



The Federation of
Islamic Associations
of New Zealand (Inc.)

اتحاد الجمعيات الإسلامية النيوزيلندية

SINCE 1979

EXPRESSION OF HATE & RESPECTING FREEDOM OF EXPRESSION

FIANZ PERSPECTIVE ON THE LEGISLATIVE AGENDA

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ONE



PREAMBLE

Very few have reported, not even the Royal Commission of Inquiry, that the necessity and urgency of hate speech laws were first raised at a parliamentary Inquiry established in 2004. They have yet to report on their findings. We see history repeating itself, with a hospital pass to the Law Commission by the previous Labour government and a 'set-it-aside' by the new National- ACT- NZ First coalition government.

It is sheer negligence when there is overwhelming evidence and a Royal Commission have proposed a safety net for those who suffer the consequences of hate speech. The form and function of the safety net legislation should rightly be debated with a view to arrive at a civil society consensus.

There are some, like the new Prime Minister Rt Hon Chris Luxon who have also correctly linked the issue of hate speech to the principle of free speech in a democracy. This link is vital to our social cohesion DNA . The most appropriate trajectory for this is by way of robust debate leading to an evidence-based legislative agenda. The Royal Commission also stressed the importance of public awareness of the issues.

FIANZ, the umbrella Muslim national organisation, has outlined in this report the nexus between hate speech and freedom of expression. We have responded to the issues raised by politicians and the concerns raised by many in civil society for the need to ensure that our democratic principles, which include free speech and the right to criticism , are not transgressed.

To inform our value proposition, we have provided a baseline of the 'first principles' as well as their ethical antecedents. The need for specificity has also been addressed with tangible examples of what constitutes hate speech and what does not. For the sake of clarity, the all-important wording of the legislation is also part of our narrative.

The importance, necessity and relevance of any legislation which aims to bring about a safety net for victims, can only be sustained when there is an education scaffolding which strengthens our democratic construct. This report is contextually nuanced with this in mind.

2024

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PART A: KEY ISSUES OF HATE SPEECH AND FREEDOM OF EXPRESSION

A 1: Setting the Context for this Report

The tragedy of March 15 was preceded by unabated **hate speech** on social media.

It was sheer **hate** based motivation which effectively triggered the bullets which led to the tragic massacre on 15 March 2019.

This **hate crime** focused on killing peaceful worshippers of a particular faith but this fate could well have befallen other vulnerable communities.

Unfortunately, such hate inspired extremism continues till today.¹

As a faith community, despite a specific recommendation from the Royal Commission, followed by several promises made by Ministers, we still have no safety net against hate speech. For more than four years, the rhetoric of hate speech legislation has been followed by abject confusion as a result of two less than focused Justice Ministers under the previous Labour government. The new Coalition government have almost set aside this issue.

We concur that there is a need for public debate, but we also consider that the timeframe for decision making is long overdue. What is profoundly disappointing is that whilst there is on-going delay, our community and other vulnerable communities continue to suffer the trauma of exposure to a constant barrage of hate speech at every turn - from schools to supermarkets, from the streets to social media.

In the main, those who feel this hate suffer in silence. The harsh reality is that much of the hate experienced by NZ Muslims and others, is largely invisible to most New Zealanders. Most people have no idea about the scale, depth or volume of such hate. Yet there are those who would deny this very real, very lived experience. They ignore the reality faced by those who suffer. For them, this is an issue of esoteric debate revolving around abstract principles, all because they have never experienced the dread, distress and dehumanising effect of persistent hate speech. However the work that we need to undertake to fully understand this issue involves walking in other people's shoes and for a moment seeing the world through their eyes.

That is why what we have proposed in this report is an evidence-based approach, that encourages constructive discussion leading to an awareness of the need for a safety net for vulnerable communities. We are also realists and recognise that the legislative agenda alone is not the panacea. History beckons us to learn the lesson that the underlying causes of hate, hate speech and hate crimes cannot be solved through the legislative agenda alone. There is also the added qualifier of the need for social cohesion programmes and civic education which promotes peaceful coexistence, respect and inclusivity. However, the baseline requirement for all the above is political will This report aims to also address this issue.

A DEMOCRATIC
SOCIETY HAS
TO BE JUDGED
BY HOW WELL
IT SUPPORTS
THE
VULNERABLE.

¹[https://www.dia.govt.nz/diawebsite.nsf/Files/Countering-violent-extremism-online/\\$file/DVE-Transparency-Report-2022.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Countering-violent-extremism-online/$file/DVE-Transparency-Report-2022.pdf)

A2 Another Tragedy in the Waiting: Past Lessons Not Learned

If history is a guide, then our concern is that the same outcome of 2004 may also result this time.

In 2004 when the government of the period commissioned an Inquiry Into Hate Speech, the responsibility for this lay with the Government Administration Select Committee.

It is a chilling reminder that even in 2004, there was sufficient evidence of prevailing hate for such an inquiry to be launched. For the first time in NZ's history, it was a government agency which identified the link between hate speech and hate crime and then proceeded to advocate for the need for hate speech related legislation. The Classification Office with empirical evidence made the direct link between hate speech and hate crime. Their submission to the Committee concluded:

*"In summary, the Classification Office submits...that there is substantial precedent for a limited restriction on the freedom of expression to remedy the social harm caused by speech that incites hatred against individuals and groups on the basis of characteristics that are already prohibited grounds of discrimination."*²

Many other submissions were received, however what followed is worthy of an episode of 'Yes Minister'.

While the inquiry into Hate Speech occurred in 2004, the Select Committee did not report on this before the election of 2005. Then there was the dissolution of the 47th Parliament. After some delay, the Inquiry was then readopted in the 48th Parliament, but discharged on the 8th of November 2006. There was no written outcome despite the many submissions and promises of a report.

There is a sense of déjà vu here. Following on from the Royal Commission Recommendation, the previous Labour government made a promise 'in principle'. An election followed and the Government received a full mandate. The Ministry of Justice sought submissions on hate speech legislation and then the whole matter was put on hold, after the Justice Minister was unable to give a credible examples of hate speech. Soon after another Justice Minister was appointed, who had a different agenda to what the Royal Commission recommended. What followed was a game of political football until a decision was made for a hospital pass to the Law Commission. The new Coalition government have yet to make a decision on the way forward. What followed was a game of political football.

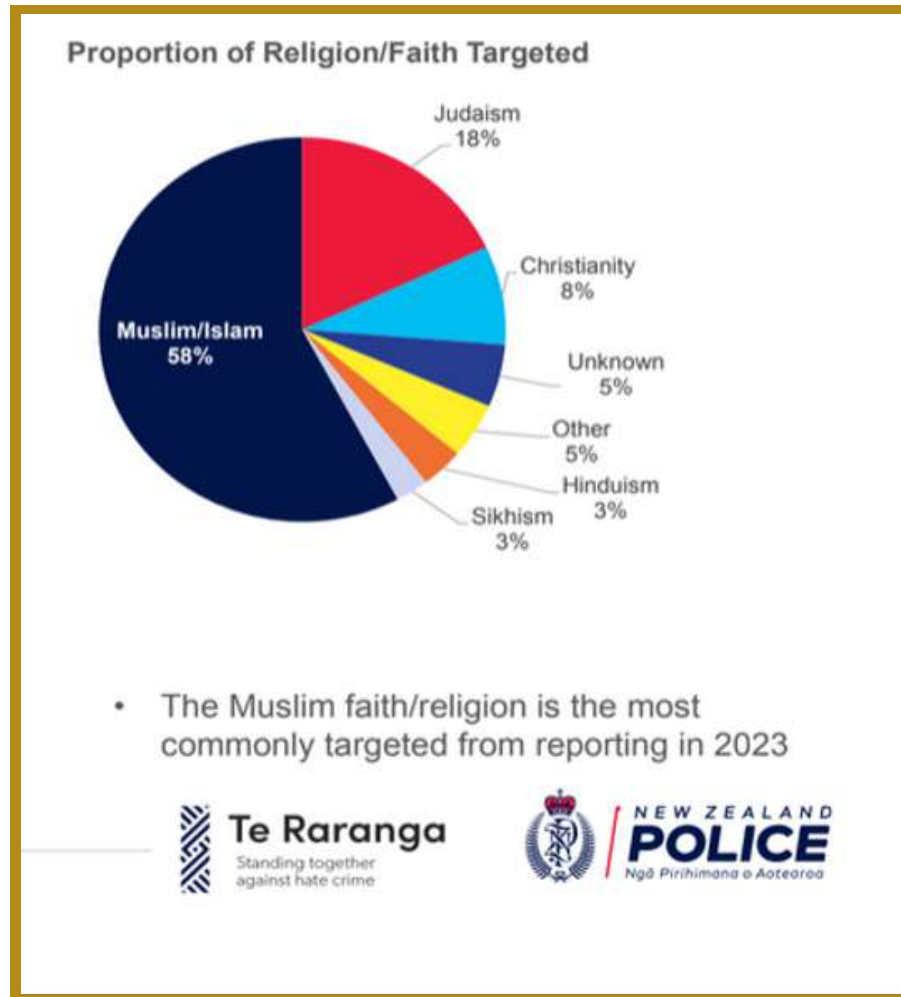
The history of 2004 is repeating itself and the Royal Commission lessons from the tragedy of 15 March have not yet been learnt.

² https://www.classificationoffice.govt.nz/media/documents/Inquiry_into_Hate_Speech.pdf 20Royal%20Commission%20of%20Inquiry%20into%20the%20-Terrorist%20Attack%20on%20Christchurch%20Mosques.docx

A3 Hate Crime Continues: The Evidence

The latest hate crime report from the NZ Police³ is a somber reminder of the community which is suffering the most. Politicians have ignored the hard evidence and only one off-shore media reported on this stark evidence of hate.

Protected Characteristics Targeted 1 January to 30 November 2023



In global terms, the above is one of the highest rates of religious hate crime against Muslims.⁴ The empirical evidence shows that in the midst of a hate-motivated crime pandemic against Muslims in NZ, there is still no legislative hate-speech safety-net. This is effectively a betrayal of the promise made 'in principle' to implement all the recommendations.

The hate continues from the past to the present.

³ <https://www.theguardian.com/world/2023/jun/08/exclusive-racism-homophobia-fuelling-thousands-of-crimes-in-new-zealand-each-year-figures-show>

⁴ <https://www.aljazeera.com/news/2022/10/6/hate-crimes-rise-by-26-percent-in-england-and-wales>

A4: Evidence of a Direct Nexus Between Hate Speech and Subsequent Hate Crime – From Global to Local

>> i) INTERNATIONAL RESEARCH

Sleepwalking on hate-speech is not an option.

- Online Hate Speech as a Motivator and Predictor of Hate Crime (USA)
<https://www.ojp.gov/pdffiles1/nij/grants/304532.pdf>
- The connection between online hate speech and real-world hate crime. (UK) Oxford University Press
<https://blog.oup.com/2019/10/connection-between-online-hate-speech-real-world-hate-crime/>
- From Hashtag to Hate Crime (USA)
<https://cepr.org/publications/dp17647>
- Hate Speech on Twitter Predicts Frequency of Real-life Hate Crimes (USA) , New York University
<https://www.nyu.edu/about/news-publications/news/2019/june/hate-speech-on-twitter-predicts-frequency-of-real-life-hate-crim.html>
- Violence attributed to online hate speech has increased worldwide (USA) Council on Foreign Relations
<https://www.cfr.org/background/hate-speech-social-media-global-comparisons>

EXAMPLE



Increase in online hate speech leads to more crimes against minorities

15 October 2019



An increase in hate speech on social media leads to more crimes against minorities in the physical world, a study shows.

META ANALYSES & SYSTEMATIC REVIEWS:

Over 600 separate bodies of research and studies have noted the real harm impact of hate speech.

- Hate online and in traditional media: A systematic review of the evidence for associations or impacts on individuals, audiences, and communities

<https://onlinelibrary.wiley.com/doi/full/10.1002/cl2.1245>

- Internet, social media and online hate speech. Systematic review

<https://www.sciencedirect.com/science/article/abs/pii/S1359178921000628>

- Thirty years of research into hate speech: topics of interest and their evolution

<https://link.springer.com/article/10.1007/s11192-020-03737-6>

EXAMPLE:

Systemic Review on the Impact of Hate Speech



Source: Campbell Systematic Reviews, Volume: 18, Issue: 2, First published: 15 June 2022, DOI: (10.1002/cl2.1245)

>> ii) UNITED NATIONS - HATE SPEECH LEADS TO REAL HARM⁵



Hate Speech

"Over the past 75 years, hate speech has been a precursor to atrocity crimes, including genocide, from Rwanda to Bosnia to Cambodia."

– United Nations Secretary-General António Guterres, June 2019



The Holocaust

The Holocaust did not start with the gas chambers, but with hate speech against a minority. >



The Cambodian genocide

Hateful discourse systematically dubbed intellectuals, opponents and city dwellers, as well as ethnic and religious minorities as the "enemies" of the people. >



The 1994 genocide against the Tutsi in Rwanda

Decades of hate speech exacerbated ethnic tensions by spreading unfounded rumours and dehumanizing the Tutsi. >



The Srebrenica genocide in Bosnia and Herzegovina

Constant nationalist propaganda throughout party-controlled media channels demonized the Bosnian Muslim population. >



The Rohingya refugee crisis in Myanmar

A campaign of hate and misinformation was conducted, loaded with derogatory and dehumanizing language against the Rohingya Muslim minority. >

>> iii) COUNCIL OF EUROPE⁶



Hate speech and violence



Hate speech covers many forms of expressions which advocate, incite, promote or justify hatred, violence and discrimination against a person or group of persons for a variety of reasons.

It poses grave dangers for the cohesion of a democratic society, the protection of human rights and the rule of law. If left unaddressed, **it can lead to acts of violence and conflict on a wider scale.** In this sense hate speech is an extreme form of intolerance which contributes to hate crime.

⁵ <https://www.un.org/en/hate-speech/understanding-hate-speech/hate-speech-and-real-harm>

⁶ <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/hate-speech-and-violence>

>> iv) NEW ZEALAND – ROYAL COMMISSION OF INQUIRY



The link between hate speech on the internet and hate crimes – A study commissioned by InternetNZ concluded that the case for the link between hate speech on the internet and hate crimes has been well made, however more research is needed to understand the details.⁷

Hate Speech and Hate Crime – The NZ Research

i. Māori Perspective Research : Race Based Hate Crime in Aotearoa

“..despite the clear need to protect communities of colour from discrimination, current legislative approaches for addressing hate crime and hate speech are inadequate.”

<https://www.journal.mai.ac.nz/sites/default/files/Ngata.pdf>

ii. 'High levels of online hate lead to high levels of hate crime' - Auckland University hate speech researcher Dr Chris Wilson.

<https://m.facebook.com/NewshubNationNZ/videos/2175168375999040/>

iii. Measuring trends in online hate speech victimisation and exposure, and attitudes in New Zealand

<https://philpapers.org/rec/PACMTI>

iv. Online hate speech: A survey on personal experiences and exposure among adult New Zealanders

<https://philpapers.org/archive/PACOHS.pdf>

⁷ https://www.ofcom.org.uk/__data/assets/pdf_file/0020/252740/qual-research-impact-of-online-hate.pdf

A 5: Clearing the Fog of Confusion: Hate Speech Legislation Is Not New

There are some who argue that NZ should not introduce hate speech legislation. Simply put, they have not kept up with the legislative reality.

The fact is that NZ has had hate speech legislation since 1993 under the provisions of the Human Rights Act (HRA) 1993.

Version as at 1 December 2022



Human Rights Act 1993

Public Act 1993 No 82
Date of assent 10 August 1993
Commencement see section 1(2)

(1) It shall be unlawful for any person—

- (a) to publish or distribute written matter which is threatening, abusive, or insulting, or to broadcast by means of radio or television or other electronic communication words which are threatening, abusive, or insulting; or
- (b) to use in any public place as defined in section 2(1) of the Summary Offences Act 1981, or within the hearing of persons in any such public place, or at any meeting to which the public are invited or have access, words which are threatening, abusive, or insulting; or
- (c) to use in any place words which are threatening, abusive, or insulting if the person using the words knew or ought to have known that the words were reasonably likely to be published in a newspaper, magazine, or periodical or broadcast by means of radio or television,—

being matter or words likely to excite hostility against or bring into contempt any group of persons in or who may be coming to New Zealand on the ground of the colour, race, or ethnic or national origins of that group of persons.

For over 30 years, they did not object that colour, race, ethnic or national origin has been covered under hate speech. However, when 51 innocent Muslims are made shaheed they do not want faith to be included in the safety list. This raises profound questions of foggy reasoning and confused prejudice.

For over 30 years, section 61 of the Act has had civil provision that states it is against the law to use words which are threatening, abusive or insulting, and likely to incite hostility or bring into contempt any group based on their colour, race, or ethnic or national origins. Unfortunately, religion was not included as one of the protected characteristics.

Similarly, the criminal provision (section 131) states it is a criminal offence to use words that are threatening, abusive, or insulting likely to excite hostility or ill-will against, or bring into contempt or ridicule any group on the grounds of colour, race, or ethnic or national origins, and intended to excite such hostility, ill-will, contempt or ridicule. Unfortunately, religion was again not included as one of the protected characteristics.

It is an alarming anomaly that some legislation covers faith and others do not. Hence all that the Royal Commission was recommending was to ensure consistency between all the different applicable legislation.

As such, hate speech legislation has actually been around for more than 30 years and no one has raised any questions until now. However, when 51 Muslims were ruthlessly killed by a hate mongering terrorist who targeted these innocent civilians including a four-year old child because of their religion, the Royal Commission recommended that religion should be included as a protected characteristic. What followed next was deliberate misinformation and misdirection by a few purveyors of foggy self-interest, who did not want religion to be covered by the Act. For over 30 years, they did not object that colour, race, ethnic or national origin have been covered under hate speech. However, they find it objectionable that faith should be covered. This in itself indicates their starting position of foggy reasoning at best and confused prejudice at work.

The first (and arguably only) prosecution for hate speech occurred in 1977 with the successful prosecution of two members of the National Socialist White People's Party for an antisemitic pamphlet.

There are several other pieces of legislation, including some dating back to the 1980s which have a direct nexus with hate speech, yet no one had objected to them. More significantly, these pieces of legislation covered faith along with other characteristics , such as race, gender, colour, and nationality.

In the 1980's two key pieces of legislations were introduced which included faith as a protected category. The Summary Offences Act of 1981 creates offences when someone uses insulting or intimidating language against another person because of their race, colour, ethnicity or religion. Similarly , Section 4 of the Broadcasting Act protects people against verbal attacks because of their race or religious belief.

It is an alarming anomaly that some legislation covers faith and others do not. Hence all that the Royal Commission was recommending was to ensure consistency between all the different applicable legislation. Yet again there are those who are objecting to this. There may be a simple explanation for this. It may be that they simply are unaware of the inconsistencies in the legislative landscape regarding hate.

A 6: Nexus of Hate Speech and Freedom of Speech

The single issue most raised with respect to hate speech legislation centres around concerns about restricting freedom of expression. This debate is necessary.

The nexus between hate speech and freedom of speech is complex. While both concepts involve the realm of expression, they exist in tension with each other due to their different objectives and potential impacts.

Freedom of speech is a fundamental right that encompasses the ability to express one's opinions, ideas, and beliefs without censorship or interference from the government or other authorities. It is considered essential for the functioning of a democratic society, the exchange of ideas, and the pursuit of knowledge and progress. Freedom of speech protects not only popular and widely accepted views but also unpopular, controversial, or dissenting opinions.

Hate speech, on the other hand, refers to various types of expression that promotes or incites violence, discrimination, or hostility against individuals or groups based on attributes such as race, ethnicity, religion, nationality, gender, sexual orientation, or other protected characteristics. Hate speech is typically characterized by derogatory, offensive, or inflammatory language intended to demean, dehumanize, intimidate, or incite harm towards targeted individuals or communities. It can contribute to social divisions, marginalization, and the violation of human rights.

The challenge arises in defining the boundaries between protected speech and hate speech. Our legal system and socio-cultural context have varying interpretations of these boundaries. Striking a balance between protecting individuals from harm and preserving freedom of expression is a continuous challenge. It is this challenge which the Royal Commission addressed. The rationale provided has been that hate speech should be restricted or prohibited to prevent harm, protect marginalised communities, and promote social cohesion. There are others who emphasise the importance of robust free speech protections, even for speech that is offensive or controversial, to ensure the marketplace of ideas remains open and to avoid potential abuses of censorship or limitations of expression. Although it should also be noted that this marketplace has always been regulated and managed by legislation (for instance the Broadcasting Standards Act). As such, in this respect it has never been a completely open marketplace.

To dissect this complex boundary, we consider the following five intersecting issues as critical to the debate:

i) Balancing Individual Rights:

The tension between hate speech and freedom of speech arises from the need to balance the rights of individuals. Freedom of speech protects the individual's right to express their views and ideas, while hate speech can infringe upon the rights and dignity of targeted individuals or groups. Determining the appropriate balance requires consideration of the potential harm caused by hate speech and the extent to which it undermines the rights and well-being of others. Here, the wording of the legislation needs to be clear and unambiguous. The Royal Commission had made some suggestions in this respect.

ii) Social Cohesion and Harmful Effects:

Hate speech can have significant negative effects on society, fostering discrimination, prejudice, and hostility. It can contribute to the marginalisation of certain groups, perpetuate stereotypes, and harm community relations. In contrast, promoting social cohesion often requires countering hate speech and creating an environment of inclusivity, respect, and understanding.

iii) Limitations on Freedom of Speech:

Freedom of speech is not absolute and may be subject to certain limitations. These limitations typically include speech that directly incites violence, poses a credible threat to public safety, or constitutes defamation, obscenity, or harassment. The challenge lies in defining hate speech within the legal framework and determining the appropriate boundaries for restrictions. Here too, the salience of ensuring clarity of wording for applicable hate speech legislation. Establishing intention can be relevant and we note the provisions in the Sentencing Act for Judges to consider actions prompted by hate of others (although this has not been used).

iv) Protecting Vulnerable Communities:

Hate speech often targets vulnerable communities based on their characteristics or identities. Protecting these communities from harm and ensuring their equal participation in society is a key consideration in balancing hate speech and freedom of speech. Hate speech legislation aims to provide legal remedies and protections for those who experience harm as a result of hateful expressions.

v) Promoting Open Dialogue:

Freedom of speech is essential for fostering public debate, the exchange of ideas, and the progress of society. However, hate speech can hinder constructive dialogue by creating an environment of fear, intimidation, bullying and hostility. Striking a balance involves encouraging open dialogue while discouraging speech that seeks to silence or harm others based on their characteristics.

In essence there are three key issues that need to be addressed.

- What is the threshold between hate speech and any other speech ?
- Who should make the call that certain speech breaches that threshold?
- Should there be a consideration of intent ?

A7: Freedom of Speech and the Prevailing Culture

As the Royal Commission clearly stated, Section 14 of the New Zealand Bill of Rights Act 1990 provides:

“Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.”

However, this right is also balanced with “reasonable limits” as under section 5 of the New Zealand Bill of Rights Act,

“... subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”

These reasonable limits include such categories as:

- defamation,
- incitement,
- fraud,
- child pornography,
- obscenity,
- promoting violence and
- expressing threats.

Simply put, people have the right to challenge in court if they believe their freedom of speech is in any way unfairly curtailed. However under the current legislation, those who have been impacted by hate speech due to their faith, have no opportunity to seek redress from the court. This is simply not fair.

Whilst many of the above limits have been tested in the courts, the central point here is that there is always the opportunity to litigate one’s grievance if the freedom of expression is curtailed in any measure. From our perspective this significant backstopping opportunity is critical to the debate. Simply put, people have the right to challenge in court if they believe their freedom of speech is in any way unfairly curtailed. However under the current legislation, those who have been impacted by hate speech due to their faith, have no opportunity to seek redress from the court. This is simply not fair. As such, the balance is weighed in favour of freedom of expression and not for those of faith who suffer from being targeted by hate speech.

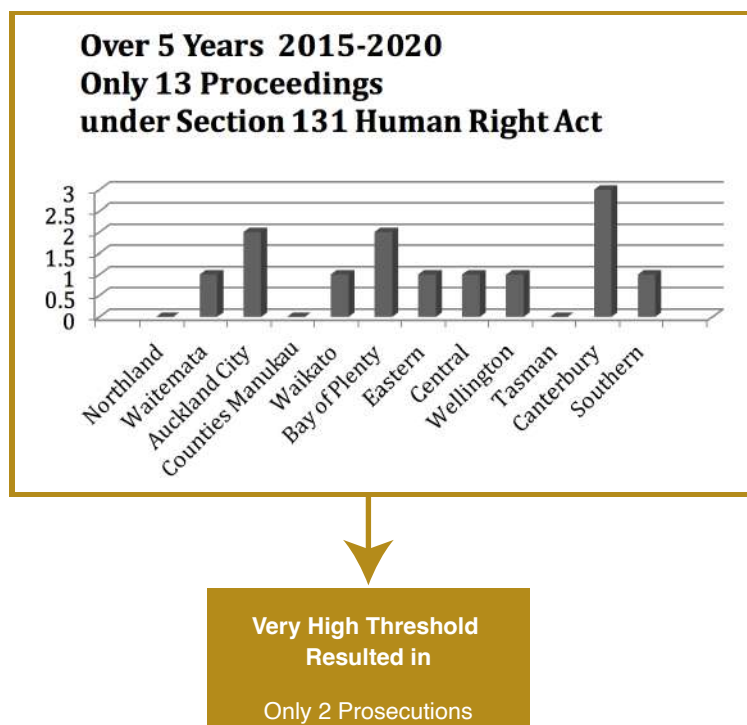
There are three other contextual issues which need to be considered.

Firstly, the history of Aotearoa is one where “New Zealanders exult in the belief that theirs is a reasonably tolerant society, where the right to say what you think is part and parcel of a broader commitment to giving everyone “a fair go”.⁸ This socio-cultural trait cannot be underestimated in this debate.

⁸ <https://ourarchive.otago.ac.nz/bitstream/handle/10523/8753/The%20State%20of%20Freedom.pdf?sequence=1&isAllowed=y>

Secondly, a similar sentiment can also be made in the context of the politico-legal and media framework in Aotearoa NZ. For instance, in 2007 our Parliament, as the highest court of political opinion, adopted a Sessional Order which prohibited the use of parliamentary camera footage (live and recorded) for the purpose of satire, ridicule or denigration.⁹ The country’s television broadcasters—TVNZ, TV3, Maori TV and Sky News— issued a joint statement that they would ignore the rules “where warranted”, and that if one broadcaster is ejected from covering Parliament for breaching the rules, all broadcasters would cease coverage.¹⁰ As Geddes noted, “the legal niceties surrounding this issue seem to play second fiddle to the public’s perception of it (“bloody MPs can’t take a joke”) and the power of the broadcast media to shape that perception. And given that MPs need the news media just as much as the news media needs MPs, there perhaps is little need for a guaranteed right of freedom of expression to protect their interests against parliamentary moves to limit it.”¹¹ The power of the formal and the social media cannot be underestimated in ensuring the ongoing culture of freedom of expression in Aotearoa NZ.

It should be noted that the prevailing culture of ‘giving everyone a fair-go’ in New Zealand, combined with the power of the media and social media for open public expression is a powerful antidote to any curtailment of free speech. The trifecta in this scenario is the high threshold of the judgment bench. When the NZ Catholic Bishop’s Conference appealed against the Broadcasting Standards Authority (BSA) over an episode of the cartoon series South Park portraying a menstruating statue of the Virgin Mary¹², the High Court ruled in favour of the BSA, citing that it would be an unreasonable limitation of the broadcaster’s right to freedom of expression.



⁹ House of Representatives, Sessional and other orders of continuing effect made during the 48th Parliament, 28 June, 2007. These new rules were recommended in a unanimous report of the Standing Orders Committee, “Television coverage of the House”, AJHR I.18A, June 2007

¹⁰ <https://ourarchive.otago.ac.nz/bitstream/handle/10523/8753/The%20State%20of%20Freedom.pdf?sequence=1&isAllowed=y>

¹¹ <https://ourarchive.otago.ac.nz/bitstream/handle/10523/8753/The%20State%20of%20Freedom.pdf?sequence=1&isAllowed=y>

¹² Broadcasting Standards Authority, Code of Broadcasting Practice: Free to Air Television, August 2006 (at <http://www.bsa.govt.nz/pdfs/bsa-freetvcode.pdf>)

Whilst many argue that the introduction of hate speech laws will erode this bulwark, the fact remains that since 1993 there have been such laws in place and there has been only two cases of a successful prosecution under the HRA for inciting racial disharmony. The first related to a Tauranga man who posted a YouTube video calling for genocide and a race war against Māori. It is interesting that the Judge made a direct association between the hate speech and possible violence later. "It wouldn't be surprising if a video which "incited hate against Māori" was quoted by a future shooter, a Judge has told its maker."¹³ Even this exception, shows the bar for successful prosecutions is very high. It has taken some 29 years for only 2 such prosecutions to occur.

As such, there is overwhelming and compelling evidence that freedom of speech is ingrained into the DNA of our society and the NZBORA provides a further bulwark to this freedom. There has been hate speech legislation for nearly three decades and this has not in any way eroded our freedom of expression.

Of concern in this context is the misdirection that some have resorted to. One organisation sent approximately 15,000 submissions against the hate speech legislation to the Justice Ministry. They claimed that "15,000 Kiwis have submitted to the Ministry of Justice" and that no other public consultation has ever had such a large response". Simply put, no evidence was given for this. The Justice Department in their report stated these were "pre-populated" forms submitted on-line. There was no reference to 15000 individual Kiwis. This may have been one person or several persons simply 'clicking' the 'prepopulated form' and sending on-line. The Ministry of Justice report did not mention 15,000 individuals, but rather just "several members of the public". In fact the report further clarified this as "counted as one submission for the purpose of the report"^{13.1} Without validation of the '15000 Kiwis' this is simply conjecture and in our view a calculated misdirection. We would have preferred such civil society organisations to be upfront with the evidence. With respect to their claim that 'no other consultation had such a large response', here they have simply ignored facts. The 'Save Manapouri' campaign had over 250,000 verified named individuals and there have been many other such consultations with much larger numbers than 15000 claimed by this organisation. . Moreover with respect to the Hate Speech submission the Ministry conducted 30 community meetings in Auckland, Hamilton, Wellington, Christchurch and online and the average number of attendees were less than 10 persons.^{13.2} This amounts to approximately only 300 people, hardly a large number. Yet again the civil society organisation's claims does not seem to be borne by facts and evidence. In our view, when a civil society organisation sacrifice the quality of debate by resorting to pre-populated un-identified on-line forms to simply stack numbers, there may be a moral question of legitimacy. There are others however, such as a former RNZ journalist, who uses his platform to espouse his views and try to relive the days when he was a serious journalist.. Though very harsh and 'wacko' at times to gain media notoriety, he nevertheless is exercising his rights in the best traditions of free speech.

The scare mongering of hate speech legislation simply denies the fact that we have had such legislation for over 30 years without a shred of a single evidence of anyone's freedom of expression being curtailed. The best explanation for this oversight could be that the detractors have not done their history homework nor are they bothered about evidence-based decision making. They are simply fanning the embers of emotion and in the process hiding the reality of those who are being hurt, dehumanised and othered by hate speech.

When a civil society sacrifice the quality of debate by resorting to pre-populated on-line forms to simply stack numbers, there may be a moral question of legitimacy.

¹³ <https://www.stuff.co.nz/national/128430749/man-who-went-down-the-rabbit-hole-sentenced-for-video-that-incited-hate-against-mori>

^{13.1} <https://www.justice.govt.nz/assets/Proposals-against-incitement-of-hatred-and-discrimination-Summary-of-submissions.pdf>

^{13.2} <https://www.justice.govt.nz/assets/Documents/Publications/Proposals-against-incitement-of-hatred-and-discrimination-Summary-of-submissions.pdf>

A 8: Examples of Hate Speech

Away from esoteric debates and high level legalese principles, there is a need for everyday examples of what constitutes hate speech. It is very important to distinguish between what is hate speech and what is not. The following are some examples of hate speech.

1. Racial or Ethnic Hate Speech: Expressions that denigrate or demean individuals or groups based on their race or ethnicity. This can include racial slurs, stereotypes, or derogatory comments targeting specific racial or ethnic communities.

Example: "All [insert racial or ethnic group] are criminals and should be deported."

2. Religious Hate Speech: Speech that vilifies or promotes hostility towards individuals or communities based on their religious beliefs or practices. This can involve insults, degrading remarks, or calls for violence against religious groups.

Example: "Muslims are terrorists and should be banned from entering the country."

3. Disability-Based Hate Speech: Expressions that mock, belittle, or demean individuals with disabilities. This can include derogatory terms or insults, or expressions that perpetuate stigmatisation or discrimination against people with disabilities.

Example: "People with disabilities are useless burdens on society and should be locked away."

4. Xenophobic Hate Speech: Speech that fosters animosity, prejudice, or discrimination against individuals or groups based on their nationality or immigration status. This can include xenophobic slurs, calls for deportation, or expressions that incite violence or hatred towards immigrants or refugees.

Example: "Foreigners are leeches who drain our resources and give back nothing."

Some countries have used the following litmus test criteria to demarcate what is hate speech language. They typically include¹⁴:

- iv) Describing group members as animals, subhuman or genetically inferior
- v) Suggesting group members are behind a conspiracy to gain control by plotting to destroy western civilisation
- vi) Denying, minimising or celebrating past persecution or tragedies that happened to group members
- vii) Labelling group members as child abusers, pedophiles or criminals who prey on children
- viii) Blaming group members for problems like crime and disease
- ix) Calling group members liars, cheats, criminals or any other term meant to provoke a strong reaction.

¹⁴ <https://bchumanrights.ca/hate-speech-qa/>

HATE SPEECH	NOT HATE SPEECH
<p>Targets individuals or groups based on attributes such as race, ethnicity, religion, nationality or gender identity.</p> <p>Example: “Most Muslims are terrorists.”</p>	<p>General criticism or disagreement</p> <p>Example: “There have been many acts of terrorism by people who claim to be Muslims.”</p>
<p>Promotes or incites violence, discrimination, or harm against targeted individuals or groups</p> <p>Example: "Muslim women who wear hijab are either terrorists or support terrorism "</p>	<p>Expresses personal opinions or beliefs without promoting harm or inciting violence</p> <p>Example: “Covering hair seems extreme in modern society”</p>
<p>Uses derogatory slurs, epithets, or offensive language to demean or dehumanise individuals or groups</p> <p>Example: “ Jihadi brides ”</p>	
<p>Threatens or harasses individuals or encourages others to do so based on their protected characteristics</p> <p>Example: “I know where you live.” (Context of threatening person)</p>	<p>Expresses a differing viewpoint or challenges ideas without resorting to personal attacks or threats.</p> <p>Example: “ I don’t agree with your religion. I consider it harsh. “</p>
<p>Advocates for the exclusion or segregation of individuals or groups based on their protected characteristics</p> <p>Example: “Women wearing hijab should not be allowed to work here”</p>	<p>Advocates for equal rights, inclusivity, and non-discrimination</p> <p>Example: “ Those who don’t have sufficient English , should first get some more language training before they start work here.”</p>
<p>Incites hatred, animosity, or prejudice towards targeted individuals or groups</p> <p>Example: “ Mosques are centres for spreading jihad”</p>	<p>Promotes understanding, empathy and respect</p> <p>Example: “ Mosques should be open to the public, so we can visit and find out what happens there.”</p>
<p>Spreading false and harmful stereotypes about a particular religious or ethnic group</p> <p>Example “Muslims plan to take over the west with jihad”</p>	<p>Sharing personal experiences or cultural observations respectfully</p> <p>Example: “Muslims have different values to us. “</p>

A9 Examples of Hate Speech Policy of Social Media Companies¹⁵

Social Media companies have realised the harm implications and impact of hate speech. They have varying policies related to on-line hate speech. The following are some examples:

 facebook

<https://transparency.fb.com/policies/community-standards/hate-speech/>

We define hate speech as a direct attack against people — rather than concepts or institutions— based on protected characteristics: race, ethnicity, national origin, disability, religious affiliation, caste, sexual orientation, sex, gender identity, and severe disease.

 YouTube Google

<https://support.google.com/youtube/answer/2801939?hl=en>

<https://support.google.com/adSense/answer/48182?hl=en>

YouTube and Google are owned by Alphabet Inc. and share the same policy on hate speech:

“We remove content promoting violence or hatred against individuals or groups based on any of the following attributes: race or ethnic origin, religion, disability, gender, age, veteran status, or sexual orientation/gender identity”.

 X

<https://help.twitter.com/en/rules-and-policies/hateful-conduct-policy>

“You may not promote violence against or directly attack or threaten other people based on race, ethnicity, national origin, caste, sexual orientation, gender, gender identity, religious affiliation, age, disability, or serious disease”

 vimeo

<https://vimeo.com/help/guidelines>

“We do not allow hateful and discriminatory speech. We define this as any expression that is directed to an individual or group of individuals based upon the personal characteristics of that individual or group.”

 Snapchat

<https://www.snap.com/en-US/community-guidelines>

“Hate speech or content that demeans, defames, or promotes discrimination or violence on the basis of race, color, caste, ethnicity, national origin, religion, sexual orientation, gender identity, disability, or veteran status, immigration status, socio-economic status, age, weight or pregnancy status is prohibited.”

 Spotify

<https://www.spotify.com/hk-en/legal/user-guidelines/>

“Don’t engage in any activity, post any User Content, or register or use a username, which is or includes material that is offensive, abusive, defamatory, pornographic, threatening, or obscene, or advocates or incites violence”

¹⁵ <https://blog.ongig.com/diversity-and-inclusion/human-rights-policy-hate-speech-policy/>

PART B: THE POLITICAL NEXUS

Overview of the Political Response

As a faith-based national organisation, we refrain from political discourse. We are respectful of all political parties.

However the safety, security and well-being of our community makes it incumbent on us to highlight inconsistencies in the political landscape. At issue is that in a democracy differing viewpoints and debate should be encouraged. Our analysis is being offered with this niyat or intention.

B1 Labour Party



Within 15 days of the terrorist attack in 2019, the Government advised that there would be an 'urgent review' of the HRA with respect to hate speech.¹⁶

Little plans fast-track review of hate speech laws

3:02 pm on 30 March 2019

Share this     

Justice Minister Andrew Little says he's fast-tracking a law review which could see hate crimes made a new legal offence.



Andrew Little hopes a new proposal to deal with hate crimes will be drawn up by the end of 2019.
Photo: RNZ / Richard Tindiller

Subsequent to this, the Royal Commission Recommendations were agreed to 'in principle' by the Prime Minister in December 2020. "Recommendation 44: we will work with parties across Parliament on the gaps in hate speech legislation. I know this is a contentious area, and we will work with determination to try and form that consensus if we can."¹⁷

¹⁶ <https://www.rnz.co.nz/news/political/386237/current-hate-speech-law-very-narrow-justice-minister-andrew-little>

¹⁷ https://www.parliament.nz/resource/en-NZ/HansD_20201208_20201208/b573ddbd05f3bf70044df0af66db7ca5eb8d831f

The Government had a strong mandate to pass the legislation, however the Justice Minister at the time (in July 2022), was unable to clearly explain the details of the changes which led to much confusion¹⁸. It did not help that he made himself completely detached from the public discourse. Later, he foundered in the national media with his inability to explain the rationale of the proposed changes or give credible examples.

The next Minister of Justice “guaranteed” in October 2022 that the applicable legislation relating to hate speech would be passed¹⁹. Unfortunately, the Minister was trying to pass legislation which was considered redundant by the Royal Commission. What followed was further confusion and changing priorities, till the decision was made in February 2023 to pass the whole agenda to the Law Commission.²⁰

The new coalition government have yet to take a stand on this matter, however by all indications the hate speech legislation is not a consideration.



Legal Responses to Hate

Work has not yet begun on this project.

In sum, the Labour government failed to keep its promise made in April 2019, for an urgent review of the HRA. There are some underlying reasons for this.

- i) Civil society, communities and other stakeholders have direct input (which requires ample time for community consultation)
- ii) A robust and fit-for-purpose piece of legislation (which requires careful legal construction of the Act, particularly the wording of key parts of the legislation)
- iii) A consensus approach (which needs the agreement of all the political parties)

All of the above are admirable and appropriate, however the time lag was inexcusable.



Hon. Kris Faafoi, Former Minister of Justice

Unable to explain what is hate speech.



Hon Kiritapu Allan, Former Minister of Justice

Promising what the Royal Commission had deemed redundant.

¹⁸ <https://www.rnz.co.nz/news/political/447500/silence-over-hate-speech-laws-has-allowed-misinformation-in-minorities-say>

¹⁹ <https://www.scoop.co.nz/stories/PA2210/S00227/kiri-allan-guarantees-hate-speech-laws-act-guarantees-repeal.htm>

²⁰ <https://gayexpress.co.nz/2023/02/prime-minister-hipkins-confirms-postponement-of-changes-to-hate-speech-laws/>

The political party which passed the Human Rights Act in 1993 with the explicit clauses related to hate speech, is now opposed to the same hate speech laws.²¹ The fact is that no actual wording has been changed to that which was passed by the same political party other than the proposed introduction of religion as a protected characteristic. Yet the new Prime Minister, Rt Hon Chris Luxon clearly



“We don’t see the need for any hate speech laws”. Chris Luxon, Leader of National Party, 2 Nov, 2022

stated earlier in November 2022 that “We don’t see the need for any hate speech laws”.²² However after some probing he left the door open till more details were provided.²³

The new Minister of Justice, Hon. Paul Goldsmith had earlier raised some serious misgivings around the inclusion of ‘faith’ in the HRA. Interestingly, he did not object to the other protected characteristics such as colour, race, or ethnic or national origins. His sole criticism is the inclusion of ‘faith’.

All the five scenarios of ‘serious concerns’ in press release seem to have the common baseline reasoning - that hate speech which includes religion as a protected characteristic would limit “criticism of religious belief”.²⁴

The National Party had earlier invited debate on this issue and our response follows:

National Party position, based on their earlier press statement, is that including religion as a protected category will lead to limiting criticism of religious belief. “New legislation released today means it will be a crime to bring contempt or ridicule upon any group due to their “religious belief” which risks criminalising speech that is part and parcel of public discourse.” (National Party)^{24.1}

FIANZ response is that the weight of evidence does not seem to support this.

Evidence:

Fact 1: NZ has had religion included in the Sentencing Act which creates an offence when someone uses insulting or intimidating language against another person because of their religion. Yet since 1981, not one person has been sentenced on the basis of criticism of religion. There has been endless platforms, particularly in recent social media, where religion has been criticised, its views challenged and its adherents subject to ridicule. Despite all this there has not been one case of a person being prosecuted for criticising religious belief. As the former President of the Court of Appeal and a Justice of the Supreme Court noted²⁵, there are five statutes that impose liability or provide remedies for hate speech.²⁶ They include,

²¹ https://www.national.org.nz/national_will_oppose_labour_s_attack_on_free_speech

²² <https://www.rnz.co.nz/national/programmes/morningreport/audio/2018865126/christopher-luxon-on-government-s-anti-hate-speech-laws-plans>

²³ https://www.rnz.co.nz/audio/player?audio_id=2018865126

²⁴ https://www.national.org.nz/national_will_oppose_labour_s_attack_on_free_speech

^{24.1} https://www.national.org.nz/national_will_oppose_labour_s_attack_on_free_speech

²⁵ <https://christchurchattack.royalcommission.nz/about-the-inquiry/inquiry-team/>

²⁶ <https://christchurchattack.royalcommission.nz/the-report/part-9-social-cohesion-and-embracing-diversity/hate-crime-and-hate-speech/>

- the Human Rights Act 1993;
- the Summary Offences Act 1981;
- the Harmful Digital Communications Act 2015;
- the Broadcasting Act 1984; and
- the Films, Videos, and Publications Classification Act 1993

Apart from the HRA, all the others include religion as a protected characteristic and yet there has not been a single conviction for criticism of religion. We are therefore unsure what evidence the National Party has which leads them to believe that people will be prosecuted for criticising religious belief.

Fact 2: It should be known that criticism of religious belief or blasphemy was a crime in NZ under Section 123 of the Crimes Act 1961, with imprisonment for up to a year.²⁷ However, on 5 March 2019, Parliament unanimously passed the Crimes Amendment Bill, which repealed Section 123 of the Crimes Act. In fact the only prosecution under this archaic law was in 1922 and was based on two poems deemed offensive to religious belief. When the case was tried, the jury returned a verdict of ‘not guilty’. Raising a case which happened over a century ago has no contextual or evidential relevance with the proposed current hate speech laws.

National Party position, their earlier press statement, seems to be that artistic expression against religion will be banned under the proposed hate speech laws. They raise the question “Is artistic expression, like the Book of Mormon musical, now banned?”^{27.1}

FIANZ response is that , the Book of Mormon musical which was at Auckland Civic Theatre in March and April 2020, was never subject to any claim of censorship or banning. The Church of Jesus Christ of Latter-Day Saints in their official statement stated that they have no problem with the musical or anyone who wishes to see it . They recognised it was a parody.^{27.2} As such , there was never any issue of hate speech ban. There is scope to review issues related to parody, satire and other forms of humour which might represent special cases requiring different ground rules. The musical did have some racial matters which were controversial, such as Africans having AIDS, even then the existing hate speech laws which covers race, was not even considered by anyone. As such, we only assume that the National Party was only raising this vague issue, for educative purpose. The threshold for hate speech in the context of artistic expression is very high, to the point that there has never been a successful prosecution.

Evidence:

Fact 1: When the “Virgin in a Condom” 7.5cm sculpture was shown in Te Papa in 1998, Catholic protestors considered it an insult to their faith. National MP John Banks requested the Solicitor-General John McGrath to prosecute Te Papa, but this was refused. The bar is too high for such prosecution. In fact there has not been a single case where such anti-religious artistic expression has been successfully prosecuted in the history of Aotearoa New Zealand.

Fact 2: The Satanic Verses by Salman Rushdie, which led to violence and deaths in many countries was not a subject of any request for prosecution or banning of the book by the Muslim community in NZ. Instead, FIANZ the national

²⁷ "Section 123 Blasphemous libel". Crimes Act 1961. Parliamentary Counsel Office.

^{27.1} https://www.national.org.nz/national_will_oppose_labour_s_attack_on_free_speech

^{27.2} <https://news-uk.churchofjesuschrist.org/article/book-of-mormon-musical>

Muslim umbrella organisation, organised highly attended debates at several universities. It was a matter of ensuring public awareness of the issues rather than seeking the legal route of banning the book. For us countering misinformation is best undertaken through reasoning and debate.

The National Party has provided several other scenarios in their press release, which require a nuanced critique. It has been suggested that if hate speech laws include religion as a protected category, many political parties grounded in religious beliefs may be given special protection and those who have genuine religious belief will be protected from ridicule.

FIANZ response is that the above is simply not the case.

Evidence:

Fact 1: Whether it was Māori Christianity, particularly the Rātana movement or the series of pakeha Christian political parties such as Christian Heritage, the Christian Democrats and the Christian Coalition, there has never been a single case of any being afforded any special protection despite four applicable hate speech statutes which include religion as a protected category. The religious parties have been subject to as much ridicule as any of the other political parties. We note that even politicians openly ridicule religious political parties²⁸. As a seminal study of cartoon history of NZ religious parties noted, criticism and ridicule has been a 150 year tradition in NZ.²⁹ To date there has not been a single conviction for such under any of the applicable hate speech laws.

Then and Now: Cartoon Ridicule with Religio- Political Nexus

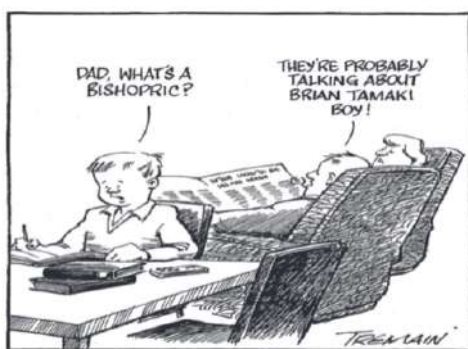


Figure 3: Garrick Tremain, Cartoons, Vol. 15, Christchurch, 2006.

Luxon as an Evangelical Christian



Date: 14 December 2021
By: Hubbard, James, 1949 - Safford News Photo Agency

The claim has been made that hate speech would stifle ridicule of political parties who have a religious nexus. But the threshold remains high for prosecution under applicable hate speech legislations.

Fact 2: In the civil case under section 61 of the HRA which involved a cartoon, *Wall v Fairfax New Zealand Ltd*, was dismissed by the High Court. The Court noted that "hostility against or bringing into contempt" should be applied "only to relatively egregious examples of expression which inspire enmity, extreme ill-will or are likely to result in the group being despised".³⁰ As such, the threshold for successful prosecution is very high and should allay the concerns raised by the party.

In sum, the National Party have raised credible scenarios to use as a litmus test for hate speech legislation. The positive approach advocated by the National Party to seek debate and understanding is an appropriate step towards ensuring adequate consultation and awareness of the issues. We trust that the new Prime Minister has the political will to provide an appropriate safety-net for the vulnerable and complete the work started by a previous National government Prime Minister initiated in 1993. Thirty years has been a long wait.

²⁸ <https://www.newshub.co.nz/home/politics/2019/04/finance-minister-grant-robertson-ridicules-destiny-church-s-brian-tamaki.html>

²⁹ <https://ojs.victoria.ac.nz/jnzs/article/download/117/68/98>

³⁰ <https://christchurchattack.royalcommission.nz/the-report/part-9-social-cohesion-and-embracing-diversity/hate-crime-and-hate-speech/>

The ACT Party has been vigorous in their opposition to the introduction of any hate speech laws. As early as 8 December 2020 when the Royal Commission Report was formally tabled in Parliament, the ACT Party considered it “wrong to introduce British-style hate speech laws without even the exemptions for free and fair debate that those laws have in Britain.”³¹ The latest iteration of that objection in Parliament was on 13 November 2022 with the First Reading of the Human Rights (Incitement on Grounds of Religious Belief) Amendment Bill.³² By far most emphatic statement in this context was the ACT Party leader David Seymours statement in Parliament “I can tell you that if you want to uphold free speech and have this law and other chilling hate speech laws reversed.”³³


Yet, we have noted, the ACT Party’s inconsistency in upholding their own position.

EVIDENCE OF INCONSISTENCY

In early 2023 a Christchurch poet used her artistic license to express her message of a ‘Savage Coloniser’ in a stage show, the ACT Party wanted the Labour Government to withdraw the funding for the stage show.^{33.1} As such, the message was clear that any message that the ACT Party considers “racist” should not be supported and censored. This is quite anomalous to their principled statement of ‘upholding free speech’ and standing ‘against censorship’.

ANOTHER EVIDENCE OF INCONSISTENCY

There is also the inconsistency of on the one hand confirming that it was hatred that led to the Christchurch shootings and then on the other hand stating that laws which prevent public expression of hate (hate speech) should be reversed. This seems so contradictory that it merits a closer analysis.

“HATE LED TO SHOOTINGS”		“ REVERSE HATE LAWS”
<p>In the context of the ‘Savage Coloniser’ stage show , the ACT Party acknowledges that it was “hatred that led to the Christchurch shootings” which killed 51 innocent victims.</p> 	<p>?</p> <p>Recognises hate led to shooting which killed 51 persons but will not consider hate speech laws which helps to prevent such terror.</p>	<p>During parliamentary debate the ACT Party wanted all hate laws reversed.</p>
<p>March 1, 2023</p>		<p>13 December, 2022 Hansard Debate</p>

YET ANOTHER EVIDENCE OF INCONSISTENCY

It is also confusing that on the one hand ACT wants to amend the Summary Offences Act so that it is no longer a crime to behave offensively in public, yet at the same time states that it should be a crime to “incite and threaten violence”. Whilst we concede that there are many types of offensive behavior, a common definition also includes “being aggressive or threatening “.

³¹ https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20201208_20201208_06
³² https://www.parliament.nz/mi/pb/hansard-debates/rhr/document/HansS_20221213_057300000/seymour-david
³³ https://www.parliament.nz/en/pb/hansard-debates/rhr/document/HansS_20221213_057300000/seymour-david
^{33.1} <https://www.newshub.co.nz/home/politics/2023/03/poet-tusita-avia-lashes-act-after-party-calls-book-the-savage-coloniser-racist-and-hate-fuelled.html>

FURTHER INCONSISTENCY

On-line or physical bullying, has similar construct and consequences to both on-line and physical expressions of hatred.³⁴ The ACT Party suggests that those who are kids should be protected from bullying.^{34.1} Given that the Act Party considers that at the age of 17 a person is an adult,^{34.2} the ACT Party is also suggesting that no one above that age should be protected from bullying. The harmful consequences of bullying has no age boundary. We are not sure what evidence the ACT Party has that a seventeen year old person would suddenly be immune from on-line bullying and hatred. There is enough empirical evidence that the impact on mental health and social wellbeing of bullying and hatred has no age limitation.

In sum, The ACT Party seems to be focused on objecting to any hate speech laws but have some glaring inconsistencies. The position that we fully concur with the ACT Party is that concedes that there are limits to hate speech. The ACT Party clearly states that “it should be a crime to incite or threaten violence”³⁵ This demarcation of hate speech is both logical and consistent with the notion of limits of free speech. We trust that the ACT Party will also acknowledge the need for robust debate and not just 'shelving' the proposed legislation which is a bedrock to social cohesion.

B.4 Green Party



The Green Party has been consistent in their support for hate speech laws. They noted the following rationale.

“The Green Party is pleased that faith groups will finally be covered but the Government has missed the opportunity to ensure that every community that we know is targeted by extremism and hate can feel safe.

“Faith communities have been very clear that their call for better protection has always been to ensure no other group has to go through the pain and loss that our Muslim community endured on 15th March 2019.

“No group has called for just themselves to be protected.

“Love, peace, and compassion is a far stronger force than the forces of hate and division. Rather than wasting the last three years, the Government should have been brave enough to have the hard conversations we need to have as a country; to shine the light into the shadows of hatred that exist in pockets of our society

“One of the heartbreaking lessons of the March 15th terror attack was that the targetted community had been reporting a rise in the type and frequency of hate for years, with no way for our agencies to capture or respond to that trend.

“The Royal Commission into the Mosque terror attack clearly calls for the Government to be responsive to new and emerging types of threat and extremism.”³⁶

In sum, the Green Party has been strident in its approach, value-laden in its rationale and focused in its conviction for the need for hate speech legislation in keeping with the Royal Commission recommendation. We trust this will continue until we have the safety net legislation for our vulnerable communities.

³⁴ <https://www.frontiersin.org/articles/10.3389/feduc.2023.1076249/full>

^{34.1} https://www.act.org.nz/new_bill_will_protect_freedom_of_expression

^{34.2} <https://www.1news.co.nz/2023/07/09/act-party-vows-to-put-17-year-olds-back-into-adult-justice-system/>

³⁵ <https://www.1news.co.nz/2019/06/15/act-party-says-new-bill-will-protect-freedom-of-expression/>

³⁶ https://www.greens.org.nz/hate_speech_change_welcome_but_still_leaves_communities_at_risk

B.5 Te Pāti Māori



Te Pāti Māori has been consistent in their support for hate speech laws. Their co-leader, Rawiri Waititi, noted that “this is a kaupapa that we feel very strongly about and will be supporting this particular bill.”³⁷ They also want a joint taskforce to investigate anti-Maori hate speech from white supremacist organisations. “If we have learnt anything from the Christchurch massacre, it is that it only takes one delusional person with some extreme views about their superiority to wipe out whakapapa.”^{37.1}

Te Pāti Māori has been resolute in the need-value of the proposed legislation. This need is based on ensuring that the social cohesion equity stakes are shared by all communities in Aotearoa NZ.

B.6 New Zealand First



The NZ First Party leader and Deputy Prime Minister Hon Winston Peters was part of the government when the Royal Commission submitted its recommendation on hate speech legislation. At that time and since then, he has not criticised the proposed legislation nor has he stridently supported it. As such there seems to be an absence of a baseline position. This is understandable, given that he has supported both free speech and also argued for the need to ensure limits of such by stressing the importance of responsibilities. In July 2018, as Acting Prime Minister he stressed the importance of free speech and that he would have allowed two controversial far-right activists to speak in NZ despite them being banned from entering Australia.^{37.2} On the other hand, in March 2023, during his “real state of the nation” speech, he stressed that “today all they speak about is rights, they never speak about personal responsibility, never.”^{37.3}

NZ First’s duality of both supporting the right of free speech and stressing the responsibilities associated with such is a reflection of Hon Winston Peters’ pragmatism and his legal pedigree. We trust he will bring this to the fore by raising the importance of this long-overdue legislation.

³⁷ <https://www.teaonews.co.nz/2021/06/29/maori-party-and-national-divided-over-proposed-hate-speech-law-change/>

^{37.1} https://www.maoriparty.org.nz/te_pati_maori_call_for_joint_taskforce_to_investigate_anti_maori_hate_speech_from_white_supremacist_organisations

^{37.2} <https://www.newshub.co.nz/home/politics/2018/07/winston-peters-would-ve-let-controversial-far-right-speakers-into-nz.html>

^{37.3} <https://www.rnz.co.nz/news/political/486644/winston-peters-rails-against-secret-woke-agenda-in-campaign-speech>

PART C: DEMOCRATIC AGENDA

In the debate related to hate speech legislation, a fundamental issue needs to be addressed. **What is the impact on the democratic values of a country when restrictive hate speech legislation is introduced?**

C 1: Are Democratic Values Undermined by Hate Speech Legislation?

A recent major study on ‘Hate Speech Laws in Democratic Countries’, explored the issue that ‘if restricting hate speech inflicts catastrophic harm on freedom of speech, and if freedom of speech is so essential to democracy, then we should expect very few successful democracies in the world to have such restrictions.’³⁸ The study employed a robust methodology for the empirical analysis of the above issue. Given the varied understanding of the concept of ‘democracy’, the study used a number of well-known indices :

- The Democracy Index
- Cato Institute’s Human Freedom Index,
- Freedom House’s Freedom in the World Report,
- Polity IV, and
- Reporters Without Borders’ World Press Freedom Index.

Out of a field of some 167 countries only 76 countries were chosen as functioning democracies for the study. Of the above 76 countries, 64 of them had hate speech legislations and 12 countries did not. The results of the study revealed

- that majority of the ‘world’s most democratic countries restricted free speech’.
- countries with hate speech laws ranged from 73% to 95% of the top quartile depending on the index.³⁹
- Norway was highest placed in the Democratic Index amongst the top 24 democratic countries with hate speech laws and the USA was ranked 25th and did not have hate speech laws.

There however is one important caveat mentioned in the above study, that is the “study doesn’t prove that hate speech laws aren’t unhealthy to a democracy, just that at the very least they aren’t fatal.”⁴⁰

“Consistent across multiple measures that a majority of the world’s freest and most democratic countries actually restrict hate speech.”⁴¹

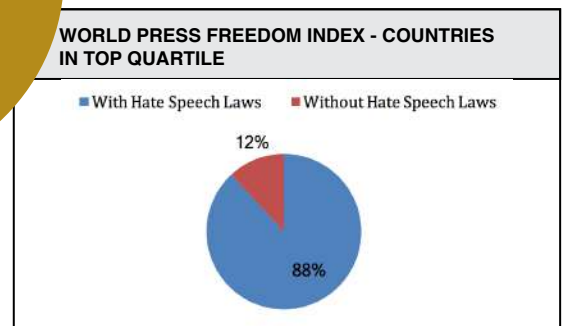
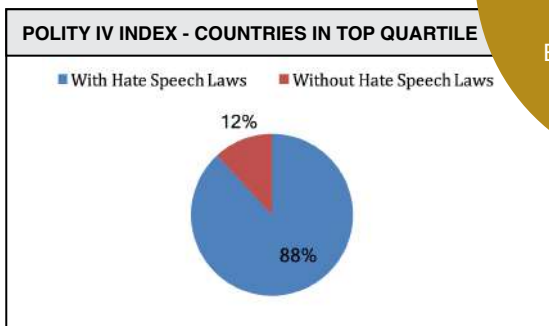
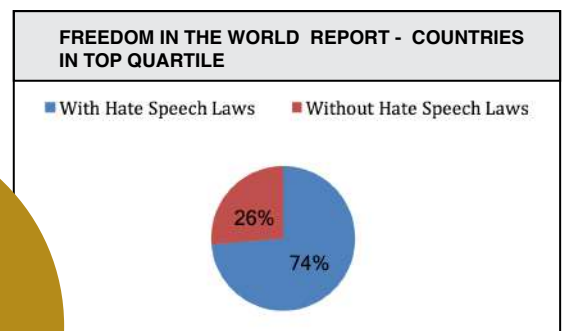
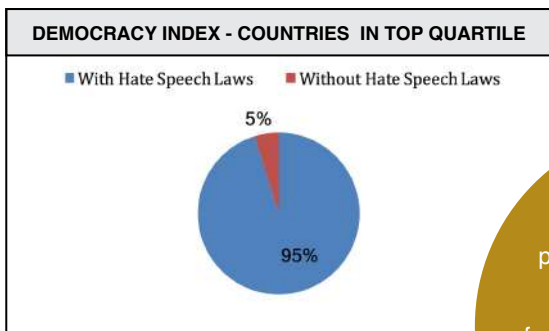
³⁸ <https://digitalcommons.jsu.edu/compass/vol5/iss1/2/>

³⁹ <https://digitalcommons.jsu.edu/compass/vol5/iss1/2/>

⁴⁰ <https://digitalcommons.jsu.edu/compass/vol5/iss1/2/>

⁴¹ <https://digitalcommons.jsu.edu/compass/vol5/iss1/2/>

Countries ranked in the top quartile of major democracy indices



Hate Speech laws are consistent with the principles of 'Democracy', with an overwhelming majority of the world's freest countries restrict hate speech.

Every democratic metric (index) highlight this empirical evidence

In sum, the notion that free speech absolutism is essential for a functioning democracy is difficult to defend in the context of such compelling evidence.

C2: Hate Speech and Related Legislation in Various Countries (Alphabetical)

Australia:

Racial Discrimination Act 1975, Section 18C:

"(1) It is unlawful for a person to do an act, otherwise than in private, if:

(a) the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and
(b) the act is done because of the race, color or national or ethnic origin of the other person or of some or all of the people in the group."

(2) Provides exceptions based on matters of public interest, artistic expression, and fair comment.

Canada:

Canada has legislation that prohibits hate speech under the Criminal Code.

Section 319 of the code makes it an offense to communicate statements that incite hatred against an identifiable group based on race, religion, ethnic origin, sexual orientation, gender identity, or disability. However, there are certain defenses and exceptions in place to balance freedom of expression.

Criminal Code, Section 319(1):

"Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of:

(a) an indictable offense and is liable to imprisonment for a term not exceeding two years; or
(b) an offense punishable on summary conviction."

France:

France has legislation that addresses hate speech and promotes respect for individual dignity. Under the French Penal Code, it is illegal to provoke discrimination, hatred, or violence against a person or group based on race, religion, ethnicity, nationality, sexual orientation, gender identity, or disability.

Hate speech legislation in France includes provisions from the French Penal Code (Code pénal), such as:

- Article 24(8): Prohibits public provocation to discrimination, hatred, or violence against a person or group of persons on the grounds of their origin or membership in a particular ethnicity, nation, race, or religion.
- Article 225-1: Addresses Holocaust denial, making it an offense to contest the existence or magnitude of crimes against humanity as defined by international law.

Germany:

Germany has strict laws regarding hate speech due to its historical context. Under the German Criminal Code, Section 130, it is a criminal offense to incite hatred against individuals or groups based on their race, ethnicity, religion, or sexual orientation. This includes publicly denying or trivializing the Holocaust. The German Criminal Code (Strafgesetzbuch - StGB) includes provisions related to hate speech, including:

Section 130: Criminalizes incitement to hatred, dissemination of hate symbols, and denial of the Holocaust. For example, it prohibits public incitement to hatred against segments of the population, endorsing, or glorifying the National Socialist regime, or denying the Holocaust.

Malaysia:

Penal Code, Section 298A: "Whoever by words, either spoken or written, or by signs, or by visible representation, or by any act, activity, or conduct, or by organizing, or by holding or participating in any activity, or by displaying any notice, placard, banner, writing, painting or any other visible representation, which is likely to cause fear or alarm, or to provoke violence or ill-will between persons or any class of persons, shall be punished with imprisonment for a term which may extend to five years."

Netherlands:

Dutch Criminal Code (Wetboek van Strafrecht), Article 137c: "He who publicly, orally, in writing or through images, deliberately expresses himself insulting of a group of people because of their race, religion, sexual orientation, or personal convictions, will be punished with imprisonment for a maximum of one year or a fine of the third category."

Singapore:

Sedition Act: The Sedition Act in Singapore criminalizes seditious acts, including promoting feelings of ill-will and hostility between different races or classes of the population.

South Korea:

South Korean Criminal Act, Article 307: "A person who defames another by alleging, communicating, or publicly exposing false facts with the intention of slandering another shall be punished by imprisonment

Sweden:

Swedish Penal Code (Brottsbalken), Chapter 16, Section 8: "A person who, in a statement or communication that is disseminated to the public or made available to the public, threatens or expresses contempt for a national, ethnic, or other such group of people with allusion to race, color, national or ethnic origin, religious belief, or sexual orientation, shall be sentenced for incitement against a national or ethnic group to imprisonment for a maximum of two years or, if the crime is petty, to a fine."

United Kingdom:

In the United Kingdom, hate speech legislation is covered by various laws, including the Public Order Act 1986 and the Communications Act 2003. These laws prohibit the incitement of hatred based on race, religion, sexual orientation, or disability. In addition, there are specific laws regarding hate speech related to religiously aggravated offenses.

Public Order Act 1986, Section 18:

"A person who uses threatening, abusive or insulting words or behavior, or displays any written material which is threatening, abusive or insulting, is guilty of an offense if—

- (a) he intends thereby to stir up racial hatred, or
- (b) having regard to all the circumstances racial hatred is likely to be stirred up thereby."

Communications Act 2003, Section 127:

"(1) A person is guilty of an offense if he—

- (a) sends by means of a public electronic communications network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or
- (b) causes any such message or matter to be so sent."

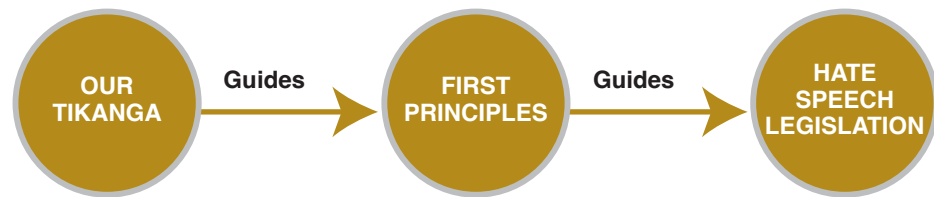
USA

It is important to note that the USA no specific 'hate speech legislation'. First Amendment requires the government to strictly protect robust debate on matters of public concern even when such debate devolves into distasteful, offensive, or hateful speech that causes others to feel grief, anger, or fear. (The Supreme Court's decision in *Snyder v. Phelps* provides an example of this legal reasoning.) Under current First Amendment jurisprudence, hate speech can only be criminalized when it directly incites imminent criminal activity or consists of specific threats of violence targeted against a person or group.³⁷

³⁷ <https://www.ala.org/advocacy/intfreedom/hate>

PART D : LEGISLATIVE AGENDA

D.1 Towards the Legislative Agenda – Understanding of Our Tikanga



In a liberal democracy, it is a sign of maturity when people can criticise, argue and even dissent to make their views known and not be subject to any form of ‘thought crime’. This is not tolerance but a basic human right.

Civil society needs to focus on not just strengthening such basic human rights but also providing safe spaces so that divergent, contradictory and extreme views can have social currency in our democratic society. Society is the winner and our social fabric is strengthened when we are exposed to differences which challenge our own sentiments. Diversity of viewpoints is the baseline prerequisite for progressive social change.

At the same time, both history and everyday commonsense has provided valuable lessons that when hate, prejudice, discrimination and other such sentiments have unabated social currency the consequent transactions have outcomes that run counter to basic human rights. They engender a range of responses from victimisation at one end of the spectrum to that of violence at the other end. It is this spectrum which needs to be addressed. Complexity arises when demarcating the legal parameters of this spectrum.

The First Principles need to address both the above spectrum and the complex issues they raise. They also provide the essential reference frames for the hate speech legislation. This reference frame has the objective of balancing the protection of individuals from harm whilst preserving the freedom of expression.

Lessons from existing legislation in NZ and from overseas experience have noted that the striking of a balance between freedom of expression and hate speech remains aspirational. In this context the First Principles provide the foundation on which to develop the legislative reference framework.

It is important to note that for Muslims, Islam is considered a ‘deen’ or ‘way of life’. It is our deen which guides our tikanga or our world view and values. The First Principles are derived from our Tikanga.

OUR TIKANGA

Promotion of Peaceful Coexistence:

Islam emphasises the promotion of peaceful coexistence and harmony among people of different backgrounds and beliefs. Hate speech that fuels animosity, discord, or hostility goes against the Islamic principle of fostering peaceful relations and mutual respect. Muslims are encouraged to engage in constructive dialogue and to speak words that contribute to understanding and unity.

Accountability and Responsibility:

Islam teaches that individuals are accountable for their words and actions. Muslims are encouraged to take responsibility for their speech and to consider the potential impact on others. Hate speech that causes harm or fosters enmity is seen as a violation of the responsibility to speak with wisdom, kindness, and consideration.

Emphasis on Social Responsibility:

Islam emphasises the importance of social responsibility and upholding the rights of others. Hate speech that targets individuals or communities based on their religion, race, or other characteristics is seen as a breach of this responsibility. Muslims are encouraged to use their speech to uplift others, promote justice, and foster positive social change.

Mercy, Forgiveness, and Compassion:

Islam encourages Muslims to embody values of mercy, forgiveness, and compassion. Hate speech that promotes division, prejudice, or discrimination contradicts these principles. Muslims are encouraged to respond to hate speech with patience, wisdom, and by setting an example through respectful dialogue and understanding.

Striving for Excellence in Speech:

Islam promotes the concept of "husn al-khitab," which means striving for excellence in speech. Muslims are encouraged to choose their words carefully and to speak in a manner that is beneficial, respectful, and conducive to harmony. Hate speech is seen as antithetical to the concept of "husn al-khitab" and is discouraged.

Emphasis on Justice:

Islam places a strong emphasis on justice and fairness. Hate speech that targets individuals or groups based on their religion, race, or other protected characteristics undermines the principles of justice. Muslims are encouraged to advocate for justice, equality, and the protection of human rights, which includes speaking out against hate speech and standing up for those who are targeted.

Importance of Intention and Sincerity:

Islam considers intention and sincerity as crucial factors in evaluating speech. Muslims are encouraged to examine their motives and intentions behind their words. Hate speech driven by personal biases, animosity, or a desire to cause harm is inconsistent with the teachings of Islam. Muslims are urged to purify their hearts and speak with sincerity and good intentions.

Seeking Knowledge and Wisdom

Islam places great importance on seeking knowledge and wisdom. Muslims are encouraged to educate themselves about Islam's teachings, including those related to speech and interactions with others. By acquiring knowledge and understanding, Muslims can engage in informed and constructive dialogue, thereby countering hate speech with wisdom and accurate information.

D 2: First Principles

Based on the above tikanga we posit the following as our First Principles :

Protection of Human Dignity:

Hate speech legislation aims to protect the dignity and well-being of individuals and communities. It recognises that hate speech can have a harmful impact on targeted groups, leading to discrimination, prejudice, social division and violence. The principle of protecting human dignity forms the foundation for justifying restrictions on certain forms of speech.

Promotion of Equality and Non-Discrimination:

Hate speech legislation should reflect the principle of promoting equality and non-discrimination. It recognises that certain forms of speech that target individuals or groups based on their race, religion, ethnicity, gender, or other protected characteristics can perpetuate inequality and marginalisation. The legislation should aim to prevent and address such discrimination by providing legal recourse for victims of hate speech.

Public Order and Social Cohesion:

Hate speech legislation should also consider the maintenance of public order and social cohesion. It recognizes that hate speech can contribute to the erosion of social harmony, intergroup tensions, and even violence. By prohibiting certain forms of speech that undermine social cohesion, hate speech legislation seeks to foster a peaceful and inclusive society.

Public Interest and Common Good:

Hate speech legislation should take into account the public interest and the common good. It recognises that the protection of vulnerable groups, the preservation of social harmony, and the promotion of equality contribute to the overall well-being of society. By curbing hate speech, the legislation seeks to create an inclusive and respectful environment for all members of society.

Balancing Rights and Responsibilities:

Hate speech legislation should recognise that rights come with corresponding responsibilities. While individuals have the right to freedom of speech, they also have a responsibility to exercise that right responsibly and ethically. Hate speech legislation strikes a balance between the exercise of individual rights and the responsibility to avoid speech that incites hatred or harms others.

Proportionality and Clarity:

Hate speech legislation should be proportionate and clear in its scope and application. It should define hate speech offenses with precision and provide clear guidelines on what constitutes prohibited speech. The legislation should also consider the context, intent, and potential harm caused by the speech in determining the appropriate legal response.

International Human Rights Standards:

Hate speech legislation should align with international human rights standards and conventions. Many countries draw upon international legal instruments, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to inform their hate speech laws. These standards provide a global framework for upholding human rights, including the right to be free from discrimination and hate speech.

Prohibition of Incitement to Violence:

Hate speech legislation should commonly include provisions that prohibit incitement to violence. Incitement refers to speech that directly encourages or inflames violence against individuals or groups based on their protected characteristics. By targeting speech that poses an immediate risk of harm, hate speech laws aim to prevent violence and protect public safety.

Scope of Protected Characteristics:

Hate speech legislation identifies specific protected characteristics that are safeguarded from hateful and discriminatory speech. These may include race, religion, ethnicity, national origin, gender identity, ableism, or other characteristics deemed deserving of protection. The legislation defines and specifies the scope of these protected characteristics to ensure clarity and consistency in its application.

Intent and Context:

Hate speech legislation should consider the intent and context of the speech in determining its potential harm and legality. It recognises that the same words may have different implications depending on the circumstances in which they are spoken. Evaluating the intent and context helps ensure that legitimate expressions of opinion or criticism are not unjustly stifled.

Proportional Remedies:

Hate speech legislation should provide proportional remedies for addressing hate speech. This involves considering the gravity of the harm caused, the impact on targeted individuals or groups, and the overall societal context. Proportional remedies may be tailored to the severity of the offense and the need to deter future incidents.

Ongoing Review and Adaptation:

Hate speech legislation should be subject to ongoing review and adaptation to reflect societal changes, emerging challenges, and evolving understanding of hate speech dynamics. Regular evaluation helps ensure that the legislation remains effective, relevant, and proportionate, while taking into account new forms of communication, social dynamics, and evolving standards of human rights.

D3: Our Suggestion for the Legislative Changes

FIANZ had extensive consultation and engagement with the Royal Commission. The recommendations of the Royal Commission fully aligned with our submissions and subsequent consultations.

Although a period of over three years has passed, we consider the Royal Commission recommendations as valid and appropriate.

These recommendations include:

Recommendation 39

We recommend that the Government:

Amend legislation to create hate-motivated offences in:

- a) the Summary Offences Act 1981 that correspond with the existing offences of offensive behaviour or language, assault, wilful damage and intimidation; and
- b) the Crimes Act 1961 that correspond with the existing offences of assaults, arson and intentional damage.

Recommendation 40

We recommend that the Government:

Repeal section 131 of the Human Rights Act 1993 and insert a provision in the Crimes Act 1961 for an offence of inciting racial or religious disharmony, based on an intent to stir up, maintain or normalise hatred, through threatening, abusive or insulting communication with protected characteristics that include religious affiliation.

With respect to the wording of the Crimes Act 1961, we consider the suggestion by the Royal Commission is valid and appropriate.

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;
- 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.

Most Recent Legislation (Australia)

Recently the NSW government passed the following Religious Vilification Bill. Of particular note is the wording of the legislation which ensures the threshold is specific – “to incite hatred towards, serious contempt for or severe ridicule of “ and at the same time ensures that there is wide scope free speech, with qualifications of a “public act, done reasonably and in good faith ...”



New South Wales

Anti-Discrimination Amendment (Religious Vilification) Bill 2023

No. 2023

A Bill for

An Act to amend the *Anti-Discrimination Act 1977* to make it unlawful to vilify a person or group of persons on the ground of religious belief or affiliation or religious activity.

Part 4BA Religious vilification

49ZD Definitions

In this part—

public act includes—

- (a) a form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, telecasting, screening and playing of tapes or other recorded material, and
- (b) conduct, not being a form of communication referred to in paragraph (a), observable by the public, including—
 - (i) actions and gestures, and
 - (ii) the wearing or display of clothing, signs, flags, emblems and insignia, and
- (c) the distribution or dissemination of matter to the public with knowledge the matter promotes or expresses hatred towards, serious contempt for or severe ridicule of—
 - (i) a person on the ground the person has, or does not have, a religious belief or affiliation, or
 - (ii) a person on the ground the person engages, or does not engage, in religious activity, or
 - (iii) a group of persons on the ground the members of the group have, or do not have, a religious belief or affiliation, or
 - (iv) a group of persons on the ground the members of the group engage, or do not engage, in religious activity.

49ZE Religious vilification unlawful

- (1) It is unlawful for a person, by a public act, to incite hatred towards, serious contempt for or severe ridicule of—
 - (a) a person on the ground the person—
 - (i) has, or does not have, a religious belief or affiliation, or
 - (ii) engages, or does not engage, in religious activity, or
 - (b) a group of persons on the ground the members of the group—
 - (i) have, or do not have, a religious belief or affiliation, or
 - (ii) engage, or do not engage, in religious activity.
- (2) Nothing in this section renders unlawful—
 - (a) a fair report of a public act referred to in subsection (1), or
 - (b) a communication or the distribution or dissemination of any matter on an occasion that would be subject to a defence of absolute privilege, whether under the *Defamation Act 2005* or otherwise, in proceedings for defamation, or
 - (c) a public act, done reasonably and in good faith, for academic, artistic, scientific, research or religious discussion or instruction purposes or for other purposes in the public interest, including discussion or debate about and expositions of an act or matter.

The reality is that there will always be scope for some 'grey areas' in legislation. It is our view that our democratic values and the respect for the judiciary is such that we have full trust in our legal process in the application of the hate speech legislation.

As noted earlier, it is important to ensure that hate speech legislation is crafted and implemented carefully to avoid unintended consequences. There is always a need for robust safeguards to protect freedom of expression, clear definitions of hate speech, and fair and impartial enforcement to avoid potential misuse or infringement upon legitimate speech. We have discussed each of these in this report.

Finally, as also noted earlier, balancing the protection of vulnerable groups with the preservation of democratic principles requires ongoing dialogue, critical assessment, and respect for diverse perspectives within democratic societies. We believe adequate resources need to be given to communities to ensure that the dialogue of understanding continues through social cohesion programmes and educational awareness.

Simply put, our position is pro-human rights, pro-divergent views and pro-robust discourse. Our opposition is to hate, discrimination and prejudice in any form. From the experience of our suffering and trauma after 15 March, we also have to be realists. Our approach is pragmatic and based on proven measures which range from education and cohesion programmes at the one end, and a transformative legislative agenda at the other. We are adherents of an integrated approach, firmly grounded in the view that recognises the limitations of solely pursuing a legislative agenda in a liberal democracy.

PART E: OUR BASELINE MUSLIM VALUES ON FREEDOM OF EXPRESSION AND HATE SPEECH

E1: FREEDOM OF EXPRESSION

The Islamic perspective on freedom of expression acknowledges its significance while also recognising the ethical and moral responsibilities that accompany it. Islam encourages the expression of ideas, opinions, and thoughts, as well as the pursuit of knowledge and intellectual discourse. However, Islam also emphasises the need to exercise freedom of expression responsibly, with consideration for the welfare of individuals and society as a whole.

In Islam, freedom of expression is guided by principles of justice, truth, and respect for others. Muslims are encouraged to speak the truth, engage in constructive dialogue, and promote understanding among people. Islam promotes the exchange of ideas and encourages Muslims to use their voices for the betterment of society, to stand up against injustice, and to advocate for the rights of the marginalised.

At the same time, Islam sets clear boundaries on freedom of expression. Speech that spreads falsehoods, slanders others, incites violence, promotes hatred, or causes harm to individuals or society is discouraged. Islam promotes responsible speech that upholds ethics, avoids harming others, and safeguards the dignity and honour of individuals.

Islamic teachings also emphasise the importance of maintaining social harmony and avoiding actions that disrupt the peace and unity of society. While individuals have the right to express their opinions, this should not be done at the expense of creating divisions, inciting violence, or undermining the rights and well-being of others.

It is important to note that interpretations of freedom of expression may vary within the diverse Muslim community, and there can be different understandings and approaches to its application. Islamic scholars, jurists, and thinkers may have varying viewpoints on the extent and limitations of freedom of expression based on their interpretations of Islamic teachings and the specific cultural and legal contexts in which they operate.

The Quran, the central religious text of Islam, contains several verses that address the concept of freedom of expression. While the Quran emphasises the importance of seeking knowledge, engaging in dialogue, and expressing one's beliefs, it also provides guidance on the responsible and ethical use of freedom of expression.

Here are a few verses that reflect the Quran's message on this topic:

Honouring Diverse Perspectives:

"O humankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted." (Quran 49:13)

This verse highlights the diversity among human beings and the purpose of this diversity: to foster mutual understanding and knowledge. It encourages people to appreciate and learn from one another's perspectives and backgrounds, emphasising the importance of respecting and valuing diverse voices.

Encouraging Dialogue and Reasoning:

"Invite to the way of your Lord with wisdom and good instruction, and argue in a way that is best. Indeed, your Lord is most knowing of who has strayed from His way, and He is most knowing of who is [rightly] guided." (Quran 16:125)

This verse promotes engaging in dialogue and discussions with wisdom and good manners. It encourages Muslims to convey their beliefs and teachings through peaceful and rational means, fostering understanding and inviting others to the path of truth.

Respecting Others' Beliefs:

"And do not insult those they invoke other than Allah, lest they insult Allah in enmity without knowledge." (Quran 6:108)

This verse emphasises the importance of respecting the beliefs of others. It advises against insulting or mocking the deities or objects of worship of other people, as it can lead to reciprocal insults and enmity. It promotes dialogue based on knowledge and understanding, rather than engaging in disrespectful speech.

Seeking Knowledge and Reflecting:

"Read! In the name of your Lord who created. He created humankind from a clot. Read! And your Lord is the Most Generous. Who taught by the pen. Taught humankind what they knew not." (Quran 96:1-5)

This verse emphasises the value of seeking knowledge and learning, which includes the ability to read, write, and engage in intellectual pursuits. It encourages Muslims to reflect upon the world around them and acquire knowledge to expand their understanding.

Ethical Responsibility in Speech:

"And not equal are the good deed and the bad. Repel [evil] by that [deed] which is better; and thereupon the one whom between you and him is enmity [will become] as though he was a devoted friend." (Quran 41:34)

This verse encourages responding to negativity or enmity with goodness and kindness. It promotes the use of positive speech and actions to address conflicts or disagreements, highlighting the importance of maintaining ethical conduct and peaceful relations.

Conveying the Message with Clarity:

"So remind, if the reminder should benefit." (Quran 87:9)

This verse highlights the importance of conveying the message clearly and effectively. It encourages Muslims to engage in reminders and discussions that are beneficial and can positively impact individuals and society. It underscores the purpose of freedom of expression in sharing knowledge and guidance.

Respecting the Dignity of Others:

"O humankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted." (Quran 49:13)

This verse emphasises the equal human dignity of all individuals, regardless of their backgrounds or differences. It promotes the idea that the noblest and most honorable people are those who are righteous. It encourages Muslims to recognise and respect the inherent worth and value of every human being, fostering an environment of mutual respect and understanding.

Speaking Justly:

"O you who have believed, be persistently standing firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives. Whether one is rich or poor, Allah is more worthy of both. So follow not [personal] inclination, lest you not be just. And if you distort [your testimony] or refuse [to give it], then indeed Allah is ever, with what you do, Acquainted." (Quran 4:135)

This verse emphasises the importance of justice in speech and action. Muslims are encouraged to speak the truth and stand up for justice, even if it means going against their own interests or the interests of their loved ones. It highlights the need to avoid personal biases and to speak with integrity and fairness.

These Quranic perspectives on freedom of expression stress the principles of respect, justice, patience, and wisdom in communication. They encourage Muslims to engage in constructive dialogue, convey their beliefs with kindness and clarity, and embrace the diversity of human perspectives.

E3: NEXUS BETWEEN FREEDOM OF EXPRESSION AND HATE SPEECH IN ISLAM

Islamic perspectives on the nexus between freedom of speech and hate speech can vary based on interpretations and cultural contexts within the diverse Muslim community. It is important to note that Islamic teachings emphasise the values of respect, justice, and responsible speech. While Islam upholds the importance of freedom of expression, it also places ethical and moral responsibilities on individuals in their speech and interactions.

Islam promotes constructive dialogue, peaceful coexistence, and the avoidance of harm. Islam teaches believers to speak truthfully, to promote justice, and to avoid spreading falsehoods, slander, or hate. The Qur'an encourages believers to engage in dialogue with wisdom, good manners, and empathy, seeking to build bridges and understanding among people. Islam promotes the concept of "husn al-khitab," which means striving for excellence in speech. Muslims are encouraged to choose their words carefully and to speak in a manner that is beneficial, respectful, and conducive to harmony. Hate speech is seen as antithetical to the concept of "husn al-khitab" and is discouraged.

In the context of hate speech, Islam condemns speech that incites violence, spreads hatred, or targets individuals or groups based on their race, religion, ethnicity, or other protected characteristics. Muslims are encouraged to promote peace, tolerance, and respect for diversity.

Islamic teachings also highlight the importance of protecting the honour and reputation of individuals. Islam discourages engaging in backbiting, slander, or spreading harmful rumors. Muslims are encouraged to seek knowledge, engage in critical thinking, and express their opinions in a responsible and respectful manner.

It is worth noting that we recognise that there are boundaries of freedom of speech and that there should be appropriate responses to hate speech. We are advocating for hate speech legislation to address harmful speech that incites violence or discrimination. We also seek to prioritise education, dialogue, and community engagement as means of countering hate speech. It is this combination which we regard as most appropriate to respond to the challenges of hate motivated crime.



**The Federation of
Islamic Associations
of New Zealand (Inc.)**

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