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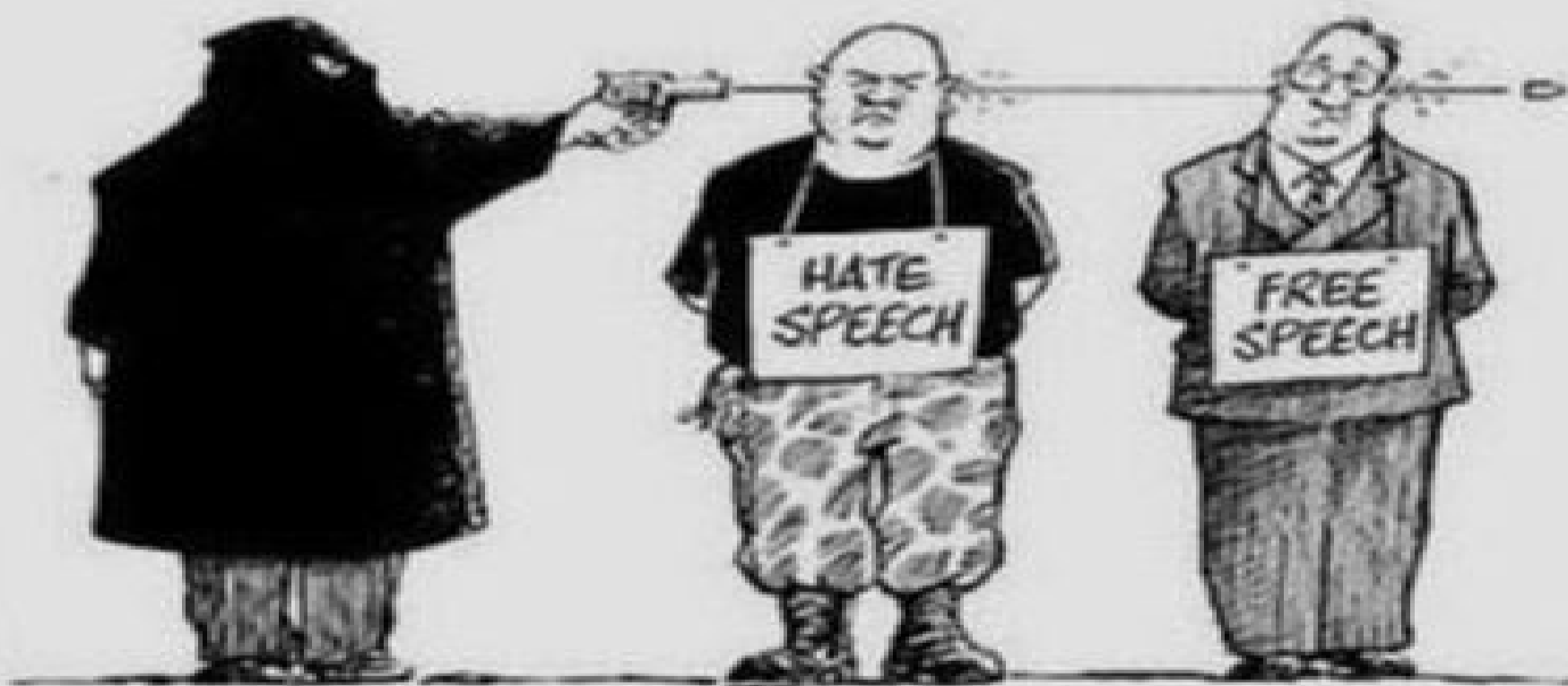
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The eternal debate

The relation between free speech
and hate speech

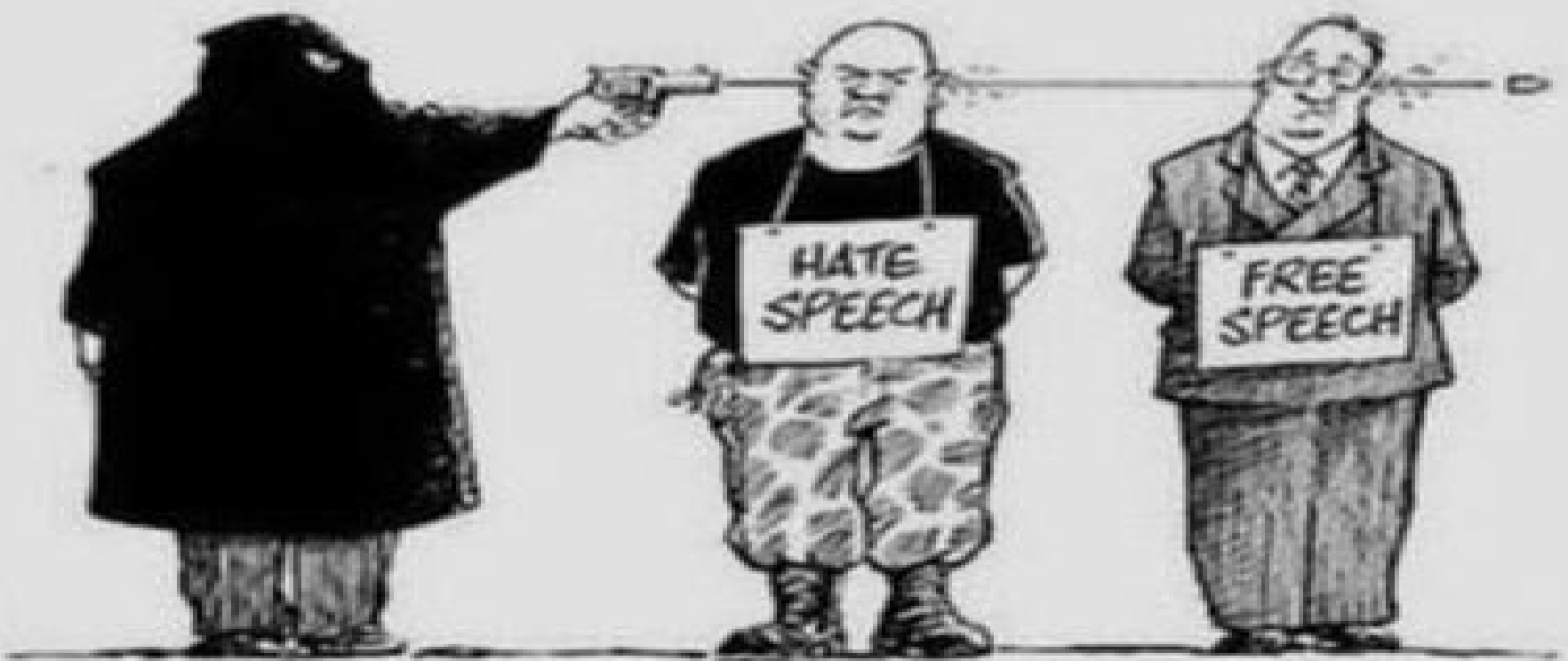


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THE LINE BETWEEN FREE SPEECH AND HATE SPEECH

CAN J.K ROWLING OR COMEDIANS BE JAILED OVER AN UNFORTUNATE COMMENT AT THE WRONG TIME? COULD IT BE THAT UK BECOMES A COUNTRY WHERE TO EXPRESS AN OPINION 'POLITICALLY INCORRECT' IS NO LONGER ALLOWED? THAT'S A FEAR SOME HAVE OVER THE ADVANCEMENT OF LAWS PUNISHING HATE SPEECH. WE ASK: ARE THEY GOOD OR ARE THEY A STEP ON THE WRONG DIRECTION?

EDGAR BOLDÚ





On 11th March 2021 the Scottish Parliament passed by 82 votes to 32 the Hate Crime and Public Order Bill. Since the Scottish Justice Secretary Humza Yousaf introduced the bill on the 23rd April of 2020, the bill has been constantly revised and strongly criticised. Many argued that the definition of “stirring up hatred” is too vague and open to interpretation.

Some suggested, for example, that the bill could lead to author JK Rowling to face a seven-year prison sentence for expressing some of her thoughts about the impact of trans rights on women. Others put as an example that comedians could potentially be prosecuted for making a joke about a “Scotsman, and Englishman and an Irishman” walking into a bar.

Some people are even concern that the proposed laws on possessing “inflammatory material” could potentially lead to libraries and bookshops being prosecuted for stocking books that are deemed to be offensive. Some even started to draw parallelisms and compare this bill with some dystopian books, especially with George Orwell’s novel 1984.

Whether we think these were all exaggerations or not, it didn’t help- it added more fuel to the fire- whenever Yousaf said things like “Conversations over the dinner table that incite hatred must be prosecuted under Scotland’s hate crime law” or “Journalists and theatre directors should also face the courts if their work is deemed to deliberately stoke up prejudice”. Phrases like these raise more concerns and made even wider and more diverse the critic multitude. From Conservatives to Freedom of Speech groups. From the Scottish Catholic Church to ‘blasphemous’ artists. Academics, journalists and even police representatives. No one was fully happy; the bill was not good enough, nor will there ever be. ▶



From left to right: Best-Seller writer J.K. Rowling, Youtuber Mark Meechan - aka Count Dankula - and Public Speaker Milo Yiannopolus. All of them could be arrested under the new Scottish Hate Crime Bill.

Whether we think the SNP was right on promoting this bill or not, it is unquestionable that any legislation aiming to regulate and make punishable by law a certain speech has to be carefully thought through. It's not a debate that can be simply resolved by absolute statements that do not consider the other position.

Let us rewind a second. First, what is hate crime? In the UK, the police and the CPS agreed to define hate crime as: "Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; or religion or perceived religion; or sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity."

This is also a shared standard in most western countries. For example, on most European countries, if someone commits a crime like an assault, and it is proven the offender started it because of the victim's sexual orientation; the punishment will be worse. It will be "aggravated offence".

This seems easy enough. Hate crimes are "aggravated offences"—a standard criminal offence that is motivated by hatred of a particular demographic, and draws added punishment as a result. In fact, if we were dealing just with this there would not be any controversy. The problem, and the main source of the controversy, is that hate speech has started to be added as an offence inside legislations about hate crime. It made punishable by law certain speech. We found ourselves with another question. What is hate speech?

Although there is not yet an international legal definition, and the characterization of what is 'hateful' is still a very controversial and disputed topic, the UN, in multiple documents, defined it as: "any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor".

After reading this definition there are so elements that are slightly blurry. What do we consider a speech or behaviour that attack or is against someone else? If the person or group to which is directed this "attack" does not feel attacked, then there are no consequences or there are regardless of what the potential victim feels? How about things that are not said with such discriminatory intention and malice but are understood to be so by a third party? As you can see, many doubts and questions can be raised.

Seeing this many might think that we shouldn't punish hate speech because is too difficult and would bring chaos and less free speech; but unlike some people might think, we already had in the UK legislation that punish certain speech. Not only in the UK, but also through most of the Western world too. If we look around Europe is not strange to find laws that punish holocaust denial or any promotion of Nazism or anti-Semitic speech. Some will claim that this is different but, nonetheless, it is speech being punished. It is a certain speech being censored.

A bad joke can take you to prison

At this point, I am sure many heard of the following case. On March 2018, Mark Meechan— aka Count Dankula — was arrested on suspicion of breaching the Communications Act 2003 for a video he posted on 2016 where he taught his girlfriend's pug the Nazi salute and to react to different Nazi phrases, such as "gas the Jews".

"My girlfriend is always ranting and raving about how cute and adorable her wee dog is so I thought I would turn him into the least cute thing I could think of, which is a Nazi," he claimed back then. Many high-profile people, especially comedians, joined the conversations about free speech back when they took place, and criticized the ruling as an affront to free speech. Ricky Gervais, Stephen Fry, David Baddiel, Rowan Atkinson or Romesh Ranganathan were some of the people to side with him and make a claim in favour of free speech.

In the word of Gervais: "A man has been convicted in a UK court of making a joke that was deemed "grossly offensive". If you don't believe in a person's right to say things that you might find "grossly offensive", then you don't believe in Freedom of Speech."

On the other side, there was people saying that the video was grossly offensive to the Jewish community and, as society; we could not make jokes of something as serious as Nazism. During the trial, Jewish representatives testified in court that there had been a rise in hate speech after the video appeared on YouTube. Regarding this statement, it is not clear how much of this 'hate speech' they detected was the result of the over-exposition of this case and obviously the actions of internet 'trolls' looking to annoy or bother as a way to show their discontent.

In the end, he was sentenced to pay a £800 fine, but the fear that he could go to prison for a joke was real and was there. Some, perhaps many, might still complain that he had to pay for a simple



Top: 'the Paradox of Tolerance' on a comic strip that was largely shared on Social Media; especially by those supporting to punish by law and not 'tolerate' any idea they claim is intolerant. Above: a Spanish correction explaining the real paradox of tolerance that Karl Popper explained in his book 'The Open Society and its enemies'. It reads: 'Popper supported that society, through their institutions, should forbid the 'intolerants'. So, for Popper, who is the 'intolerant'? Who reasons and use arguments is not intolerant. Intolerant is the people that use violence as their argument. It's dangerous to misinterpret this paradox. It's enough with a majority declares intolerant another one to forbid their ideas.'

joke. Many will consider it a very serious and grave affront. Regardless of that, some still wonder what would have happened if the arrest and suspicion have never happened

It is interesting to point that before the controversy happened the video had merely a few visualizations; mostly from Mark's friends. However, thanks to the controversy the video had hundreds of thousands of views, people supporting him and criticizing the Jewish representatives who accuse him of inciting anti-Semitism and glorifying Nazis views.

On the worst-case scenario that he was actually making that video because he really thought and supported all those radical ideas, the fact was that by pointing at him he became well-known on the British scene; to the extreme that even political parties, especially those on the right, called his door. As some of you might remember, he eventually joined and stood unsuccessfully for UKIP on the 2019 European Elections.

However, it is undeniable that he had already a better platform to spread any message he wanted than he would ever have had if no

prosecution and arresting were done for that video.

There is no question that the vast majority of British society condemns Nazism. Usually, anyone showing the slightest serious sympathy is strongly criticized by most people. Nevertheless, the appearance of a new movement changed the political scene.

The growing presence of Political Correctness

If anyone asked us ten years ago about the concept 'Political Correctness', probably most of us would answer that we never heard of it. Nowadays it is strange to find anyone that has not heard of it.

Robert Longley, on a piece written for ThoughtCo. describes political correctness as a "written or spoken language that's intentionally phrased to avoid offending or marginalizing groups identified by certain social characteristics, such as race, gender... political correctness also includes the avoidance of terms that reinforce preconceived negative stereotypes. The elimination of verbal discrimination is often considered one of the main goals of political correctness."

If we only took the first part of that definition, one could easily say that political correction is perfectly fine. After all, the process of speaking without offending anyone is what it could simply call 'good manners'. No one likes to be offended, especially for a characteristic that is not under your control, an identity trait. But is precisely the main goal that Longley describes what has made political correctness to gain such bad fame on the last years.

First of all, it is worth mentioning the subjectivity of the offense. Everyone can be offended by anything - it's highly probable that the mere fact of me writing these words might offend some of you -because the levels of tolerance, sturdiness or firmness vary. One joke might be offensive for some people belonging to a religion, and at the same time, the same joke might not be offending for other people of that same religion. Usually those who identify themselves as defenders of political correctness (PC) they are often feeling offended on behalf of the group they say it would be offended. Quite often they claim that those not being offended is because they are strong but not everyone else on that group it is, therefore they protect 'them'. This behaviour can seem good for a moment, after all they just 'want to protect the vulnerable'; but nowadays that behaviour has more similarities with paternalism - telling people how should feel and behave, and that is everything for their own sake.

Despite this, if only this was what defined 'Political Correctness' it could still be tolerable. An idea that can be criticise as any other political idea. Where is the problem? The problem is when those that call themselves PC try to regulate language and speech through laws. When they try to 'eliminate' anything that could be considered offensive by making it punishable by law. When they influence political parties to introduce questionable laws that have a massive effect not only on media, academia or arts, but also on our individual rights.

It can be labelled even as a noble thing trying to convince people through arguments to avoid certain language that can be offensive. But the introduction of laws and public policies supported by the government sending the message that only a certain way is the right way to think resembles closely to the same actions that non-democratic and non-liberal governments did on the past. Modern Political Correctness, despite coming from and be related with the left political spectrum, seems to have taken attitudes and practices that fifty, twenty, fifteen or even ten years ago we would have related to the right.

"Piety, self-righteousness, heresy, hunting, denunciation, shaming, assertion without evidence, accusation, inquisition, censoring". Those were some of the adjectives that Stephen Fry - who defines himself as a 'a lefty, a liberal of the most hand ringing milksop milquetoast variety' - used to define Political Correctness when attending a debate on MunkDebate to discuss this topic.▶



Professor Nicholas Christakis assaulted by students at Yale University due to a letter her wife sent arguing against the position of the university regarding. Her wife and him were forced to resign. Halloween costumes.

“It combines much of what I spent a life loathing and opposing”, he added.

Words that seem to be in tune with other people that ten years ago we wouldn’t doubt to qualify as left-leaning or liberals, such as: John Cleese, Bill Maher, Slovenian philosopher Slavoj Žižek, Steven Pinker, Morgan Freeman; or even the former USA president Obama. These are only the more easily recognizable names that at some point criticised the current tense atmosphere of political correctness and the cancel culture that comes with it.

Cancel culture, along with safe space, are some of the key concepts related to political correctness. The cancel culture is the ‘weapon’ used to shut down those with views that are not considered good. This means they try to end their career; they try to obstruct them of being hired anywhere else. Try to sabotage their business, maybe by losing partners; and finally they harass them through social media.

Meanwhile, the safe space is the concept used to excuse this cancellation, or the censoring of any debate they don’t regard as ‘safe’ because of certain speakers being there or for not liking topic that is being discussed or considering it can’t be discussed. It’s basically the excuse if they just suspect someone might say something or use a language which they don’t find ‘tolerable’. After all, to control the language and what can be said and what cannot be said is a way to control what people think.

“In order to be able to think, you have to risk being offensive.”

On July 7 of 2020, an important letter appeared on the media. It was published on Harper’s Magazine under the title ‘A Letter on Justice and Open Debate’ and it was signed by more than 150 public figures – mostly writers, academics and activists – among the signers was people like J.K. Rowling, Salman Rushdie or Margaret Atwood, to name a few. The letter focused on criticizing the current cancel culture that western societies are suffering. While they applaud and celebrate the “needed reckoning” on racial justice, they argue it has fuelled stifling of open debate.

“The free exchange of information and ideas, the lifeblood of a liberal society, is daily becoming more constricted. While we have come to expect this on the radical right, censoriousness is also

spreading more widely in our culture: an intolerance of opposing views, a vogue for public shaming and ostracism, and the tendency to dissolve complex policy issues in a blinding moral certainty.”

Probably, many signatories realized about this after several of them were attacked for comments that caused offence. One could argue perhaps that on the case of J.K. Rowling and her comments about transgender people gave people reasons to criticise her. Perhaps it could be, although many people is unaware of what she exactly said. How about other cases that are less blurry once we look at them?

James Damore was a software engineer working for Google. I say was because he was fired under the allegations that a memo he wrote was extremely sexist towards women. At least that is what his ‘haters’ said. However the truth was a slightly –a lot- different.

When James was still working there, several seminars –mostly seminars about diversity - were taking place in Google. These seminars asked for feedback –as any good company or seminar should ask – and James, because he disagreed in some things, decided to write a serious though through document. The documents he sent were at the beginning ignored by the seminars organizers. The small feedback he was able to get from fellow employees were positive or disagreed in a few details. In any case, there was not such emotional response –at least at the beginning.

Then, one day, he decided to send these 10 pages memo to a group inside the company called ‘Skeptics’. The group, rather than be rational and pointing holes on his arguments with their own arguments, insulted the document and treated it like garbage. And on that point is when things started to escalate.

A harassment campaign started against him. Firstly, some people were sending emails to upper management and HR demanding he be fired. Then high executives sent mass emails saying that this document was harmful– it is unknown if they actually ever read the document in question – and asked people to ignore it and not read it. One person even threat him, sending him an email where he called him misogynist and that would hunt him down.

Many people, at that point, seemed to have lost every rationality and straight jump into be emotional and unable to articulate a proper answer to James’s document.

What did he actually said on this document? The document called ‘Google’s Ideological Echo Chamber’ – which can be found very easily – in the page 3 explains ‘Possible non-bias causes of the gender gap in tech’. Rather than saying that the gender gap on tech

is due a biological differences –which his ‘haters’ claimed – the simply said that biological differences can’t be discarded as there is relevant literature that proves biology has an influence.

He even had a note page where he explained it: “I’m not saying that all men differ from all women in the following ways or that these differences are “just.” I’m simply stating that the distribution of preferences and abilities of men and women differ in part due to biological causes and that these differences may explain why we don’t see equal representation of women in tech and leadership. Many of these differences are small and there’s significant overlap between men and women, so you can’t say anything about an individual given these population level distributions.”

James Damore never claimed that women are inferior or anything similar. He merely stated that the relevant scientific literature indicates that biology plays a role – perhaps so small that is insignificant - to understand why there is not an equal representation on the workplace.

It is a fascinating debate to have to know ourselves better. The relevant scientific literature that states there are biological differences between men and women are easy to read. The debate could be fascinating to take place and further investigation to be done, but sadly the current political correctness claims that the gender are a social construct, therefore everything is result of the culture and not biology.

Some biologists, among other scientist, have already received cancelation campaigns for stating biological facts of the research they did.

Not all they loose their job, but James Damore did, simply for trying to open a conversation inside Google. A lost chance for conversation and debate.

Sadly, the case of James Damore is only one among many more. Gina Carano and double standard that has been applied to her. Abigail Shrier and the censorship of her book. Lindsey Shepherd, a post-graduate student at the Wilfrid Laurier University that dared to put a Jordan B. Peterson video in class as a way to start a debate about pronouns. And how to forget the many times that people tried boycott the best-seller writer, clinical psychologist and professor of Psychology at the Toronto University, Jordan Peterson.

The same people that are defending now to punish by law any ‘offensive, discriminatory and insulting’ speech is the same people considers Jordan Peterson, James Damore or J.K Rowling as dangerous people guilty of everything they are accused.

Because that is their argument. The claim that the words of those mentioned are somehow spreading violence and hate to diverse people. Ironically, the PC movement seems to have forgotten a very important diversity. Diversity of opinion.

“The strongest weapon against hateful speech is not repression, it is more speech”

We need to be smart and wise, and never commit the mistakes of the past. Perhaps, because we lived so long in advance democracies, we forgot what it means to not have freedom of speech. Perhaps we spoilt our generation telling them that they are precious and nothing bad would happen or should happen to them, instead of teaching them that eventually, and inevitably, they will find a stone on their path. An impediment or obstacle. As Rowan Atkinson once said: “We need to build our immunity to taking offence, so that we can deal with the issues that perfectly justified criticism can raise.”

When in England they had –the never ending – debate about the reform of Section 5 of the Public Order Act 1986; the Parliament’s Joint committee on Human Rights summarized perfectly by saying: ‘While arresting a protestor for using ‘threatening or abusive’ speech may, depending on the circumstances, be a proportionate response, we do not think that language or behaviour that is merely ‘insulting’ should ever be criminalized in this way’.

Obama, on one of the last speech he gave in United Nations, he said: “...laudable efforts to restrict speech can become a tool to silence critics, or oppress minorities. The strongest weapon against hateful speech is not repression, it is more speech”.

I agree with these words. If we want a robust society, a society that grows wiser and prosper, we need more robust dialogue, more open debate and different opinions. In addition, that must include the right to ‘insult’ or to ‘offend’.

I don’t doubt that the motives that people that defend hate speech laws might be good people, but they are lost on their manners. It’s neither just or effective. We should never forget that the end does not justify the means.

As Stephen Fry once said, the advancements that allow him to get married - brought gay rights to the UK – were the result of slowly and persistently knock on the door of people in power. It had nothing to do political correctness; it’s to do with human decency. So far, we built societies that have been perfectly capable of having people with different opinions. Societies that slowly and persistently got more rights and freedoms to the individuals.

I don’t think that hate speech laws will bring more and better. I think it’s a step backwards. A step to polarization, resentment and shouting.

Do we believe on the path that brought so far? Do we keep the freedom of speech? I think my answer is clear.

And yours?



Professor Jordan B. Peterson and Stephen Fry on MonkDebate, defending both a position against political correctness and defending freedom of speech together, despite their ideological differences, and even getting along.