that comes to us from Roman law, where defamation (and more broadly, insult) is understood as an attack on one's honor. This offense is taken up in the Law on the Freedom

of the Press of 1881. I even think it not absurd that a person might file a suit when singled out as belonging to an ethnicity, nation, race, or religion.

What I find problematic, on the other hand, is the idea of offense to a group. First of all, it has transformed our perception of blasphemy by inventing the figure of the "offended believer." But also, more generally, in regard to racist language, it contributes to sending each person back to a group identity, back to one's tribe.

As a Christian, "to combat" an insulting caricature of the Pope or a scandalous film on Christ—although these are not entirely the same thing—is completely possible through debate, the medieval *disputatio*. But it is also necessary to accept the democratic game plan and not feel targeted each time religion is put in question. And it is granting too much attention to a certain kind of press to feel overwhelmed by instances of caricature.

Most of all, I think that for believers, the best way to "combat" blasphemy today is not to yield to the growing "sentimentalizing" of the faith, which is nothing more than a perverse effect of continuing secularization. The combat must be one of reason enlightened by faith and, in that sense, it is first of all cultural, and should incline us to refuse the evil temptation of the ghetto. ✱



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