

**SEPTEMBER 2015**

**OFFENCE**

**JUSTINE BRIAN**



**DEBATING  
MATTERS  
BERLIN**

**MOTION:**

**“NOBODY HAS THE  
RIGHT NOT TO BE  
OFFENDED”**

**ORGANISED BY**

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## KEY TERMS

Hate Speech

# INTRODUCTION

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# NOTES

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In January 2015 two gunmen shot and killed 12 staff members of the French satirical magazine Charlie Hebdo for reasons understood to be related to offence caused by their portrayal of Islamic religious figures. Although the general reaction to the events in Paris was the need to maintain free speech in the wake of terrorist attacks, a debate began about how we balance a commitment to free speech with sensitivity to causing offence or discord, and indeed whether free speech could or should be an absolute principle. Speaking after the Paris attacks, Chancellor Angela Merkel defended the need for free speech stating that: “This is an attack against the values we all hold dear, values by which we stand, values of freedom of the press, freedom in general and the dignity of man.” [Ref: [Telegraph](#)]. Others argue that offensive speech, which some might call ‘hate speech’, contributes to a climate where discrimination and violence are more likely, suggesting that: “... hatred is the gateway to discrimination, harassment and violence. It is the psychological foundation for serious, harmful criminal acts. ...” [Ref: [Guardian](#)]. So is there an inherent, unresolvable conflict between free speech and offence? Can we make the case for absolute free speech without limits where: “People have the right to say what they wish, short of inciting violence, however offensive others may find it...” [Ref: [Pandemonium](#)] or does: “...our society makes a fetish of “the right to free speech” without ever questioning what sort of responsibilities are implied by this right” [Ref: [Vice](#)]? Is there a balance to be struck between the two, or can we only truly have free speech when we also accept that nobody has the right not to be offended?



## THE OFFENCE DEBATE IN CONTEXT

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### What are the arguments for freedom of speech, and are they still relevant today?

The Enlightenment thinker Voltaire is associated with the statement 'I disapprove of what you say, but I will defend to the death your right to say it' [Ref: [The Basics of Philosophy](#)]. The philosopher J S Mill defended freedom of speech on the basis that it is only by allowing beliefs to be criticised that we can be justified in believing that they are true. Some argue that in today's pluralistic societies and in an effort to be respectful to a diverse range of cultures and beliefs, we must accept the need for limits on what can be said in public discourse to protect the dignity of others, to avoid creating social antagonisms and to: "...recognise the power and impact of our words" [Ref: [The Conversation](#)]. Throughout Europe in recent years there have been calls for restrictions, bans or legal action to be taken on a wide range of things which cause offence to some, including: the outlawing of the singing of sectarian songs at football matches in Scotland [Ref: [BBC News](#)]; the banning in France of sales of a DVD by French comedian Dieudonné for alleged anti-Semitism and holocaust denial [Ref: [RFI](#)]; moves in the Polish parliament to extend existing 'hate law' legislation to protect gay and transgender people [Ref: [Radio Poland](#)]; Spanish prosecutors called for action against hate speech by Spanish citizens on Twitter, including those accused of 'glorifying terrorism' [Ref: [El País](#)]; and in Germany, where freedom of expression is guaranteed under Article 5 of the Basic Law for the Federal Republic of Germany [Ref: [Bundestag](#)], holocaust denial is banned and prosecuted under the Volksverhetzung, Germany's criminal code, which outlaws incitement to hatred against segments of the population.

### Do we have a right not to be offended?

Certain things, e.g. speech, images and writings, are criminalised, it is stated, in order to protect people from physical and psychological harm, and the laws have been introduced in many countries to deal with 'hate speech' [Ref: [Wikipedia](#)]. This is about more than merely not offending people, it's argued, but a social good as 'harms to dignity': "...involve more than the giving of offense. They involve undermining a public good...the "implicit assurance" extended to every citizen that while his beliefs and allegiance may be criticized and rejected by some of his fellow citizens, he will nevertheless be viewed, even by his polemical opponents, as someone who has an equal right to membership in the society" [Ref: [New York Times](#)]. But opponents of increasing restrictions on free speech, in the name of preventing offence, argue that: "...it is precisely because we do live in a plural society that we need the fullest extension possible of free speech... it is both inevitable and important that people offend the sensibilities of others. Inevitable, because where different beliefs are deeply held, clashes are unavoidable. In relation to German and European holocaust denial laws, writer Timothy Garton Ash argues that although these laws may be well intentioned, like other hate speech laws, to "...make a significant difference to combating racism, anti-semitism and xenophobia today" what such legalisation actually does is to "curtail free expression - at a time when that is under threat from many quarters. Free expression is a unique and primary good in free societies; it's the oxygen that sustains other freedoms [Ref: [Guardian](#)]. Some suggest that if one accepts some limits to free speech on the grounds of offence, it will lead to competing demands by other groups not be offended, leading to a loss of freedom for all.



## THE OFFENCE DEBATE IN CONTEXT CONTINUED...

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The very point of freedom of speech, they argue, is to protect 'extreme' speech as, by definition, 'acceptable' or 'mainstream' speech needs no such protection and as such: "You do not have the right not to be offended. Feeling offended is the price one pays for living in a free, open, tolerant, often rowdy society" [Ref: [spiked](#)].

### With rights come responsibilities?

Critics of the idea of absolute freedom of speech argue that speech is never really 'free' but has consequences and, like all rights, needs to be exercised with responsibility and thought to those around us, and that: "We have a civic duty not to offend others" [Ref: [Huffington Post](#)]. Speech, it is argued, is not only used to make rational arguments, but can be used to foment hatred and stigmatise minorities, reflecting existing social inequalities. Because of this: "Practical freedom of speech... is not a black-and-white issue, not just a matter of misquoting Voltaire; it is a subtly calibrated scale. It involves questions about social context, and discretion" [Ref: [Independent](#)]. But those who reject the right not to be offended ask: "Why isn't offence ever a legitimate reason to restrict speech? Because unlike mental harm, offence occurs as a consequence of people projecting their own values and attitudes onto the lives of others. There is nothing to stop us from doing this, but it would be illiberal for the law to intervene ...after all, the laws first and foremost purpose is to prevent us from harmfully interfering with one another's liberty" [Ref: [Free Speech Debate](#)]. Moreover, a defence of free speech some argue, rightly assumes people are rational and fully capable of assessing different arguments, and making their

own minds up, and therefore, the banning of 'offensive' things is: "...a refusal to engage with the realities of a diverse society" [Ref: [Guardian](#)]. Speaking after the attack in Paris, author Salman Rushdie, who had found himself under threat after his controversial book 'The Satanic Verses' was condemned by an Islamic cleric in 1989 [Ref: [Wikipedia](#)], says that: "Freedom is indivisible...You can't slice it up otherwise it ceases to be freedom. You can dislike Charlie Hedbo ... But the fact that you dislike them has nothing to do with their right to speak." [Ref: [Guardian](#)].



## ESSENTIAL READING

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### FOR

We must stop bowing to the censorious army of offence takers

Brendan O'Neill *spiked* 10 September 2014

On the importance of the right to offend

Kenan Malik *Pandemonium* 29 January 2014

Defending the right to be offended

*Index on Censorship* 23 December 2013

The right not to be offended: The Supreme Court and religion

John W Whitehead *Huffington Post* 25 May 2011

### AGAINST

Twitter trolls have the right to offend - but we don't have to listen

Tim Wilson *Guardian* 20 May 2014

Freedom of speech: is it my right to offend you?

Archie Bland *Independent* 2 February 2014

The right to offend? Medhi Hassan denies 'Absolute right' to freedom of speech

*Huffington Post* 12 October 2012

The harm in free speech

Stanley Fish *New York Times* 4 June 2012

### IN DEPTH

The Charlie Hebdo attacks and the awkward truths about our fetish for free speech

Will Self *Vice* 9 January 2015

Prevent harm, allow offence?

Robert Simpson *Free Speech Debate* 8 January 2013

## ORGANISATIONS

Anti-defamation League

Index on Censorship



## BACKGROUNDEERS

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## NOTES

Germany's Nazi Exception: Constitutional Court OKs Curtailing of Free Speech

Dietmar Hipp *Spiegel* 18 November 2009

Angela Merkel Can Prevent Another Charlie Hebdo

Mike Ghouse *Huffington Post* 15 January 2015

Assaulting Democracy: The Deep Repercussions of the Charlie Hebdo Attack

*Spiegel* 9 January 2015

Europe's rules on freedom of information and hate speech

Mike Harris *Index on Censorship* 6 January 2014

Salman Rushdie on Charlie Hebdo: freedom of speech can only be absolute

*Guardian* 15 January 2015

Sometimes there is a moral duty to mock religion

Ed West *Catholic Herald* 8 January 2015

When free speech becomes a kind of fundamentalism

Charles Watson *The Conversation* 8 January 2015

Limits of Liberalism

John Rees *Counterfire* 8 January 2015

No offence: the new threats to free speech

John O'Sullivan *Wall Street Journal* 31 October 2014

Is it right to jail someone for being offensive on Facebook or Twitter?

Susanna Rustin *Guardian* 13 June 2014

Should offensive rap music be banned from the locker rooms?

*BBC News* 12 May 2014

Everyone has the right to offend - unless they offend a Liberal sacred cow

Christina Odone *Telegraph* 14 March 2014

Ten controversial comedians on their right to be offensive

*Flavorwire* 13 October 2013

Freedom of speech must never mean freedom to abuse

Dominique Jackson *Daily Mail* 12 June 2012

"You should have your tongue ripped out" - the reality of sexist online abuse

Helen Lewis *New Statesman* 3 November 2011

Hate speech Vs free speech

Peter Tatchell *Guardian* 10 October 2007

A blanket ban on Holocaust denial would be a serious mistake

Timothy Garton Ash *Guardian* 18 January 2007

The Satanic Verses controversy

*Wikipedia*

Voltaire

*The basics of philosophy*

Hate speech

*Wikipedia*

Basic Law for the Federal Republic of Germany

*Bundestag*



## IN THE NEWS

LGBT hate speech to be outlawed

*Radio Poland* 28 July 2015

Dieudonné DVD banned for anti-Semitism, Holocaust denial

*RFI* 5 March 2015

Cologne Karneval scraps Charlie Hebdo float

*Local.de* 29 January 2015

Hate in Europe: Germany's Anti-Islamic Protests

*VICE* 23 January 2015

Keeping Its Composure: Germany Seeks Calm after French Attack

*Spiegel* 12 January 2015

German Newspaper Attacked After Publishing Charlie Hebdo

Cartoons

*World Post* 11 January 2015

Charlie Hebdo: world leaders' reactions to terror attack

*Telegraph* 8 January 2015

Hamburger Morgenpost, a German newspaper that reprinted

Charlie Hebdo cartoons, firebombed in overnight attack

*National Post* 11 January 2015

German Satirical Magazine Dares Terrorists to Attack Them

*Mediain.com* 7 January 2015

Spanish government asks state attorney to crack down on Twitter  
hate speech

*El Pais* 21 May 2014

Defiant Charlie Hebdo depicts Prophet Mohammed on its front  
cover

*BBC News* 13 January 2015

Man jailed over anti-Semitic tweet to MP

*Guardian* 20 October 2014

"Watch your back I'm going to rape you". Bristol man jailed after  
vile tweets to Female MP

*Bristol Post* 29 September 2014

Twitter trolls jailed for sending abusive tweets

*Sky News* 24 January 2014

Twitter cases a 'threat to freedom of speech'

*Telegraph* 3 February 2013

Frankie Boyle defends paralympic joke

*BBC News* 31 August 2012

Anti gay adverts pulled from bus campaign by Boris Johnson

*Guardian* 12 April 2012

Fabrice Muamba: racist twitter user jailed for 56 days

*BBC News* 27 March 2012

Anti-bigot laws passed by Scottish Parliament

*BBC News* 14 December 2011

Jail for German Holocaust denier

*BBC News* 15 February 2007

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## ADVICE FOR DEBATING MATTERS

DEBATING MATTERS  
**TOPIC  
GUIDES**

[www.debatingmatters.com](http://www.debatingmatters.com)

### FOR STUDENTS

#### READ EVERYTHING .....

In the Topic Guide and in the news - not just your side of the argument either.

#### STATISTICS ARE GOOD BUT.....

Your opponents will have their own too. They'll support your points but they aren't a substitute for them.

#### BE BOLD

Get straight to the point but don't rush into things: make sure you aren't falling back on earlier assertions because interpreting a debate too narrowly might show a lack of understanding or confidence.

#### DON'T BACK DOWN

Try to take your case to its logical conclusion before trying to seem 'balanced' - your ability to challenge fundamental principles will be rewarded - even if you personally disagree with your arguments.

#### DON'T PANIC

Never assume you've lost because every question is an opportunity to explain what you know. Don't try to answer every question but don't avoid the tough ones either.

### FOR TEACHERS

Hoping to start a debating club? Looking for ways to give your debaters more experience? Debating Matters have a wide range of resources to help develop a culture of debate in your school and many more Topic Guides like this one to bring out the best in your students. For these and details of how to enter a team for the Debating Matters Competition visit our website, [www.debatingmatters.com](http://www.debatingmatters.com)

### FOR JUDGES

Judges are asked to consider whether students have been brave enough to address the difficult questions asked of them. Clever semantics might demonstrate an acrobatic mind but are also likely to hinder a serious discussion by changing the terms and parameters of the debate itself.

Whilst a team might demonstrate considerable knowledge and familiarity with the topic, evading difficult issues and failing to address the main substance of the debate misses the point of the competition. Judges are therefore encouraged to consider how far students have gone in defending their side of the motion, to what extent students have taken up the more challenging parts of the debate and how far the teams were able to respond to and challenge their opponents.

As one judge remarked *'These are not debates won simply by the rather technical rules of schools competitive debating. The challenge is to dig in to the real issues.'* This assessment seems to grasp the point and is worth bearing in mind when sitting on a judging panel.



**“A COMPLEX  
WORLD REQUIRES  
THE CAPACITY  
TO MARSHALL  
CHALLENGING IDEAS  
AND ARGUMENTS”**

**LORD BOATENG, FORMER BRITISH HIGH  
COMMISSIONER TO SOUTH AFRICA**