

Chapter 59

Blasphemy and Outrage in a Secular State: Venezuela's Illegitimate Restrictions to Speech Based on a Republican Religion

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ABSTRACT

In a religious context, blasphemy is defined as a derogatory expression against God or other sacred objects or concepts and is a sin that is defined and punished in theocracies or religious normative frameworks. In secular democracies, some countries, especially those parliamentary kingdoms in Europe, have kept some restrictions to the blasphemous expression in their legal system, but sanctions are never as harsh as in Muslim countries such as Pakistan, where people face death penalty if a judge finds eviction for the crime. In secular regimes, blasphemy is no longer considered a crime or this concept is fading as a punishable fault, but in some countries where a sort of “civil religion” is promoted by the State, outrage—speaking or manifesting contrary, hideous, or disdainful opinion against national symbols or heroes—works as a functional substitute of blasphemy. In this chapter, the authors study the case of Venezuela that could be considered emblematic of a secularist use of religiously inspired notions applied to national symbols in order to justify censorship and control free speech to promote a “forced national consensus.” They discuss the historical roots of these illegitimate restrictions to freedom of speech. The authors also analyze the attempts to use the figure of the deceased president Hugo Chávez to deepen the configuration of a “patriotic religion” in order to curve political dissent and increase social control.

INTRODUCTION

As a human right, freedom of speech is not completely free of constraints since it has to be exercised with responsibility in order to preserve social peace and common good. Limitations (absolute prohibitions) and restrictions (constraints regulated by law) of freedom of speech aim at regulating the way people can express their ideas in the public sphere. In Article 19 of the International Covenant on Civil and Political Rights, adopted by United Nations' General Assembly in 1966, it is written:

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Everyone shall have the right to hold opinions without interference.

(...) 3. The exercise of the rights (...) 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. (International Covenant on Civil and Politics Rights. Dec. 16, 1966).

Among the so-called “legitimate restrictions” of freedom of speech are those based on the principle of public morality, but this is as a swampy ground where one can get stuck in alternative interpretations. These moral principles are the most elusive, because something that can be considered “offensive” cannot be objectively determined; what is considered immoral or not appropriate in a place it is not in another, and this goes on changing through time.

Within this kind of restrictions to freedom of speech, we can mention blasphemy, associated to the desecration and disrespect to certain objects deemed as sacred or religious ideas. Blasphemy could offend the feelings of believers, and considered a violation of their right to worship or to follow their religion freely and undisturbed. Nevertheless, as Faúndez (2004) noted, those who participate in worship cannot assume their doctrines are oblivious or outside public discussion, since the right to dissent (heresy) or to abjure (apostasy), are consecrated in Article 18 of Universal Declaration of Human Rights:

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. (Universal Declaration of Human Rights. 1948)

This right admits that other people spread contrary ideas about one’s faith. Nowadays, blasphemy is contemplated in some legislation, not only of those countries theocratic orientated, such as Iran, but also in some of the self-defined secular societies, with severe punishment in some of them, including death penalty, as in Pakistan. In the Western World, some countries has laws against blasphemy with administrative penalties or fines as punishments, including Norway, Italy, Denmark, among others.

Although blasphemy has been abolished partially as a crime in most western democracies, in attention to the principle of the separation of Church and the State, in some countries it has been transmuted into another concept of violation to morality. A republican equivalent of blasphemy has been defined in some cases as an outrage or disrespect against national symbols, such as flags, coat of arms, anthems and heroes, many of whom are essential components of the idea of “fatherland”, sometimes having a strong militaristic accent. Venezuela is a clear example of this situation. Two decades after its separation from Colombia in 1830, this country found itself in a civil war. As an antidote to polarization and social unrest, the country’s elites found a way to promote consensus and union through Simón Bolívar’s figure, as the “foundational father”. These elites created a sort of republican or patriotic religion associated with

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