

SEPTEMBER 2012

FREE SPEECH

**TOM SLATER
& ALEX HOCHULI**



MOTION:

**“FREE SPEECH IS NOT
AN ABSOLUTE”**

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CONTENTS

Introduction

Key terms

The free speech debate in context

Essential reading

Backgrounders

In the news

KEY TERMS

Defamation

Freedom of speech

Hate Speech

Internet troll

Shouting 'fire!' in a crowded theatre

INTRODUCTION

1 of 6

NOTES

1
1
2
4
5
6

The question of whether there should be limits to freedom of speech has been constantly re-examined in the wake of recent events. In 2006, incitement law was extended to cover incitement to religious hatred and the new precedent this set has led to a number of controversies [Ref: [Guardian](#)]. The Scottish parliament recently passed a law prohibiting sectarian and religious chants at football matches in order to quell an historic rivalry between predominantly Protestant and Catholic supporters of Scotland's two biggest teams [Ref: [BBC News](#)]. Such bans have been seen by some as important safe-guards which protect religious denominations from harm, yet others have felt that they represent a distinct affront to freedom of speech. Beyond incitement laws other recent issues have come to the fore in this debate, including that of Welsh student Liam Stacey, jailed for a series of offensive and racially aggravated statements on social networking site Twitter, raising questions about online accountability [Ref: [BBC News](#)]; and the case of Emma West who was videoed on a Croydon tram, and subsequently arrested and charged with racially aggravated public order offences [Ref: [Telegraph](#)], highlighting the issue of public offence and outrage, and how we deal with these today. Furthermore, while incitement to hatred against gay people remains beyond the remit of law, a series of adverts which suggested homosexuality is a treatable condition were banned by Mayor Boris Johnson [Ref: [Journal](#)]. Johnson claimed this was in the name of maintaining the capital's tolerant reputation, yet others have felt this move curtailed free speech merely to avoid causing undue offence. While free speech is still widely considered a central democratic right, these events have led many to feel that it has conceivable limits. Deciding if freedom of speech should be seen as an absolute remains essential in determining the nature of our society.

Are the traditional arguments for freedom of speech irrelevant, or more relevant than ever?

The Enlightenment thinker and defender of human reason over religious dogma Voltaire is associated with the sentiment that 'I disapprove of what you say, but I will defend to the death your right to say it'. The philosopher JS Mill defended freedom of speech on the basis that it is only by allowing beliefs to be criticised that we can be justified in believing that they are true. Some argue these ideas are still fundamental and that free debate, not restrictions, remains the only way of countering false or offensive views. Others say absolute freedom of speech would be all very well if debates in society were conducted like well-mannered discussions in school classrooms. But in our society, where the media has a powerful position and where many social groups feel marginalised and ignored, such positions are idealistic and outdated.

Should speech be limited to avoid causing offence? Do we have a right not to be offended?

Certain actions are criminalised in order to protect people from physical harm. Extending this argument to speech, it is argued that some types of speech, particularly hate speech, should be banned because the harm they cause is just as serious. In a culturally diverse society, good manners and respect for others' beliefs should take precedence. On the other hand, it is argued that if one accepts some limits to free speech on grounds of offence, it will lead to competing demands by other groups not be offended, leading to an overall loss of freedom. Also, it's claimed that the best way to oppose speech you don't like is to use your own free speech against it, and that the whole point of

freedom of speech is to protect 'extreme' speech; after all, by definition 'acceptable' or 'mainstream' speech needs no such protection.

How does free speech relate to democracy?

Advocates of absolute freedom of speech say that in a diverse society, instead of trying to prevent offence, the right to be offensive should be seen as essential to democracy. Diverging values lead to political conflict and the only way to progress is through airing different views. Looked at this way, free speech is the basis for all other political values as it assumes people are rational and fully capable of assessing different arguments. Those wary of protecting absolute freedom of speech take a very different view. They argue that speech is not only used to make rational arguments, but to foment hatred and stigmatise powerless minorities. Rather than free speech being egalitarian, it is too often used to oppress those 'without a voice'.

How do we deal with 'dangerous' speech? Don't all rights come with responsibilities?

One argument against absolute freedom of speech is that speech is never really 'free' but has consequences; like all rights, it comes with responsibilities. Proponents of the above argument point out, for example, that there is no right to shout 'fire!' in a crowded theatre. They claim that this can be extended to other areas, such as speech that incites others to directly harm third parties, which justifies banning certain inflammatory types of speech. Advocates retort that in the political arena we can reflect on what is said; we do not just follow blindly what we are told. Further, the fact that some illegal acts incidentally involve speech

THE FREE SPEECH DEBATE IN CONTEXT CONTINUED...

3 of 6

NOTES

does not detract from the absolute nature of freedom of speech as a political value. Shouting 'fire!' is more analogous to the unnecessary pulling of a fire alarm, which is also illegal, than to other types of speech.

ESSENTIAL READING

The Development of Free Speech in Modern Britain
John Roberts *Speakers' Corner Trust* 1 March 2011

FOR

Freedom of speech should never mean freedom to abuse
Dominique Jackson *Daily Mail* 12 June 2012

This bookseller deserved his incitement to terrorism conviction
Matthew Tariq Wilkinson *Guardian* 18 May 2012

Social networks not doing enough to combat online racism
Oran Blackwood *Afro News* 17 April 2012

The ex-gay ads prove public homophobia still remains acceptable
Balaji Ravichandran *Pink News* 12 April 2012

UK Free Speech vs. US Free Speech – more speech not always the solution
Yaaser Vanderman *Law Think* 4 March 2011

AGAINST

Why should an insult be against the law?
Philip Johnston *Telegraph* 14 May 2012

Don't ban the 'ex-gay' bus ads. But do ban their exclamation marks
Tom Chivers *Telegraph* 12 April 2012

The growing culture of outrage doesn't extend free speech – it limits it
Suzanne Moore *Guardian* 18 January 2012

4 of 6

NOTES

'My tram experience' is shocking – but should it be cause for arrest?

Sunny Hundal *Guardian* 29 November 2011

In finding itself banned, Unite Against Fascism has fallen victim
Brendan O'Neill *Telegraph* 29 August 2011

IN DEPTH

Britain needs more free speech. Change this law now
Timothy Garton Ash *Guardian* 6 June 2012

Policing Racism Online: Liam Stacey, YouTube and the Law of Big Numbers

Michael Rundle *Huffington Post* 7 April 2012

The Limits of Free Speech
Joyce Arthur *RH Reality Check* 21 September 2011

BACKGROUNDERS

5 of 6

NOTES

The internet's two-sided freedom

Charles Arthur *Guardian* 15 June 2012

Why repealing the law against 'insulting' language would be a victory for free speech

David Davis *Daily Mail* 15 May 2012

This defamation bill is no friend of freedom

Luke Samuel *spiked* 10 May 2012

Are there limits to free speech?

Debating Europe 10 May 2012

No ads! Not here! Get over it? – Censorship, Hate Speech, and Freedom of Expression

Kirsten Sjøvoll *Inform* 20 April 2012

You Have the Right to Offend Me

Danielle S. McLaughlin *Huffington Post* 5 April 2012

Free speech is not absolute

P R Kumaraswamy *Daily Pioneer* 28 January 2012

Free speech can't exist unchained. US politics needs the tonic of order

Simon Jenkins *Guardian* 13 January 2012

Silencing sectarianism: football's free speech wars

Kevin Rooney *Independent* 6 October 2011

ORGANISATIONS

Anti-Defamation League

English PEN

Index on Censorship

Media Watch UK

IN THE NEWS

Twitter prepares curbs on hate speech

Financial Times 27 June 2012

Racist Tube rant woman Jacqueline Woodhouse jailed

BBC News 29 May 2012

Liam Stacey: Twitter Fabrice Muamba attacker banned from university

Telegraph 22 May 2012

New Defamation Bill 'to protect freedom of speech'

BBC News 9 May 2012

Freedom of speech row as blogger faces jail for calling councillor a c*** on twitter

Daily Mail 16 April 2012

Banned gay bus ad group looks at legal action against TfL

BBC News 13 April 2012

London Mayor bans anti-gay ads from city buses

Journal 13 April 2012

Student who abused Fabrice Muamba on Twitter 'should not have been jailed'

Guardian 1 April 2012

Fabrice Muamba: Racist Twitter user jailed for 56 days

BBC News 27 March 2012

Teen charged over comment on troops

Belfast Telegraph 12 March 2012

Football religious hatred law takes effect in Scotland

BBC News 1 March 2012

Britain's position on Internet freedom absolutist: Minister

Hindu 15 February 2012

Academic delivering 3,000-name petition in last-ditch bid to halt

Offensive Behaviour Bill

Courier 14 December 2011

Woman charged with racist rant on tram

Telegraph 28 November 2011

Free speech 'protected' under anti-sectarianism bill

BBC News 22 November 2011

Internet bigot Stephen Birrell jailed for eight months

BBC News 17 October 2011

Fans unite to oppose SNP football hate law

Express 3 October 2011

6 of 6

NOTES

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