**Self-Respect, Domination and Religiously Offensive Speech**

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Religiously offensive speech, i.e. speech that offends members of religious groups, especially religious minorities, is on the rise in western liberal democracies, particularly following the recent wave of right-wing populism in the UK, the US and beyond. But when is such speech wrongful? This paper argues that the wrongfulness of some religiously offensive speech does not depend on some intrinsic feature of it, or on the subjective reaction of its targets. Instead, such wrongfulness depends on the fact that religiously offensive speech normally takes place against the background of enduring social injustices suffered by certain minorities, for example religious discrimination (which it, at the same time, compounds). In that context, we argue, religiously offensive speech is wrongful when it disables its victims from maintaining an adequately respectful relationship to themselves, and sets back their freedom through social domination. Recognizing the wrongfulness of some religiously offensive speech, however, does not entail endorsing its legal regulation all things considered. The paper therefore illustrates different available forms of intervention, ranging from civil law action to state support for the victims of such speech and long-term programmes of citizenship education.

**Keywords**: Religiously offensive speech; self-respect; non-domination; structural injustice

**1.** **Introduction[[1]](#footnote-1)**

Religiously offensive speech, i.e. speech that offends members of religious groups, especially religious minorities, continues to bedevil contemporary liberal democracies. Perhaps driven by the widespread belief that such societies are becoming increasingly secularized, many people seem to assume that they are entitled to offend other people’s faiths without any restraints. Recent prominent examples of religiously offensive speech include the publication of satirical cartoons of Muhammad, prophet and founder of Islam, by the Danish newspaper *Jyllands-Posten* in 2005 and, more recently, by the French satirical weekly magazine *Charlie Hebdo*. The former especially elicited the attention of several political theorists (Modood et al. 2006; Lægaard 2007; Post 2007; Rostbøll 2009; Tønder 2011). An earlier controversy, which also attracted much public and scholarly attention, was the publication by the novelist Salman Rushdie of *The Satanic Verses* (1988), which contained what many Muslims considered a blasphemous depiction of Islam (Jones, 1990a, 1990b). We should emphasize, though, that these very public examples are really the tip of the iceberg. Since the events of September 11 in particular, Muslims living in liberal democracies have had to deal with offensive and derogatory remarks on a daily basis. Consider for example the former British Foreign Minister Boris Johnson saying that Muslim women who wear the burka ‘look like letter boxes’ or ‘bank robbers[s]’ (BBC, 2018). Other religious minorities are also routinely targeted. Jews and their faith have been the target of offensive remarks for many hundreds of years, for example. This point about the pervasive character of everyday religiously offensive speech in contemporary liberal democracies is central to our argument.

Interestingly, while moral condemnation (and, in some cases, support for regulating) hate speech is growing in contemporary liberal societies, both among scholars and policymakers, there is a longstanding reluctance to adopt a similar approach towards offensive speech. For example, the UK Racial and Religious Hatred Act 2006, which regulates racial and religious hate speech, states the following:

Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or *expressions of* *antipathy, dislike, ridicule, insult or abuse* of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system (Section 29J, emphasis added).

This proviso shows that offensive speech (as opposed to hate speech) may often be dismissed as not morally problematic. We believe that this is an issue. More specifically, our focus on religiously offensive speech is philosophically important because it helps us problematize instances of speech that are normally assumed to be innocuous and not wrongful. Even if doing so does not necessarily entail defending the legal regulation of such speech (as we will also explain in the final section of the paper), it at least makes us aware of the moral cost involved in allowing this kind of speech in the public sphere.

In this paper we address this problem and argue that some speech that is offensive to citizens with religious convictions is also wrongfully offensive. In our view, however, it is not offensiveness per se that makes such speech wrongful. In this, we follow Joel Feinberg who, in distinguishing profound offences from less serious offensive nuisances, argues that in the former case ‘one is outraged at the offending conduct on grounds quite independent of its effect on oneself’ (Feinberg 1995, p. 93). However, Feinberg does not offer clear criteria to establish when profound offences are wrongful, in part because he worries about state agencies having the power to make judgements about the moral reasonableness of people’s reactions (Feinberg 1985, pp. 36-7). In our view, though, the wrongfulness of some religiously offensive speech does not depend on some intrinsic feature of it, or on the subjective reaction of its targets. Instead, such wrongfulness depends on the fact that religiously offensive speech normally takes place against the background of enduring social injustices suffered by certain minorities, for example religious discrimination (which it, at the same time, compounds). In that context, we argue, religiously offensive speech is wrongful when it disables its victims from maintaining an adequately respectful relationship to themselves, and sets back their freedom through social domination.

In summary, there are two conditions that we consider jointly necessary for religiously offensive speech to be wrongful: a) that it happens against a background of structural injustice and b) that it undermines its victims’ self-respect and non-domination. We consider the former to be a pre-condition for the latter, i.e. it is only if and when members of religious minorities are already victims of structural injustice that religiously offensive speech can wrong them by undermining their self-respect and non-domination. Specifying that these two conditions are jointly necessary prevents us from expanding the scope of our argument in two ways that would be problematically overinclusive. On the one hand, removing condition b) would entail considering any instance of offensive speech wrongful if it exists against unjust background conditions, even if it is quite trivial and does nothing to undermine the self-respect and domination of its victims. On the other hand, removing condition a) would entail considering religiously offensive speech wrongful even if it targets members of established majorities which do not already suffer from structural forms of injustice.

But what is, exactly, offensive speech? We would like to distinguish between (wrongful) hate speech, which targets religious believers *directly*, and (wrongful) religiously offensive speech, which only targets them *indirectly*, i.e. by attacking their beliefs. This distinction is important because it does not equally apply to other categories of victims of wrongful speech. For example, those who are attacked because of their ethnicity, race or gender are normally considered victims of hate speech, since it is their very identity, rather than their convictions and beliefs, that are being targeted by the hate speaker. For example, signs stating ‘Muslims and 9/11! Don’t serve them, don’t speak to them, and don’t let them in’ or ‘Jews and Dogs Prohibited’ (Waldron 2012, pp. 1-2) are clear instances of hate speech.

In the case of religious believers, however, while hate speech can certainly target them (e.g. the Muslims and Jews in the aforementioned examples *are* religious believers), it is also possible for them to be the victims of offensive speech that does not attack them directly but only indirectly via their beliefs and convictions. This renders the situation of religious believers unique in the debate on hate and offensive speech. Religion is not special *as such* because people can be offended by many forms of speech besides religiously offensive speech. But religion is unique in the sense that, in the case of hate speech and wrongful discrimination, it is the only protected characteristic which is *constituted by people’s beliefs and convictions*.[[2]](#footnote-2) This is the rationale for our focus on religion in what follows. Our central aim is to explain and systematise the wrong of speech offensive to religious minorities that does not (necessarily) meet the criteria of hate speech, this being a necessary preliminary to constructive thinking about possible modes of regulation.

We have already defined religiously offensive speech as speech that offends members of religious groups, especially religious minorities. We have also distinguished it from hate speech. However, religiously offensive speech can manifest itself in two different forms. One is speech that is an affront to someone’s religious sensibilities. An example of this is a portrayal of an image of Muhammad that is not inherently derogatory (i.e. it is not accompanied by any offensive statements about Muhammad, Islam, etc.) but that nevertheless cuts against the Islamic tradition against pictorial depictions of Muhammad and hence is liable to scandalise a devout Muslim’s religious sensibilities. The other manifestation of religiously offensive speech is speech that expresses a demeaning attitude towards a religious belief, e.g. by considering it absurd, crazy or otherwise epistemically and/or morally deficient in some especially serious way. We believe that the letter kind of offensive speech is more likely than the former to undermine the self-respect and non-domination of its victims against an unjust social background. However, we also believe that the two kinds of religiously offensive speech are often connected, and that instances of the former kind often (though not always) result in instances of the latter kind. We will return to this distinction later by examining a legal decision by the European Court of Human Rights (ECHR).

Beyond distinguishing between the two aforementioned categories of offensive speech, we do not intend to distinguish between more specific kinds of offensive speech. For example, the aforementioned Section of the UK Racial and Religious Hatred Act 2006 uses such diverse terms as ‘antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents’, and one might think of many other ways in which speech can be offensive without being hate speech. Our aim is not to unpack these different sub-categories of offensive speech but rather to argue that whenever speech offends members of religious minorities, in whichever form it does so, and without being hate speech, it is wrongful if the two aforementioned conditions a) and b) apply.

Furthermore our goal, it should be noted, is not to *prove* that religiously offensive speech can have the effects highlighted under condition b). That is a task that only social science could undergo, e.g. via extensive empirical qualitative and quantitative research. More modestly, as political theorists, we believe that our task should be to formulate hypotheses regarding the potential effects of religiously offensive speech on its victims (Lepoutre 2018) and, more importantly, to explain why these effects (when they are proved to have occurred) would render such speech wrongful.

While stressing the importance of the normative context in which religiously offensive speech takes place (objective dimension), it is important to appreciate that how the victims of wrongful offense feel (subjective dimension) still plays an important role in our argument. Wrongful offensive speech is experienced as wrongfully offensive *because* it violates crucial values such as equal status and agential freedom (and not vice versa), values which individuals must reflexively endorse with regard to themselves in order to maintain their self-respect. Paying attention to the victims’ felt offense signals that offensive speech directed at them *might be* wrongful, even though its wrongfulness must then be assessed against the background of an objective normative context. Importantly, this assessment must be carried out not (only) by the victims themselves, who might often not be the best judges of what is wrongful or not, but by political theorists and philosophers.

This consideration also helps to forestall another potential critique. One might argue that granting importance to the offense victim’s subjective feelings might render the wrongfulness of offensive speech dependent on the psychological and emotional make-up of different targets, some of whom might have a ‘thicker skin’ than others. This risk is not present in our account. The subjective feelings of the targets of offensive speech are only relevant to our argument to the extent that they *signal* that that speech might be wrongful. However, such wrongfulness can only be corroborated by assessing the objective social environment in which offensive speech is being used.

Some further preliminary clarifications are required. First, our interest in this paper is solely in religiously offensive speech, i.e. speech that offends members of religious groups, especially religious minorities. Second, the sort of wrongful religiously offensive speech that is troubling, for our view, is serious, even if it is not necessarily deliberate and targeted. The hurt and injury it causes are foreseeable and acceptable consequences for its perpetrators. This distinguishes it from contingent offense as when a racist individual takes severe offense at a mixed race couple holding hands.

Third, and crucially, the wrongful religiously offensive speech that has the effects we identify exploits a political context characterised by asymmetries of social standing and political power. It also fuels that context, but there are ways that context is fuelled other than by offensive speech (for example, through discrimination and the use of cultural or religious stereotypes). This distinguishes it from occurrent instances of offensive speech, which may take place within such a context but neither are fuelled by nor compound existing social and political asymmetries of power (e.g. the offense a powerful politician may take at satirical cartoons criticizing their political decisions, or the offense a person may take at someone insulting their favourite football team).

Fourth, the wrongful religiously offensive speech that we examine in this paper attacks its targets’ core convictions, not their peripheral beliefs or values they hold in a tentative fashion. Moreover, it manifests itself in both high profile cases of religious offense, such as the Danish cartoons controversy (discussed below), and everyday religious incivilities to which Muslims and other religious minorities are subject in western societies.

As we have already mentioned, we offer two complementary but independent arguments for the wrongfulness of religiously offensive speech. Section 2 argues that wrongful religiously offensive speech sets back individuals’ central interest in self-respect, interpreted inter alia as a set of civic entitlements, while Section 3 claims that wrongful religiously offensive speech is also a form of unjust domination. Section 4 briefly sketches four possible ways of regulating wrongful religiously offensive speech, none of which involves state-enforced limits on free speech. In summary, our argument is that domination and the attack on self-respect are mutually reinforcing consequences of religiously offensive speech, which render it wrongful and therefore potentially apt for regulation of some kind.

**2. Religiously Offensive Speech as an Injury to Recognitive Self-Respect**

In considering how some offensive speech sets back the self-respect of some religious citizens, it is useful to begin with Stephen Darwall’s (1977, 2006) influential notion of recognition respect. This is the respect we owe to others on the basis of their inherent moral worth as persons, and of the institutionally defined roles which they occupy such as the role of being a citizen. Recognition respect involves three counterpart notions of *self-*respect.

On the *entitlement* dimension of self-respect, we respect ourselves for the status we enjoy, and for the rights and freedoms associated with that status. Citizenship is an especially important status for entitlement self-respect because, first, it is usually acquired at birth and hence does not need to be earned and, second, because (cultural rights aside), it is an essentially equal status where all enjoy the same civic rights and are equally liable to the same civic obligations towards each other. Furthermore, through the medium of coercively enforced law, citizenship also demarcates a basic framework of social co-operation which enables citizens to enjoy particular associations and relationships. Being denied the recognition of one’s citizenship status is therefore a particularly strong form of injustice as it sends the message that one is somehow inferior to fellow members of one’s political community, or only a partial member.

The second dimension of self-respect is *agency* self-respect. This is the self-respect which comes from the exercise of one’s agentic capacities in particular settings and from pursuing one’s ends and goals, and overcoming obstacles in their way. The root of agency self-respect is the self-consciousness that we are active not passive, doers not done to, and self-originating sources of ends. Individuals are responsible to some degree for their agency self-respect; a person who lets their agency atrophy will respect themselves less on that account. At the same time, just as we require that others recognise our entitlements in order to respect ourselves for them, so we need our deeds to be at least minimally acknowledged by others in order to see their worth ourselves. This is something that we ordinarily receive through a variety of institutional memberships, including membership in our family, in civil society associations and, crucially, in our political community.

Finally, *agentic recognition* self-respect points to the way individuals exercise their agentic capacities collectively with others to help determine the ground, meaning, interpretation and implementation of the rights, entitlements and duties to which they are together subject in a relevant community. Political democracy within the state is the obvious example here. But so too are smaller institutions (such as workplaces or voluntary associations) where individuals have some say over the common rules which regulate their interactions.

Individual instances of religiously offensive speech normally take place against the background of a social context characterized by power asymmetries and various forms of discrimination, social oppression and hatred (e.g. Islamophobia, which is a form of hate speech), which have sadly become part of the public culture of many liberal democracies. Moreover, such instances help form and maintain that context, as too do violent hate crimes, discrimination, harassment and everyday incivilities. This is important because while particular instances of religiously offensive speech, considered as one off incidents, may not seem so serious, as constituents of an ongoing, pervasive and public discourse they have much greater potency.[[3]](#footnote-3)

In evaluating religiously offensive speech’s wrongfulness we look at its actual practice in contemporary liberal democracies, societies where Muslims and other religious minorities are subject to the ongoing ‘drip, drip, drip’ of anti-Islamic sentiment from some sections of society and some prominent public figures. Recent examples include the Italian Deputy Prime Minister and Lega Nord leader Matteo Salvini’s claim that ‘Islam is dangerous’ (Anon. 2018) and Australian right-wing politician Pauline Hanson’s claim that ‘Islam is a disease; we need to vaccinate ourselves against that’ (Hanson quoted in Remeikis 2017). Salvini’s and Hanson’s statements are instances of religious hate speech, or so it seems reasonable to believe given their broader views about minorities and immigration. Our point here is that these kinds of hateful statements, as well as the instances of actual discrimination and physical violence of which Muslims are routinely victims in western liberal democracies, are part of a cumulative process that contributes to building the background social conditions against which religiously offensive speech ought to be morally assessed. Instances of religiously offensive speech, such as Boris Johnson’s aforementioned statement or the Jyllands-Posten cartoons, are also ‘drips’ in this process, and their wrongfulness can only be established against that background. That wrongfulness can be explained through the idea of self-respect, where the key point is that wrongful religiously offensive speech, even though it may not directly target or attack others in the way that wrongful hate speech does, nonetheless derides and degrades its victims, and thus lowers their social standing. Such speech implies that no reasonable individuals could form and hold such ‘worthless’ or ‘irrational’ beliefs.

At this point one might recall our earlier distinction between religiously offensive speech that merely causes scandal to someone’s religious sensibilities, and religiously offensive speech that expresses a demeaning attitude towards religious beliefs. To illustrate the connection between the two we refer to a recent legal decision made by the European Court of Human Rights (ECHR), involving E.S., an Austrian national:

In October and November 2009, Mrs S. held two seminars entitled “Basic Information on Islam”, in which she discussed the marriage between the Prophet Muhammad and a six-year old girl, Aisha, which allegedly was consummated when she was nine. Inter alia, the applicant stated that Muhammad “liked to do it with children” and “... A 56-year-old and a six-year-old? ... What do we call it, if it is not paedophilia?” On 15 February 2011 the Vienna Regional Criminal Court found that these statements implied that Muhammad had had paedophilic tendencies, and convicted Mrs S. for disparaging religious doctrines. She was ordered to pay a fine of 480 euros and the costs of the proceedings. Mrs S. appealed but the Vienna Court of Appeal upheld the decision in December 2011, confirming in essence the lower court’s findings. A request for the renewal of the proceedings was dismissed by the Supreme Court on 11 December 2013 (ECHR 2018, p. 1)

According to the ECHR, which backed the Austrian courts’ decision, ‘those who choose to exercise the freedom to manifest their religion under Article 9 of the [European] Convention [of Human Rights] could not expect to be exempt from criticism’ (ECHR 2018, p. 2). This suggests that simply being targets of speech that causes scandal to religious sensibilities is not per se wrongful. However, and crucially, in its decision the Court also recognized that ‘the (potential) effects of the impugned statements, to a certain degree, depended on the situation in the respective country where the statements were made, at the time and in the context they were made’ (ECHR 2018, p. 2), and that such statements could potentially ‘disturb the religious peace in their country’ (ECHR 2018, p. 2). Even more importantly, the Court recognized that, given this context, the statements ‘could only be understood as having been aimed at demonstrating that Muhammad was not worthy of worship’ (ECHR 2018, p. 2), and indeed they express a demeaning attitude towards Islam, by suggesting that this religion is absurd, crazy or otherwise epistemically and/or morally deficient in some especially serious way. This case, which we believe is representative of many similar cases in western liberal democracies, shows that there is indeed a connection between the two aforementioned categories of religiously offensive speech. And this connection, which manifests itself in a cumulative series of cases, against the background of an also cumulative set of instances of hatred and discrimination, renders such instances of religiously offensive speech wrongful.

This is, first, a setback to entitlement self-respect because of the message religious minorities receive through such speech that their religious ideals, values and practices are lacking any worth or merit. Of course, in a liberal society we should be free to criticise, insult and ridicule each other. And presumably a central feature of liberal citizenship is that citizens take each other to have full standing within the political community regardless of the value of their religious and philosophical views. This is what, in an ideal liberal society, ensures that offensive speech does not express exclusion from the political community. But most liberal societies are *not* ideal. Where offense is serious, persistent, and, most importantly, *part of a larger pattern of subordinating acts*, it conveys a message that members of religious minorities’ views are worthless and therefore that as individuals they should not be taken seriously. It reminds them that the society in which they live, with its climate of hatred and discrimination routinely directed at them, does not consider them full members, and at the same it contributes to reinforcing that climate. This is, indirectly though still substantially, an attack on their membership in the relevant political community. More specifically, the structural discrimination of which members of religious minorities are routinely victims is also accompanied by (and somehow constitutes an expression of) an exclusionary conception of citizenship, which under its neutral and universal appearance conceals longstanding cultural majority bias (Young 1989). While, of course, most liberal societies are deeply secularized, their religious (mainly Christian) heritage has deeply influenced their current laws and institutions, in ways which openly or covertly exclude members of religious minorities and their faiths. Therefore, when religiously offensive speech manifests itself against this already exclusionary background, it reminds its targets that they are not full citizens, i.e. full members of the political community. Unlike hate speech, there is not the explicit message that a minority does not belong or should ‘go home’; as we stated, what distinguishes religiously offensive speech is its targeting beliefs, not persons directly. But offensive speech of this kind still carries the message that religious minorities do not really belong to the community of ‘normal’ citizens.

Wrongful religiously offensive speech is, second, a setback to agency self-respect through its message that the religious convictions of the victims of offensive speech are not merely not worth holding, but ridiculous convictions for anyone to hold. As a psychological truth, it is harder to identify with convictions that are vigorously denigrated by others. This is a setback to agency self-respect insofar as the latter requires that one’s aims and ideals are not subject to repeated derision and contempt (cf. West 2012, pp. 230-2). This weakens members of religious minorities’ reasons to have confidence in their ideals and convictions, and as a result undermines the successful pursuit of their aims, which reflect those ideals, by imposing unreasonable obstacles on their ability to pursue them.

Furthermore, and thirdly, by denigrating the worth of their views, wrongful religiously offensive speech sets back the agentic recognition self-respect of members of religious minorities insofar as they now face an unreasonable burden in employing their agentic capacities to help maintain and revise the common structure of rules, e.g. within a workplace if the offensiveness takes place there. Their democratic agency in co-determining laws and norms in society at large may also be impeded. Indeed, as Simester and von Hirsch (2002, p. 293) point out, some ‘species of insult may adversely affect the ability of minority groups fully to participate in the community’s social, political and economic life’. Speech that is religiously offensive, even if not hateful, can set back an individual’s confidence in expressing her religious views in a tolerant environment, and thus in interacting in society more generally. It is, however, ‘through such interaction that her [a citizen with minority views’] participation in and membership of society are affirmed in the eyes of both the individual herself and her audience’ (Simester and von Hirsch 2002, p. 294).[[4]](#footnote-4)

Consider, for example, the 2005 *Jyllands-Posten* cartoons depicting the prophet Mohammed in a scurrilous way. Many Muslims were, of course, offended by the mere fact that the cartoons depicted the prophet Mohammed, since this depiction is very offensive to Muslims in and of itself. However, according to our argument such offense was wrongful to the extent that (as we believe it is the case) it also expressed a demeaning attitude towards Islam, and did so against a pervasive context of Islamophobia, thus setting back Muslims’ self-respect. As we explained at the beginning, the specific way in which speech (or images, in this case) can be offensive may vary. The cartoon depicting Muhammad with a bomb in his turban, for example, was even stronger than some of the others, as it suggested that being Muslim is the reason why some Muslims are prone to be terrorists, and that we can trace this back to Mohammad himself. True, the cartoonist himself and some of his defenders argued that what was being attacked were terrorists who misused Islam, not Islam itself. But that seems a highly contestable reading – to depict Muhammad with a bomb is hardly to attack terrorists – and given the pervasive context of Islamophobia in which the cartoons were published, it does not seem unreasonable to argue that Danish and other Muslims were the victims of wrongful offense, regardless of the specific way in which offense manifested itself in each of the cartoons. To repeat a point, we are not arguing for censorship or claiming that *Jyllands-Posten* should have been subject to a legal penalty (we will discuss potential interventions, legal and non-legal, in the final section of the paper); our interest is simply in delineating the wrongfulness which underlies the offense which Muslims took at the cartoons.

Though a one-off case of religiously offensive speech, the cartoons also contributed to, and served to perpetuate, a discursive context in which Muslim minority citizens in Denmark and elsewhere are subject to manifold offensive remarks by other citizens on a daily basis. Most of these remarks, because they are verbal and/or because their perpetrators are not high profile, fall under the radar of public consciousness, at least for the majority who are not their victims. Everyday religiously offensive incivilities also fall under the radar just because they are not remarkable; though most citizens are not perpetrators, enough citizens are such that this kind of religious offensiveness is normal and expected for its victims. We emphasize this in particular because it is everyday religious offense, more than high profile cases such as the *Jyllands-Posten* cartoons, that have the cumulative effect of diminished self-respect for their victims.

It might be objected here by a hard-nosed liberal that it is no wrong and no assault on self-respect vigorously to criticise a person’s beliefs, or to ridicule or lampoon them. A person who respects herself, this objection continues, will take challenges to her core beliefs seriously, and will revise them in the light of changed circumstances, including others’ negative views. Indeed it can be beneficial, even if distressing at the time, for others to confront your views head on (Waldron, 1987). In such circumstances, people sometimes abandon their beliefs and arrive at new convictions, but it is not clear why a liberal should be concerned with this.

There is much in this view, but it needs to be seen in context. We do not claim that one off examples of religiously offensive speech diminish their victims’ self-respect (or at least not usually); or even that repeated attacks do much to impugn the self-respect of members of more privileged sections of society. Our claim is that self-respect is undermined by the cumulative effect of a steady sequence of offensive incivilities where these are directed at minority citizens who already suffer from background injustice. Of course, such incivilities compound and help constitute, along with other ills such as stereotyping and discrimination, this disadvantaged position in the first place.

Furthermore, we do not argue that majority citizens need to *positively* value and esteem minority citizens’ beliefs. Here again we agree with the hard-nosed liberal. We do recognise, however, that religious minorities hold sincere and deep convictions with which they are entitled to identify, and which are often central to their self-conception. Our claim is focussed on *negative* attacks on those beliefs which deride or otherwise offend them. Where such beliefs already depart from the mainstream, and where religious minorities are already unjustly disadvantaged, those attacks will over time tend to undermine their self-respect. Against that background, such attacks will tend to cause members of religious minorities to lose confidence and respect in their agency, and in their status as full members of the political community.

People therefore have a duty to refrain from deriding religious beliefs if those who hold them belong to minorities that are unjustly disadvantaged. Such duties only apply in the case of unjustly disadvantaged religious minorities because only unjustly disadvantaged religious minorities’ self-respect would be undermined by religiously offensive speech. Therefore, while we agree with the hard-nosed liberal that there is no *general* ideal duty to refrain from voicing one’s disdain for beliefs that one finds to be worthless, we do believe that there is a *contextual nonideal* duty not to add to the burdens of an unjustly disadvantaged group. It is this nonideal duty that requires refraining from deriding the beliefs of unjustly subordinated religious minorities, and only applies insofar as the relevant minority group suffers unjust disadvantage within their society.

Of course, one might argue, members of religious minorities might continue to engage in the confirmation of their beliefs and convictions from each other, perhaps with even greater vigilance and zeal, in the religious institutions and informal social networks they inhabit. Yet absent sufficient affirmation from the wider society that they properly belong, the experience of outsiderhood is a very swift route to diminished self-respect. Indeed, it is often not enough for members of minorities to receive affirmative messages through their own religious institutions. The central importance accorded to citizenship as an overarching identity which frames citizens’ pursuits of other projects, and which unites individuals of disparate backgrounds, means that there are limits on how far intra-group recognition can compensate for denigrating messages in the wider civic sphere. (There is also a cost to entitlement self-respect in social retreat into one’s own community insofar as entitlement respect consists in the assurance of one’s *civic* belonging).

In summary, self-respect on the recognitive model involves (i) the exercise of one’s agentic capacities in the pursuit of one’s aims, (ii) secure enjoyment of one’s entitlements, and (iii) the employment of agentic capacities in co-regulating the common structure of entitlements to which one is subject with others. Uniting these three dimensions is a conception of persons who are respected, and as a result respect themselves, as communicative equals, able to advance their ends within a framework of rights over which they have some say. Wrongful religiously offensive speech calls into doubt a person’s conception of herself as a communicative equal though the message that her beliefs are unworthy of being pursued, and so not worthy of consideration in a society of equals.

**3. Religiously Offensive Speech, Domination, and the Attack on Entitlement and Agency Self-Respect**

In this Section we suggest that religiously offensive speech which injures self-respect in the ways described above is, on that account, also a source of unjust domination. The republican ideal of non-domination sees that as the absence of ‘arbitrary’ (Pettit 1997) or ‘uncontrolled’ (Pettit 2012) interference by the state or other citizens. Unlike the liberal idea of negative freedom, which refers only to lack of actual interference by others, freedom as non-domination emphasizes those structural factors (institutional, legal, and social) which prevent individuals from exercising their negative freedom in a secure and robust way, without the risk of being subject to unpredictable and capricious interference by others (and regardless of whether that risk ever materializes). Non-domination provides those who enjoy it with ‘security in the exercise of…[their]…basic liberties’ (Pettit 2014, p. 77), and with ‘the status or dignity of the free republican citizen’ (Pettit 2014, p. 61). To be dominated, therefore, means not to enjoy a robust and secure freedom, and to be considered a second-class citizen, with a lower civic dignity and status than non-dominated citizens.

There are good reasons to think that hate speech is dominating (Bonotti 2017), but is religiously offensive speech – that which in the first instance attacks beliefs, not believers - also dominating? To answer this question, we should first note that citizens’ secure (i.e. non-dominated) enjoyment of their (legally protected) rights and liberties depends on the presence of widespread social norms (e.g. manifested in citizens’ attitudes in their everyday interactions) supportive of those very laws and institutions that guarantee citizens’ non-domination. Only through the combined presence of social norms and laws/institutions can citizens enjoy non-domination in the republican sense (Laborde 2008, p. 10; Pettit 2014, p. 59; Bonotti 2017). And these social norms are just what cumulative and pervasive wrongful religiously offensive speech conveyed against a background of discrimination, hatred and social oppression (which, themselves, help to undermine those social norms) contributes to undermining.

Wrongful religiously offensive speech hinders the formation of such supportive social norms, as well as reflecting their absence. As a result, it also deprives the victims of such speech of the confidence to assert their rights and liberties, an aspect that also links back to the issue of self-respect. When performed against the background of existing unjust structural inequalities and asymmetries of power, religiously offensive speech is dominating, and therefore wrongful, because, as well as undermining its victims’ self-respect, and for similar reasons, it also undermines their (and other citizens’ ‘common awareness’ (Pettit 2014, p. 57) of their) citizenship status. This reduces them to de facto second-class citizens who are no longer able to rely on a stable platform of rights and entitlements, and who may be subject to arbitrary interference by others.

Only by recognizing the importance of social norms for republican non-domination, then, can the dominating power of religiously offensive speech be grasped. But this also means that not all religiously offensive speech is dominating, and therefore pro tanto apt for regulation. After all, religiously offensive speech targeting members of historical majorities cannot be dominating. These people, unlike members of minorities, can rely on a social environment whose norms are historically more supportive of their rights and liberties. In this sense, domination is very much a context-dependent concept, and the realization of the republican ideal of non-domination requires the acknowledgment ‘that the historical ethnicization of the public sphere...still weighs heavily on the present, and creates often intangible obstacles to the fair incorporation of minorities’ (Laborde 2008, p. 233).

When is domination reinforced by ethnicization? According to Laborde

[t]he state engages in cultural domination when it marks some groups out by stereotypes and, at the same time, silences them and renders them invisible. Such domination deprives Muslims of minimum discursive control: they are not allowed to speak for themselves, they are subjected to demeaned images of their identity, they are made to feel vulnerable to the decisions and opinions of others. In other words, they are spoken about but not spoken to; they are not considered worthy of being given reasons. So even in the absence of interference, discrimination, or otherwise unjust treatment, they are not secure in their status as citizens: the price of liberty, for them, is eternal discretion (Laborde 2008, p. 233).

Laborde’s argument, and her distinctively republican understanding of cultural domination, suggest that minority religious citizens often start from a position of disadvantage, at least within western liberal democracies. Their civic status is already normally more fragile and less secure than that of members of historical majorities. An ethnicized society (like most western societies are) therefore offers a more fertile ground for religiously offensive speech that is dominating towards members of religious minorities than an ideally non-ethnicized one.

Furthermore, religiously offensive speech itself can contribute to the ongoing process of ethnicization and cultural domination of members of religious minorities, e.g. by contributing to the negative stereotyping of them and their beliefs (e.g. Levey and Modood 2009), and thus ‘[damaging] the reputation and the social status of the members of the affected religious group which can negatively affect the chances of these people, for instance on the job market’ (Baumgartner and van Renswoude 2014, p. 138). The ethnicized public sphere of contemporary liberal democracies produces a vicious cycle which renders offensive speech directed at religious minorities more dominating (i.e. than that directed at religious majorities) and, at the same time, enables such speech to reinforce that very ethnicization.[[5]](#footnote-5)

Though we have presented them separately, our arguments from self-respect and from non-domination at root appeal to the same core notion of equal civic status, one which, if present, is a secure ground of both self-respect and non-domination. In our view citizens must feel confident in their civic status, in their belonging and in their capacity to shape their own lives within it (self-respect), and that status must actually be secure in order for them not to be dominated (non-domination). The reduced security in the enjoyment of one’s civic entitlements, which religiously offensive speech contributes to in the presence of certain background conditions, is ultimately what renders such speech wrongful on both grounds.

**4. What Kind of Regulation?**

Our aim so far has been to delineate the wrongfulness of certain religiously offensive speech, such that there is a *pro tanto* case for regulation. The wrongfulness of some religiously offensive speech, in other words, ought to be taken into account when legislating about free speech and related policy areas, rather than simply invoking an alleged absolute right to free speech under all circumstances, as some politicians and scholars often do. That *pro tanto* case may be outweighed by more powerful normative considerations, but if so our argument is still of value since it shows the ways in which such speech sets back its victims’ interests, and therefore what moral price is to be paid for the freedom to engage in it. This is important if we adopt the view that free speech principles need to be reasonably endorsable by all those whose interests they seek to accommodate, including the targets of wrongful religiously offensive speech (e.g. Brown 2015).

Free speech should not be under-protected, but it should not be uncritically over-protected either. Our aim was to articulate the wrongfulness of (and the potential limits to) free speech in a reasonably coherent and systematic way, in order to avoid imposing upon it limits that consist of a series of unprincipled, ad hoc interventions. This is what we have sought to do above, by describing the ways religiously offensive speech can undermine self-respect and be dominating. Rather than representing a threat to free speech, our position in fact protects it by delineating the substantial sphere within which the freedom to offend ought to remain, i.e. where issues of self-respect and domination involving members of religious minorities are not engaged. Citizens remain perfectly free to express many kinds of offensive speech, for instance ordinary insults and much religious satire.

In summary, therefore, it is not our aim to argue that wrongful religiously offensive speech should (always) be regulated. Indeed many other considerations need to be taken into account when deciding whether to criminalize wrongful religiously offensive speech. Our argument is successful on its own terms if religiously offensive speech is recognised to be wrongful in certain cases, and therefore a *pro tanto* candidate for regulatory action, even if the rationale for the latter is outweighed by other normative considerations in many or even all cases.

Having clarified this key point, in this final section we consider how the regulation of wrongful religiously offensive speech, *if warranted*, could be implemented. This will also help us to obviate the worry that our account would justify extreme forms of censorship. We sketch briefly four responses to wrongful religiously offensive speech, none of which involves state censorship. Our aim, it should be noted, is not to endorse any of these forms of regulation but rather to illustrate them as possibilities that need further consideration in view of our arguments concerning the wrongfulness of religiously offensive speech.

First, wrongful religiously offensive speech could be the object of social sanction. Although its perpetrators enjoy positions of authority and are members of the religious majority, this does not make them immune to opprobrium at the hands of more enlightened citizens. Criticism on behalf of their victims is invariably directed at those who make offensive and hateful statements, and the mobilisation of stigma this involves can at times be effective. A journalist might issue an apology for the offense she caused, or a politician a retraction or ‘clarification’. However, while social sanction is often preferable to legal prohibition, our focus on non-domination and self-respect makes it problematic to rely on social sanction alone as the preferred response to religiously offensive speech. Whether or not it succeeds depends on arbitrary factors such as how numerous and vocal liberal-minded citizens are, and such speech’s targets need more security than that.[[6]](#footnote-6)

A second solution would be similar to the one proposed by Catharine MacKinnon and Andrea Dworkin for their Antipornography Civil Rights Ordinance (Dworkin and MacKinnon 1988), which was eventually struck down by the US Supreme Court. MacKinnon and Dworkin famously argued that rather than censoring pornographic materials per se, women should be allowed to seek damages through lawsuits against pornographers in civil courts. Similarly, we could envisage a situation where minority victims of wrongful religiously offensive speech are empowered to take civil law action against its perpetrators. Admittedly, this strategy is demanding insofar as it puts the onus on members of dominated groups, whose self-respect and non-domination are under threat, to be willing to contest such speech. There would need to be advocacy groups in an energised public domain who could substantially assist with the legal burdens involved. Yet, if successful in a few cases, the very threat that such action could be taken may be sufficient to deter would-be offenders. By augmenting religious minorities’ contestatory power, the civil action strategy seemingly coheres with the republican ideal of non-domination, which among other things demands that everyone should have ‘discursive control’ over decision-making, i.e. the ability to contest or demand a justification for the power to which they are subject (Laborde 2008, p. 155),

At this point one might argue that the very presence of advocacy groups acting on behalf of the targets of wrongful religiously offensive speech might be a sign that the public culture of a society is not such that religiously offensive speech can be wrongful in the way we have illustrated in this paper. Yet we believe that it is consistent to argue that some groups are marginalized, structurally dominated etc. *and* that some advocacy groups may try to help them to respond to these power asymmetries. In other words, these groups’ actions may often not be sufficient, per se, to redress (as oppose to fight against) structural forms of oppression and domination.

At the same time, though, this strategy is also problematic on republican grounds as we must consider too the freedom as non-domination of even offensive speakers. As Pettit points out, restrictions on free speech are permissible ‘provided that the limits and conditions are clear in advance to speakers, provided speakers do not have to live with uncertainty as to whether their speech may be judged retrospectively to have been in breach of the boundaries involved’ (Pettit 1994, p. 47). A system in which citizens, rather than codified restraint and criminal penalties, are empowered to regulate offensive speech, seems to allow considerable scope for uncertainty and arbitrary interference among potential speakers. There would therefore need to be clear, justifiable and public guidelines on what sorts of civil action are possible.

The third strategy would combine lack of legal regulation with state interventions to provide members of vulnerable religious minorities with the financial and logistical means to speak back and respond to religiously offensive speech. This would also have the symbolic function of reaffirming their equal status and civic dignity as members of the political community. Crucially, this solution, unlike the ones we previously considered, would not risk undermining the non-domination of either speakers or targets of wrongful religiously offensive speech. The former would still be granted full freedom of speech, and would not be subject to the unpredictable, potentially arbitrary, legal challenges of institutional bodies or ordinary citizens. The latter would be empowered to gradually speak back and reassert their civic status vis-à-vis offensive speakers.

The ‘speaking back’ approach can also be conceptualised as an obligation on the state itself directly to contest those severely offensive views which more extreme citizens enter in to the public sphere. Corey Brettschneider (2012) has proposed a view of ‘democratic persuasion’ where the state speaks out against views that deny free and equal citizenship, and refuses to support (e.g. fund) any groups which hold such views.[[7]](#footnote-7) Brettschneider argues that state officials have duties publicly to explain and promulgate key liberal values and principles, though only in a non-coercive way and only against views substantially incompatible with those values. Substantial incompatibility is admittedly a grey area, but our arguments from self-respect and domination provide at least some criteria. A refusal to subsidise a group whose members are wrongfully offensive to others also seems coercive, though perhaps a reasonably justifiable form of coercion; and we do not need to endorse Brettschneider’s position that citizens are not even entitled to hold religiously extreme views even if these are unexpressed (2012, pp.101-4). Rather, the speaking back strategy, besides empowering religious minorities to take control over wrongful religiously offensive speech which targets their beliefs, would also involve the state using its considerable symbolic authority to remind citizens of the minimum liberal values that hold their polity together.

One might then argue that the second and third strategies that we have just suggested, not unlike more straightforward forms of censorship, might risk generating resentment among members of the majority. The latter, that is, might resent witnessing members of religious minorities being favoured through special protection from (or state interventions against) religiously offensive speech directed at them. At first, this does not seem to be a strong argument. Resentment can only have normative weight if it is an emotional response to some kind of injustice (Solomon 1995, p. 247). But it is not clear that any of the aforementioned interventions aimed at countering wrongful religiously offensive speech would be unjust. One should therefore aim to critically assess the sources of that resentment, in order to establish whether the latter is legitimately held. However, even if resentment is morally unwarranted, it might still have potential negative practical effects on society. These effects might therefore have to be taken into account when considering whether to adopt the aforementioned policy interventions.

A final approach would be over the longer term to create the social and political conditions in which individuals are more likely to regulate their offensive impulses by encouraging critical reflection on them (or of course, better still, for those impulses to wither away). There is longstanding evidence for example that the greater the density and extent of interaction between majority and minority religious and ethnic communities, the more likely there will be mutual trust and toleration between them, and therefore policies can be designed with that ideal in mind.[[8]](#footnote-8) This would affect public policies on housing, community space, economic development for deprived areas and employment, to name just a few areas. Citizenship education will also likely have a role. Both assaults on the self-respect of religious minorities and their domination breed in an atmosphere of religious intolerance and, more generally, of ethnicicization. Therefore, laws and policies aimed at ‘de-ethnicizing’ (Laborde 2008, p. 233) currently ethnicized societies (where religion is often a marker of ethnic identity) will help undercut and erode the conditions of possibility of wrongful religiously offensive speech.

**4. Conclusion**

Wrongful religiously offensive speech, like wrongful hate speech, is on the rise in western liberal democracies, especially following the recent wave of right-wing populism in the UK, the US and beyond. It is therefore important to reflect on the reasons that can help us to ascertain when severely offensive speech is wrongful and, therefore, *pro tanto* deserving regulation. In this paper we have argued that some religiously offensive speech can be wrongful in two distinct but complementary senses: it is an injury to self-respect, and it is a form of unjust domination; both ideas are grounded in a shared ideal of equal civic status. Finally, we have argued that recognizing the wrongfulness of some religiously offensive speech does not entail endorsing the legal regulation of such speech all things considered. Instead, we have shown that different forms of intervention are available, ranging from civil law action to state support for the victims of such speech and long-term programmes of citizenship education.

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2. One might observe, of course, that non-religious beliefs are also considered protected characteristics in certain jurisdictions. In the UK, for example, the Equality Act 2010 protects people from discrimination based on ‘religion or belief’, where ‘[b]elief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief’ (Equality Act 2010, Chapter 1 (10) (2)). Should holders of non-religious beliefs (or no belief) find themselves in a normative context similar to that experienced by members of religious minorities in western societies, then our argument would apply to them as well. We are not aware, however, of any relevant example. [↑](#footnote-ref-2)
3. The cyclical relationship between individual instances of religiously offensive speech and background structural injustice may perhaps best be captured through Anthony Giddens’s influential theory of structuration, according to which ‘the essential recursiveness of social life…[is]…constituted in social practices: structure is both medium and outcome of reproduction of practices. Structure enters simultaneously into the constitution of the agent and social practices, and “exists” in the generating moments of this constitution’ (Giddens 1979, p. 5; see also Giddens 1984). [↑](#footnote-ref-3)
4. The discussion of domination in the next section will add a further dimension to the analysis of the politically relevant implications of religiously offensive speech. While that discussion shifts the paper from a liberal to a republican perspective, we consider liberalism and republicanism as contiguous rather than alternative normative political frameworks (e.g. Laborde forthcoming). [↑](#footnote-ref-4)
5. As in our earlier analysis of self-respect, also in this case the cyclical relationship between individual instances of religiously offensive speech and background structural injustice may perhaps best be captured through Anthony Giddens’s influential theory of structuration. [↑](#footnote-ref-5)
6. Even more problematic and arbitrary would be to resort to self-censorship (e.g. Rostbøll 2009, p. 636), which is a form of self-imposed social sanction. [↑](#footnote-ref-6)
7. For a criticism of Brettschneider’s argument, see Billingham (in this volume). [↑](#footnote-ref-7)
8. For a classic study, see Allport (1954). [↑](#footnote-ref-8)