

A Clash of Cultures: Hate Speech, Taboos, Blasphemy, and the Role of News Media

A Report to the Center for International Media Assistance

By Jane Sasseen

October 3, 2013



The Center for International Media Assistance (CIMA), at the National Endowment for Democracy, works to strengthen the support, raise the visibility, and improve the effectiveness of independent media development throughout the world. The Center provides information, builds networks, conducts research, and highlights the indispensable role independent media play in the creation and development of sustainable democracies. An important aspect of CIMA's work is to research ways to attract additional U.S. private sector interest in and support for international media development.

CIMA convenes working groups, discussions, and panels on a variety of topics in the field of media development and assistance. The center also issues reports and recommendations based on working group discussions and other investigations. These reports aim to provide policymakers, as well as donors and practitioners, with ideas for bolstering the effectiveness of media assistance.

Don Podesta

Interim Senior Director

Center for International Media Assistance

National Endowment for Democracy

1025 F Street, N.W., 8th Floor

Washington, DC 20004

Phone: (202) 378-9700

Fax: (202) 378-9407

Email: CIMA@ned.org

URL: <http://cima.ned.org>

Design and Layout by Valerie Popper

About the Author

Jane Sasseen



Jane Sasseen is a freelance editorial consultant who has worked with a number of major non-profit and media organizations in recent years. Her work has spanned coverage of the global economy, U.S. politics and economic policy, and the future of media. She was an editor and co-author of several chapters of *The State of the News Media 2012*, the annual report on American journalism produced by The Pew Research Center's Project for Excellence in Journalism. She previously served as editor-in-chief of the politics and opinion channels for Yahoo! News, the largest news site in the United States. Prior to joining Yahoo, she spent 15 years at *BusinessWeek* magazine, including stints running its news section and as its Washington bureau chief.

Sasseen also worked as a journalist for nine years in Paris, first freelancing for *Newsweek*, the *Christian Science Monitor* and others before joining London-based *International Management* magazine as a senior editor and Paris bureau chief. During her six-year assignment there, she covered the integration of the European economies, trade and development policy, and the economic and political opening of Eastern Europe. She is the recipient of the 1997 Gerald Loeb Award for financial journalism and the National Women's Political Caucus 1997 Exceptional Merit Media Award. She holds a bachelor's degree in economics from University of California at Berkeley. Sasseen is a member of the advisory board of the International Center for Journalists, a delegate to the U.S.-Russia Bilateral Presidential Commission on the Media, and the board treasurer of *Mali Nyeta*, a foundation for the development of education in Mali.



Table of Contents

About the Author	3
Table of Contents	4
Preface	5
Introduction	6
The Role of the Press Around the Globe	9
<i>Innocence of Muslims</i> and Other Disputes	13
Where Does the Line Get Drawn?	17
Tech Companies as Gatekeepers	23
The Implications for Media Training	31
Endnotes	34

Preface

The Center for International Media Assistance at the National Endowment for Democracy commissioned this study of the inherent conflict between free expression and speech that can be considered offensive. It is nearly universally agreed that speech that incites violence is unacceptable. This report focuses primarily on the intense debate about the rights of countries or communities to restrict content viewed as blasphemous or objectionable in their cultures and looks at how this is affecting the international news media landscape.

CIMA is grateful to Jane Sasseen, a former journalist and a veteran media consultant, for her research and insights on this topic. We hope that this report will become an important reference for international media assistance efforts. Its aim is to explain the issue in the context of media development and should not in any way be construed as a defense of efforts to restrict freedom of expression.



*Don Podesta
Interim Senior Director
Center for International Media Assistance*



Introduction

Freedom of expression: the right to say what you want and what you believe, no matter how much others might disagree or be offended.

To most Americans working in media—indeed, to most Americans—there are few more fundamental rights. The ability of individuals to openly speak their minds is a core principle not only of American journalism, but also American democracy. Even when speech is insulting or disrespectful to others—speech that might run afoul of hate speech laws throughout Western Europe or be banned outright in much of the rest of the world—it is generally permitted in the United States.

But the rise of the Internet and the instantaneous global communications it enables have raised a host of new questions about how to handle hate speech and other potentially offensive speech when it can be seen by audiences in other countries that do not share those values.

As the violence that occurred when the video *Innocence of Muslims* was widely disseminated in the Islamic world in late 2012 demonstrated, different countries and cultures have wildly divergent standards for what content is acceptable to air. In much of the West, the film was seen as the work of an obvious crank: offensive, but hardly worth noting. In many Muslim countries, however, it was taken as a grievous insult and led to days of rioting, more than 50 deaths and many more injuries.¹

Governments throughout the Islamic world sought to ban the video, some of them successfully.

The furor set off an intense international debate on freedom of expression versus the rights of countries or communities outside of the United States to restrict speech that they consider offensive. In many cases, content that is permissible to publish in the United States or other Western democracies is strictly off-limits in other countries—either legally, or simply due to cultural or religious sensitivities—yet it is readily available online. In other instances, governments have tried to ban locally created content that allegedly violates national laws, only to be stymied when the U.S. technology companies whose platforms house the material have refused to comply.

“This is a borderless issue; what is acceptable in one culture may be anathema in another,” said Daya Kishan Thussu, professor of international communication and co-director of the India Media Centre, University of Westminster in London. “These disagreements are growing, and they are not going away.”²

The reaction to *Innocence of Muslims* may have been more violent and extreme than most, but it is not an isolated case. As ever more citizens across the globe have gained access to the Internet, the demands by foreign governments that the digital companies take down material they don't like are growing as well. "We are seeing increasing clashes between the American view and other countries," added Jeffrey Rosen, a law professor at George Washington University and the legal affairs editor of *The New Republic*.³

At the core of the debate lies a clash of cultures over the role of the media, freedom of expression and what, if any, limits on speech are permissible. Its contours reflect the fact that in much of the world, the press plays a very different role than it does in the United States: The media is largely expected to support the government, and freedom of expression is limited to views that the government wants aired. Speech that governments find offensive or politically challenging is quickly repressed. So when content that local governments do not like goes up online, their instinct is to ban it. But in a globalized world where U.S.-based technology companies that adhere more closely to American free speech principles run the main digital platforms, that is a recipe for a fight.

Among the questions being raised: When virtually anyone, anywhere—often anonymously—can create digital content that exacerbates tensions or is potentially insulting to racial, ethnic, religious, or sexual groups, should such content be banned? Does the right to free speech outweigh a group's right to freedom from insult, defamation, or religious blasphemy? If not, where does the line get drawn—and by whom? Local governments? The aggrieved parties? The United Nations or some other international governing body? Or will tech giants such as YouTube, Twitter, and Facebook essentially become the arbiters of permissible speech around the globe?

Such differences are not new. They have long existed in the world of traditional media; witness the reaction in 2005 to the publication of cartoons about the prophet Mohammed by the Danish newspaper *Jyllands-Posten*,⁴ which caused similar, if less extensive rioting, in many Muslim communities. But they have been amplified and exacerbated by the rise of the Internet.

Much of the debate centers on average citizens' use of Facebook, YouTube, and other digital platforms, but it has profound implications for the news media and the continued development of freedom of expression online. Restrictions targeting sensitive subjects such as religion or seeking to place greater restrictions on digital communications can also be used to control traditional news outlets as well as bloggers and other citizen journalists.



There are no simple answers—nor are there likely to be any that satisfy all concerned, given the diversity of views around the globe as to what constitutes acceptable speech. The only certainty? “We are in uncharted territory when we look at where to draw the line and who should make the decisions,” said Janis Karklins, the assistant director general of UNESCO’s sector for communication and information. “The scale of the problem has become much larger and the intensity of international discussions is growing.”⁵

And of course this clash of cultures over the role of the media and freedom of expression presents particular challenges for those involved in media development. For those doing this work, the pressures raise a critical question: how, for example, to train professional or citizen journalists in countries where acceptable speech is far more constrained than in the West?

The Role of the Press Around the Globe

To a great extent, the cultural clash over what speech is acceptable or not starts with the widely divergent ways the role of the press and its relationship to government is viewed around the world. The perception of what the media's job is—and how much control the government should exercise over it—form the context for decisions that can either expand or limit freedom of expression both online and off.

Western concepts of how the news media should operate are far from universally shared; indeed, even between the United States and the European democracies significant differences exist about the role the press should play. And beyond Western democracies, governments in authoritarian or newly democratizing countries generally view the press in a different light, with ownership frequently in the hands of the government or powerful individuals and companies with which it is allied.

In Western Europe, public broadcasters play a much stronger role than in the United States. State ownership of television networks is common throughout Europe, dating back to the start of the television age.

State ownership, however, does not necessarily equal state control. The publicly owned broadcasters, particularly in northern Europe, typically have a high degree of independence from government interference. "The BBC is not controlled by the government; its charter gives it independence," said Rodney Benson, an associate professor of media, culture, and communication at New York University. "It has lots of autonomy in investigating the government."⁶ The same is true for Germany, the Netherlands, Finland, and other Scandinavian countries.

A better barometer than public ownership *per se* is the strength and autonomy of the civil service, Benson argues. "If you have strong rule of law, then the role of the state in media is not necessarily bad," he said.⁷

That public financial support comes with an additional role for the media, particularly in those countries where state broadcasters have a high degree of independence. To a much greater degree than in the United States, media in these countries are seen as performing a public service function. "Public ownership creates a different kind of national discussion; a sense that mass media has a responsibility for shaping public opinion and bringing up issues that are important, even if they aren't necessarily commercially viable," said Thussu.⁸

A belief in that role also extends to many of Europe's serious, non-tabloid newspapers.⁹ Though they tend to be more openly partisan than U.S. papers—in part because there are often multiple national papers representing different political viewpoints competing for the audience's attention—that is seen as creating the healthy debate needed in a democracy. "The media's role is not to stand aside the fray and observe," as in the United States,



said NYU's Benson. Instead, it is seen as a part of civil society whose collective role is to participate in and foster a broad debate.¹⁰ In the United Kingdom, for example, papers such as *The Independent*, *The Times*, and *The Guardian* all differ politically, "but they share a kind of public duty, a sense that they are part of the establishment of democracy," said Angela Phillips, a senior lecturer in media and communications at Goldsmith's College at the University of London who has written widely on comparative press culture.¹¹

That view in turn influences the attitude of European media toward the publication of offensive and hateful speech. The greater willingness than in the United States to suppress such speech stems in part from the belief that the role of the press is to ensure that the debate over critical issues remains civil and inclusive, Benson said.¹²

Among Western democracies, the United States is an outlier when it comes to free speech. Thanks to the First Amendment to the Constitution, the right to freely speak one's mind is stronger in the United States than anywhere else on the globe. "While many countries have some form of guaranteed free speech, it doesn't take the precedence over everything else like ours does," said Craig LaMay, an associate professor at Northwestern University's Medill School of Journalism. "The U.S. legal system is marked by what many refer to as 'First Amendment absolutism.'"¹³

As a result, there is very little speech that U.S. government or legal authorities can ban—including speech that is hateful or offensive to others.

The principle, first established by the founding fathers, has been repeatedly strengthened and upheld in legal rulings over the last several decades—from a historic 1977 Supreme Court case permitting a Nazi march through the predominantly Jewish town of Skokie, IL, to a 2010 decision allowing members of the virulently anti-gay Westboro Baptist Church to protest in front of military funerals. The only speech that U.S. authorities can lawfully prevent is speech "intended to and likely to provoke 'imminent violence' or serious lawless action," said Rosen of George Washington University.¹⁴

That "imminent violence" standard is known as the Brandenburg test, after a 1969 Ku Klux Klan leader who appealed all the way to the Supreme Court his conviction for speaking at a Klan rally at which violence was advocated.¹⁵ In practice, it sets an extremely high bar for banning offensive speech—one that is rarely met and which would be particularly difficult to meet when dealing with hate speech online.¹⁶ Most of what might potentially be actionable "hate speech" in civil or criminal courts in Europe and elsewhere would not meet the

Brandenburg test. “As a result, the U.S. protects far more speech than Europe does, and certainly more than countries like Russia, China, or India,” Rosen said.¹⁷

The European approach to freedom of expression stems from very different traditions and historical context. While most European countries also strongly defend free speech, they recognize more restrictions than the United States does when it comes to offensive speech. Given the experience of the 1930s and 40s and the role racist and xenophobic speech played in the Holocaust, other values such as respect for human dignity and the right to be protected from threatening or degrading speech are seen as equally important, said LaMay.¹⁸

Unlike the United States, Western democracies throughout Europe, as well as Canada, Australia, and New Zealand now have laws banning hate speech,¹⁹ though the exact language and restrictions differ from country to country. Many other countries feature them as well—they are common in Latin America,²⁰ for example, and enshrined in South Africa’s post-apartheid constitution,²¹ while India prohibits hate speech in several sections of its penal code.²² There are many questions, however, about how often—or how evenhandedly—they are applied.

In place of the “First Amendment absolutism” of the United States, those laws are grounded in the view that some speech is simply beyond the pale; it is irresponsible to allow speech that is so destructive that it can undermine democracy. “Neo-Nazism, racism, homophobia—these are all areas where the European Court of Human Rights has decided certain limits on free speech are acceptable in a democratic society,” said Tarlach McGonagle, a senior researcher at the Institute for Information Law at the University of Amsterdam and a recent visiting scholar at the Center for Global Communications Studies at the University of Pennsylvania’s Annenberg School for Communication.²³

And what of authoritarian countries that have generally exercised strong state or political control over the media? The short answer is that governments in these countries have only limited tolerance for or agreement with Western notions of freedom of expression. Speech and media coverage are often severely limited to suit the agenda of those in charge. “Free speech is a Western idea,” said Paulo Mancini, a professor of the sociology of communications at the University of Perugia and co-author of *Comparing Media Systems: Three Models of Media and Politics*, a widely cited work in comparative media. “In other parts of the world, such as the Arab counties or the Central European nations, this idea does not exist. They have completely different ideas concerning freedom of expression.”²⁴

For example, in Myanmar, *Time* magazine was widely criticized on Facebook and Twitter following its recent cover story “The Face of Buddhist Terror,” a profile of the virulently anti-Muslim Buddhist monk Ashin Wirathu. Amid calls for a boycott of the magazine and “vociferous statements from angry Buddhists attacking the Western media and the author behind the piece personally,” the government banned the issue.²⁵

Although the military government has begun to loosen the country’s extremely repressive censorship laws over the last two years, many restrictions remain. In August 2012 it eliminated a requirement that print publications submit all articles, illustrations and ads for pre-approval by the Press Scrutiny and Registration Division of the Ministry of Information. Nevertheless, government censors will still license publications and can sanction them after the fact,²⁶ raising fears that self-censorship will prevent coverage of controversial topics such as the plight of the ethnic Muslims and corruption.²⁷ A proposed new law would also penalize newspapers that commit such poorly defined offenses as publishing material that could be seen as “dangerous for national reconciliation or hurtful for religions” or that could “disturb the rule of law.”²⁸

It is a pattern particularly common in many newly democratizing countries, said Medill’s LaMay. “I saw it for years working in the former Yugoslavian territories; people believe in free speech until it affects them—and then they don’t,” he said. “Once their ox is gored, then the principle goes down.”²⁹

Innocence of Muslims and Other Disputes

Perhaps nowhere, however, has the gulf between Western views on freedom of expression and those in practice in authoritarian regimes been clearer than in the violent reaction that occurred after a short trailer for an anti-Islamic video, *The Innocence of Muslims*, was widely seen on YouTube in the fall of 2012.

After a popular conservative religious TV host in Egypt played the highly inflammatory clip, a wave of violent riots quickly spread throughout the Arab and Muslim world. More than 50 people died and hundreds more were injured.³⁰ Ire over the film was initially blamed for the attack on the U.S. embassy in Benghazi, Libya, in which four Americans, including the U.S. ambassador, were killed, though that later proved not to be the case.³¹

Governments and religious leaders throughout the region called on YouTube to take the video down. The company resisted those calls initially, arguing that the film did not breach its internal standards for “hate speech.”³²

YouTube ultimately ended up blocking the video voluntarily in Egypt and Libya, however, a move it rarely makes. It also removed the video in Indonesia, India, and elsewhere to comply with local blasphemy laws.³³ Several other governments, including Pakistan, banned YouTube entirely after it refused to remove the film completely from its servers; in June 2013, a Pakistani court rejected efforts to bring an end to the ban³⁴ not long after the country’s information technology minister called on the video service to install a “proper filtration system” before the ban could be ended.³⁵

The furor over the clip set off an intense international debate on freedom of expression versus the rights of countries or communities outside of the United States to restrict speech that they consider offensive. In a pair of dueling speeches at the United Nations General Assembly in September 2012, President Barack Obama and Egypt’s then president, Mohamed Morsi, set out competing arguments reflecting their respective points of view.

Speaking first, Obama condemned the video as “crude and disgusting ... it is an insult not only to Muslims, but to America as well.” At the same time, the president rejected allegations that the U.S. government played any role in the film and laid out a robust defense of freedom of expression in the face of such material.³⁶

“I know there are some who ask why don’t we just ban such a video? And the answer is enshrined in our laws. Our constitution protects the right to practice free speech. Here in the United States, countless publications provoke offense. Like me, the majority of Americans are Christian and yet we do not ban blasphemy,” Obama argued. “The strongest weapon against hateful speech is not repression, it is more speech—voices of tolerance that rally against bigotry and blasphemy.”³⁷

The following day Morsi rejected Obama's case for free speech, insisting instead that the film was part of a targeted assault on Muslim culture and values. "The obscenities that I have referred to that were recently released as part of an organized campaign against Islamic sanctities are unacceptable," he said, in reference to the film. "We reject this. We cannot accept it."

The Egyptian president added that Egypt respects freedom of expression, but "not a freedom of expression that targets a specific religion or a specific culture."³⁸

The two definitions of "freedom of expression" could not be further apart. As Obama made clear, no matter how offensive *Innocence of Muslims* might be to most Americans, it was perfectly permissible under U.S. law. To many Muslims, however, the film was a blasphemous affront to their religion and little more than anti-Muslim hate speech.

Moreover, given the long history of state-control of the media in many Muslim and Arab countries, allegations that the U.S. government was behind the film—or at minimum implicitly backed it—reverberated strongly throughout the region. In many countries with little tradition of a free press or freedom of expression, the idea that such a film could have been uploaded to YouTube without at least tacit government permission was inconceivable. The fact that it was allowed to remain on YouTube's site even after governments in the region demanded that it be taken down was taken as further evidence of U.S. backing, despite vehement condemnation from President Obama, then Secretary of State Hillary Clinton,³⁹ and others.

"In other parts of the world where media are not independent, most people assume that if something is up, it must have been approved or initiated by the powers that be; otherwise, it would not be there," said Daniel C. Hallin, a communications professor at the University of California in San Diego and co-author of *Comparing Media Systems: Three Models of Media and Politics*. "That's one reason why, when we say in the U.S. that 'It's just some crazy guy, but he's got a right to free speech,' it doesn't make sense to them. Everyone knows nothing would be up elsewhere without government approval."⁴⁰

It is a fundamental misunderstanding of American free speech rights and the ability—or lack thereof—of the U.S. government to censor content. "This is largely an inevitable cultural conflict," argues Ken Paulson, dean of the College of Mass Communication at Middle Tennessee State University and the president and CEO of the First Amendment Center. Even if Obama or other government officials had wanted to censor the film, they could not have done so. "If content is coming from the U.S., there are no legal grounds for stopping it," he added.⁴¹

The extent of the cultural clash over *Innocence of Muslims* was in many ways extreme; no other video, article or other content has set off anywhere near the same level of international reaction. But in an age where anyone, anywhere can create potentially offensive content that can be seen everywhere across the globe through YouTube, Facebook, and other sites, the underlying issues of control are playing out in a variety of situations.

Writing in *Viral Hate: Containing Its Spread on the Internet*, Abraham H. Foxman and Christopher Wolf point out, for example, that some foreign hate groups have attempted to locate their websites in the United States explicitly to take advantage of the lack of U.S. regulation.⁴² One such group, Kuruc.info, is allegedly the leading purveyor of anti-Semitism in Hungary. In appealing for help in getting the site banned, Hungarian Prime Minister Viktor Orban argued that Kuruc.info had moved to the United States to avoid efforts by the Hungarian government to shut it down. In July, Facebook agreed to remove Kuruc info's group page from its servers.⁴³

In other cases, troublesome comments posted by diaspora populations living in the safety of the United States or Europe have exacerbated local tensions. During the violent flare-ups that occurred in the spring of 2010 between the Kyrgyz majority and Uzbek minority in Kyrgyzstan, members of both ethnic groups living abroad were "duking it out" on digital media, said Josh Machleder, vice president for Europe and Eurasia programs at Internews. "The offensive speech doesn't always come from within a country's borders; often, it's the diaspora population contributing rancor," he added. "It's easy to do from a basement far away."⁴⁴

And when material runs afoul of local laws in other countries, governments, courts, or others that want to take action against offensive content or those who put it up can find themselves with limited tools do so if the material is posted on platforms run by U.S.-based companies.

During a four-month stretch leading up to Brazilian elections in October 2012, for example, Google received more than 300 judicial requests to remove videos and blog posts that violated local laws against insulting candidates for office. The tech giant refused to take them down—and in the case of a particularly inflammatory video alleging that one mayoral candidate had forced an ex-partner to have an abortion, Google's top Brazilian executive, Fabio José Silva Coelho, was arrested and charged with violating a Brazilian law that bans offending "the dignity and decorum" of a candidate.⁴⁵

In India, a dozen Internet services including Google and Facebook faced trial in early 2012 after they refused to block content deemed objectionable in the country. According to the *Wall Street Journal*, Indian journalist Vinay

Rai filed a criminal complaint against the 12 alleging that their sites contained content that “seeks to create enmity, hatred and communal violence” and “will corrupt minds.” The disputed content included depictions of Hindu, Muslim, and Christian religious figures in a mocking or offensive manner. Indian law requires Internet companies to take down any material within 36 hours of being told by authorities that it falls into objectionable categories, such as “grossly harmful,” “defamatory,” “ethnically objectionable,” or “blasphemous.”⁴⁶

Nor are these conflicts only an issue with the developing world or newly democratizing states. In July, French officials won a lengthy legal battle with Twitter, forcing the micro-blogging service to hand over data that would identify anonymous users who posted a flood of anti-Semitic tweets under the hashtag “#UnBonJuif” (#AGoodJew) last October.⁴⁷ Although Twitter had initially agreed to remove the offending tweets from its French service in compliance with French laws, it had refused to give up the authors’ names despite a January court order to do so in a civil suit brought by the Union of Jewish Students of France.⁴⁸ The company finally ceded when French prosecutors, who want to charge the authors with violating local hate speech laws, requested the information.⁴⁹

Where Does the Line Get Drawn?

All of these cases raise a fundamental question: given the enormous cultural and legal differences that exist over content that may be offensive or even illegal in some countries, whose standards should apply when disputes arise? “Where do you set the limits?” asked the University of California’s Hallin.⁵⁰

Indeed, the difficulties in coming to any international consensus over how to deal with disputed speech begin with the question of definition. There is very little agreement as to what precisely constitutes hate speech; no widely accepted, legally binding definition exists. McGonagle of the University of Amsterdam points out that the term “hate speech” has an easy appeal as political rhetoric, but it is shorthand for a wide variety of objectionable discourse with differing levels of malice.⁵¹

At its broadest level, hate speech has traditionally been defined as that which denigrates people based on the group to which they belong. The International Covenant on Civil and Political Rights, which is monitored by the United Nations, defines hate speech as any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence.⁵² Women’s rights groups have also targeted speech denigrating to women. More recently, hate speech laws have spread to protect gay and transgender people as well, making it a crime in some European countries to incite hatred or violence based on sexual orientation.⁵³

Few would argue that such speech can be offensive—but at what point does it move from being merely insulting or morally objectionable to being so extreme or threatening that some believe it should be sanctioned?

Clearly, speech that directly threatens or incites violence is one key marker. “You can say a lot of nasty things; you have a right to hate, and to express it,” said Joelle Fiss, a senior associate at Human Rights First. “But you can’t do something that would incite violent behavior among others.”⁵⁴

Following World War II, international law recognized speech that incites others to genocide as a crime against humanity, akin to other war crimes.⁵⁵ But even in extreme circumstances, judging whether speech reaches that level is complex. In countries such as Kenya or Rwanda, which have suffered mass violence fueled by virulent hate speech in recent years, for example, the language used was often coded or indirect. “Understanding the meaning of what is said can be a big problem; most of what is said is in the vernacular language, using metaphors,” said Brice Rambaud, Internews’ program director for democracy and governance in Kenya. “It can be very difficult to understand that something is an incitement.”⁵⁶

In *Virtual Hate*, Foxman and Wolf set forth a series of examples of speech that some people might consider hate speech, but which others might not.

Would “an article claiming that African Americans are inherently violent, lazy and stupid” qualify as racist hate speech, they ask. What about “a cartoon depicting President Obama as a baboon (or) a video saying black people make up a majority of welfare recipients and are consequently bankrupting the country?”⁵⁷

How about “a website that extols Hitler’s “Final Solution to the Jewish Problem?” An article “supporting the conspiracy theories promulgated in the notorious *Protocols of the Elders of Zion*?” And what of “a Facebook page urging readers to ‘bash in the head’” of a homosexual? Or a sermon “declaring that gays and lesbians are hated by God and will rot in hell?” Would these constitute anti-Semitic or homophobic hate speech, or are they just the legitimate expression of a point of view, no matter how distasteful or wrongheaded others find them?⁵⁸

Foxman and Wolf argue that most people would likely agree that some, though not all, of the examples they cite would qualify as hate speech. But no two people would agree on which are most offensive. Ask another person at random, and he or she will likely pick a different set from the examples.⁵⁹

As with beauty, the perception of where the line is crossed is often in the eye of the beholder. Its extreme subjectivity makes it difficult to define or enforce with any consistency or clarity. “Where it gets tricky from a legal perspective is trying to separate ‘hate speech’ from the ordinary rough and tumble” of debate that is necessary for democracy, said McGonagle. While hate speech statutes in many countries, as well as various international human rights treaties, “recognize that freedom of expression includes the right to express unpopular ideas which shock, offend, or disturb, in recent years, it has become harder to define how far that should stretch.”⁶⁰

Critics of sweeping hate speech laws in Europe have argued that they can go overboard in attempting to avoid anyone taking offense or having hurt feelings. In so doing, moreover, they can stifle legitimate debate over differences of opinion on sensitive racial, religious, or other topics in their increasingly multi-cultural societies.

Yet to those who take offense at blasphemy and other speech that “insults religious sensibilities,” current laws do not go far enough. They believe blasphemy, the act of insulting or showing contempt for a religion or its deities, or demonstrating irreverence towards holy persons or things, should be banned as well. For more than a decade starting in 1998, the 57-nation Organization of the Islamic Conference tried to win United Nations backing for the

widespread adoption of laws that would make “defamation of religion” illegal, though those efforts have largely been stymied by opposition from the United States and other Western democracies.⁶¹ “Blasphemy has now become part of the broader hate speech debate,” said Paul LeGendre, the director of foundations and former head of the Fighting Discrimination program at Human Rights First. “People believe it is a form of incitement to religious hatred.”⁶²

Under definitions commonly used in the United States and most of Europe, however, blasphemy has not typically been considered hate speech; nor is it illegal. Criticizing a religion or treating it with irreverence is seen as legitimate speech protected by the right to free expression.⁶³ “The two [i.e; blasphemy and hate speech] are not the same thing,” said Susan Benesch, a senior fellow at the World Policy Institute and the director of the Dangerous Speech Project.⁶⁴

In large part, that is because blasphemy is not directly targeted at or threatening to individuals. While disparaging an individual for being part of a religion can be considered hate speech under some circumstances, disparaging the religion itself is not. As long as it doesn’t incite violence, criticizing another person’s religion is seen as fair game. “When someone attacked for their characteristics and beliefs—saying all Muslims are murderers or all Jews are thieves, that’s hate speech,” said Wolf, co-author of *Viral Hate: Containing its Spread on the Internet* and the national chair of the Anti-Defamation League’s Civil Rights Committee. “But publishing an image or a comment that’s offensive to believers of a given religion, but not to the general public; that is not.”⁶⁵

Many other countries take a much harsher view towards blasphemy, however. Over the last decade, Indian prosecutors have taken on numerous cases in which Hindus felt their religious sensibilities were hurt,⁶⁶ while Greek prosecutors have occasionally targeted content deemed insulting to the Greek Orthodox church.⁶⁷ In 2010 a well-known Polish musician, Dorota Rabczewska, was convicted of “insulting religious sentiments” and fined 5,000 zloty (\$1,450) after she said in a television interview that the Bible was written by “people who drank too much wine and smoked herbal cigarettes.”⁶⁸ And in Russia, where the government of President Vladimir Putin has increasingly allied itself with the conservative Russian Orthodox Church to bolster support as it cracks down on opposition, a law imposing sentences of up to three years for offending religious sensibilities was adopted in July 2013.⁶⁹

But it is primarily in the Muslim countries that blasphemy remains a highly charged issue. Instances of alleged blasphemy continue to draw enormous ire from some segments of the population in many Muslim countries.

And allegations of blasphemy coming from the West have been a frequent flashpoint for disputes over freedom of expression, from the 1989 fatwa pronounced on Salman Rushdie for his book *The Satanic Verses*⁷⁰ and the controversy over the 2005 publication of cartoons depicting images of the prophet Mohammed in Danish newspaper *Jyllands-Posten*,⁷¹ to the furor over the *Innocence of Muslims* video.

One key reason many Muslims feel such ire when Western content is perceived to mock or criticize their religion is the belief that it frequently represents anti-Muslim hate speech, said Sahar Khamis, an assistant professor of communications at the University of Maryland and expert on Arab media, “It’s a very sensitive area,” she said. “People feel it’s an unacceptable crossing of the line into insulting other people; like libel or slander, it’s a legal and ethical offense.”⁷²

The cross-cultural anger has also been intensified by the fact that many Muslim countries have strong anti-blasphemy laws and traditions themselves. Indeed, most blasphemy allegations and prosecutions do not cross borders—they occur when people of one sect take offense at something someone else within the country has said.⁷³ Thus many within Muslim countries see blasphemy as something beyond the pale—and they have an expectation that it is something that can, and will, be forbidden by law or otherwise punished.

From the perspective of the United States and other Western countries, however, blasphemy laws do not just violate the principle of free speech—they are often also actively used to stifle opposition and dissent. In a March 2012 report, the non-profit organization Human Rights First documented more than 100 recent cases involving prosecutions for blasphemy; frequently, such charges targeted political opponents or individuals who were peacefully expressing their political and religious views.⁷⁴

“Accusations of blasphemy have resulted in arrests and arbitrary detentions and have sparked assaults, murders, and mob attacks,” Human Rights First concluded in its report. “Journalists, bloggers, teachers, students, poets, religious converts, Internet users and others have been targeted, charged, and sentenced to prison or received other punishments for exercising their right to freedom of expression.”⁷⁵

Of the many cases documented, roughly one-quarter involved online speech, much of which took place on U.S.-based platforms such as Twitter, Facebook, and YouTube.⁷⁶

In one typical case, a 23 year-old Saudi journalist, Hamza Kashgari, was arrested on blasphemy charges for posting an imaginary conversation with the Prophet Mohammed on Twitter. Much of the reaction occurs online

as well: Tens of thousands of people responded on social media to Kashgari's tweets within hours, calling for his punishment; on Facebook alone, more than 12,000 called for his execution.⁷⁷ A year and a half after he entered prison, his fate was still unclear.

Bloggers and others engaged in citizen journalism or other digital media appear to be a frequent target, in part because they may be more outspoken—and therefore of greater threat to political leaders—than journalists working for traditional media. “A lot of these cases involve digital media to one extent or another,” said LeGendre. “Ten years ago, this may have been what was said privately; now, people are more able to speak out publicly, but there has been a backlash by governments to limit their views.”⁷⁸

Religion, of course, is not the only topic with the power to offend. There are numerous other sensitive subjects that might be fine to discuss in Western media and digital platforms, but that hit cultural taboos elsewhere. In Turkey, it is illegal to insult the country's founder, Mustafa Kemal Atatürk or “Turkishness” more generally. YouTube was banned from the country between 2008 and 2010 when it refused to take down videos made by Greek users referring to Atatürk and Turks as homosexuals.⁷⁹

Many other countries, too, have laws making it an offense to defame or harm the state or its rulers, laws which are often so broadly defined “you can drive a truck through them,” warns Will Ferroggiaro the project director for conflict and media at Internews.⁸⁰ These laws, too, are often wielded as a weapon against political opposition. In Thailand, for example, laws against speech that defames or insults the king, queen, or other members of the royal family have increasingly been used to suppress political discussion online since the military took power in 2006.⁸¹

In much of the Muslim world, “certain things are not acceptable—you can't have female nudity or other discussions of sexuality,” said the University of Westminster's Thussu. In general, the portrayal of women and their role in society is also sensitive in conservative countries. Craig LaMay recalls working in Kosovo in the late 1990s. A newsweekly featured a photo of a woman fleeing for her life with a breast-feeding baby in her arms during a bombing. To the Western journalists, it was a heartbreaking image that captured the horrific nature of war. “It never occurred to them that it would be problematic,” said LaMay. “But the cover outraged people in that part of the world. They thought it was disrespectful to show her naked breast.”⁸²

Or consider gay rights. While much of the West considers anti-gay speech to be offensive, the opposite is true elsewhere in the world. Positive coverage of homosexuality is considered problematic in some countries—

particularly those such as Uganda or Malaysia, where strong religious based anti-gay movements have power. In late 2011, for example, the government of Malaysia banned a gay arts and performance festival in the face of conservative opposition. “We are not against the people’s right to freedom of speech or human rights,” said Malaysia’s deputy inspector-general of police, Datuk Seri Kahlid Abu Bakar, at a press conference defending the ban. “However, if the event creates uneasiness among the vast majority of the population, it may result in disharmony, enmity and threaten public order.”⁸³

Few countries have gone as far as Russia, though, which banned the dissemination of “gay propaganda” to minors in the controversial June 2013 bill. The law effectively makes it a crime to voice support for gay rights within the country—online or off.⁸⁴ Though it is unclear how the new law might be enforced against news sites, blogs or other digital content created abroad that is available to Russians through the Internet, it is already having an impact on freedom of expression within Russia. Some sites that contain news and other information on gay issues have begun to warn readers that the content is for adults only, said Nina Long, co-president of RUSA LGBT, a Russian-speaking gay rights organization based in New York; on one site, those who say they are under 18 are redirected to a Google page about puppies.⁸⁵ Broader news sites are affected, too. On the website of the Russian newswire RIA Novosti, even articles discussing the impact of the anti-gay law begin with a disclaimer stating, “This article contains information not suitable for readers younger than 18 years of age, according to Russian legislation.”⁸⁶ And after Anton Krasovsky, a popular TV host and editor-in-chief of the pro-Kremlin channel Kontr TV revealed that he was gay during a televised debate over the law, he was fired and the channel shut down.⁸⁷

Tech Companies as Gatekeepers

When such conflicts arise over whether content should remain online, who gets to decide? More and more, the U.S.-based technology companies such as YouTube, Twitter, and Facebook are being forced to take on that role. The American tech giants control the platforms upon which millions of people around the globe are sharing and disseminating information; more often than not, disputed content is visible to a broad global audience because one of their servers is hosting it.

As a result, when individuals, governments, human rights groups, or others find videos, text, and even entire websites objectionable, they are increasingly turning to the tech companies to block them. Essentially, they have become global referees at the center of the growing debate over the limits of acceptable content on the Internet. As George Washington University's Rosen, who has written widely about free speech on the Internet, puts it, "Facebook has more power to determine who can speak and who can be heard than any Supreme Court justice, king, or president."⁸⁸

"The tech companies are in a position to set the code of the road," Paulson said. "They will be the gatekeepers."⁸⁹

As access to the Internet has spread around the globe, requests to the tech companies to censor content appear to have grown rapidly. In its transparency report released in 2013, Google reported that government agencies and courts had sent 4,096 requests to remove roughly 42,000 items from YouTube, Blogger, and its other services in 2012—double the level of the previous year.⁹⁰ About 45 percent of those requests resulted in the removal of material in the second half of the year.⁹¹

Hate speech and "religious offense" made up a relatively small portion of those requests—each accounted for about 2 percent of the total requests made since July 2010, the period for which Google provided data. However, many other requests cover types of content that violate foreign laws but which might be considered acceptable speech in the United States. Take-down requests related to defamation made up nearly 40 percent of the total, for example, while others related to electoral laws and government criticism accounted for 8 percent.⁹²

In other ways, too, Google's tally is far from complete. The report only tabulates official government requests. On a daily basis, the company also reviews complaints made by non-governmental users about blog posts or videos that might violate its content policies or community guidelines.⁹³ Little is known about how many of those

complaints it receives or acts upon; the company does not release data on complaints from individuals, interest groups, or others not tied to a government.

In August 2013, Facebook published its first ever transparency report, releasing data about government requests for information about its users for the first half of the year. The social network reported receiving roughly 25,000 requests for information on its users.⁹⁴ Altogether, 71 countries requested information on roughly 38,000 users. The United States topped the list, making around 11,000 requests for information on roughly 20,000 users. India came next, with 3,245 requests touching 4,144 accounts, and the United Kingdom placed third, with 1,975 requests concerning 2,337 users.⁹⁵ The vast majority of requests concerned criminal investigations, according to a fact sheet released with the data.⁹⁶

Facebook did not include information on requests to take down or otherwise censor material. Nor does it provide data on complaints that it receives from non-governmental users who believe content might violate its community guidelines.

Twitter has also begun releasing limited data on the requests it gets from government sources to remove material or to provide information about its users, releasing its first report in 2012. The micro-blogging service received 1,858 requests for user account information from governments in 2012; for the first half of this year, requests were up 36 percent over last year's pace.⁹⁷ Although about 35 countries worldwide have asked for user data since July 2012, the vast majority of requests in the first half of 2013—78 percent—came from the United States. Most involved criminal investigations or cases.⁹⁸

Government requests to remove material from the site rose far more substantially, going from six in the first half of 2012 to 60 for the same period in 2013; already this year, five new countries—Brazil, India, Japan, the Netherlands, and Russia—have requested that content be taken down. Most such requests involve material that is illegal locally, such as defamatory statements or prohibited content.⁹⁹ In two well-publicized cases, however—the French anti-Semitic tweets, and a German white supremacist site—the requests have involved hate speech.¹⁰⁰ In these cases, Twitter used a feature introduced early in 2012 that allows the site to bar content in an individual country while leaving it up elsewhere.¹⁰¹

“Over the course of 2012, we saw a steady increase in government requests,” the company said in announcing data for the year. “All signs suggest that these government inquiries will continue to climb into the foreseeable future.”

The tech giants' growing role as gatekeepers is one that raises many questions—and one for which many think the tech giants are not particularly well-suited. UC San Diego's Hallin and others argue that they play a far more ambiguous role than broadcasters or newspaper editors, who have a journalistic responsibility. He pointed out that it's the job of journalists to determine what content is appropriate, which is not the case for the tech companies. "What obligations do companies like YouTube or Facebook have?" he asks. "The tech companies claim not to be editors, but of course they are. They censor a lot of stuff as well."¹⁰²

To the question of what standards are used, the answer is at once straightforward and immensely complex. As private companies, each sets its own policies on what is allowed on its platform and what it will remove. The companies are under no legal obligation to follow U.S. First Amendment principles—those apply only to American government entities at the federal, state, or local level. Private companies, by contrast, can include or exclude whatever content they would like. YouTube bans pornography and gratuitous violence,¹⁰³ for example, while Facebook doesn't tolerate material such as "graphic content," "violence and threats," and "nudity and pornography."¹⁰⁴

In addition, both Facebook and YouTube have policies banning hate speech that are similar to those put in place in many private companies and educational institutions in America. YouTube, for example, defines banned hate speech as "speech which attacks or demeans a group based on race or ethnic origin, religion, disability, gender, age, veteran status and sexual orientation/gender identity."¹⁰⁵ Facebook also explicitly bans speech that attacks a person based on "race, ethnicity, national origin, religion, sex, gender, sexual orientation, disability or medical condition."¹⁰⁶

By contrast, Twitter has no ban on hate speech and won't generally remove content that would violate the strictures of the other two.¹⁰⁷ (Though it does ban "direct, specific threats" against violence to others, which appears to be the reason it suspended the account of the militant group al-Shabab following posted threats to kill the Somali president.)¹⁰⁸ As a conduit for information that has become something of the twenty-first century's newswire, it has the strongest commitment to the broad free speech principles enshrined in the U.S. Constitution. From a First Amendment perspective, "Twitter is the best at this," said Jillian York, the director for international freedom of expression at the Electronic Frontier Foundation. "It will only take down content under an explicit court order."¹⁰⁹

As with hate speech offline, the guidelines set by Facebook and Google leave much room for subjectivity. Both have extensive staffs that review disputed material. According to Rosen, who profiled their efforts in *The New*

Republic, the policies at both companies have evolved considerably in recent years as the number of disputes—and the stakes—have gotten higher.¹¹⁰

In practice, Rosen argues, both have moved from a largely libertarian view in which they did little to police offensive or hateful content towards more stringent policies. As American companies, though, the decisions they make on disputed content tend to reflect an American point of view on what speech crosses the line more closely than the views held elsewhere.¹¹¹ Facebook does not view Holocaust denial as hate speech, for example, so it is left on the site even though it is banned in several European countries.¹¹² It also gives broad discretion to sites that are labeled “humor,” allowing them to post fairly harsh anti-Semitic, racist, or anti-gay jokes.

Just as important, neither Facebook nor Google regard blasphemy as hate speech; as a result, they will generally not remove disputed material that would be considered blasphemous or offensive in many other countries. When faced with complaints about content that is considered permissible in the United States, both sites will generally leave it up unless three conditions are met: one, they must receive an explicit court order or government request to take the content down; two, the request must be from a country in which they are operating locally (i.e., it has country-specific content and uses a local web domain); and three, the content must clearly violate local laws.¹¹³

When content does breach local laws under those conditions, however, the sites will remove it so that users within a country cannot access it. Following Turkey’s two-year blockade of YouTube for its refusal to take down videos considered insulting to the country’s founder, for example, the video site eventually resumed service in the country with a localized site. It now operates with a Turkish Web domain, YouTube.com.tr, which must follow the country’s strict content regulations.¹¹⁴ Some 56 countries now have such localized versions, making it far easier for them to request the removal of material banned locally, no matter where it is produced.¹¹⁵

To address the growing barrage of complaints, both companies have developed policies under which attacks on groups are banned, while attacks on institutions are allowed. “Facebook allows caricatures that depict members of protected groups doing unflattering things, as well as attacks on their faith or leaders,” Rosen writes in *The New Republic*. “It’s only when a user categorically reviles a protected group that he crosses a line: “I hate Islam” or “I hate the Pope” is fine; “I hate Muslims or “I hate Catholics” is not.”¹¹⁶

Rosen argues that the distinction has been critical in enabling Facebook and Google, which has adopted a similar policy, to push back against foreign governments that would ban speech they consider blasphemous or offensive. In refusing to take down *Innocence of Muslims*, for example, YouTube concluded that the film did not violate its policies because it criticized Islam, but did not explicitly attack Muslim people.¹¹⁷

Nevertheless, the squishiness of those guidelines and the limited transparency with which the tech companies implement them has observers on all sides of the debate questioning their role. “They are thoughtful people making very tough judgments,” said Rosen. “But this is not a sustainable model in the long term.”¹¹⁸

One big concern is that they are essentially answerable to no one but themselves. “They have enormous power, yet no one really understands how they make decisions.” said Phillips of the University of London. She points out, for example, that Facebook will take down pictures of women breast-feeding but leave up racist videos. “The process needs more public debate,” she said.¹¹⁹

Another considerable gray zone: how aggressively do the companies manage the gaps between international law, domestic law and their own terms of service? “When a government goes to Google or Facebook and asks them to remove material, what is the basis on which they make decisions to take it down or leave it up?” asks LeGendre of Human Rights First. “What do they say to the governments? Do they push back? Do they negotiate? Or do they just accede to them?”¹²⁰

He and others also worry about the degree to which commercial considerations play a role. The tech giants aren’t government entities with a public service role, after all—they are businesses ultimately responsible to their shareholders. Clearly, none of them wants to see their services blocked from millions of potential users in countries that take offense to material posted on their sites. Moreover, they have been known to allow material to be blocked in order to continue operating in key countries, the censorship of all mention of the Tiananmen Square protests on Google’s China service being the most prominent example. “These companies want to do the right thing and they do have to deal with authoritarian regimes; that’s the reality,” LeGendre added. “But they are money-making private enterprises and there is a lot playing out behind the scenes.”¹²¹

Moreover, York of the EFF argues that the tech giants’ ability to police their own policies allows them to change or violate them at will. She points out, for example, that Google handled complaints about *Innocence of Muslims* in three different ways.

“Ultimately, the problem is this: There were court orders (to take the video down) that Google complied with. Second, there were court orders that it *didn’t* obey – Pakistan issued a court order and Google refused to comply with it,” York said. And in the case of Libya and Egypt, Google made a third decision, taking the video down voluntarily without being asked to do so by a local court—the first time, to York’s knowledge, that it has ever done so. In a statement explaining the unusual move, which came the day after the U.S. ambassador and three others were killed in Benghazi, Google said it pulled the video because of the “the very difficult situation” in those two countries. But York believes that rationale is misguided. “It’s a reasonable decision for them to take down content when faced with a court order,” she said. “But it’s patronizing to do so without an order and to say they should make special arrangements because some people are more sensitive.”¹²²

Like many staunch advocates of free speech, she argues that it sets a dangerous precedent for Google to decide what is best for a country in which it has only limited experience. It is also a slippery slope towards what is known as the “heckler’s veto,” in which those willing to cause a ruckus can stymie another’s legitimate free speech rights. Moreover, it defeats the purpose of a wide-open, content driven platform like YouTube. “If we tried to run YouTube driven by the sensibilities of the most sensitive country, we’d see very limited content,” Paulson said.

Having ceded ground once to violent groups and government demands, it may also be harder for Google to hold the line when faced with governmental or mob pressure again in the future, warns Amr Gharbeia, the civil liberties director for the Egyptian Initiative for Personal Rights. “Trying to appease regimes which demand censorship is not going to improve Google’s image or prevent the harm to its business,” he said. “Now people will be expecting that of Google; it will push regimes to try to control content with even more effort in the future.”¹²³

Not everyone agrees, however. In the face of violence fueled by the growth of content clearly designed to incite animosity, other media experts believe the tech giants must do a better job at policing content on their servers. And if they won’t or can’t, a broader international consensus must be developed to take on that role. “We’ve seen these sites become platforms for hatred and derogatory language; the threats are serious,” said the University of Maryland’s Khamis. She argues that YouTube should have removed the *Innocence of Muslims* video from its servers. “It’s not freedom of expression; it’s slander and an abuse of free expression,” she said. “It’s time for social media sites to impose stronger policies and rules on what is acceptable.”¹²⁴

Khamis added that it is a two-way street—the Muslim community needs to do more to ensure that protests against speech it finds offensive remain peaceful rather than reacting with violence to such provocations, she

said. Muslims would also be better served by producing competing content that explains their religion more clearly to the non-Islamic world. But she and others argue that there is also great risk in a more absolutist “free speech” position; while it may make sense in the United States, which has no recent history of mob violence incited by religious or ethnic tensions, they believe that greater care is needed in countries that have been frequently wracked with such disputes. When hundreds can be killed or injured in the time it can take to get a court order, they say that may be a luxury such countries can ill afford.

Thussu points to the experience of India last August, where violent clashes between Bodo tribesmen from the northeast and Muslim immigrants were followed by rumors of retribution and continued violence that spread quickly on Twitter; thousands were displaced and dozens killed in the panic.¹²⁵ In response, the government blocked the Twitter accounts of numerous people accused of spreading the rumors, including several prominent journalists, as well as SMS texts and 28 Web pages with objectionable content. It also threatened to shut down Twitter altogether if it did not close the accounts of those allegedly inciting violence.¹²⁶

In a country like India, Thussu said, such flare-ups remain a big danger; though the tweeted information was false, it spread so fast the government could do little to defuse the situation. “The Internet is a hugely powerful and growing, but it’s not a divine power— someone is controlling it,” said Thussu. The critical questions, he added, are *who* should have that power and *how* it should be exercised. When violent, anti-Semitic, or anti-Islamic content goes up online, he argues, tighter controls may be necessary in the interests of protecting “harmony” within a country or between countries.¹²⁷

“These are real issues; they can lead to catastrophic events,” he said. “There has to be some kind of mechanism that governments have to filter out things that are offensive.” That will be unfortunate for freedom of expression, he concedes, but powerful governments are already moving that way.¹²⁸

He and others say continued debate is inevitable—as are further clashes. “The intensity of international discussions on these issues is heating up, because of the negative experiences that many governments have had,” said UNESCO’s Karklins.¹²⁹ Many European countries are pushing for steeper legislative and judicial sanctions against hate speech, for example, in stark contrast to the United States. More than 20 countries have agreed to an international protocol that would increase criminal penalties for those who would use computer systems to commit “racist and xenophobic” acts.¹³⁰

Meanwhile, an acrimonious International Telecommunication Union meeting fell apart in Dubai last December after the United States and other Western democracies rejected a proposal by China, Russia, and others that would have given repressive governments and the United Nations greater control over the Internet and free speech. Critics feared the proposal, designed to create “international norms and rules standardizing behavior of countries concerning information and cyberspace,” would have made it easier for governments to monitor and censor speech on the Internet. It also risked enabling them to force tech companies to take down material they don’t like not just at home, but also around the globe.¹³¹

That proposal has been tabled for now, but the battle has really only begun to be joined. As billions more across the world gain access to the Internet in coming years—many of them in countries with authoritarian governments who have little tolerance for a free press or freedom of expression—disputes over what speech is or isn’t acceptable will undoubtedly grow. Ultimately, some argue that a broader, non-commercial organization must take over the role of setting more comprehensive international rules of the road. “Some sort of independent authority has to eventually arise,” said Mancini of the University of Perugia. “This is not the duty of the companies.”¹³²

Yet even those who would prescribe more controls agree that it will be difficult to reach agreement, given that no international consensus exists on what is acceptable. Much as no one—least of all the tech companies themselves—likes the idea that they have become the global arbiters for free speech on the Web, it is far from clear who or what body would be better able to replace them. “If we end up saying someone is going to make these decisions, who is that going to be?” asks Charles C. Self, the director of the Institute for Research and Training at the Gaylord College of Journalism and Mass Communication at the University of Oklahoma. “Who are we going to put in that position?”¹³³

That difficulty makes it all but inevitable that for the foreseeable future, the tech giants will remain the primary international gatekeepers for free speech online.

The Implications for Media Training

The debate over how to handle the growing cultural conflicts over potentially offensive online content goes well beyond the media, yet the implications for the press of the intensifying calls to ban such content are enormous. Restrictive policies that many countries are adopting to limit offensive or culturally sensitive speech can have a chilling effect on traditional media as well as local bloggers and other citizen journalists trying to forge a more open debate in their societies.

For those doing media development work, the pressures raise a critical question: how to address such issues when training professional or citizen journalists in countries where the boundaries of acceptable speech are far more constrained? Given the different views on freedom of expression and the role of the news media in countries such as Russia, Burma, or Egypt, how can media trainers teach local journalists to develop balance and respect for other viewpoints and not brand them as blasphemy or hate speech? Below are several recommendations from media development experts experienced in these areas.

1. Know the Local Limits

First and foremost, be aware of where the red lines are—and make sure your students do as well. That may seem obvious, but many of those arrested or otherwise sanctioned for blasphemy seem to have significantly underestimated the risks of their comments. Hamza Kashgari, the Saudi journalist thrown in jail after his tweets caused an uproar, appears to have known he was provocative. A liberal and a “humanist” despite growing up in a conservative Salafist family, according to a profile in the *Daily Beast*, Kashgari’s writings were closely monitored by conservative watchdogs he’d angered previously. Yet in an interview soon after, he conceded that he did not expect such an outcry—“not even 1 percent.”¹³⁴

2. Broaden Public Outreach

Yehia Ghanem, a distinguished Egyptian journalist and head of a local training program run by the International Center for Journalists, was sentenced by a Cairo court in absentia in 2013 to two years at hard labor in a politically-motivated trial; ICFJ and several other pro-democracy American NGOs were targeted and accused of making illegal payments to influence Egyptian politics.¹³⁵ He argues that training organizations must do more to explain the work they are doing with journalists and the civic values they represent to the local public. “We need to be more open to the public about the values we are trying to instill; it is not enough just to discuss these issues within the journalism world,” he said. Encouraging a broader, more open societal discussion about the

need to respect other viewpoints without branding them as hate speech or blasphemy is critical, for example, as is helping citizens better understand how all of society will eventually benefit from greater freedom of expression and balance. “It is a failure to think this work need only be done within media outlets and that’s it,” Ghanem said. “This line of work is not targeting the elite. It is a public job.”¹³⁶

3. Help Citizens and Journalists Develop Skills to Counter Offensive Speech

Training citizen journalists as well as professional journalists in the skills needed to parry offensive materials with counter arguments and persuasive content, rather than violence or angry rhetoric, should be another priority. The University of Maryland’s Khamis argues that Muslim and Arab communities need to learn to use the same digital and social media platforms to publish more positive documentaries and other content on Islam. “There is no better way to counter this than by spreading information. You don’t need millions to start a TV station; you can do it through your own digital camera and put it up on YouTube,” she said. “It is very important that Muslims learn these techniques so that we can respond in an effective way; I consider it an opportunity to create content that puts forward a positive view of my faith.”¹³⁷

4. Improve Ethics Training for Journalists

Strong training on the ethical issues related to creating balanced and fair coverage is also important in ensuring that greater freedom of expression doesn’t simply turn into a free-for-all. “First, we need to teach that with freedom comes responsibility,” said Luis Manuel Botello, senior program director of special projects at the International Center for Journalists. He has found that journalists in countries with a nascent free press often have little ability to judge what to publish or what not to publish, so their newly-realized freedoms gets translated into “I can say anything I want.”¹³⁸

Giving in to that impulse can result in coverage that raises tensions within a country by too readily passing along rumors or disparaging portrayals of minority groups. “There is so much rumor and innuendo in many of these countries in transition,” said Ferroggiaro of Internews. “To the degree that journalists have access to documentation—and understand that you can’t do a story with just one document, you need to ground it in solid reporting and greater context, that will build trust and legitimacy in these institutions.”¹³⁹

Comprehensive ethics training can be key in showing them how to make those decisions more responsibly. In

programs Botello has helped develop for Latin American journalists, for example, he begins with an explanation of the core principles of journalistic ethics. He then applies the principles to real case studies of sensitive local issues. In a workshop in the Dominican Republic, he focused on the media's biased and demeaning coverage of poor Haitian immigrants. Student teams are formed that mirror newsgathering—one is the editor, another a reporter, a government official, and perhaps the mother of a victim of abuse. "We debate: Should we publish the story? How do we publish it while minimizing the harm?" he said. "The goal isn't to censor them but to teach them to publish in a more thoughtful way by making sure they include all the stakeholders' views before they go and post stories."¹⁴⁰

While these recommendations may help media developers and journalism trainers navigate the stormy waters of cultural differences about what constitutes acceptable speech, they cannot solve the fundamental problem: In the West, freedom of expression is considered an absolute right, with only limited exceptions. In other parts of the world, it is expected that authority figures can exert control of information to make it adhere to local sensibilities. For those promoting media freedom around the world, narrowing this gap in perceptions remains a daunting challenge.

Endnotes

1. "Egypt Newspaper Fights Cartoons with Cartoons," CBS News, September 26, 2012, http://www.cbsnews.com/8301-202_162-57520830/egypt-newspaper-fights-cartoons-with-cartoons/.
2. Daya Kishan Thussu, professor of international communication and co-director of the India Media Centre, University of Westminster in London, interview with the author.
3. Jeffrey Rosen, law professor at George Washington University and the legal affairs editor of *The New Republic*, interview with the author.
4. http://topics.nytimes.com/topics/reference/timestopics/subjects/d/danish_cartoon_controversy/index.html.
5. Janis Karklins, assistant director general, Communications and Information division of UNESCO, interview with author.
6. Rodney Benson, associate professor of media, culture and communication, New York University, interview with the author.
7. Benson, interview.
8. Thussu, interview.
9. Phillips, interview.
10. Benson, interview.
11. Angela Phillips, senior lecturer in media and communications, Goldsmith's College at the University of London, interview with the author.
12. Benson, interview.
13. Craig LaMay, associate professor, Northwestern University's Medill School of Journalism, interview with the author.
14. Rosen, interview.
15. Ibid.
16. Abraham H. Foxman and Christopher Wolf, *Viral Hate: Containing Its Spread on the Internet*, (New York: Palgrave MacMillan, 2013), 65.
17. Rosen, interview.
18. LaMay, interview.
19. Peter Scheer, "The U.S. is alone among western democracies in protecting 'hate speech.' Chalk it up to a healthy fear of government censorship," First Amendment Coalition, March 14, 2011, <http://firstamendmentcoalition.org/2011/03/the-u-s-is-alone-among-western-democracies-in-protecting-%E2%80%9Chate-speech-%E2%80%9D-chalk-it-up-to-a-healthy-fear-of-government-censorship-2/#sthash.iIWDV5rR.dpuf>.
20. Tanya Kateri Hernandez, "Hate Speech and the Language of Racism in Latin America," *University of Pennsylvania Journal of International Law*, 2010, http://ir.lawnet.fordham.edu/faculty_scholarship/19/.

21. The Constitution of the Republic of South Africa, 1996, Chapter 2 (Bill of Rights), Section 16 (Freedom of Expression), <http://www.info.gov.za/documents/constitution/1996/96cons2.htm#16>.
22. Rajeev Dhavan, "India has many forms of 'hate speech', but no grounds for a tighter law," *Mail Online India*, 6/2/2013, <http://www.dailymail.co.uk/indiahome/indianews/article-2334785/India-forms-hate-speech-grounds-tighter-law.html>.
23. Tarlach McGonagle, senior researcher, the Institute for Information Law at the University of Amsterdam and a recent visiting scholar at the Center for Global Communications Studies at the University of Pennsylvania's Annenberg School for Communication, interview with the author.
24. Paulo Mancini, professor of the sociology of communications, the University of Perugia, interview with the author.
25. Shibani Mahtani, "Myanmar Bans TIME Magazine Issue Over 'Buddhist Terror' Cover," *The Wall Street Journal* (Southeast Asia edition), June 26, 2013, <http://blogs.wsj.com/searealtime/2013/06/26/myanmar-bans-time-magazine-over-buddhist-terror-cover/>.
26. Committee to Protect Journalists, "Burma Ends Pre-Publication Censorship; Harsh Laws Remain," August 20, 2012, <http://cpj.org/2012/08/-bangkok-august-20-2012--burma.php>.
27. Rosie Gogan-Keogh, "Myanmar Moves Closer to Controversial Media Law," *The Hollywood Reporter*, July 5, 2013, <http://www.hollywoodreporter.com/news/myanmar-moves-closer-controversial-media-581080>.
28. Reporters Without Borders, "Retrograde Bill Threatens Tentative Progress," March 7, 2013, <http://en.rsf.org/burma-retrograde-bill-threatens-07-03-2013,44176.html>.
29. LaMay, interview.
30. "Egypt Newspaper Fights Cartoons with Cartoons," CBS News.
31. Glenn Kessler, "The Benghazi hearings: what's new and what's not," *The Washington Post*, May 9, 2013, http://www.washingtonpost.com/blogs/fact-checker/post/the-benghazi-hearings-whats-new-and-whats-not/2013/05/08/d0953a28-b831-11e2-b94c-b684dda07add_blog.html.
32. Claire Cain Miller, "Google Has No Plans To Rethink Video Status," *New York Times*, Sept. 14, 2013, http://www.nytimes.com/2012/09/15/world/middleeast/google-wont-rethink-anti-islam-videos-status.html?_r=0.
33. Google says it won't take down anti-Muslim clip," *CBS News*, September 15, 2012 http://www.cbsnews.com/8301-205_162-57513700/google-says-it-wont-take-down-anti-muslim-clip/.
34. "LHC Refuses to Lift YouTube Ban," *The Express Tribune*, July 4, 2013, <http://tribune.com.pk/story/572490/lhc-refuses-to-lift-youtube-ban/>.
35. Abubakar Siddique, "Pakistan Demands Filters Before Lifting YouTube Ban," *Radio Free Europe*, June 13, 2013, <http://www.rferl.org/content/gandhara-pakistan-youtube-ban/25016243.html>.
36. Andrew Kirell, "Obama Condemns Both 'Disgusting' Anti-Islam Video and 'Mindless' Violence Before the U.N.," *Mediaite*, Sept. 25, 2012, <http://www.mediaite.com/tv/president-obama-condemns-both-disgusting-anti-islam-video-and-mindless-violence-before-the-u-n/>.
37. Ibid.
38. Anne Gearan, "Egypt's President Morsi Tells U.N.: Insults to Muhammad 'Unacceptable,'" *Washington Post*, Sept. 26, 2013, http://articles.washingtonpost.com/2012-09-26/world/35494862_1_morsi-egypt-respects-



[freedom-youtube-video.](#)

39. Palash Ghosh, "Hillary Clinton Condemns Anti-Islam Film," *International Business Times*, Sept. 13, 2013, <http://www.ibtimes.com/hillary-clinton-condemns-anti-islam-film-full-text-788950>.
40. Daniel C. Hallin, communications professor, the University of California in San Diego, interview with the author.
41. Ken Paulson, dean of the College of Mass Communication at Middle Tennessee State University and the president and CEO of the First Amendment Center, interview with author.
42. Foxman and Wolf, 23-24.
43. Rina Tzvi, "Facebook 'Deserves Credit' for Removing Hungarian Hate Speech," *Israel National News*, July 21, 2013, <http://www.israelnationalnews.com/News/News.aspx/170110#.UfGFhxbEpZ5>.
44. Machleder, interview.
45. Marcos Todeschini, "Brazil's online crossroads between authoritarianism and democracy," *Free Speech Debate*, December 13, 2012, <http://freespeechdebate.com/en/discuss/brazils-online-crossroads-between-authoritarianism-and-democracy/>.
46. Amol Sharma, "Facebook, Google to stand trial in India," *Wall Street Journal*, March 13, 2012, <http://online.wsj.com/article/SB10001424052702304537904577277263704300998.html>.
47. Somini Sengupta, "Twitter Yields to Pressure in Hate Case in France," *New York Times*, July 12, 2013, <http://www.nytimes.com/2013/07/13/technology/twitter-yields-to-pressure-in-hate-case-in-france.html?partner=rss&emc=rss&smid=tw-nytimes&r=0>.
48. "Twitter Removes Anti-Semitic Tweets," *BBC News*, October 19, 2012, <http://www.bbc.co.uk/news/technology-20004671>.
49. Sengupta, Twitter Yields to Pressure.
50. Hallin, interview.
51. McGonagle, interview.
52. Article 19, <http://www.article19.org/pages/en/hate-speech-more.html>.
53. "Hate Speech and Hate Crimes against LGBT Persons," European Union Agency for Fundamental Rights, 2009, http://fra.europa.eu/sites/default/files/fra_uploads/1226-Factsheet-homophobia-hate-speech-crime_EN.pdf.
54. Joelle Fiss, senior associate, Human Rights First, interview with the author.
55. <http://www.article19.org/pages/en/hate-speech-more.html>.
56. Brice Rambaud, Kenya program director for Democracy & Governance, Internews, interview with author.
57. Foxman & Wolf, 49.
58. Ibid.
59. Ibid.

60. McGonagle, interview.
61. Robert Evans, "Islamic bloc drops 12-year U.N. drive to ban defamation of religion," *Reuters* (Faith World blog), March 24, 2011, <http://blogs.reuters.com/faithworld/2011/03/24/islamic-bloc-drops-12-year-u-n-drive-to-ban-defamation-of-religion/>.
62. Paul LeGendre, director of foundations and former head of the Fighting Discrimination program, Human Rights First, interview with the author.
63. Ibid.
64. Susan Benesch, senior fellow at the World Policy Institute and the director of the Dangerous Speech Project, interview with author.
65. Christopher Wolf, co-author of *Viral Hate: Containing its Spread on the Internet* and national chair of the Civil Rights Committee of the Anti-Defamation League, interview with author.
66. "Sacred text on clothes: fashion designer booked," [www.nerve.in](http://www.nerve.in/news:25350010632), August 2, 2006, <http://www.nerve.in/news:25350010632>, "Case filed against Ravi Shastri for eating beef," *Zee News*, December 23, 2006, http://zeenews.india.com/news/sports/case-filed-against-ravi-shastri-for-eating-beef_343792.html.
67. Joanna Kakissis, "Old Greek Blasphemy Laws Stir Up Modern Drama," *NPR.org*, January 4, 2013, <http://m.npr.org/story/168546876>.
68. Human Rights First, "*Blasphemy Laws Exposed: The Consequences of Criminalizing 'Defamation of Religion'*," March 2012, 10, http://www.humanrightsfirst.org/wp-content/uploads/Blasphemy_Cases.pdf.
69. Fred Weir, "Russia's 'majoritarian' crackdown on minorities rolls on with new anti-gay law," *Christian Science Monitor*, July 1, 2013, <http://www.csmonitor.com/World/Europe/2013/0701/Russia-s-majoritarian-crackdown-on-minorities-rolls-on-with-new-anti-gay-law>.
70. Kenan Malik, *From Fatwa to Jihad: The Rushdie Affair and Its Aftermath*, Melville House, 2010.
71. http://topics.nytimes.com/topics/reference/timestopics/subjects/d/danish_cartoon_controversy/index.html.
72. Sahar Khamis, assistant professor of communications, the University of Maryland, interview with the author.
73. Khamis, email correspondence.
74. Ibid.
75. Ibid, 2.
76. Ibid, 3-28.
77. Ibid, 2.
78. LeGendre, interview.
79. BBC News, "Turkey Lifts Two Year Ban on YouTube," October 30, 2010, <http://www.bbc.co.uk/news/technology-11659816>.
80. Will Ferroggiaro, project director for Conflict and Media, Internews, interview with the author.



81. Tim Wu, "Thailand's Struggle for Freedom of Expression in Cyberspace," *e-International Relations*, July 21, 2013, <http://www.e-ir.info/2013/07/21/thailands-struggle-for-freedom-of-expression-in-cyberspace/>.
82. LaMay, interview.
83. "Malaysia: Ban On Sexuality Rights Festival Violates Human Rights," *International Gay and Lesbian Human Rights Commission*, November 9, 2011, <http://www.iglhrc.org/content/malaysia-ban-sexuality-rights-festival-violates-human-rights>.
84. Thomas Grove, "Russia Passes Anti-Gay Law, Activists Detained," *Reuters*, June 11, 2013, <http://www.reuters.com/article/2013/06/11/us-russia-gay-idUSBRE95A0GE20130611>.
85. Nina Long, co-president of RUSA LGBT, interview with author.
86. "Sochi Athletes Subject to Anti-Gay Law - Russian Minister," *RIA Novosti*, August 1, 2013, <http://en.ria.ru/sports/20130801/182524193/-Sochi-Athletes-Subject-to-Anti-Gay-Law---Russian-Minister.html>.
87. Sergei L. Loiko, "Gay Russian TV Personality Reflects on his Firing and his Country," *Los Angeles Times*, Feb. 23, 2013, <http://articles.latimes.com/2013/feb/23/world/la-fg-russia-gay-qa-20130224>.
88. Miguel Helft, "Facebook Grapples With Free Speech and Civility," *New York Times*, December 12, 2010, http://www.nytimes.com/2010/12/13/technology/13facebook.html?_r=0.
89. Paulson, interview.
90. "Government Overview, By Requests" *Google Transparency Report*, July 2013, <http://www.google.com/transparencyreport/removals/government/>.
91. "Government Overview, By Compliance Rate" *Google Transparency Report*, July 2013, <http://www.google.com/transparencyreport/removals/government/>.
92. Ibid.
93. "FAQ," *Google Transparency Report*, July 2013, <http://www.google.com/transparencyreport/removals/government/faq/>.
94. Facebook Global Government Requests Report, https://www.facebook.com/about/government_requests.
95. Ibid.
96. Ibid.
97. "Information Requests," *Twitter Transparency Report*, July 2013, <https://transparency.twitter.com/information-requests/2013/jan-jun>.
98. Ibid.
99. Ibid.
100. Maria Serena Ciaburri, "Twitter-country takedown notices: developments in France and Germany," *Chilling Effects*, July 15, 2013, <http://chillingeffects.org/weather.cgi?WeatherID=779>.
101. David Rising, "Twitter Censorship: Company Blocks Account For A Government For The First Time," *The Huffington Post*, October 18, 2012, http://www.huffingtonpost.com/2012/10/18/nazi-twitter_n_1978103.html.

102. Hallin, interview.
103. YouTube Community Guidelines, http://www.youtube.com/t/community_guidelines?gl=GB&hl=en-GB.
104. "Facebook Community Standards," <https://www.facebook.com/communitystandards>.
105. YouTube Community Guidelines.
106. Facebook Community Standards.
107. "The Twitter Rules," <https://support.twitter.com/groups/56-policies-violations/topics/236-twitter-rules-policies/articles/18311-the-twitter-rules>.
108. Nicholas Kulish, "Twitter Suspends Somali Militants' Account, Cutting A Link to Wider World," New York Times, September 6, 2013, http://www.nytimes.com/2013/09/07/world/africa/twitter-account-of-somali-insurgents-is-shut-down.html?_r=1&.
109. Jillian York, director for international freedom of expression, the Electronic Frontier Foundation, interview with the author.
110. Jeffrey Rosen, "The Delete Squad: Google, Twitter, Facebook and the new global battle over the future of free speech," *The New Republic*, April 29, 2013, <http://www.newrepublic.com/article/113045/free-speech-internet-silicon-valley-making-rules>.
111. Ibid.
112. Foxman and Wolf, 108.
113. Ibid, 108 – 109.
114. Brian Pellot, "Has Innocence of Muslims ended the innocence of YouTube?" *Free Speech Debate*, September 26, 2012, <http://freespeechdebate.com/en/discuss/has-innocence-of-muslims-ended-the-innocence-of-youtube/>.
115. Dara Kerr, "YouTube cedes to Turkey and uses local Web domain," *CNET*, October 2, 2012, http://news.cnet.com/8301-1023_3-57524907-93/youtube-cedes-to-turkey-and-uses-local-web-domain/.
116. "Statistics," *YouTube Press Room*, <http://www.youtube.com/yt/press/statistics.html>.
117. Rosen, "The Delete Squad."
118. Rosen, interview.
119. Phillips, interview.
120. LeGendre, interview.
121. LeGendre, interview.
122. York, interview.
123. Amr Gharbeia, civil liberties director, the Egyptian Initiative for Personal Rights, interview with the author.
124. Khamis, interview.



125. Shreya Shah, "India Bans Mass SMS to Counter Panic," *Wall Street Journal India*, August 17, 2012, <http://blogs.wsj.com/indiarealtime/2012/08/17/indian-bans-mass-sms-to-counter-panic/>.
126. "Indian cyber silence: Journalists muted after race riots," *Russia Today*, August 23, 2012, <http://rt.com/news/india-twitter-crackdown-riots-348/>.
127. Thussu, interview.
128. Ibid.
129. Karklins, interview.
130. Rosen, "The Delete Squad."
131. Steven Strauss, "The Internet Won't be a beacon of free speech if the ITU has its way," *The Blaze*, December 3, 2012, <http://www.theblaze.com/contributions/online-freedom-of-speech-still-safe-but-for-how-much-longer/>.
132. Mancini, interview.
133. Charles C. Self, director of the Institute for Research and Training, Gaylord College of Journalism and Mass Communication at the University of Oklahoma, interview with the author.
134. Mike Giglio, "Saudi Writer Hamza Kashgari Detained in Malaysia Over Muhammad Tweets," *The Daily Beast*, February 10, 2012, <http://www.thedailybeast.com/articles/2012/02/08/twitter-aflame-with-fatwa-against-saudi-writer-hamza-kashgari.html>.
135. Peter Osnos, "An Egyptian Journalist's Nightmare," *The Atlantic*, June 18th, 2013, <http://www.theatlantic.com/international/archive/2013/06/an-egyptian-journalists-nightmare/276967/>.
136. Yehia Ghanem, assistant editor-in-chief of the Egyptian newspaper *Al-Ahram* and consultant to the International Center for Journalists, interview with author.
137. Khamis, interview.
138. Luis Manuel Botello, senior program director of special projects, the International Center for Journalists, interview with the author.
139. Ferroggiaro, interview.
140. Botello, interview.

Advisory Council for the Center for International Media Assistance

Esther Dyson

Craig LaMay

Stephen Fuzesi, Jr.

Caroline Little

William A. Galston

Eric Newton

Suzanne Garment

William Orme

Mark Helmke

Dale Peskin

Ellen Hume

Adam Clayton Powell III

Jerry Hyman

Monroe E. Price

Alex S. Jones

Adam Schiff

Shanthi Kalathil

Kurt Wimmer

Susan King

Richard Winfield

Center for International Media Assistance

National Endowment for Democracy

1025 F Street, N.W., Suite 800

Washington, DC 20004

Phone: (202) 378-9700

Fax: (202) 378-9407

Email: CIMA@ned.org

URL: <http://cima.ned.org>



**National Endowment
for Democracy**

Supporting freedom around the world