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# 'It was just a joke!' Comedy and freedom of speech[1]

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**Abstract**

Debates about controversial comedy are rife in public discourse. However, despite a great interest in wider issues surrounding freedom of expression, political philosophers have had curiously little to say about comedy. This is a costly omission because in mainstream public debates, many of the worries about the potential harms of comedy are often confused or conflated, and both the defences of comedians to use controversial material and calls for censorship of such material are usually under-theorised. This paper takes a step towards correcting this oversight by explaining the potential harms of comedy and identifying who should be held responsible for these harms. By transposing existing work on hate speech, three harms of comedy are diagnosed: that it can cause status harms, that it can silence speakers, and that it can motivate violence. Using linguistic theory and the philosophy of language, the paper argues that often, it is audience members and third parties who ought to be held morally responsible for these harms, and therefore, that comedians are not usually under moral duties to modify their comedic expression, even if it is harmful.

**Keywords**

Freedom of speech, freedom of expression, comedy, hate speech, Dave Chappelle, Ricky Gervais

In October 2021, Netflix employees staged a walkout in protest at a new show on the streaming giant's website (Jones, 2021). They alleged that the treatment of transgender people by American comedian Dave Chappelle in his stand-up special *Closer* was

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transphobic and dangerous, and some called for the removal of the show from the platform (Field, 2021). Though comedians courting controversy is hardly a new phenomenon, this case is one of a spate of recent incidents in which comedians have caused contention through performances thought to be provocative or to push the boundaries of what is acceptable. British comedians, Ricky Gervais, Joe Lycett, and Jimmy Carr, all received criticism in 2022 for trading on controversial subject matters as comic devices (Scribner, 2022). Such controversies often receive wide attention on traditional and social media platforms (Bush, 2022) and have even invited complaints to the police and criticism by senior politicians, including a UK Prime Minister (Sleator, 2022; Walker and Waterson, 2022).

Despite this wide public attention and an enduring interest in matters pertaining to freedom of speech, political philosophy has had little to say about the place of comedy in discussions around freedom of expression.[2] This is an oversight because in mainstream public debates, many of the worries about the potential harms of comedy are often confused or conflated, and both defences of comedians to use controversial material, and calls for censorship of such material, are usually under-theorised. Political philosophy can offer crucial clarity to this debate and can provide society, lawmakers, and citizens with an important resource to adjudicate the extent to which we should be willing to tolerate comedy that is thought to harm or to push the boundaries of morally permissible expression.

In this paper, I seek to do just that. Specifically, I endeavour to locate what harms formal comedy – such as comedy and satire in stand-up shows, television, radio, music, film, magazines, novels, and columns[3] – may cause, and who should be held responsible for them. I begin by examining the existing literature into the supposed harms of hate speech and pornography to see how comedy can cause similar harms (in The harms of comedy section). I assume that where there is a risk comic expression will lead to such harms, we have good reason to think that those who would be responsible are under duties to avoid or minimise the harm. Using linguistic theory and the philosophy of humour, I then explain how comedy is a unique form of speech different from much common discourse (Comedy as a *sui generis* form of speech). I show that the potential harms of comedy identified can be seen to result from a 'misuse' of comedic expression or mistaken understanding of its nature (The cause of comedy's harms). As a result, I argue that comedy's potential harms are quite often the responsibility of actors *other than* the speaker/comedian, and that we should take this into account when considering who should be held morally accountable for harmful comedy (Responsibility for the harms of comedy). Though I am primarily interested in *moral* questions surrounding responsibility and accountability for comedic harms, when concluding, I say something about how these arguments may have implications for any debates about the legal censorship of harmful comedy (Conclusion).

Due to spatial constraints, I do not explicitly discuss how leading existing accounts in favour of freedom of expression may deal with the issue of comedy.[4] My analysis of comedic speech as a unique form of expression places it in an awkward relationship with these existing accounts. For this reason, whilst I am willing to concede that it is possible to apply existing theories of free speech to comedy, it is more instructive and action

guiding to conduct a specifically tailored discussion of comedy through an analysis of responsibility for harm. In a somewhat similar way to Robert Simpson and Amia Srinivasan's (2018) discussion of academic freedom (though with different conclusions), comedic expression is treated as a realm which requires unique considerations and involves different rules to other areas of expression.

## The harms of comedy

Mainstream discussion of the potential harms that comedy can cause too often conflates several different kinds of harm. For example, when criticising Chappelle's *Closer*, one Netflix employee cites that it could trigger offence, violence towards minorities, and marginalisation of trans people (Field, 2021). These are three very different perceived consequences of expression; for instance, one can be offended without being assaulted or attacked. Such conflations are typical of the mist clouding mainstream debates about provocative comedy as to what its potential harms are.

This lack of clarity is hardly helped by a dearth in social scientific research into the issue – there is very little empirical evidence tracking the harmful consequences of comedy. In the absence of this evidence, and with the aim of getting clear about how comedy may be harmful, we can turn to the alleged harms of hate speech and pornography and see how they may be transposed to comedy. In this section, I identify three *distinct* harms of these forms of expression and explain how comedy may harm in similar ways. Each harm is assumed to be severe enough that those who would be responsible are under duties to avoid causing such harms. Existing work on hate speech and pornography is a useful resource for identifying the potential harms of comedy because, quite often, the appearance of these types of expression is very similar. Hate speech is generally thought to incite violence or pinpoint certain characteristics – particularly those of disadvantaged groups – and exploit these through tropes and stigmatisation in a malicious way (Brown, 2015: 4–5; Parekh, 2012: 40–41). Pornography often caricatures, misrepresents, or exhibits violence towards women and can be described as a form of hate speech (Brownmiller, 1975: 314). Though comedy does not usually contain the same malice, much provocative comedy also makes oppressed groups its subject or references violence, such as Carr's controversial joke about Roma people and UK comedian Jo Brand's joke about throwing battery acid over politician Nigel Farage (Sims et al., 2019). Although I shall offer empirical evidence where it is available to support my claims, my main aim is to outline a plausible case for how these harms may occur in the absence of sufficient empirical research at present.[5]

### *Status harms towards vulnerable groups*

Hate speech may create or reinforce attitudes towards marginalised groups which undermine their equal status. In other words, it may cause a status harm. Comedy may work similarly.

A status harm occurs when vulnerable, minority, or historically oppressed groups suffer some diminution in the respect attributed to them from the wider majority or

fellow citizens which undermines their place as equal stakeholders in their society. We may say someone (or a group) suffers a status harm when others fail to attribute to them sufficient or equal 'recognition respect' – the respect that is owed to all persons unconditionally and which grounds their rights to moral independence and to be taken seriously as equal moral agents (Darwall, 1977). As a result of such status harms, vulnerable groups may be held in contempt or face obstacles towards forms of public participation they are entitled to, such as when applying for jobs or university.

Status harms are alleged to result from hate speech (and pornography as a subsidiary) when the hearing or mere presence of that speech causes some vulnerable persons to be held in lower esteem or social standing by others. Waldron (2012) suggests that hate speech causes a status harm because it undermines vulnerable people's dignity by attributing false characteristics to them and spreading a view amongst wider members of society that they are unworthy of equal respect. Langton (1993) uses speech act theory to show that pornography may circulate, widen, and normalise discriminatory views towards women by defining, legitimising, and spreading marginalising attitudes. What these theories have in common is that they accept that some people hold wrongful discriminatory views towards groups which serve as obstacles to members of those groups participating as equals in their society, and they hold that hate speech can create or disseminate these attitudes.

Comedy can work similarly when it expresses attitudes which are discriminatory or disrespectful, helping such attitudes become widespread or normalised. Research shows that many forms of humour which play upon sexist and racial stereotypes can lead to those exposed to it being more relaxed about, or accepting of, discriminatory attitudes towards women and racial minorities (Mallett et al., 2016; Pérez and Greene, 2016). This includes members of those groups themselves (Ford et al., 2020), and humour can be a particularly powerful force in strengthening discriminatory attitudes amongst people who already hold them to begin with (Ford, 2000; Greenwood and Isbell, 2002; Thomas and Esses, 2004). There is good reason to think comedy – a more formal realm of humour – may have these consequences (see Park et al., 2006). Consider the character of Mort Goldman in *Family Guy*. Mort reflects the existing stereotype of Jewish people as frugal and untrustworthy. By recycling and repeating this stereotype, *Family Guy* entrenches such attitudes in society, reaffirming them to those who already hold such attitudes and introducing them to those who previously did not. In the process, some may fail to recognise Jewish people as independent moral agents and as entitled to equal respect, and therefore, Jewish people may face greater obstacles or fewer opportunities in their communities, the labour market, and everyday life. As this indicates, comedy which plays upon stereotypes and existing attitudes in order to evoke laughter has the capacity to undermine the equal status of marginalised or vulnerable groups.

## *Silences speakers*

Partly resulting from these status harms, hate speech can silence speakers. One way that hate speech silences is by creating a threatening environment in which some people are

intimidated from speaking (Ma, 1995). It is possible that comedy may silence in a similar way – either through violent language or by creating a fear of ridicule amongst communities who are frequently the object of jokes – so that members of marginalised groups speak less for fear of reprisal. However, it is difficult to find examples of this occurring. Further, we might point out that comedy can equally be a valuable platform for giving a voice to members of marginalised groups (Mizejewski and Sturtevant, 2017; Rossing, 2016), so it may empower people to speak more often than it scares them from speaking.

Hate speech, though, can also undermine disadvantaged groups' speech – tantamount to the point of silencing – when these groups' members do speak, if they are discredited to the extent to which their speech is effectively ignored. Fricker (2007) describes the 'testimonial injustice' of situations when the knowledge of a member of a disadvantaged group is underestimated by others. The member of the lower status group is not recognised by their interlocutors as being an equally competent epistemic agent with a worthwhile capacity to contribute to their community and public discourse. Hate speech can silence a person through a testimonial injustice by making those who would otherwise listen to them assume that that person is not a credible or reliable resource (Tsosie, 2022: 268–269). The white supremacist who believes the hate speech that a racial minority is of less intelligence subsequently assumes that when a member of that minority speaks during a debate, they can be ignored because they having nothing to contribute.

Anecdotal evidence indicates that comedy can lead to testimonial injustices in such ways. For example, a catchphrase in *South Park* by several working-class characters bemoaning immigrants that 'took our jobs' has been recycled by fans into online content and quoted as a reply to people propounding objections to immigration. The working class who oppose immigration are no longer able to participate seriously in public discourse; they are seen as the one-dimensional character ripe for ridicule portrayed in *South Park*, and therefore, they are not listened to as epistemic agents with a genuine contribution to make. Similar arguments have been made about characters in *The Simpsons* (Kondabolu, 2017) and *Little Britain* (Lockyer, 2010: 126–130). In each of these cases, comedy is thought to silence speakers by painting members of a particular group as objects of ridicule to the extent that others ignore or disregard their speech contributions.

### *Motivates violence*

Thirdly, hate speech advocating violence may encourage individuals to act with physical aggression towards others. Sometimes, it is suggested that our primary concern should be with hate speech that 'incites' violence, to the extent that a speech act can be seen to have a direct, immediate, and traceable causal effect on another person's acting violently (Kramer, 2021). Naturally, such speech will be particularly disturbing, but hate speech can also have an indirectly harmful impact by making a non-trivial contribution to a 'moral climate […] in which harm done to [targeted groups] is seen as right and proper and does not arouse a sense of outrage' (Parekh, 2012: 45). Such potential harms have been alleged to result from pornography. MacKinnon (1987: 187) cites psychological experiments showing that, after consuming pornography, men are either more

likely to endorse or feel less averse to sexual violence and rape towards women. In these cases, hate speech is thought to normalise violent and harmful behaviour towards individuals or groups so that some no longer see it as egregiously wrong. The culture that results is likely to involve more violence towards individuals or groups, even if we cannot identify a particular speech act as inciting a specific violent act directly.

Comedy that uses violent language may have this diffuse effect on the culture of a society, leading people to have more permissive attitudes towards violence under certain circumstances. Because this would be a diffuse effect, and emblematic of a wider absence of empirical research, there is not conclusive evidence that comedy has these consequences.[6] However, there is relatively consistent evidence that violence in the media leads people to assume more aggressive dispositions (Gentile et al., 2012; Krahé, 2014; Swing and Anderson, 2014), and it is plausible that comedy may have a similar effect. Indeed, it was claimed that Chappelle's comedy embeds a 'culture that is particularly violent towards Black transgender women' (Field, 2021).

The thought here is not that the comedian necessarily tries to endorse or urge the violence – it seems doubtful comedians ever wish to encourage violence – but rather, that the use of violent language contributes to a wider milieu in which violence is normalised or in which people who may wish to carry out violence see themselves as vindicated in believing that violence is 'not that severe'. In reply to Brand's joke about throwing battery acid, Farage claimed it was 'incitement of violence' and should be investigated by police (Sims et al., 2019). Farage may not be right that Brand's joke had the capacity to incite by directly encouraging people to attack him, but it may still have the potential to indirectly contribute to violence by promoting a culture where harassment and aggression towards politicians increases. Even if it is not possible to pinpoint a particular comedic speech act as causal of violence, it may still be reasonable to suggest that if less comedy was violent, less violent acts may occur. Note that whilst status harms and silencing primarily afflict traditionally oppressed groups, motivating violence may also affect traditionally more powerful groups (like politicians).

## *Offence*

A fourth potential harm of comedy, like hate speech, is that it can cause offence. That is, one person can cause another to experience unhappy mental states such as anger, frustration, shock, guilt, or embarrassment (Feinberg, 1987: 45, 1988: 1–2).[7] In this respect, offence is a *subjective* harm; there is not necessarily any independent harm outside of the unhappy mental state that the individual herself experiences, and there is no general or person-independent criterion for assessing whether or when something is offensive. What is offensive to one person may not be offensive to another.

Hate speech depicts individuals or groups pejoratively in a way that is hostile, insulting, inflammatory, expressing contempt, or a wish to cause them pain; by its nature, it has the capacity to trigger unhappy mental states like disgust, shock, and embarrassment (Parekh, 2012: 40). Comedy can similarly offend when it is aimed towards individuals or groups (Bergmann, 1986: 77–79). In fact, that is sometimes the comic device it uses.

The causing of offence is – in general public discourse – cited as one of the main harms of controversial comedy (see Butler, 2022; Renae, 2022).

However, offence cannot be seen as a harm which others are under moral duties to refrain from causing. The reason is offence's status as a subjective harm. Because offence varies from person to person, and some people experience offence where others do not (even in identical settings), offence is too arbitrary to offer action-guiding moral principles (Husak, 2006; Waldron, 2012). Placing people under duties not to offend means they must potentially moderate their behaviour to avoid causing (or to atone for) offence, even if the subject seems to be offended unreasonably. For example, if one is offended by the word 'spoon', placing moral duties on others not to offend would require condemning a person who says 'spoon'. Offence's nature as a subjective harm differs from the other harms listed in this section. Each of those other harms are objective, and they occur even if the person does not *experience* that harm. For example, a black person who is refused a job due to a status harm from discriminatory beliefs, or is discredited, or is attacked, can still be said to suffer that harm even if they are not aware of it. Hence, the harms of comedy I take to justify normative considerations of permissibility and responsibility are all objective harms.

We have, then, three harms of comedic expression. When comedy plays upon stereotypes, it may lead to status harms; comedy of certain kinds could silence speakers; and comedy which uses violent language has the potential to indirectly motivate, or reduce opposition to, violence. Naturally, these harms may interact or crossover in certain ways. For example, testimonial injustices are more likely to occur or to be amplified where groups suffer status harms – if a group suffers a diminished standing in a society, then people are likely to underestimate their epistemic credibility. Note also that a single instance of comedy may have multiple consequences, so a particular sketch may simultaneously inflict a status harm and incite violence, as was alleged about Chappelle's *Closer*. Nevertheless, it is useful to distinguish between these harms both to add clarity to a muddled debate, and because they can occur independently.

In the absence of empirical evidence, I have showed that there is a plausible case to be made that each of these harms may occur. If they do, and given their severity, I assume that those who are identified as responsible should try to minimise and reduce such harms, and that we have good reason to condemn them when they do not. With that in mind, I shall turn to the question of who is responsible for these harms when they occur. This inquiry begins by identifying comedy as a unique form of expression.

## Comedy as a *sui generis* form of speech

Work in linguistic theory and the philosophy of humour can be used to identify comedic speech as a *sui generis* form of expression. Comedic speech is one kind of humorous speech – humorous speech found in a formal context – in which the utterance aims to trigger laughter or a recognition of humour in its recipients. This is not necessarily the only purpose of comedic speech, but it is the *primary* purpose of comedic speech. This primary purpose distinguishes it from other forms of expression. Importantly,

I shall argue, comedic expression is a rare form of expression which is inherently ambiguous.

There is a long history of theories about why people laugh or find something funny. By far, the most popular modern theory is that humour is *incongruous*.[8] Although there are some concerns about the specificities of incongruity theory (Warren and McGraw, 2016), the basic thrust of the theory is that people find something humorous when something occurs which subverts their expectations or is out of place in some way. Consider the following joke by Ricky Gervais (in Greig, 2020):

(i) You have to be 100% behind someone, before you can stab them in the back!

In (i), the trigger for the humour is the manipulation of 'behind someone'. Behind someone could be taken literally to refer to where a person physically is, but when somebody says 'you have to be 100% behind someone', it is more likely to refer to giving them your moral support or personal backing. By going on to refer to stabbing them, Gervais subverts the expected meaning of being 'behind someone' to the alternative, physical meaning. This (supposedly!) makes it funny.

Though (i) demonstrates incongruity theory using a 'classic' joke, comedians often employ incongruity in other (sometimes more sophisticated) ways. For example, when Brand joked about throwing acid over Farage, the trigger for the comedy is that this is a taboo thing to say and, therefore, is out of place in conventional social relations and on national radio. The comedian Stewart Lee is particularly renowned for his employment of 'call backs' and his breaking of the fourth wall by deconstructing his own performance.[9] The former is incongruous because it refers back to a previous moment and thus appeals to something that is temporally out of place; the latter is incongruous because it subverts audience expectations around the nature of a performance and the idea that jokes are not funny once they are explained.

This incongruity requires comedians to intentionally transgress conventional norms of communication and follow a different set of rules in order to make their speech humorous. This can be seen by first explaining the norms and principles for standard forms of communication and then showing how incongruity leads comedians to follow an alternative set of rules of communication.

According to Grice (1991), in standard everyday communication, people abide by a cooperative principle in order to make themselves easily understood to others. More specifically, they respect four conditions of quantity, quality, relation, and manner (Grice, 1991: 26–27). On quantity, people try to make their contribution sufficiently informative enough to convey their message without providing excessive information. On quality, the person does not say what they believe to be false or lack evidence for. Relevance entails ensuring that one's information and responses pertain to the ensuing conversation, and manner requires the speaker to avoid obscuring their expression or being too ambiguous. When a person adheres to each of these conditions, they abide by the 'cooperative principle' of communication. The listener also plays a role in the cooperative principle; they assume that the speaker is adhering to the four conditions listed and use that assumption to earnestly try to work out the message the speaker intends to convey (Grice, 1991: 31;

Raskin, 1985: 100–101). Failing to adhere to the cooperative principle diminishes the chances of one's standard speech being understood correctly and performing the function intended for it.

Using incongruity as a technique requires that somebody does not adhere to the cooperative principle. If the intended utterance is obvious or too clear, then this removes the chance for there to be some sort of incongruity. Consider:

(i*) You have to be physically behind someone, before you can stab them in the back!

(i*) is no longer humorous because, by making herself perfectly clear from the outset, the joke teller does not reveal anything that is out of place or which subverts our expectations. Hence, incongruity requires the comedian to defy standard Gricean principles of communication which make themselves easily understood. Most commonly, this is by withholding some information which violates the quantity requirement or employs ambiguity to violate the manner requirement. In (i), Gervais intentionally fails to qualify whether he means being behind someone in the literal or metaphorical sense, employing ambiguity between the two meanings and subsequently creating incongruity when the two terms are conflated (Attardo, 2001; Goatly, 2012; Raskin, 1985: 99–100). However, incongruity could be employed to violate any of the four Gricean maxims. For example, a comedian may violate the quality requirement by saying something they know to be false – Brand did not really wish somebody would throw acid over Farage – or they may jump topics randomly to violate the relevance requirement. Comedians *intentionally violate* linguistic rules that would make themselves understood (Attardo, 1990: 355, 1994: 273).

The upshot is that comedians *necessarily* create a more general ambiguity in their speech. There are two components to this. Firstly, the meaning of the utterance *itself* becomes unclear. It is not clear what (i) means or even whether it means anything. Secondly and following on from this, it is not clear what the utterance is *supposed* to mean or the intentions of the comedian beyond making people laugh. In Brand's case, if she does not mean for battery acid to be thrown over Farage, then what does she mean? One possible interpretation is that she is caricaturing the idea of throwing milkshake over politicians (which was the topic of discussion during the radio show at the time); another possible interpretation is that she is using violent language to express a genuine distaste for Farage or his policies.[10] The meaning and intended meaning of the utterance are ambiguous as a result of the violation of Gricean maxims.

Theorists of humour, however, have noted that just because humorous speech does not adhere to the cooperative principle of standard speech does not mean that it fails to adhere to any cooperative principle. Rather, it employs a different cooperative principle which sets it apart from other forms of speech. Raskin (1985: 100–101) describes standard forms of speech – the kind which Grice has in mind – as 'bona fide' expressions. To distinguish humour from these forms of speech, Raskin characterises humorous speech as non-bona fide speech. As a particularly formalised version of humour, we can categorise comedic expression as a form of this non-bona fide expression. Raskin stipulates that non-bona fide speech entails a *different* cooperative principle which both the speaker and audience must recognise. On the speaker's side, the quantity must be necessary

for the joke; the quality requires her to 'say only what is compatible with the world of the joke'; she must only say what is relevant to the joke; and she must tell the joke efficiently (Raskin, 1985: 103). Equally importantly, the audience recognises the speech as non-bona fide and tries to interpret the speech as humorous. In the case of (i), the audience recognises the multiple interpretations of being 'behind someone' and that they have been deceived into thinking that Gervais was talking about morally supporting someone. Rather than become confused or frustrated that the sentence does not seem to make sense, they recognise it as a joke (Attardo, 1994: 275–276). Hence, they recognise the ambiguity of meaning in the joke – that the comedian's utterance does not obviously mean what it purports to mean (if it means anything at all), and therefore, that it cannot be inferred literally.

By understanding that comedic speech involves this ambiguity, and that it involves its own non-bona fide cooperative principle, it can be interpreted as a *sui generis* form of expression,[11] placing different requirements on the speaker and the audience for the expression to perform its unique function of making people laugh. Understanding comedic expression in this way allows us to identify that the harms caused by comedy generally involve a 'misuse' of comedic expression or, in other words, a failure to recognise it as non-bona fide communication. I turn to this in the next section.

Before that, though, one worry should be confronted. It might be thought that the distinction between bona fide and non-bona fide speech is too clear-cut in this description, and that the extent to which the intended meaning of comedic speech is ambiguous is exaggerated. Whilst some comedy sees comedians assuming insincere or fictional personas, many other comedians adopt versions of themselves on stage or lace their comedy with personal stories and insight. Comedians like Amy Schumer and Larry David come to mind. Such comedians may be interpreted as employing the device of what Tracy (2018: 162) calls 'indirect sincerity', in which a comedian utilises a perception of insincerity to artistically or indirectly communicate what they really think. If Brand's joke was meant to show that she does not like Farage, it would serve as an example of this. The concern is that this section's description of a different set of rules applying to comedy downplays the extent to which comedians attempt to communicate serious or sincere messages.

There are two ways of interpreting this concern. The first is to interpret it as suggesting that comedians *do not* always employ incongruity or work in a zone of ambiguity during their performances. We might otherwise characterise this as comedians veering between bona fide and non-bona fide speech during a performance. I suspect that it is very unusual for comedians to work like this, and there is a theoretical reason for this suspicion which also encourages us to reject the worry when it is framed in these terms. As Rappaport and Quilty-Dunn (2020: 485) point out, if comedy inherently trades on incongruity and principles of non-bona fide speech, the comedic setting seems to prevent these speakers from reliably assuming their speech will always be interpreted as they intended, given the audience are likely to be expecting non-bona fide speech, or constantly confused about whether speech is bona fide or non-bona fide. If the comedian flitters between bona fide and non-bona fide speech in this sort of way, they seem to effectively paralyse themselves from communicating anything. Furthermore, this flittering may itself still create a

layer of ambiguity, paradoxically making the attempted bona fide communication incongruous and potentially funny.

The second interpretation recognises that the comedian may employ ambiguity but sees the comedian as endorsing and attempting to communicate something close to the view their actual utterance depicts. For example, a comedian may make a joke about a politician's ineptitude whilst genuinely believing that the politician is incompetent. The model here does not discount the possibility that comedians may play versions of themselves or lean on personal experiences, nor does it obviate the possibility that some of what a person says may be a genuine representation of their own views. Gimbel (2017) has distinguished between pure jokes – told solely to make people laugh – and impure jokes which have a secondary purpose. It is consistent with my view to think that a comedian may tell an impure joke which also seeks to criticise a politician or court controversy to gain media attention (for example).

What distinguishes comedic expression from standard forms of expression is the ambiguity of the speaker's utterances and their intentions through their use of incongruity. It is possible that the comedian may represent a partially fictionalised but partly sincere version of themselves, that there may be a sincere representation of their views woven into their comedy, or that they may have intentions beyond simply making the audience laugh. The point is, however, that we cannot be sure of what that serious representation is or what their intentions are (see Rappaport and Quilty-Dunn, 2020). We must distinguish between the comedian and what their comedic speech represents; we cannot decisively discern their views or intentions from their speech. In non-bona fide expression, the comedian withdraws from framing their speech in a way that allows us to conclude whether they mean what a literal interpretation of their language would indicate. Non-bona fide speech is determined by the aim of making people laugh. Whilst – in tandem with Gimbel – it need not be constrained to *only* making people laugh, any remaining intentions will be necessarily hidden from the audience.[12]

## The cause of comedy's harms

When we understand comedy as a non-bona fide form of expression that is inherently ambiguous, we can see that its harms are caused by a failure to adhere to the cooperative principle of non-bona fide communication. Each of the harms occurs when comedic expression is treated as bona fide.

For status harms, it was explained that discriminatory attitudes which undermine the equal respect of vulnerable groups could be reinforced by comedy that plays on existing stereotypes. However, this harm results from a failure to recognise the ambiguity of the speech and its multiple meanings. Returning to the case of *Family Guy*'s Mort Goldman, the representation of Mort through Jewish stereotypes is taken as attesting to the accuracy of such stereotypes; however, the comedic speech cannot be taken as evidence that the *Family Guy* writers actually endorse or believe such stereotypes, as their true attitudes are hidden from the audience. The *Family Guy* writers are seen as an 'ally' by the anti-semite, providing support or 'evidence' for their attitudes towards Jewish people, when they do not present themselves as being such an ally. Or alternatively, consider a case of

the 'antiracist racist joke', which simultaneously uses racial stereotypes as the trigger for the joke and purports to satirise those stereotypes ironically (Berlant and Ngai, 2017). In these cases, the person who understands the joke as a literal racist statement which vindicates their discriminatory attitudes towards others fails to recognise the multiple meanings weaved into the joke. In both cases, there is a communication failure in which the audience infers the non-bona fide speech act as bona fide, thereby wrongly interpretating the comedic expression literally as they would do in normal communication.

A similar thing happens when comedy silences through testimonial injustices. Recall that people that experience comedy may then come to regard members of some groups as one-dimensional or to associate them with particular characteristics, vindicating the idea that such group members can be disqualified from being listened to (as in the case of the working-class characters depicted in *South Park*). Once again, this sees the interpretation of non-bona fide speech as bona fide. The depiction of the group as one-dimensional or lacking epistemic credibility in the comedy is understood by the audience or third parties to be an accurate or sincere portrayal of members of that group, when it cannot be decisively interpreted as such.

Remember that comedy may motivate violence or encourage people to feel less averse to violent action too. But returning to Brand's joke again, to interpret it as an endorsement of violence is to wrongly infer the speech act literally, when (as mentioned before) there are numerous possible interpretations that would not reflect any endorsement of violence. Indeed, Brand apologised for the joke, stating: 'Of course, I'd never do anything like that' (quoted in Siddique, 2019), proving that the speech act was not meant as a literal representation of her view. If audience members were to interpret her speech act as downplaying the seriousness of violence or as an encouragement to act violently, they would read the speech act too literally and fail to understand that it does not necessarily condone or call for violence. They would apply the cooperative principle of bona fide expression to a non-bona fide speech act.

We see then, for each of the three harms of controversial comedy listed, the source of those harms is a disconnect between the comedian and the audience. The audience wrongly interprets non-bona fide communication as bona fide, treating it as standard linguistic discourse to be interpreted literally (which it is not). In each of these cases, the wrong cooperative principle is applied to the speech act.

## Responsibility for the harms of comedy

Tracing that the harms of comedy result from this misuse of language and the failure to adhere to the correct cooperative principles provides a lens with which we can allocate responsibility for the harms caused. I shall argue that many of the harms result from *audiences*' and *third parties*' failures to appreciate the *sui generis* nature of comedic expression and apply the correct cooperative principle. Consequently, when assessing who should be held accountable for comedic harms and how their behaviour should seek to reduce them, we should look to other persons before the comedians.

To frame this conclusion, it must be argued that speakers and audiences have *moral* duties to adhere to the cooperative principles of communication. This may sound odd to some. They may think that people 'should' adhere to cooperative principles insofar as it is a polite thing to do or aids effective communication, but that they are not morally required to do so. On the contrary, I believe that we have moral duties to adhere to the cooperative principle.

To press home this point, I assume that communication is a powerful tool that people may use to express beliefs, acquire information, or act in a certain way. This assumption does not depend on a particular view about the value of expression. All it requires is that somebody recognises speech *is* valuable; one can then select whichever theory about the value of speech they prefer. I take this to be uncontroversial. For example, speech can be used to express a political viewpoint or hear another, to seek reconciliation (through an apology), to learn about a scientific theory, to make people laugh, etc. However, for it to perform these important functions, speech requires 'uptake' (Austin, 1976). That is, speech needs an alignment between what the speaker intends to say or do with their speech, and how the receiver understands the message the speaker communicates to them. For example, the person conveying a political opinion requires others to recognise that they are representing their opinion and to understand the content of that opinion. If uptake never occurred, then our capacity to use speech would be severely limited (if existent at all). The use of communication as a powerful tool that has all sorts of benefits relies upon some synchronicity between the speaker and the listener. Cooperative principles establish the minimal conditions required for this synchronicity. The use of cooperative principles, then, secures the environment necessary for communication to continue to function in the very important ways that it does. Insofar as this is the case, each person is duty bound to employ the correct cooperative principles to allow communication to perform its various important functions; a failure to adhere to these cooperative principles risks creating an environment where speech is no longer able to serve the important functions it does.[13]

Naturally, there are limits to these duties, particularly in the case of the audience. One can be forgiven for presuming a serial liar is lying again, and thereby refusing to cooperate with their bona fide speech, even if the speaker happens to be telling the truth. Likewise, one can be forgiven for treating non-bona fide speech as bona fide if they have no reason to think that the communication is meant to be non-bona fide (for example, if one treats a joke told during an important office meeting as serious speech). However, the principle extends far enough to suggest that persons have duties for employing the correct cooperative principle where they can be reasonably expected to discern the type of communication the speaker is participating in.

It is these sorts of cases we are dealing with when we consider formal comedy. In most instances, it will be clear to everybody participating that the speech is comedic expression and that the cooperative principle of non-bona fide communication is the correct principle to adhere to. When a person enters a comedy theatre, or watches a comedic television show, or sees a funny satirical cartoon, they can be sure that it is comedy; there are implicit prompts that indicate this, such as the venue itself, an introduction, or canned laughter.[14] Understood this way, we should see all speech in the comedic setting as non-bona

fide,[15] which means the audience are duty bound to employ the cooperative principle of non-bona fide speech. As a result, the audience are duty bound to recognise that the meaning of the comedy and the comedian's intentions are ambiguous, and they are therefore duty bound to not interpret comedic utterances literally.

This allows us to see how it is the audience that often acts wrongly and is responsible for comedy's harms. There are some scenarios where this conclusion is obvious. For instance, in situations where an audience member goes on to commit a status harm, or is violent towards another person, they clearly act wrongly and are primarily responsible. However, note that in these cases, there is an *additional* wrong to the status harm or violent act, a wrong in which they fail to employ the cooperative principle of non-bona fide speech to the comedic expression. Insofar as they commit this wrong, much of the remaining responsibility the comedian had for being complicit in the harm is diminished. This is quite different from when speech acts like hate speech or aggravating a mob lead the hearers to enact harms. In those cases, the speaker communicates in a bona fide way (or, at least, communicates in a context where the audience could be forgiven for thinking they were using bona fide communication). By doing so, the speaker *urges* the harms caused and is, therefore, more complicit in the harm. By contrast, the non-bona fide speech creates an additional parting between the speech act of the comedian and the act of the person who commits the harm, thereby diminishing the comedian's responsibility.

For similar reasons, when persons are silenced, it is usually the fault of an audience member or third party. Like with status harms and incitement of violence, when a testimonial injustice is attributed to a particular group member, it is the audience who wrongly apply the cooperative principle of standard communication to the comedic context and, therefore, see this as vindication for ignoring or disvaluing the contribution of others outside of the comedic setting.

We can also see that in instances where the three harms of comedy occur more indirectly – particularly resulting from the recycling of comedic material – that the audience member or some third party are primarily responsible or, at least, more responsible than the comedian. Consider the practice of sharing comedy outside of the comedic context. For example, Carr's joke about Roma people was shared widely on Twitter, and Brand's joke was reported on the front pages of newspapers. In these cases, much greater responsibility for any harm caused lies with the person who shared the comedy rather than the comedian herself. They have moved the comedian's non-bona fide form of expression into a context where people will naturally interpret it as bona fide. In the process, any status harms, silencing, or violence that occurs results from their presentation of non-bona fide expression as bona fide. Audiences of the recycled material could be forgiven for interpreting it literally in a way that audiences of the original comedy cannot. Beyond the responsibility of the perpetrators of the harm themselves, those who share the comedy are more responsible than the comedian for changing the meaning of their speech and for deceiving others. They themselves assume the role of urging the harm and thereby become complicit. The implications for this are significant. Empirical evidence shows that comedy jokes retold by people in public can embed status harms (Thomas and Esses, 2004), and jokes retold in newspapers can normalise sexual violence (Lockyer

and Savigny, 2020). In these cases, it is the re-tellers like the newspaper editor who are more responsible for the harm than the comedian (in addition to those who entertain the stereotypes or enact the violence).

There may also be a more diffuse way in which people who treat comedy as bona fide expression act wrongly. Public contributions that simply treat comedy as potentially harmful without recognising its status as a *sui generis* form of expression cloud its status for others. In the process, they encourage others to think that the cooperative principle for bona fide speech ought to be employed and *increase the risk* of comedy causing harm. In his discussion of Carr's joke about Roma people, columnist Bush (2022) acknowledges that the joke may be ironic, before going on to state: 'But the grim and unsettling truth is that for many Britons, the gag is funny because it is true'. Discussion of comedy in such terms undermines its status as non-bona fide expression, thereby increasing the chance of it causing harm by encouraging other audience members and bystanders to treat it as bona fide. If harms subsequently occur, then people who publicly discuss comedy whilst treating it as bona fide themselves assume a greater responsibility for those harms than the comedian, whose speech they reformulated and increased the likelihood of being misunderstood. That is not to say that people cannot discuss the harms of comedy, but that they act wrongly if they do so whilst failing to recognise its *sui generis* status and the different communicative rules that apply in the comedic setting.

Throughout, it has been assumed that those who would be responsible for the causing of harm have a duty to minimise the chances of that harm being caused or to make efforts to atone for it where it occurs. Given what has been said, audience members and third parties are placed under much more stringent duties to reduce or resolve comedic harms than the comedian. Naturally, audience members are under moral duties not to harm the status of others, silence others, or act violently towards them. I assume these duties existed anyway. However, they are also under additional duties to recognise comedic speech as non-bona fide and to, in no way, use it as a vindication for committing these wrongs. Audience members and bystanders – including newspaper editors, commentators, and social media users – are under duties not to share such comedic material where it may cause harm, and should be prepared to accept responsibility for how such sharing may lead to the harms identified. More generally, audience members and bystanders have a recurring duty to ensure that comedy continues to be treated as comedy and to avoid distorting bona fide and non-bona fide speech by treating comedy as bona fide expression.

Comedians' own responsibility for harms is only assumed once audience members and bystanders have fulfilled these duties. Before that, the comedian is entitled to point the finger at other actors and urge us to consider what else could have been done by those actors to avoid causing the harm. Furthermore, if a harm occurs, they are entitled to encourage us to look firstly at those actors when asking who should be blamed or held morally accountable for the harm. Note, however, that if audience members and bystanders fulfil their duties in full, few harms are likely to remain.

Does this too readily let the comedian 'off the hook'? One may be willing to concede that audiences and third parties hold primary responsibility for the harms of comedy, but

we may still think that the comedian holds a residual responsibility for those harms if they can be reasonably expected to foresee them. In a blog post about Carr's joke, fellow comedian Ince (2022) writes: 'the moment it is delivered to an audience, something as incendiary as this cannot just passively bask in the amorality of the performer'. Ince's point seems to be that the comedian cannot just 'wash their hands' of the consequences of their actions by stating that they do not intend to cause harm or by hiding behind the uncertainty about what their true beliefs are. It is possible to find a not dissimilar view in McTernan's brief remarks on comedy. McTernan (2023: 114–131) thinks that humour more generally can inflict status harms and reinforce inequality because the humour implies that it is reasonable to treat inequality and grave injustice with levity, in a way that undermines the status of disadvantaged groups. In the context of historical and ongoing injustice, the humour carries this message even if the speaker does not aim to cause harm. McTernan (2023: 130–131) only fleetingly mentions the more formal comedic settings I am interested by here, but she seems to believe that comedy can function in a similar way. What Ince and McTernan's views have in common is that they see the harms of the comedic speech as separate from the intent of the comedian or the complexity of their speech, and therefore, they do not believe that the comedian can be absolved of any blame just because they did not intend to cause harm or because there are other interpretations of their speech available. If the comedian can foresee harm, they still have a duty to reduce the chances of it occurring and may still be held morally responsible if they fail to uphold that duty.[16]

The comedian should still retain *some* duties to avoid the causing of harm – they cannot simply excuse themselves of any blame. Amongst many other things, absolving the comedian of blame if the causing of harm is reasonably foreseeable seems to both underestimate the comedian's capacities to forecast harms and attribute to them a lack of moral agency. These duties may broadly track how foreseeable the harm is. I mentioned earlier that there is insufficient empirical research into the harms of comedy, but that evidence suggests that comedic speech may be more harmful when delivered to particular audiences. Hence, jokes about women may be more likely to be interpreted as sincere endorsement for sexism or violence against women by an audience full of 'laddish' men. When appealing to these sorts of audiences, the harm seems more foreseeable, and so we may believe that comedians are under greater responsibilities to try to avert the harms of their comedy (for example, by amending their content or by explicitly stipulating at the end of a show that their comedy should not be seen as endorsing harm). Where they fail to do this, they may be subjected to greater criticism.[17]

Nonetheless, we should be careful about inflating these responsibilities too greatly. The objection rests on the worry that comedians should not be 'let off the hook'. However, holding comedians accountable lets others off the hook. Audience members, in addition to third parties who may consider sharing comedy on social media or writing stories about it in newspapers, have a duty to recognise comedic expression and treat it as such, and they should be conscious that failing to do so can lead to harm. Attributing too much responsibility to the comedian downplays these others' own moral agency and responsibility, and requires the comedian to bear an unfair burden. When the circumstances are appropriately obvious – as they are in formal

comedic settings – we should see audiences and third parties as being capable of discerning comedic speech and the nature of it as a form of expression. The residual duties the comedian holds should not give others a free pass to help to contribute to harm and then deflect blame onto the comedian. I think, in most cases, these responsibilities significantly outweigh the duties incumbent on the comedian to the extent that, whilst the comedian may still bear some responsibility, they do not bear enough to warrant moral condemnation. That condemnation should be saved for others who are more directly culpable for the harms caused.

## Conclusion

This paper has attempted to offer much needed clarity to the public debate surrounding what the issues of comedy are and to provide a resource with which we can assess who is responsible for those issues. It showed how comedy may cause status harms, silence speakers, and motivate violence but argued for an understanding of accountability for those harms that recognises comedy's status as *sui generis* expression. It was suggested that comedians have far less responsibility for the harms that occur than we may think, and that audiences and bystanders have more. As a result, I argued that the primary responsibility for minimising the harms of comedy often lies with agents other than the comedian.

Though I have focused on moral questions about comedy, by way of a conclusion, it may be useful to say something about legal censorship. An exhaustive debate on the legal censorship of comedy would have to take into account other considerations not discussed in this paper. Namely, we would have to balance the listed harms with the benefits or arguments *in favour* of comedic expression, and we would have to carefully consider whether censorship would be the most efficacious measure for reducing comedy's harms. Nevertheless, we may provisionally say that any discussion of legal censorship ought to take what has been said here into account. If comedians are rarely primarily responsible for the harms of their speech, it would be advisable for lawmakers to look closely at how they may tailor legal mechanisms to more accurately target those primarily responsible for the harms caused. Lawmakers would be encouraged to address legislation at reducing participation in comedy by those easily influenced to cause harm and reducing the sharing of comedy outside of the comedic context by other agents, before turning to censoring the comedian.

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## Notes

1. I'm indebted to David Axelsen, Paul Billingham and Cécile Laborde for their guidance and insightful feedback on earlier drafts. I am also grateful to two anonymous reviewers and an audience at the 20th Pavia Graduate Conference in Political Philosophy for their comments.
2. I shall use speech and expression interchangeably to refer to all mechanisms used by people to communicate in some way.
3. Comedy on social media is purposefully omitted from the discussion here. It is a particularly tricky case because social media can simultaneously be an environment where there is humour and where there is serious conversation. Therefore, we may be better seeing it as an 'informal' comedic setting, like everyday interactions between people, in which humour may occur, but which is not recognised as a context specifically dedicated to comedy. It is not my aim to discuss the permissibility of humorous speech outside of formal comedic settings in this paper.
4. I have in mind the arguments from autonomy, democracy, and truth.
5. As far as I am aware, there is no empirical evidence refuting the harms of comedy identified in this section. To reiterate though, there is a limited amount in support due to the general absence of research in this area.
6. There is weak evidence that humour, including comedy, may dilute people's resistance to violence under specific circumstances (see Kirsh, 2006; Romero-Sánchez et al., 2017).
7. Feinberg's account of offence is generally the authoritative one. An alternative account is offered by McTernan (2021), who claims that offence involves the experience of one's social standing being diminished. Though McTernan offers some important critiques of Feinberg's account, her own view would seem to deny that many paradigmatic cases of comedic offence are actually offence, like when religious groups voiced objections to the blasphemy of *Monty Python's The Life of Brian*. Omitting such cases cannot be suitable for the discussion here, and therefore, Feinberg's account is employed. In later work, McTernan (2023) has expanded on her view to make it clearer that offence is an appropriate emotional response to the kind of objective harms I have listed in the rest of this section. Regrettably, I do not have space to give this view the attention it deserves here, but we might quickly note that in these cases, it seems that any subjective 'harm' of offence is parasitic on the objective harm caused (although McTernan may not see it this way and does not actually think that taking offence necessarily is a harm). McTernan's specific remarks on comedy are returned to later in the paper.
8. For an introduction to incongruity theory, see Morreall (2009: 9–15).
9. For one example, see Lee (2022).
10. The argument here somewhat echoes Butterfield's (2022: 299–300) remarks that a person telling an antisemitic joke could be motivated by all sorts of reasons from genuine animosity to a desire to ridicule antisemites themselves. With thanks to an anonymous reviewer for directing me towards Butterfield's article.
11. It is this that makes the relationship between comedic expression and existing arguments for freedom of expression awkward, as while existing theories do not tend to dismiss the possibility that people will intentionally fail to adhere to communicative principles which help to make

themselves understood, the values they extol usually rest on the assumption that people will try to make constructive contributions to public discourse. Some treat speech which does not with particular scepticism; for example, Scanlon (2003: 162–163) is unwilling to advocate for protection for false advertising.

12. It might be worried that this interpretation prevents a comedian from saying anything serious at all. This is certainly an implication of this view, but it is not problematic. It does not, for instance, prevent comedians and satirists from making jokes about serious topics (like politics or inequality). Indeed, they may still offer very shrewd insights into these topics which are comical as a result. It does, however, prevent comedians from using their comedy instrumentally to make a serious point or to enact political change. I see little to oppose about this as comedians have plenty of other instruments with which to express serious viewpoints outside of a comedic setting. A comedian in a democracy cannot claim they *need* a comedy platform to advance serious messages about political issues.
13. I have purposefully refrained from stipulating who these duties may be owed to and who a person may wrong by employing the incorrect cooperative principle. This is because our impressions over who is wronged will likely be influenced by the account of free expression we prefer. For instance, if one endorses an autonomy account, they are likely to think a person wrongs their immediate interlocutor by failing to adhere to the cooperative principle. By contrast, if one endorses a truth account, they are more likely to think a person wrongs their wider community and each member of that community.
14. There are bound to be some unclear lines here. For instance, what does one do about a funny newspaper column which also makes serious political points? These boundary cases will only make up a minority however, and it may be that we should judge on a case-by-case basis whether it is sufficiently clear that the column (or other mode of communication) is clearly a form of comedic expression. I suspect this is a greater problem in theory than it is in practice; for most formal comedy, people are usually able to detect that it is comedy.
15. Or at least most. A safety warning at the start (for example) should not be treated as non-bona fide. But again, these situations will be obvious in practice.
16. I am grateful to several for pressing me on this point, including an anonymous reviewer who directed me towards Ince's blog post.
17. I suspect this reflects the balance of public opinion at present. In the UK, Stewart Lee – who primarily appeals to an audience thought to be socially progressive – is rarely criticised. On the other hand, comedians like Roy 'Chubby' Brown – who have built careers by telling stereotype-based jokes to audiences thought to have more socially conservative views – have been widely derided. In between those two poles and the subjects of the most debate are the likes of Ricky Gervais and Jimmy Carr, who seem to have a broader diversity of fans, some of whom may be more prone to influence than others.

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