

A HATEFUL STATE OF MIND

Hate Speech and Free Speech in New Zealand

TRAITS OF HATE SPEECH

- ▶ Does not advance debate on a topic
- ▶ Unnecessarily provocative
- ▶ Denigrates a person or group
- ▶ Lacks empathy and is harmful in intent
- ▶ Unlike anger, does not dissipate over time

HOW THE INTERNET ENABLES HATE SPEECH

- ▶ Anonymity
- ▶ Spatial separation
- ▶ Widespread dissemination

THE INTERNET 'HATE SPIRAL'

A provocative statement is made



Constraints of space prevent
detailed response



Personal attacks
intensify as a form of
'revenge-rhetoric'



Summary responses
formed, relying more on
rhetoric than substance



The recipient of the response reacts to
the rhetoric with a more hostile reply



HATE SPEECH?

“No woman can dare step out of her house without the permission of her husband.”

Religious leader in New Zealand, 2016

“You're looking at the homosexuals. Don't look too hard, you might catch Aids.”

New Zealand MP, 1986

“Israel is a “cancerous tumour” that has to be “surgically removed.”

Foreign diplomat to New Zealand, 2017

“Zionist Jews are really bastards, they are worse than animals.”

Kia Ora Gaza

“DISHARMONIOUS SPEECH”

The UN’s Committee on the Elimination of All forms of Racial Discrimination recommended that New Zealand:

“Review the adequacy of current legislation in addressing and sanctioning hate speech and incitement to racial disharmony, including *hateful and disharmonious speech targeted at the religion and beliefs of ethnic minority communities.*”

s.34(a)

Human Right’s Commission Submission in relation to the twenty-first and twenty-second periodic review of New Zealand under the Convention on the Elimination of All Forms of Racial Discrimination, July 2017.

WHAT IS 'DISHARMONIOUS SPEECH'?

'what is the threshold at which the criticism of a religion would constitute being 'disharmonious speech'?

Email from Paul Moon to Human Rights Commission, 30 April 2018

'Your question does not make sense.'

Reply from Human Rights Commission to Paul Moon, 30 April 2018

ROYAL COMMISSION OF INQUIRY INTO MOSQUES ATTACKS

“The difference between legitimately criminalised hate speech and a vigorous exercise of the right to express opinions **is not easy to capture** – at least with any precision – in legislative language.”

Report: Royal Commission of Inquiry into the terrorist attack on Christchurch. November 2020

ROYAL COMMISSION OF INQUIRY INTO MOSQUES ATTACKS

The Commission proposed the following provision to be inserted in the Crimes Act 1961:

Inciting racial or religious disharmony

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding three years who:

- (a) with intent to stir up, maintain or normalise hatred against any group of persons in New Zealand on the ground of the colour, race, or ethnic or national origins or religion of that group of persons; and
- (b) says or otherwise publishes or communicates, any words or material that explicitly or implicitly call for violence against or is otherwise, threatening, abusive, or insulting to such group of persons.

“Suppressing free speech is the intellectually impoverished and infantile response of those who have no better argument.”

THE PROBLEM OF OFFENCE

Being offended is increasingly used as a basis to suppress free speech

However, being offended confers no rights on the offended to silence others, and does not mean that the offended person is correct.

Causing offence is increasingly being seen as a moral wrong.

CENSORING HATE SPEECH

Ban hate speech directed towards a religion

Anti-religious hate speech is reduced

Fewer people likely to hear anti-religious hate speech

People more cautious in what they say more generally

The notion of “heretical” ideas becomes entrenched

Intellectual courage is undermined

Anti-religious hate speech is not eliminated, just suppressed

THE TRAJECTORY OF CENSORSHIP

"In addition to reporting hate crime, please report non-crime hate incidents".

Public message by South Yorkshire Police, September 2018

THE TRAJECTORY OF CENSORSHIP

A prayer in the Pennsylvania House of Representatives which mentioned Jesus was described by some as “offensive”, “horrific” “Islamophobic”, “hate speech”, “weaponized speech”, and “racist”.

March 2019

THE TRAJECTORY OF CENSORSHIP

Following the Christchurch attacks, Susan Devoy condemned those who had previously challenged her wish to remove references to Christmas to avoid offending people of other faiths:

THE TRAJECTORY OF CENSORSHIP

“If you were one of those commentators, do not write an op-ed today crying about how shocking yesterday's murders were.”

Dame Susan Devoy, 16 March 2019

THE TRAJECTORY OF CENSORSHIP

*“If you were one of those commentators, do not write an op-ed today crying about how shocking yesterday's murders were. **Because you helped make it happen. You helped normalise hatred in our country. You helped those murderers feel that they were representing the thoughts of ordinary New Zealanders.**”*

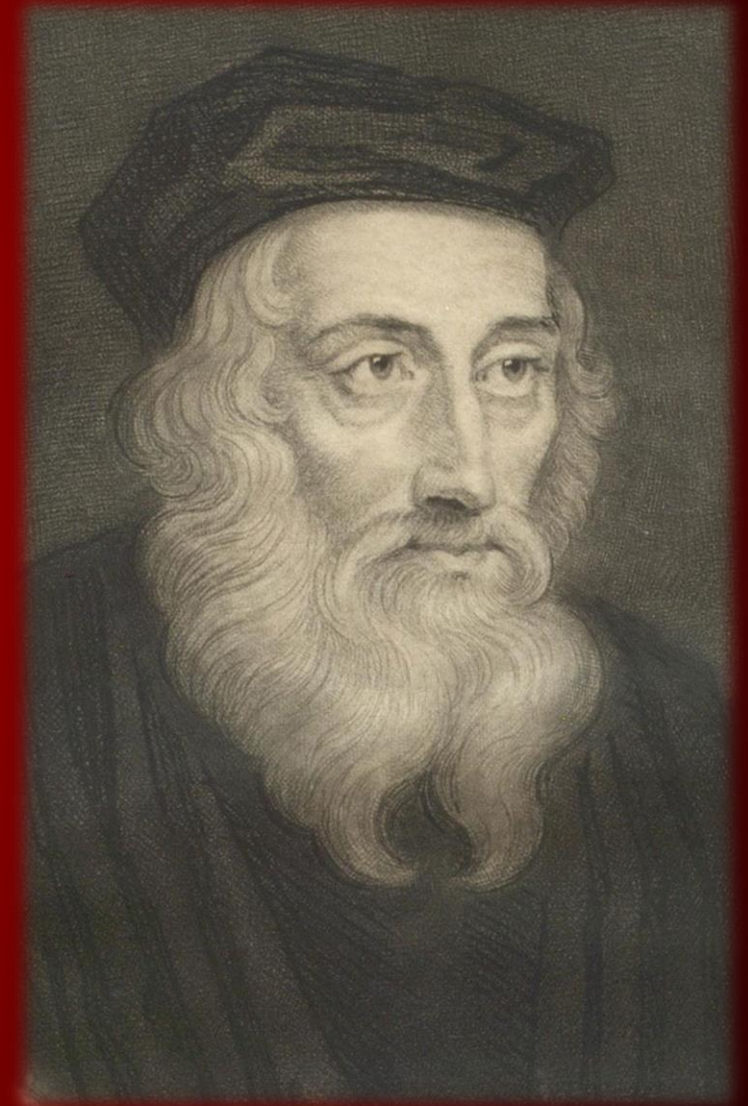
Dame Susan Devoy, 16 March 2019

“Freedom of speech nourishes
freedom of thought and is a vital
tool for problem-solving”

FREE SPEECH IN CATHOLIC EUROPE

“Believers should have the Scriptures in a familiar language. Moses heard God’s law in his own tongue.”

John Wycliffe 1325 - 1384



FREE SPEECH IN CATHOLIC EUROPE



“Love the truth. Let others have their truth, and the truth will prevail.”

Jan Hus 1369 - 1415

FREE SPEECH IN CATHOLIC EUROPE

“I will cause a boy who drives a plough to know more of the scriptures than the pope.”

William Tyndale 1494 - 1536



JOHN MILTON'S *AREOPAGITICA*, 1644

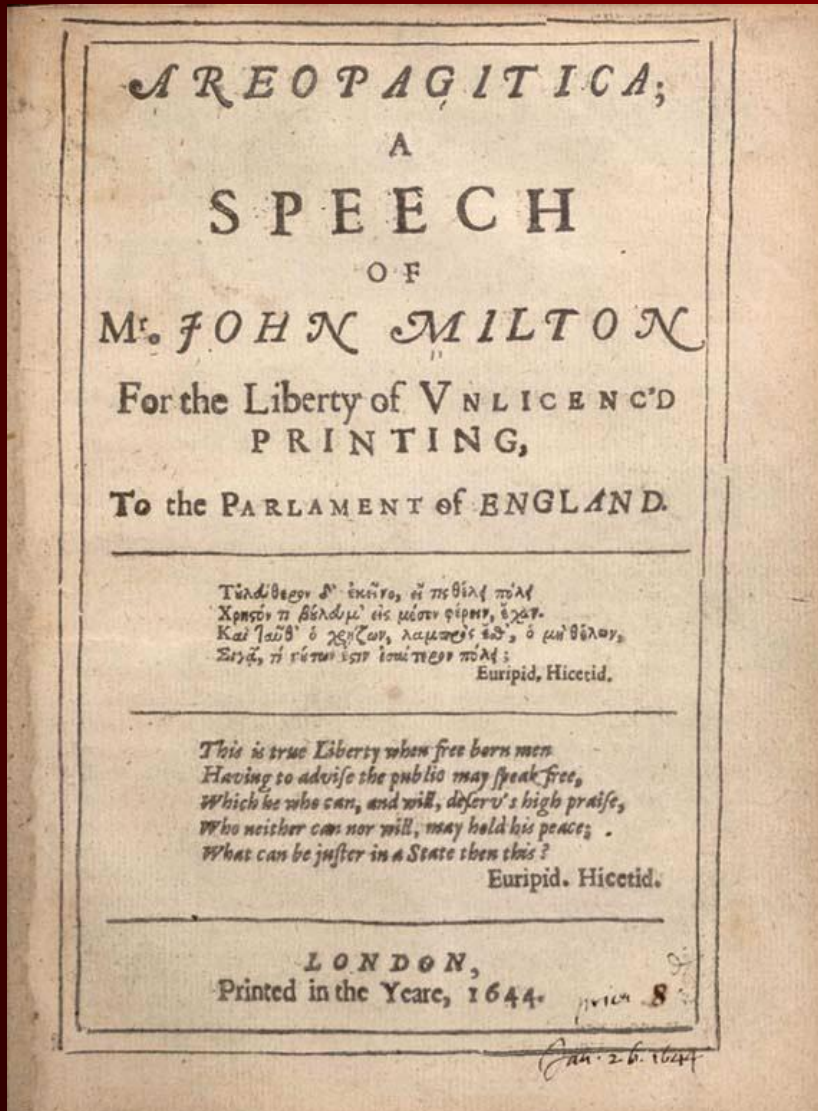


“Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.”

“I cannot praise a cloistered virtue, unexercised and unbreathed, that never confronts its adversary.”

John Milton 1608 - 1674

FREE SPEECH AND THE TRUTH



“Whoever knew Truth put
to the worse in a free and
open encounter?”

John Milton 1608 - 1674

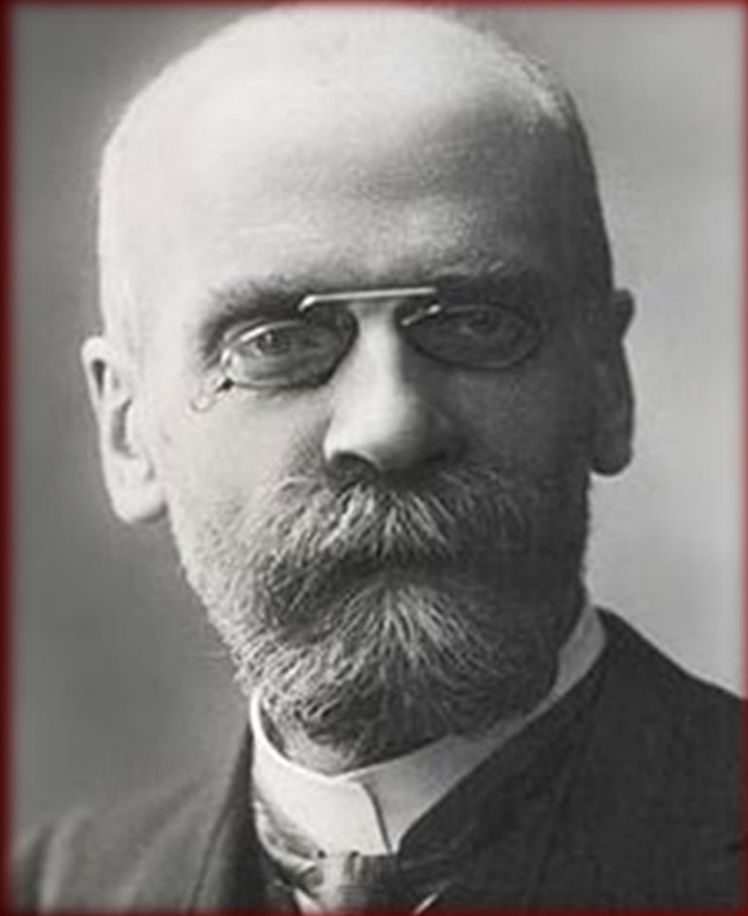
FREE SPEECH AND THE TRUTH

“It is only by the *collision* of adverse opinions that the remainder of the truth has any chance of being supplied.”

John Stuart Mill 1806 - 1873



DURKHEIM, FREE SPEECH, AND DEVIANCE



The *conflict of ideas* is at the heart of social progress. That conflict can only function with freedom of speech

The expression of deviance clarifies moral boundaries and encourages social development

Emile Durkheim 1858 - 1917

WHAT HAS FREE SPEECH DELIVERED?

The abolition of slavery



WHAT HAS FREE SPEECH DELIVERED?



The right for women to vote

WHAT HAS FREE SPEECH DELIVERED?

The civil rights movement



WHAT HAS FREE SPEECH DELIVERED?



The Waitangi Tribunal

WHAT HAS FREE SPEECH DELIVERED?

The nuclear-free movement



THE “FORMULA” OF FREE SPEECH

Free Speech

correlative with

Responsible Speech

with the aim of

Establishing Truth

“The right of free speech is not an end in itself, but the best means we have of reaching the truth”

FINAL OBSERVATIONS

Exercising free speech *responsibly* and *thoughtfully* – rather than suppressing it – is the best antidote to hate speech.

Surrendering free speech – in any way – sacrifices intelligence to force

Free speech can be unpalatable, but the alternative – of the state controlling our speech – is immeasurably worse.