All cats go to heaven [1]

Written by **Lawsmith** [2] | Monday 17 September 2012

YouTube is an incredibly easy way for ordinary people to communicate with one another and the world. It is therefore open to abuse, the consequence being that much of its content is not to be taken seriously: extraterrestrial Freemasons [3], Leonid Brezhnev rap videos [4], and amateur films mocking religion and religious figures -- any religion you can think of, from Scientology to the Church of Raptor Jesus [5] -- abound. Yet last week Google took the unprecedented step of banning one single YouTube video [6] in three countries (Egypt, Libya and India) in order to protect the sensibilities of the peoples who populate those lands.

Amid all of the stupidity one can find on YouTube, it is difficult to understand why this is necessary. In individual life, one would only expend such an effort on behalf of a truly delicate little snowflake, someone for whom the facts are simply unbearable. One does not tell one's three-year-old that the cat, Fluffy, has died; Fluffy goes "to Cat Heaven". One does not, in a group, call out a compulsive liar mid-flow; one "smiles and nods" and pretends to be amused, and then slowly backs away. One does these things of one's own free will, to protect an interlocutor from shock or humiliation, and for the sake of convenience, because causing a scene would result in the expenditure of far more effort than it is worth.

To try this trick with nations of men is another matter, and one with civil liberties implications [7]. Steve Henn, writing for National Public Radio, points out that in the present context, Google's censorship is "an example of the challenges of balancing U.S. free speech concerns and of something known as the 'heckler's veto'" -- the problem faced when one person or a group of people resort to extreme means (e.g. threats of violence) in order to silence public discourse. This has happened several times in the past several years (think Terry Jones and Jyllands-Posten). And on each occasion, the riots failed utterly in their aims: as even the most cursory search on Google will reveal (find it yourself - I will not provide a hyperlink for reasons which will become readily apparent in the following paragraph), the liberal peoples of the West have responded to extremist tantrums by producing mountains of blasphemy and ridicule, the most recent iteration being the film implicated in last week's unrest.

But before we congratulate ourselves for our tolerance and humanity, we should take a hard look in the mirror. Last week, in Leeds, on 14 September (3 days after the attacks which destroyed the U.S. consulate in Benghazi), Azhar Ahmed, a 19-year-old from West Yorkshire, was convicted of making "derogatory, disrespectful and inflammatory" remarks under the Malicious Communications Act. His crime? Writing a Facebook post which stated, shortly after the funeral of a number of British soldiers from the area, that "all soldiers should go to hell [8]". In the United Kingdom, such a communication falls foul of a provision of the Act which states that "a person who sends to another person a(n)... electronic communication... of any description which conveys a message which is indecent or grossly offensive... is guilty of an offence if his purpose [or one of them] in sending it is that it should... cause distress or anxiety to the recipient". He

made the post; distress was intended and caused; judicial sanction followed.

At this point I would say, being a lawyer, that he made the crucial mistake of putting it in writing. But if he'd yelled the same thing at a funeral (or even a parade), that would have been of no assistance to the free exercise of his rights: a case on nearly identical material facts, but relating to spoken expression (R v Abdul, 2008) resulted in a half-dozen convictions under Section 5 of the Public Order Act [9]. And this is far from the only case of its kind - there are dozens of reported cases showing that all manner of political speech, religious speech, and even the casual F-word can, under the right circumstances, fall foul of the legislation. The man on the Clapham omnibus has as much of a heckler's veto as the Salafist on a Cairo street; furthermore, the man on the Clapham omnibus is state-backed.

David Cameron described the attacks on the Libyan embassy as "senseless [10]". I totally agree. In a free society the expression of a controversial opinion by an individual should not, under any circumstances, justify the threat or application of violence by other men in order to silence that opinion.

But Azhar Ahmed has been so silenced. Until we end the criminalisation of those opinions which offend us, we cannot justifiably claim that we are any different from the mob.

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