

Free to Offend?

A Dialogue in Three Parts

Trudy Govier

Characters

Nina is a mother of two daughters and a drama teacher at an elementary school.

Frank is Nina's husband and a lawyer for a civil liberties organization.

Margaret is Nina's sister and a novelist visiting while on a book tour for her latest novel dealing with aid workers in Rwanda.

Setting

Frank and Nina's living room, evening. Nina is beginning to look at a magazine when Frank arrives home from a meeting.

Frank: Hi. What are you up to?

Nina: Not much. I'm kind of upset.

Frank: What's the matter?

Nina: Oh, this potluck supper I went to left me feeling really depressed.

Frank: That's odd. Usually you enjoy these things.

Nina: I know, but this was different. There was a new guy there. Hank. Karen got so upset with

the jokes he was telling that she left early. Then I left to phone her and find out what was wrong – she was crying on the phone and could hardly talk.

Frank: From something at a potluck? In my experience these things are usually boring at worst – what on earth did this chap say?

Nina: Oh, he's got some grad student studying the philosophy of humour – of all things – and this guy had looked up a bunch of jokes and Hank was telling some of them. He began with Newfie jokes and went on to blonde jokes. They were pretty awful, and Karen was really offended, being a blonde, after all.

Frank: Good grief. What were these jokes anyway?

Nina: Some I wouldn't repeat, not even to you. One Newfie joke was 'What is the Newfie equivalent of grade six? – Having gone to grade one six times.' Another was 'What was the Newfie doing in the lumber yard? – Looking for the board of education.'

Frank: Well surely Karen wasn't upset by those things.

Nina: Not too much; she's a blonde, not a Newfie. As far as I know, there weren't any Newfies there. But really, we should all be of-

fended. These jokes are based on stereotypes, and in those two, the stereotype is that Newfies are dumb. There are other Newfie stereotypes too, that came up in some of Hank's other examples. Newfies are unwilling to work; Newfies drink too much; Newfies over-indulge in sex. The jokes are really offensive.

Frank: Ok, well there weren't any offended Newfies at your potluck, so let's leave that for now. What about the blonde jokes?

Nina: Those were much worse and Hank made himself pretty offensive by telling them. Blonde stereotypes are awful – blondes are supposed to be stupid, that's a common theme, but the worst are the stereotypes about sex – lust, promiscuity, disease. You name it: it's there. I'll tell you just two of the shortest ones.

Frank: Do tell.

Nina: OK. 'What can strike a blonde without her ever knowing it? – A thought.' The dumb blonde stereotype. Then there are the awful sexual ones, like 'What do blondes do after they comb their hair? Pull up their pants.' And 'What do you give the blonde who has everything? Penicillin.'

Frank: What about this one. 'Why do men like blonde jokes? – Because they can understand them.'

Nina: That one's a joke against men, not against blondes. Look, the point is, jokes can be insulting and seriously hurtful. Karen is a blonde and she's neither stupid nor sexually promiscuous.

She doesn't want to be seen that way and she doesn't deserve to be.

Frank: Here are a couple. 'Why don't lawyers play hide and seek? – Because nobody will look for them.' And 'What's the difference between a lawyer and God? – God doesn't think he's a lawyer.'

Frank: Look, Nina, Karen will just have to learn to be less sensitive. There are lots of lawyer jokes, and you don't get me coming home in tears every time I hear one.

Nina: I bet they aren't as offensive as blond jokes.

Frank: Here are a couple. 'Why don't lawyers play hide and seek? – Because nobody will look for them.' And 'What's the difference between a lawyer and God? – God doesn't think he's a lawyer.'

Nina: Those might be insulting, but they aren't nearly as offensive as

Newfie jokes and blonde jokes.

Frank: Loosen up. It sounds as though this man Hank was trying to entertain the party. He wasn't endorsing the stereotypes just by telling the jokes. There is no *intention* to insult anyone when you're telling a joke.

Nina: Intention isn't the point: you don't need to intend to insult a person in order to insult them. The message is carried in the language. These jokes are highly offensive and by no means innocent. People just shouldn't go around talking that way and hurting people's feelings.

Frank: You can't control how people talk and fool around.

Nina: Think about Carrie and Margie. Our own daughters are blonde. Are you condoning messages that they will be dumb, sexy blondes and

nothing more? Surely you wouldn't want them stereotyped in those ways.

Frank: Obviously not, but you can hardly prevent people from telling jokes. If these kinds of jokes about blondes are in circulation, people will just have to learn to be more mature and less sensitive. As to Carrie and Margie, I expect they'll have a secure sense of themselves and their capabilities, so if they hear a joke about blondes being over-sexed, it won't damage them. Some people are going to offend some other people some of the time, and there's not much we can do about it.

Nina: Well, there are codes for civil discourse, and you can adopt them. You don't have to eliminate all humour. People can tell inoffensive jokes.

Frank: The problem is, inoffensive jokes aren't very funny.

Nina: I'll give you some examples. 'How many seasons are there in Canada? – Two. Winter and bad snowmobiling.' Or 'What is the difference between a Canadian and a canoe? – A canoe tips.'

Frank: You're proving my point. Those jokes aren't very funny. And anyway, the second one does assume a negative stereotype: Canadians don't tip, meaning Canadians are not generous.

Nina: Also, there are logic jokes. Lewis Carroll use to love these and he put a lot of them in *Alice in Wonderland*. 'Why was Nobody in the room? – He was looking for his wallet.' Joke: the word "nobody" is used as a proper name instead of a pronoun.

Frank: Well, ha ha, I'm in stitches. You have to be a logician or something to find that one funny.

Nina: Different people laugh at different things. But we don't have to insult and offend each other by the way we talk. Customs and norms

can change, and you can have codes for civil discourse.

Frank: Not legal regulation I hope.

Nina: Oh, not law. It's a matter of good manners, of being considerate and polite and sensitive. If you're talking to a blonde, you shouldn't suggest that she's sexually available to every man, and if you're talking to a Newfoundlander, you shouldn't imply that every Newfoundlander is stupid. People can be hurt by jokes, and we can learn not to insult each other.

Frank: Are you defending political correctness then? You must know there are lots of objections to that.

Nina: Those objections come from conservatives who want to shut down debate. The original point of political correctness, so called, is to use language so as not to offend anyone and especially not to stereotype people marginalized by race, religion, ethnicity, or sexual orientation. Those goals are still very important, and they don't deserve to be mocked.

Frank: I don't know. It seems oppressive, a code for how people should talk.

Nina: It's progress. Words hurt, and we are learning not to hurt each other. We can use "African American" instead of "nigger," "First Nations" instead of "Indian," and "intellectually challenged" instead of "retarded." We can say "differently abled" instead of "disabled," "happy holidays" instead of "Merry Christmas" and so on. We can learn to ask a girl whether she is seeing anyone instead of asking whether she has a boyfriend. (She might be a Lesbian, after all.)

Frank: Not say 'Merry Christmas' or 'Do you have a boyfriend?' This is ridiculous. No wonder conservatives make fun of political correctness! The strange thing about political correctness these days is that the only people who use the term are against it. The ones who support it don't use the label.

Nina: You're right: saying something is just political correctness has come to be a put-down. Right-wing people do it to shut down debate, and they don't care who they offend. Social norms have changed: we are a multi-racial and multicultural society. Linguistic use can change too, and it can change for a reason when social norms change.

Frank: This goes too far.

Nina: I don't think so. You shouldn't offend people.

Frank: I wouldn't be so categorical about it. No one has a right not to be offended. Generally, if you can avoid it, you shouldn't intentionally offend people, I'll agree with you there. But sometimes people need to be offensive, when they are pointing out abuse, or getting attention for some serious problem.

Nina: Such as?

Frank: Sexual abuse in Catholic institutions. When it was first made public, there were plenty of people who were offended, that's for sure. You could say, people said offensive things, talking about priests assaulting and raping children. Yet those things were true, and needed to be said.

Nina: I see what you mean, but this seems like a really extreme example.

Frank: Sadly enough, it's one of many.

Nina: I'm still in favour of politeness and inclusive language. We should be kind to each other and avoid giving offense.

Frank: I can see your point, but this whole thing has gone too far. Like, people can be gravitationally challenged (fat) or vertically chal-

lenged (short). These are euphemisms people make fun of, and rightly so.

Frank: This goes too far.

Nina: Is it a euphemism to call someone African American, then?

Frank: Of course not. I'm not saying that all polite speech amounts to euphemism; I'm just saying that some does. Look, you

can recommend politeness and consideration as matters of etiquette or even personal ethics and that makes sense. But for democratic societies, freedom of expression will always be fundamentally important. It has to be protected by law.

Nina: Karen was really hurt. She was in tears. Now just tell me why this abstract thing, *freedom of expression*, is so important that my friend should be suffering for it. Freedom to offend? To insult? Freedom to denigrate? Freedom to harm? What are the benefits of this 'freedom of expression' when words can hurt so much?

Frank: Freedom of expression is not just one important value among others. It's the important value, so far as democratic debate is concerned. We need free speech to express ourselves.

Margaret comes in.

Nina: Hi Margaret. How did it go?

Margaret: Not badly, but I'm tired. There was a pretty intense discussion.

Frank: You were at a book event for your novel, right? Just how did this lead to intense discussion?

Margaret: The book is about aid workers, and it's set in Rwanda, 15 years after the genocide. In my story, two aid workers get into trouble with officials when they try to establish a health

clinic and run up against government policy. They are sent to a re-education camp.

Nina: Didn't you do a lot of research on Rwanda?

Margaret: I did. But things are still awfully sensitive there, and you have to watch what you say. There was really vicious hate speech before the genocide and awful stuff on the radio inciting terrible violence. So when the Tutsis took over the country, they brought in laws forbidding what they called 'divisionism.'

Nina: I thought the story of Rwanda after 1994 was that the economy is good and things are going unexpectedly well. So what's the controversy?

Margaret: There's an official narrative of national unity. The unofficial story is that the government, mainly Tutsi, is highly oppressive. They brought in this anti-divisionism law saying that you couldn't refer to ethnic groups, Hutu, Tutsi, or Twa. They forced many people to go through re-education, where they were taught the official story that ethnic divisions were imposed by colonial powers, and in reality Rwandans are one people, with no other ethnicity.

Nina: After the genocide, what happened about ethnicity?

Margaret: The official story is that the government successfully promoted unity and progress by banning hateful speech and re-educating people. The unofficial story points out that after 1994 the government censored speech and news coverage and imposed many oppressive measures.

Frank: Just a minute. Margaret, you wrote a novel, right? Just how did you become responsible for offering an account of the status of democracy in Rwanda?

Margaret: We novelists can deal with difficult topics, Frank. You don't need to be a lawyer to do that. The thing is, my plot assumes the critical narrative. People in Rwanda experienced profound life events based on ethnic categories. According to government policy, Tutsis were innocent and Hutus were guilty. That's a serious over-simplification. There were some Hutu rescuers and some Tutsis killers of Hutu civilians.

Nina: Even so, wouldn't it be a good idea to get rid of the ethnic identities underlying the genocide? I mean, in the interests of peace?

Frank: Not by law, for heaven's sake.

Margaret: I agree, Frank. Too much repression was called for – far too much. The cost of outlawing divisionism was repressing speech and even the expression of personal recollections. The laws restricting speech make it illegal for people to talk about their own life experience.

Nina: You mean people can't describe what they've lived through?

Margaret: You can't pass a law that will make a woman forget that her husband and children were killed because they were Tutsi, or that another woman, though Hutu, was a courageous moderate who protected her and saved her life. You can pass a law, you can force that woman not to *speaking publicly*, you can make her enter a re-education camp and give her mounds of government propaganda, but you can't erase her memories. You just can't. That's the underlying problem in my novel.

Frank: Margaret, before you came in Nina and I were talking about offensiveness and political correctness. I was saying that you can't legislate against offensiveness and explaining why I believe freedom of expression is so important for democracy.

Margaret: After listening to so many people defending the official Rwandan narrative, I could use a reminder.

Frank: We need free speech for personal expression and autonomy, for informed debate, and to point out abuses that have been ignored.

Nina: Margaret, were the people at your book launch against free speech?

Margaret: They didn't say so. They accepted the positive narrative about Rwanda and they criticized my book because they thought I was attacking victimized people and defending ethnic identities.

Nina: So they didn't understand the book?

Margaret: Not really. I was describing the personal and political repression that result when you try to eliminate certain words and categories by law. If the book was an argument at all, it was an argument for free speech.

Frank: Broad legislation can be so easily abused. This seems to be a perfect case to illustrate that point.

Nina: You can understand taking strong measures if you are trying to govern a country after genocide. I think 800,000 people were killed.

Margaret: Or even more. For quite a while, the international community gave the Rwandan government a kind of victim license. They were seen as the good guys because they were Tutsi and it was primarily Tutsis who had been victims of a genocide. But recently the evidence of oppression and abuse has become all too clear and the international community is becoming skeptical.

Nina: What else could they have done?

Margaret: I honestly don't know. I don't think you can reasonably expect to recover from genocide in a decade or two. The problem seems to be just overwhelming.

Nina: Perhaps those laws were carelessly formulated and went too far. But it's an awfully

extreme case, Rwanda. We started out talking about offensive jokes, not about law and certainly not genocide. I just wanted to say that people should be sensitive. We should remember that words hurt and be careful not to offend each other.

Frank: Nina, your kindness is something I've always loved about you. If everyone were like you, we wouldn't even be having this discussion. And I'd agree with you completely if we added "for no good reason." We sometimes do have to be offensive to make an important point. The thing is, ethics and etiquette are not law. When it comes to law, there are great dangers in limiting freedom of expression – vagueness, expanding restrictions, abuses of power, limitations in personal expression and criticism of policy.

Nina: Frank, do you think there should be absolutely no restrictions on free speech?

Frank: No. But I do think the restrictions should be minimal. There's the classic case, where it's illegal to say things that would expose people to imminent danger. The old example is yelling "Fire!" in a crowded theatre, when there is no fire. Then there are libel laws, and there's the matter of hate speech. Many countries have a law against that – but not the United States.

Nina: Don't you support laws against hate speech?

Frank: A problem there is defining the 'hate' category narrowly enough. For instance, if you say that some people's behaviour is "barbaric" or "disgusting," does that amount to hate speech against them? Or do you have to recommend exterminating them? How far do you have to go to be expressing hate? It's too vague.

Nina: The problem sounds kind of academic.

Frank: Not only that. Where does antagonistic criticism end and expression of hate begin?

What I say could count as hate speech on this loose definition; that's my point.

Nina: Ok, so, Frank, you would permit some legal limitation on freedom of expression but you are concerned about wording. I still can't believe we began this discussion talking about jokes.

Frank: And then we moved to political correctness, attempts at social rules against offensive speech. In western countries, legal freedom of expression is most threatened by Holocaust denial laws and hate speech laws. Then, of course, there's the matter of the Danish cartoons.

Nina: Those cartoons never should have been published. They were very offensive to Muslims. People who commissioned the cartoons just didn't understand that. In the riots that followed, people were actually killed. Speech that offends can also provoke, and that can be very dangerous, especially in crisis situations. Look at Donald Trump. His rhetoric could set off a nuclear war.

Margaret: I don't know enough about the mindset of Kim Jong Un to comment. But as to the Danish cartoons, they were images. Are images speech?

Frank: Images in a context can count as speech, just as gestures can. These are some of the many things that make it so hard to articulate sound and clear laws.

Nina: Some of those cartoons had words. Anyway, over 100 people were killed in riots about those cartoons.

Frank: That couldn't have been predicted.

Margaret: So we've moved from jokes to political correctness to the Danish cartoons to Holocaust denial. What a shift! Oh, and what about the French case, the killings at Charlie Hebdo? People died there too, and there was a public outcry, with people all over the western

world shouting and wearing 'je suis Charlie' buttons.

Nina: Ask yourself: were those cartoons satirizing Mohammed really needed? Do they really express anything we couldn't just say in words?

Frank: Mohammed was not a god. He was a man. Look, no one broke any laws publishing those cartoons. Not in Denmark and not in France.

Nina: So does that make it right? Law isn't everything.

Frank: Because there was so much violence about the Danish cartoons and the Charlie Hebdo ones too, many sensitive people in the west have become hesitant to criticize Muslims.

Margaret: Criticisms of Christianity don't lead to violence. And there weren't any rioting Mormons after the musical "The Book of Mormon" became popular. It seems that by violent responses, Muslims can protect themselves from criticism in a way that Christians and other religions cannot. Actually, though, you can see those cartoons on the Internet if you really want to.

Nina: Let's stay off the cartoons and Muslims for now. Even Mormons – this conversation has already gone far enough already.

Frank: The big question is: at what point does my right to say what I think about controversial subjects impinge on *your right* to be free from discrimination or harassment? Fundamentally, though, we have to remember: *there is no right not to be offended*.

Margaret: But there is a duty to speak with care and dignity when one occupies a public office. Look, your account requires a clear distinction between personal ethics and etiquette, on the one hand, and law on the other. There are intermediate cases. Take speech codes at universities, for example.

Nina: Do people say horribly offensive things at universities?

Margaret: It can happen. I even heard about one case where men in a program told jokes about rape. Several women felt so threatened they had to drop out. It seems to me that these codes amount to a complicating halfway case; a kind of political correctness written into administrative policy and practice.

Nina: Codes of speech and conduct go beyond etiquette and personal ethics, but they are not quite a matter of law.

Frank: It's a dilemma.

Nina: There is a basic issue of whether to protect *people* or whether to protect *free speech*. I'd opt for people.

Frank: It's not an either/or. The thing is, you need free speech to protect people.

I think I would support laws against hate speech, provided they are very carefully formulated and administered in a context of rule of law.

Nina: Well, Frank, I'm relieved to hear you wouldn't just permit all sorts of offensiveness. You do defend some limits to free expression.

Frank: I'd be cautious, but I do.

Margaret: And what should those limits be?

Frank: They should be narrow enough that the forbidden speech amounts to an incitement of violence – in a context where violent action would be likely to follow on that speech.

Margaret: For example?

Frank: Yelling “kill the bitch” or “fuck the bitch” in a context where a group of angry people were surrounding and threatening a young woman – not just saying “I'd like to rape such and such woman.”

Nina: Frank, I can't believe you're saying this.

Margaret: So if someone gave an anti-feminist speech at a university, to an audience calmly sitting in a lecture theatre, and said “these people are real ninnies” or “it's more of that idiotic feminism” that wouldn't be hate speech.

Frank: It would be offensive speech, on my view it would be crude and very rude speech. It would be unwise speech. It could be immoral speech, depending on the exact context. But it shouldn't be illegal because there is no immediate incitement to harmful and illegal action. No incitement to assault or killing.

Nina: You'd outlaw hate speech, then, but only on a very narrow definition of what it amounts to.

Frank: Right.

Nina: So people can just go ahead and be offensive, then, stereotype or insult others, or humiliate them in whatever way they like?

Frank: Ethically no, and from the point of view of good manners, no. For civil society, no. To that extent, I agree with you Nina, maybe even about jokes. But legally, yes. I just don't believe that offensive and insulting speech should be illegal. That's my point.

Margaret: Ok, we've got it. Now it's time for bed – and sweet dreams, if we can have them. •

Trudy Govier is a Canadian philosopher and Professor Emerita of the University of Lethbridge. Her many books and articles include A Practical Study of Argument, Forgiveness and Revenge, and Taking Wrongs Seriously. Trudy especially enjoys writing philosophical dialogues.

NOTE: The theme of the winter edition of *HP* will be “free speech.” It will explore issues raised by Trudy in her dialogue. We welcome readers' comments. Please send your ideas or opinions on this topic directly to me at gbauslaugh@shaw.ca