

Free speech and the market state: Race, media and democracy in new liberal times

Gholam Khiabany and Milly Williamson

Abstract

Press freedom and free speech have again become central questions in discussions of democracy and power. A whole range of events have called into question the role of the press in the democratic process in today's combined context of economic crisis and the free reign of market forces. From the publication of the racist cartoons in Denmark, to the Wikileaks witch hunt, to the Leveson inquiry in Britain, the rhetoric of press freedom is revealed as a universalizing concept that masks political and class interest – free expression is not treated universally, but is tied to questions of social, political and economic power. This article argues, however, that it is not the case that liberal democracy has latterly been corrupted or impaired. Instead, the significant limits of liberalism, highlighted by the above instances, stem from the historical conditions which gave rise to it; mass revolution and reaction in the 19th century resulted in constitutional democracies which established the principle of freedom, but not the fact. This article will suggest that from the outset, constitutional democracies were shaped by the class interests of an economic elite. There has been a historic entanglement of emancipation and de-emancipation in liberal thought, and the role of the press in this enterprise has been to use a racially charged definition of freedom and the notion of a threat to 'our freedoms' to scapegoat the Muslim population and to justify curbing 'their' freedoms.

Keywords

Anti-Muslim racism, democratic swindle, emancipation, freedom, free speech, liberalism, market state, race

Introduction

Recently, press freedom and free speech have again become central questions in discussions of democracy and power. A whole range of events have called into question the role of the press in the democratic process in today's combined context of economic crisis and the free reign of market forces. From the publication of the racist cartoons in Denmark, to the Wikileaks witch hunt, to the Leveson inquiry in Britain, the rhetoric of press freedom is revealed as a universalizing concept that masks political and class interest – free expression is not treated universally, but is tied to questions of social, political and economic power.

Significant components of this broader perception of 'freedom' in neo-liberal times are the issues of race and class. A number of controversies have arisen, such as that surrounding the YouTube video 'The Innocence of Muslims', or the offensive cartoons of the Prophet Muhammed in the French satirical newspaper, 'Charlie Hebdo', that have highlighted the importance of race and class in definitions of free expression. Criticisms of these publications were characterized as 'Muslim' and lambasted in the British news media as attacks on free speech. Indeed, there is a widely circulating idea in the media and in the political class that 'Muslims' oppose free speech *per se* and are in favour of censorship – in particular, of any criticism of Islam. The horrific murders of journalists at the Charlie Hebdo offices in January 2015 have once again highlighted the significance of free speech. The massacre of 12 people was an inexcusable crime. The tragedy led paradoxically, on the one hand, to widespread calls (both inside France and internationally) to defend free speech under all circumstances and in the face of any provocation, but on the other resulted in an increased number of citizens in France being arrested for offensive speech. This article will argue that a selected reading and a pseudo-universalizing presentation of the idea of free speech and its history, serves political and corporate elites and aims to silence oppositional voices and sidelines the rights of the Muslim population (and others). The defence of free speech in this context in effect curtails and limits the 'universality' of free speech. This, we suggest, has exposed the limits of liberalism at a time when the post-war social democratic legitimacy of the state (based on welfare and public service) has been severely shaken. The continued economic downturn, the whole-sale attacks on public spending and the increased gap between rich and poor are matched by a legislative context entirely devoted to corporate interests and a cultural context in which social values are replaced with market values. Under these circumstances, the news media's stoking of anti-Muslim racism has played a key role not only in asserting

a notion of freedom which excludes the many, but also in justifying a new authoritarian state by providing the public with an anti-Islamic common purpose.

This article will argue, however, that it is not the case that liberal democracy has latterly been corrupted or impaired. Instead, the significant limits of liberalism, highlighted by the above instances, stem from the historical conditions which gave rise to it; mass revolution and reaction in the 19th century resulted in constitutional democracies which established the principle of freedom, but not the fact. From the outset, constitutional democracies were shaped by the class interests of an economic elite. After examining and critiquing the contradiction within liberalism and the historic entanglement of emancipation and de-emancipation in liberal thought, we then examine the role of the press in this enterprise, in particular examining the way that the press has used a racially charged definition of freedom and the notion of a threat to 'our freedoms' to scapegoat the Muslim population and to justify curbing 'their' freedoms.

The 'Democratic Swindle' and the limits of liberal democracy

To understand the historical origins of the limits of liberal democracy, it is useful to turn to the critiques of constitutional democracies that Marx and Engels produced in the period after the 1848/1849 revolutions. Marx's critiques of the French and Prussian democratic constitutions centre on the way that democracy was curtailed by law and the way that by legal means, the interests of an economic elite were served. Engels too writes of the revolutions:

The people had been victorious, they had won freedoms of a decisively democratic nature, but the immediate ruling power passed not into their hands but into the big bourgeoisie [...] in short the revolution was not complete. (Marx and Engels, 1969: 64–65)

Instead of the establishment of democracies which set up and safeguarded freedoms and associated rights (of the press, of the individual, of assembly), Marx and Engels argue that the establishment of constitutions became the legal means of curtailing freedom of workers and the poor. Freedom for Marx becomes class interest disguised as universal value. He writes in *The Eighteenth Brumaire* that the laws of the constitution regulated all liberties granted 'in such a manner that the bourgeoisie in its enjoyment of them finds itself unhindered by the equal rights of other classes' (Marx, 2010a: 159).

Hal Draper reintroduces us to Marx's ideas on the 'democratic swindle'. Although Marx gives no systematic account of this concept, it

is nonetheless one he uses in a variety of places to refer to the way that post-revolutionary governments in the 19th century presented a façade of democracy in order to restrain the democratic will of the population. Draper (1974) argues that Marx uses this term to refer to the ‘methods whereby the bourgeoisie utilized (used and abused) democratic forms for the purposes of stabilizing its socio-economic rule’ (p. 118). After the defeats of the 1848–1849 revolutions, Marx turned to the question of the limits and problems of constitutional democracy to try to understand how democratic forms (in particular the legislature) were used to frustrate democratic process (control from below). Draper suggests that Marx’s writing demonstrated a deep concern to develop a theoretical understanding of the experience of 1848–1851 and of the restriction on political freedom following the Bonapartist and Bismarkian reactions in France and Germany. For Marx, democracy was genuine in so far as it meant popular control from below and he identified the modes by which democracy was limited in both regimes, while the rhetoric of democracy remained the normative language of the political class. In particular, in both instances, there was an effective attempt to increase the legislative and executive powers of government and decrease the representative powers of the electorate. A whole new series of laws were introduced in France to restrict the franchise (on domicile grounds) and the movement of ordinary people (through the use of passports), to reintroduce censorship (of the press and theatre), alongside political repression, particularly after the June insurrection in Paris (which saw 3000 dead and 15,000 transported). The case was similar in Germany, which also restricted the franchise and reintroduced total censorship in 1850, and political repression against dissidents. Marx argued vociferously against these restrictions in *Neue Rheinische Zeitung* (until it too was closed down in 1850).

In the French case, Marx identifies in the French constitution the legal means by which freedom is granted and simultaneously withdrawn. Marx writes,

Observe here and throughout that the French constitution guarantees liberty, but always with the proviso of exceptions *made by law*, or which may STILL BE MADE! (Marx, 1851)

Freedom is negated by the very law that grants it. Freedom is also guaranteed and nullified in the clause relating to free expression and assembly which states, ‘The enjoyment of these rights has no other limit, than the equal rights of others, and the public safety’. For Marx, the limitation made by the ‘public safety’ clause, ‘takes away the enjoyment of the right altogether’ because, of course, anything that

is considered to undermine the safety of the ruling elite is understood as a threat to 'public safety'. These constitutional clauses (and others) are the legal means of freedom negated. As Marx writes,

so long as the name of freedom was respected and only its actual realization prevented, of course in a legal way, the constitutional existence of liberty remained intact, inviolate, however mortal the blows dealt to its existence in actual life. (Marx and Engels, 1969: 409)

Thus, while the French constitution guarantees liberty, it invalidates it 'by allowing for exceptions made by law' which are specifically aimed at curbing public power and consolidating the power of capital. Marx wrote that the French constitution '... from beginning to end is a mass of fine words, hiding a most treacherous design. From its very wording, it is impossible to violate it, for every one of its provisions contains its own antithesis – utterly nullifies itself' (Marx, 1851).

In his blistering critiques of the way that legislation universalizes (bourgeois) class interest in constitutional democracies, Marx pointed out that while constitutional democracies were born out of mass movements of people against the aristocracy (and the bourgeoisie were a part of this mass – albeit a privileged part), the reaction that followed had a lasting impact on the form of liberal democracy, as the capitalist class consolidated its power in the mid-19th century and shaped constitutional democracy in its own image. This meant the establishment of states that were based on legislative activities that benefited capital. In short, liberal democracy was limited from almost the moment of its origin. The role of the legislature is important – government can produce legislation (made in accordance with the proper conduct of constitutional democracy) that undercuts rights and freedoms, and indeed the efficacy of democracy itself (and *The Eighteenth Brumaire* demonstrates this in great detail). According to Draper (1974), 'Marx argued that such measures were examples of the way that parliamentary or bourgeois democracy is, in good part, a safety-valve for the effervescing passions of the country' (p. 113), a means of containing popular pressures rather than expressing them. The 'democratic swindle', then, refers to the manner in which bourgeois democratic politics is an 'exercise in convincing the maximum of the people that they are participating in state power by means of minimum concessions to democratic forms' (Draper, 1974: 119).

Although Britain's road to liberal democracy has a different and longer history, beginning with the English Civil War (Engels called England less unfree than other liberal democracies), the state also played a major

role in limiting the effectiveness of democracy. Prior to the 1867 Reform Act, when the franchise was not universal for working men, the state operated at the behest of government, without the interference from the working class voter. The franchise was extended after over 100 years of struggle, culminating on the mass march on Hyde Park in 1866, but as the voting population increased, the character of the state began to transform, precisely at the moment when the vote threatened representative control from below. Once the vote was conceded to male urban workers, its effect was limited by gradually removing real power from parliament and vesting it in an enlarged state machine encompassing a variety of powerful institutions: the civil service, the army, the police, the judiciary (formally independent of the executive). These state institutions were not and are not accountable to the electorate, but only to the cabinet, and are staffed by unelected people. These state institutions also coincided with a change in the capitalist class from a system of small firms to large-scale corporations and monopoly capitalism that was necessarily served by large-scale infrastructure and supporting state institutions.

Thus, European liberal democracy was limited by the very conditions and history from which it emerged, acting as a safety-valve for the population and serving the interests of the economic and political liberal elite. This, for Marx, is at the heart of the lie of constitutional democracy or rather, the ‘democratic swindle’; using a legislative framework to provide the freedom to act in class interest while appearing to act in the interests of all. Any advances in the democratic, social and representative role of the state have been the subject of continual struggle from below ever since, rather than something implicit to liberalism; in the 20th century, this has importantly taken the shape of demands that political structures must support greater social and economic equality. The establishment of post-war welfare systems across Europe was a response to deep social and political unrest (‘give them reform or the will give us revolution’); the benefits system (one of the bugbears of our day) and other welfare reforms were the means by which the state was forced to partially redistribute the wealth of society on a more equitable basis – to make economic demands on the political class.

Liberalism does not equal democracy: The case of race, class and Empire

In contrast, one of the most significant myths about capitalism has been the tendency to separate the ‘economic’ from the ‘political’. This, as many have argued, has served capitalist ideology rather well (Wood,

1995). This is partly to do with the definition of liberty in liberalism. Liberty is narrowly defined only in relation to and from the state. Linked to this is another myth – the equation of liberalism with democracy (Bobbio, 1990; Losurdo, 2011). Bobbio argues that a ‘liberal state is not necessarily democratic’. Indeed, while liberalism is about ‘a particular conception of the state’, democracy ‘denotes one of the many possible modes of government’ (Bobbio, 1990: 7). Bobbio further suggests that the relationship between liberalism and democracy resolves itself into a more problematic relation between liberty and equality. The question, contrary to rigid liberal thought, has not just been simply about liberty or freedom, but precisely over the nature and the definition of liberty itself: freedom of what and to do what? In the economic sphere, asserts Bobbio (1990), ‘liberty and equality are antithetical values, in the sense that neither can be fully realized except at the expense of the other: a liberal laissez-faire society is inevitably inequalitarian, and an egalitarian society is inevitably illiberal’ (p. 32). However, liberty in its broader sense is linked to the question of equality and the conditions which make it possible for both to be absent or present are the same. For Balibar, this means that ‘the diverse forms of social and political “power” that correspond to either inequalities or constraints on the freedom of man the citizen necessarily converge. There are no examples of restrictions or suppressions of freedoms without social inequalities, nor of inequalities without restrictions or suppressions of freedoms’ (Balibar, 1994: 49). Much of the history of liberalism has been about separating these two historic demands.

It is in such a context that the liberal state, which champions individual freedom and indeed has the protection of individual freedom as one of its very limited allocated functions, has turned into a surveillance state (Eagleton, 2009). And here lies the great contradiction within liberalism – embedded in this system of thought are emancipation and de-emancipation.

Liberalism without a doubt is a project of emancipation, insofar and as long as emancipation is defined in terms of, and in relation to, the liberty of the individual from absolutism. Losurdo’s engaging account of the history of liberalism flushes out the contradiction of liberalism. In answering what he calls ‘a series of embarrassing questions’, including what is liberalism and who is a liberal, Losurdo (2011) demonstrates that the great liberal thinkers were united not only in their love for liberty but more importantly their contempt for the indigenous people of the colonies and the working class. They also shared a willingness to call for implementing the most repressive of measures, including genocide, slavery and child labour. Losurdo (2011)

reminds us that liberal thinkers – Locke, Smith and Franklin included – shared an enthusiasm for ‘a process of systematic expropriation and practical genocide first of the Irish and then of the Indians’, as well as for ‘black enslavement and the black slave trade’ (p. 20). The contradiction at the heart of liberalism also shows itself in a contradictory approach to ‘liberty’. Losurdo stresses that slavery was not something that preceded liberalism but rather engendered its maximum development after the success of Liberal revolutions. In that sense, the limitation of absolute power by liberal revolutions led to new and ‘unprecedented absolute power’ as the total slave population in the Americas had increased from 330,000 in 1700 to three million in 1800 and then to over 6 million in the 1850s (Losurdo, 2011: 35). The tangle of emancipation and de-emancipation also shows itself in the slogan of the rebel colonists during the American war of independence, ‘We won’t be their Negroes’. Their demand for equality in relation to British Empire recognizes and endorses inequality in relation to Blacks and Native Americans. Losurdo remarks that ‘liberalism and racial chattel slavery emerged together in a twin birth’ (Losurdo, 2011: 302). Even for the most radical of liberal thinkers, John Stuart Mill, democracy was only fit for ‘civilised’ community. ‘Despotism’ Mill asserted, ‘is a legitimate mode of government in dealing with barbarians, provided the end be their improvement, and the means justified by actually effecting that end’ (Mill, 2005: 14). Indeed, the Declaration of the Rights of Man said nothing about the rights of slaves or people of colonies, or women. And the power of capital in the land of ‘barbarians’ came not through ‘peaceful competition’ but through the barrel of gun. The scars are still deep and still fresh.

Liberty, for Mill as well as other liberals, was exclusive to those with ‘developed’ faculties. As such, it was not just the ‘barbarians’, but also native working class, the illiterates (that is the majority) that were considered ineligible for the right to vote. Nothing was considered worse than giving representation (and the right to vote) to the working class, for it would give them the chance to negotiate for better wages and working conditions! The lack of freedom in colonies, therefore, was extended to the metropolis. The issues of race and class were intertwined from the start. Losurdo has pointed out that

At its inception, liberalism expressed the self-consciousness of a class of owners of slaves or servants that was being formed as the capitalist system began to emerge and establish itself, thanks in part to those ruthless practices of expropriation and oppression implemented in the metropolis, and especially the colonies, which Marx described as ‘original capitalist accumulation’. (Losurdo, 2011:

The self-congratulatory account of liberalism fails to mention this 'exclusion clause' (Losurdo, 2011) too, for liberalism as a dominant ideology of capitalism needs to pre-sent itself in the most favourable light. The attitude of liberal thinkers towards the slavish conditions of the working class is hidden deep under the cloths of 'universal freedom' which liberalism claims to promote and protect. As Losurdo (2011) notes, the hated Poor Law that allowed for the expansion of work houses was passed in the same year that slavery was abolished officially in British colonies. Engels was horrified by the condition of these work houses in which families (men, women and children) were separated and based in different quarters, forced to wear uniforms, subjected to various forms of abuse and violence, and the inmates were treated as 'objects of disgust and horror placed outside the law and the human community'. Losurdo shows that what Engels named 'total institution' was a trivial matter for liberal thinkers. For Mill, the main loss that an unemployed person could suffer was the loss of 'the discipline of workhouse'. Bentham was a great admirer of work houses and their benefits. He wrote: 'Soldiers wear uniforms, why not paupers? – those who save the country, why not those who are saved by it?' He recommended that uniforms should be worn by permanent as well as temporary inmates 'for order, distinction, and recognition, as well as for tidiness'. He also advocated separating children from their parents, while Locke saw clear benefits of working for children as young as three. For Locke 'there is a greater distance between some men and others ... than between some Men and some Beasts' (Losurdo, 2011: 67–93). Slavery continued by other means, in both the colonies and in the metropolis.

The ideology of superiority and difference which underpins this barbarism is liberal in its origin and in its makeup. Contemporary versions of this thinking about freedom and democracy continue to evince a sense of superiority in which the liberal class enforces 'democracy' upon the 'less enlightened', and this continues to be inextricably linked to questions of race and class. Anne Norton (2013), in a recent contribution which has been heralded as 'brave' tells us:

Muslims have indeed been shown to be democracy's others. They lack democracy, and it must be supplied to them, albeit by undemocratic means. The advancement of liberal democratic institutions in the political realm inhabited by Muslims, like neo-liberal institutions in

their economic realms, is sought within a regime of conditionality. Democracy, like economic development, can be aided only under certain conditions. The objects of efforts to 'democratize' the Middle East are required not merely to win the consent and satisfy the demands of their own electoral constituencies; they must conform to the will of the European Union and the United States. The elected government of Palestine must recognize Israel, whatever its constituents may say; the elected government of Iraq must forgo its choice of prime minister. (p. 11)

Such commentaries, worryingly, have become increasingly common in academia and media. Yet their popularity does not make such analyses of 'the Muslim Question' less appalling. Such forms of 'knowledge' about the essential and exceptional character of Muslims by political scientists such as Norton, not to mention scores of sociologist, anthropologist, geographers and so on cannot be separated from the historical context and institutional frameworks that fund, commission, demand, produce and circulate them. This othering of 'democracy's other' is in turn used to justify crushing the Iraqis and Palestinians democratic rights and the rights of Muslims in the west. However, there is nothing new about such an approach, as we have seen. Muslims are only the latest 'samples' in the long history of such methods of spreading democracy among the designated others. A very cursory look at Europe and the United States (to which all Muslims are supposed to submit their will) can be illuminating. As Aijaz Ahmad has suggested the 'important connection' between capitalism and democracy that many try to present as given and as natural is anything but. He asserts that

it might have been altogether possible to lose sight of this 'connection' if you were an English woman trying to elect a Member of Parliament in 1913, or a German Communist trying to raise your voice in 1933, or an Afro-American trying, in 1953, to buy a cup of coffee across most counters in the lovely Carolinas, North or South. In other words, there *is* a connection between metropolitan capitalism and metropolitan democracy, though even that connection seems to have worked, through most of the history of capital, only for those who were male, white and Tory. (Ahmad, 1996: 30)

Liberalism and irrationalism

'Supplying democracy' by undemocratic means, however, not only sits uneasily with the so-called enlightened values that Muslims are

accused of lacking, but destroys them. Eagleton (2009) has suggested, 'This vital contradiction cannot be grasped as long as irrationalism is always seen as a feature of the Other. Dividing the world between the reasonable and unreasonable, which tends nowadays to coincide rather conveniently with the axis of West and East, overlooks the fact that capitalism breeds irrationalism as predictably as extraterrestrial aliens turn out to be grotesque but easily recognizable versions of ourselves' (Eagleton, 2009: 74). The very same system is based on 'values' that cannot but produce the most irrational system of accumulation, corruption, wreaking havoc in the market and then rewarding the culprits even more, horrendous levels of poverty, inequality, environmental catastrophe and so on. This irrationalism takes an even more violent turn at the international level. The history of capitalist accumulation, argued Rosa Luxemburg, always has two aspects. The one that is usually highlighted, the most recognized aspect, is the narrative of capitalist accumulation defined purely in economic terms, where the exchange between capitalist and wage-labourer is seen as one of equivalence and assessed within the limits of commodity exchange. This, we are always told, is conducted within a system of fair competition, peace and equality (hiding the reality of exploitation). The other aspect is accumulation at the international level. Luxemburg demonstrates that it is precisely on this stage that accumulation becomes more violent, and aggression against colonies and rivals, not to mention war, genocide and looting, are committed without any attempt at concealment. She says,

Bourgeois liberal theory takes into account only the former aspect: the realm of 'peaceful competition,' the marvels of technology and pure commodity exchange; it separates it strictly from the other aspect: the realm of capital's blustering violence which is regarded as more or less incidental to foreign policy and quite independent of the economic sphere of capital. (Luxemburg, 1951: 452–453)

Democracy, as Ahmad (1996) argues, rather than being the Siamese twin of capitalism, in fact has been an exceptional and very recent reality, even in large parts of Europe. He writes that

even if we grant, for the sake of argument, that Western democracy is now irreversible, this experience of thirty-five years in a small corner of global capitalism is insufficient to postulate a fundamental connection between capitalism and democracy as such. (Ahmad, 1996: 31)

The social democratic experience and the period that is marked by it has been an exception rather than the norm in capitalism. As Ranciere (2006) argues, capital has no need for a 'mythical honeymoon between common good' (p. 82) and itself. But it is important to stress that even the exception was the result of pressure from below. The challenge for democracy in the colonies and metropolis came from the outside of liberalism. India became free not because of liberalism but in fierce opposition to it. The challenge for liberation and modernization also came as part of broader struggle for independence. The right to vote, welfare reforms and public services were gained through organized working class movements in the metropolis. It was not liberals but emerging radical movements that made those gains after forcing the liberals to retreat from their position which saw the law of the market as the 'divine' law.

Liberalism today: Back to the future

Contemporary (neo-) liberalism has not retreated from its founding principles, but rather has spent the past four decades returning to its origins, by attacking the democratic advances made in the post-war struggles for social democracy. 'Freedom' must be placed in this context, as a contested idea. Just as the French constitution declared freedom of the press, the person, of association, of religion, as an unalienable right which it then nullified by law, so too today are freedoms crushed by the laws which purport to protect them. As Wendy Brown (1995) has argued, freedom is not a 'philosophical absolute' but a 'relational and contextual practice' (p. 6) and "freedom" has shown itself to be easily appropriated in liberal regimes for the most cynical and unemancipatory of ends' (p. 5). In the 160 odd years since the establishment of those liberal constitutions, there have been continual struggles from below to realize the rights and freedoms promised but 'nullified', and even to extend them. So, unlike the 19th century, in which the legislature was extended and fortified in order to consolidate the power of political and economic liberal elites, today, instead, is the last act in there-consolidation of power that was challenged, first by the insurrectionary mood of the interwar and war period which resulted in welfare systems across Western Europe, and then by the revolutions and social movements of the 1960s which once again shook the world. Both pushed the legislative capacity of states to operate in social interests rather than economic ones – or rather, insisting that social issues *are* economic ones, both opened up the possibilities of free expression (and its legal basis by relaxing censorship laws), and produced widespread acceptance of alternative values, and of different conceptualizations of

freedom. What we have seen from the mid- to late-70s on is an attempt by capital to regain that lost ground. As part of that project in Britain, we have seen a return to 19th century political language on the part of the Conservative party and the coalition government.

In two senses, have we returned to a mid-19th century conceptualization of freedom: the first is that we have returned to the idea that a 'free' media is defined primarily as the freedom to make profit, at the expense of all other values. The second is a return to a 19th century conceptualization of the state. Using a phrase that is eerily resonant today, Engels, in a letter to Marx, writes of the 'bargain-rate' formation of the state in England. The British state, wanting to operate on the cheap, produced legislation which reduced its capacities in relation to its obligations to citizens and the population and further produced legislation which increased the rights of free market practices and ownership. The Lib/Con coalition's proclamations about 'small government – big society' steal the language of Palmerstone in its attempt to reconfigure a new state legitimacy in the context of attacks on the post-WWII welfare state and cuts in public spending. It is necessary to point out, however, that the idea of reducing the size of the state is ideological (British capitalism needs a big state to function) – the only parts of the state that the coalition wants to reduce in size are those arenas dealing with public welfare and obligations to the social rights of citizens. In the battle to reintroduce 'individual responsibilities' and to end the reliance of the citizens on state, the 'dependency' of citizens on the state for security (not the social one) is emphasized by wholehearted attack on individual liberty itself. Ranciere (2006) points out that

in struggling against this mythical State, it is precisely non-State institutions of solidarity that are attacked, institutions that were also sites where different capacities were formed and exercised, capacities for taking care of common and the common future that were different to those of the government elites. (p. 83)

The converse side of this 'bargain-rate' state is an increase in legislation aimed at facilitating big business on the one hand, and curtailing civil liberties on the other (in the shape of the new criminal justice laws and the anti-terror legislation). The size of the state in the 'small state–big society' thesis is nothing but a reformulation of the retreat of the state from social obligations. However, the state, in this formulation, is only small in relation to ensuring unfettered capital, but not in relation to 'security'. As Ahmad (1995) trenchantly remarks in relation to the global south, 'the new national bourgeoisies, like imperialist capital itself, want

a weak nation-state in relation to capital and a strong one in relation to labour' (p. 12).

The democratic swindle is in operation here too; the population, who are excluded from the activities and interests of the state (which is in the process of dismantling the only areas of the state that address their needs), are encouraged to feel as if they are connected and participating through the twin bogeymen of our era, the immigrant and the Muslim. However, 'what is an immigrant', asks Ranciere (2007), but 'a worker who has lost his name, a worker who is no longer perceptible as such ... at once the perpetrator of an inexpressible wrong and the cause of a problem calling for the round-table treatment' (p. 105). Flag waving and appeals to national identity have long been the means by which the population is encouraged to feel bound to the British state and it is certainly in operation today, this time with the significant assistance of the news media. In asserting the return of the 'individual responsibilities' the neo-liberal state downsizes not the state, but the spaces for and the possibility of politics. Individuals bereft of any collective identity lose their individuality too. The neo-liberal state is not in favour of the withdrawal of the state but the increased intervention to force the withdrawal of citizens from politics. Liberalism shows its utter contempt for its servants, Black and White, native as well as foreign. The system which breaks down the national borders for the free and unrestricted circulation and movement of capital erects the biggest barrier to prevent the entry of the victims of its operation (Balibar, 2010; Ranciere, 2007). In this brave neo-liberal time, an 'enlightened trust in dispassionate reason has declined the hiring of scholars and experts to disseminate state and corporate propaganda. Freedom of cultural expression has culminated in the schlock, ideological rhetoric, and politically managed news of the profit-driven mass media' (Eagleton, 2009: 71).

The media and the free-speech swindle

Today, there exists a large, global, media that did not exist in Marx's time (although the press was on the verge of becoming a mass press) which is a central component in the art of the 'democratic swindle'. News media play a central role in circulating notions of democratic participation while at the same time engaging primarily in partisan propaganda. Another difference from the 19th century to today is that there existed a large radical working class press in both the United States and the United Kingdom that does not exist today. Media capital has consolidated its power in the century and a half since Marx's time. Actually, Marx insisted that the freedom of the press consisted precisely in its detachment from business interests and operations (Williams, 1983). In an incisive critique of the Prussian Press Bill written in July

1848 (and in a warning that rings true today in the light of David Miranda's verdict), he argued that the moment the bill is passed, officials 'may with impunity carry out any arbitrary act, any tyrannical and any unlawful act. They may calmly administer beatings or order them, arrest and detain people without a hearing; the press, the only effective control, has been rendered ineffective'. Sarcastically mocking the section on 'obscenity' and the article allowing confiscation of both the finished publication as well as the manuscript submitted for printing, he asks 'Indeed, what remains of freedom of the press if that which deserves public contempt can no longer be held up to public contempt' (Marx, 2010b: 136) Our understanding of freedom, of speech, expression and so on, must be set in the context of the role of the media in the 'democratic swindle'. Liberal theories of the press are part of the democratic swindle. Suggesting that there is media pluralism, that the media speaks for all, that it is providing information for an informed citizenship, is a key art in maintaining consent. Insisting on a universal notion of press freedom which masks the interests of powerful media elites is also a democratic swindle, although these things never go uncontested.

Today, the liberal conception of press freedom, just as the liberal idea of political freedom, has been deployed in a variety of ways in order to bolster the rights of the profit-driven media in the name of a universal value, at the expense of ordinary citizens. This is a swindle, for it masks the real possibilities of media freedom and provides only the freedom of media owners to pursue their own economic interests – profit. The profit-driven 'liberal' media also deploys the idea of press freedom in order to reinforce the narrow conception of freedom of the liberal political class, individual freedom (with exceptions made by law) which coexists easily with the curtailing of individual freedoms (exceptions made in law) with the increased securitization of the state. In line with liberal habits of old, it is a population who has been 'othered' who face the brunt of this version of 'freedom' – Muslims – although all citizens ultimately lose out. There have been a number of anti-Muslim cases in the media that have been framed in the discourse of free speech and press freedom. However, what is presented as an issue of freedom reveals the double standards that lie at the heart of the 'free-speech- swindle'. For instance, it was perfectly legal for the following inflammatory advert to appear in the New York Underground: 'In Any Struggle Between the Civilized and the Savage support Civilization. Support Israel. Defeat Jihad'. However, it was deemed illegal for the Egyptian American blogger, Mona Eltahawy, to try to spray paint on it. She was arrested and subsequently charged with criminal mischief and making graffiti. Her argument that she was using her freedom of expression did not convince

the police.

The tragic events in France in January 2015 served to underline the double standards at work in the 'free-speech-swindle'. The shooting dead of 11 journalists at the offices of satirical magazine Charlie Hebdo, and the murder of four at a Kosher supermarket in Paris, produced an understandably horrified response from the public in France and across the world, and also acted as a lightning rod for issues of free speech. There was a strong reassertion of the universality of the rights of free speech, most notably under the

banner 'je suis Charlie'. However, France, like other European countries, has significantly rolled back the (limited) protections on free speech. France in particular has very strong laws that criminalize speech that insults, defames or incites hatred, and indeed these laws have been used against Charlie Hebdo in the past. But not all 'hate speech' is treated equally, and the selective use of these laws rarely extends to anti-Muslim hate speech. In fact, these laws are most often directed at Muslims in particular. Not only has France banned the niqab in public spaces (infringing Muslim women's rights to religious freedom), it is the first country in the world to ban pro-Palestinian demonstrations. In 2014, the French Interior Minister moved to ban performances of the comedian Dieudonne M'Bala M'Bala on the basis of hate speech, while in 2006 the rapper Richard Makela was charged with 'offending public decency' when he called France a 'slut'. Whether or not one agrees with the views of these men is beside the point. These are two of the most prominent cases in a state which increasingly uses these laws to criminalize political, satirical and anti-establishment speech. And it is not only the French state who operates a double standard. Charlie Hebdo, who defended its right to publish Islamophobic cartoons on the grounds of free speech, itself sacked its cartoonist Maurice Sinet when he refused to apologize for what was perceived to be anti-semitic comments against President Sarkozy's son. The clamp down on free speech has accelerated to such a degree that Noam Chomsky called the idea of free speech in France a 'fakery and a fraud'. Those who are pursuing a straight binary of free speech loving 'French culture' versus humourless and freedom-hating Muslims conveniently forget the long tradition of suppression of the rights of peoples of the ex-colonies (most visibly Haiti and Algeria). Let us also not forget that the French government in 2011 offered to help Ben Ali to crush the Tunisian uprising.

This free-speech-swindle is in operation across the Western world. It is worth asking where the likes of Chelsea Manning, Julian Assange and Edward Snowden fit in this cry for untrammelled rights to free expression. In recent times in the United Kingdom alone, over 20,000 people have been investigated for comments made on-line,

overwhelmingly Muslims. In March 2012, a British Muslim teenager was charged with sending a 'grossly offensive communication' for a tweet which asks about the deaths of innocent Afghani's at the hand of British soldiers, commenting that 'all British soldiers should die' (Greenwald, 2015). This is in contrast to absence of prosecution of any of the many social media users who celebrated the death of over 2000 civilians during the Israeli attack on Gaza in 2014 (intercept). Furthermore no case was launched against media mogul Rupert Murdoch when he tweeted the repugnant view that 'all Muslims' were responsible for the attacks on Charlie Hebdo for not 'destroying their own jihadist cancer'. This double standard functions as part of the prevailing atmosphere of anti-Muslim racism, prominent in elite circles and whipped up in the media.

It is worth looking in detail at the media response to the cartoon publication of the life of Muhammad in 'Charlie Hebdo' in 2012, as this publication is seen as iconic of the issue of free speech and indeed, these cartoons were reprinted in the edition of the magazine following the massacre. It is particularly instructive to compare it to a parallel case of the publication of topless pictures of the Duchess of Cambridge in the French version of *Closer* magazine, also in 2012. In the latter case, Kate and William pursued a criminal complaint against the magazine for breach of privacy, although privacy matters usually go through the civil courts. The *Tribunal de Grande Instance* in Paris immediately ordered the magazine to hand over all of the files of the pictures of the couple within 24 hours or face a daily fine of 10,000 Euros. The editor of *Closer* was eventually found guilty of invasion of privacy under criminal law in 2014 and faces a possible 1 year prison sentence and a fine of up to 45,000 Euros. The British Royal Family threw all of their considerable resources at the French legal system. Their right to respect and privacy outweighed the freedom of the media to publish what were considered to be insulting and demeaning images. In an almost medieval version of gender roles we were repeatedly told that while the Duchess was 'saddened', the Prince displayed gallant 'anger' and determination to have these images stopped. While the British media was generally sympathetic to the Royal couple, often repeating verbatim statements emanating from St James's Palace, never suggesting for a moment that this might be a case of press freedom, the media response to the publication of the cartoon of the Prophet Muhammad was in stark contrast. While the right to dignity and respect for the institution of the Royal Family was upheld and lauded, the same right for the religious beliefs of Muslims was not. The issue of the Muhammad cartoon was framed entirely as an issue of free speech. Indeed, the British media coverage of the incident largely suggested that any anger on the part of

Muslims, rather than being a gallant defence of their religion, was a sign of the supposedly anti-democratic nature of Islam. It was deemed perfectly acceptable to insult all Muslims in the name of free speech, but not the British Royal Family.

In fact, the coverage of the 'Charlie Hebdo' publication in the British press reinforced today's anti-Muslim climate. The first phase of the reportage actually came prior to the publication of the cartoon and was mostly taken from the French *Agence France-Presse* (AFP), predicting a widespread violent response by Muslims. This fits into the myth that all Muslims are violent, just as today, after the murders of the Hebdo journalists at the hands of two gunmen, powerful voices are laying the blame at the door of all Muslims for what are the actions of fringe extremists. This was followed by reportage, found pre- dominantly in the broadsheet press and consisting of a series of opinion pieces, that reinforced the binary of free speech versus Muslims. The tone was generally one which gently castigated the Hebdo editor for being irresponsible, but which defended free speech as an unalienable right over and above others, without reference to the increasing curbing of free speech for dissident citizens, Muslim or otherwise. In an article entitled: 'It's Charlie Hebdo's right to draw Muhammad, but they missed the opportunity to do something profound' *The Independent* writer Jeremy Taylor hits the mood when he suggests that the magazine could have criticized the absence of free speech in Islam far more effectively had they produced an inoffensive cartoon of Mohammed's life. That way, he reasoned, we could see that Muslim reaction is not really a reaction to Islamophobia, but a deeper disconnection from the democratic:

All this is a shame because Charlie Hebdo could have done something really radical. Had they simply produced a straight up comic book biography of Muhammad without being deliberately mocking they would have made a profound point. Just because Muslims refuse to portray the Prophet, there's no reason why non-Muslims should feel compelled by the same restrictions and fear of retribution if they go ahead with picturing Islam's founder. Without being Islamophobic, they could have made a legitimate critique of the fear that depicting the Prophet

Muhammad in non-Muslim cultures now causes post Satanic Verses and the Danish Cartoons. (*Independent*, January 3, 2013)

If we compare this to the coverage of the topless photos, again we find repeated phrases across the media which set a very different tone. The press reports described publishing the photos as 'grotesque' and 'totally unjustifiable' and any comment that suggested that these were simply

innocent pictures was characterized as ‘disingenuous’.

Conclusion

This article argued that liberal democracy is limited by its origins – the Bonapartist and Bismarkian reactions which followed on the heels of revolution shaped constitutional democracy in a manner which hindered the full expression of the will of the people. Through constitutional means, real power was vested in the executive aspects of government, while the representative-side government was subordinated. This produced a freedom which was predominantly a freedom to pursue class interests (i.e. economic interests) and which extended to the imperialist subjugation of populations in Africa, Asia and elsewhere. This article has also outlined the deficiencies in the liberal conceptualization of democratic freedom in which the wholesale unfreedom of entire populations and nations was justified on the basis of race and class. The idea of racial/class superiority and difference is a crucial aspect historically of liberal democracies claims to freedom, and continues to play an important role in winning public opinion to the restrictions on liberty today.

The obvious contradictions in the functions of the neo-liberal state are also visible. For despite the theoretical commitment to the downsizing of the state and proposals in favour of a ‘small state’ and ‘big society’, it is clear that European states are increasingly using their coercive powers not to monitor the power of capital but to punish those who have suffered most from it. David Harvey (2005) points to the contradiction between ‘authoritarianism in market enforcement and the ideals of individual freedom’ (p. 79). He suggests that as

neoliberalism veers towards the former, the harder it becomes to maintain its legitimacy with respect to the latter and the more it has to reveal its anti-democratic colours. (Harvey, 2005: 79)

Strong support for individual property rights in neo-liberal states has gone hand-in-hand with suppressing the individual freedom of citizens. The privatization of public assets has happened at the expense of collective rights and of collective forms of association and protest; the withdrawal of the state from public concerns such as health, education, jobs, pension and welfare has been replaced with more aggressive policing and elevating security (nationally and internationally) as the most significant role of the state. In short, the emphasis on a more ‘liberal’ economy has led to very ‘illiberal’ politics. It is in this context that the selective reading of ‘universal freedom’ in (neo)liberal thought

is exposed. While internationally supplying democracy to Muslims by undemocratic means has been the order of the day, domestically (within European borders) they have been treated as a problem which can only be solved by curtailing the very freedom that they apparently hate and threaten. The 'rights of man' is still the preserve of minority. Liberalism and liberal media once again show their utter contempt for democracy.

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