

# THE EMPIRE OF OFFENSE

The war on hate speech has replaced the war on heresy.

In March 2008, something very odd happened in Britain.

Early in the month, our archaic blasphemy laws were abolished. It was a wonderful moment for those of us who believe there should be no legal impediment whatsoever to the questioning or ridicule of ideas, of moralities, of people's belief systems. Finally, after more than 300 years of it being an offence to publish "contemptuous, reviling, scurrilous or ludicrous" material about God, Jesus Christ, or the Bible, we Brits were free to say whatever we liked about the Christian faith.

We bid good riddance to these laws that had caused a Quaker to be flogged and branded and to have his tongue pierced in the 1650s, for the crime of re-enacting Jesus's arrival in Jerusalem on a donkey, and which as late as 1977 saw the publisher of a gay newspaper be given a nine-month suspended prison sentence for the crime of publishing a homoerotic poem about a Roman centurion and Jesus Christ.

But then, also in March 2008, just a week after the blasphemy laws were consigned to the dustbin of bad ideas from history, a television advert was banned for mocking Christianity. The ad in question, for hair products, featured nuns clasping rosary beads to their bosoms and bowing before a "religion of hair": apparently these products were so good they would make your hair worship-worthy. How could this Christianity-mimicking commercial be censored after the blasphemy laws had been ripped up? Because it had caused offence to 23 people.

The Advertising Standards Authority (ASA), which monitors all ads in Britain for both misinformation and also offensiveness, and which has the power to insist that certain ads be pulled, said the hair ad should be taken off TV immediately. It had received complaints from

23 individuals, mostly Christians, who claimed to have felt hurt by the ad. Therefore, it is "offensive," decreed the ASA, and must never again be shown in its "current form."

So the feelings of 23 people were elevated over the right of a hair-product company to promote its wares as it sees fit, and the right of the rest of us to see said ad and decide whether to heed or ignore it.

This story from early 21st-century Britain reveals something very important about censorship in the modern era. It suggests old forms of censorship are on the way out, but are being speedily replaced by new ones.

More specifically, it points to a profound and historic shift, from censorship being used as a tool to guard mainstream morality, and to punish political or religious heresy, to being used as a method of protecting individuals—sometimes an infinitesimally small number of individuals—from feeling hurt. It speaks to a major move from an objective form of censorship—"Thou shalt not ridicule Christ," for example—to an utterly subjective form of censorship: "This one person, or these 23 people, were hurt by your words, and therefore you must shut up."

In essence, we in Britain witnessed the removal of the moral forcefield around Christ and simultaneously the transformation of everyone into a little Christ, into a jumped-up Jesus: 65 million Messiahs all requiring protection from foul or hurtful words, from anything that they as individuals judge to be offensive.



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Across the West over the past 30 or 40 years, there has been a similar development: a move away from objective, state-enforced rules about what may and may not be thought and said towards the creation of a far more amorphous Empire of Offence, which any of us can join and any of us can marshal against an idea or word or image that we, subjectively, find painful.

To the extent that the law now hampers what we may say, write, argue, publish, or depict, it tends to do so on the basis of checking our words for “hatefulness” in order to ensure we don’t insult, defame, or ridicule too harshly any group of people. States that once punished certain ideological or moral convictions—think America harassing Communists in the 1950s or Britain still enforcing a de facto ban on D. H. Lawrence’s *Lady Chatterley’s Lover* up to 1960—now primarily patrol public space in search of hate, spite, offensiveness. They’ve gone from policing ideas to policing emotions, and this is, if anything, even worse than the speech-policing tyranny of the past.

The corrosion of the old systems of censorship did not lead to a new era of utterly free and open exchange of ideas.

Most Western states—with the great exception of the United States—have in recent decades passed laws against hate speech, designed not to protect powerful people or ideas but, rather, allegedly fragile and marginalised communities or groups.

In Finland it’s a crime to “distribute among the public” any material that might “threaten, slander or insult on account of race.” Do that, and you could be jailed for two years. Germany forbids “insulting” or “maliciously maligning” people on the basis of race or religion. France punishes “any offensive expression, contemptuous term or invective” against racial or religious groups: note the word offensive rather than libellous or blasphemous. In Belgium, you can be arrested for insulting a religious object, whether by “words or gestures,” and this law is justified not on the basis of protecting that particular religious idol or ideal

from moral challenge, but on the grounds of saving the followers of the religion from feeling hurt.

In Canada, the Human Rights Act warns against the public expression of “hateful or contemptuous” thoughts about ethnic minorities and religious groups. In Britain, numerous laws have been passed in recent years to punish the insulting or defaming or expression of hatred towards certain minority groups. And of course in Australia, Section 18C of the Racial Discrimination Act still, following the Abbott government’s failure to reform it, makes it unlawful to “offend, insult, humiliate or intimidate another person or a group of people” on the basis of “the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.”

These laws share some striking things in common. Most were introduced in the postwar period, primarily between the 1970s and 1990s, that period in which older, more explicitly political forms of censorship were in decline and when the moral authority of the Western state to tell its citizens what they could believe was called into question. By the time of the 1960s, the state’s ability to police and control people’s morality, beliefs, and reading material had been quite severely eroded. Numerous huge historical developments had conspired to lay to waste the old-fashioned censorship. From the collapse of Empire (which impacted on many European countries), to the rise and rise of mass democracy, to the decline of religion as the glue of Western life and its replacement by far more secularised societies, Western nations underwent massive changes in the early to mid-twentieth century that made the moral, censorial authority of the state untenable and even unworkable. As a consequence, across the West, old laws forbidding the questioning of certain religious or political orthodoxies were done away with, or were simply left to gather dust through lack of use.

However, the corrosion of the old systems of censorship did not lead to a new era of utterly free and open exchange of ideas, beliefs, and disagreements. Instead, new forms of thought control emerged, justified not as a means of determining what the individual could read and believe but as a way of maintaining the peace in

diverse societies: protecting individuals from other individuals. The authority of the state to reprimand allegedly heretical moralities was superseded by the alleged duty of the state to police community relations, monitor inter-community expression, and clamp down on any overly offensive exchange between one community and another, or one individual and another.

What we have ended up with, remarkably, and terrifyingly, is a battery of censorship laws that are even more insidious and more detrimental to human autonomy than were those tongue-piercing, blasphemous-imprisoning statutes of the past. The state now intervenes, not only into our ideological lives, but into our emotions, our feelings, the levels of hate we feel, the most intimate parts of our minds and our most emotional forms of speech.

There are many problems with the war on hate speech that replaced the war on heresy. The first is that even though it presents itself as a straightforward effort to outlaw racist or misogynistic speech—that is, shallow, stupid offensive terms that have no social worth—it actually often sweeps up the expression of moral convictions, too, punishing actual belief systems alongside the N-word or denial of the Holocaust.

So in Sweden in 2004, a Christian pastor was sentenced to a month in jail (suspended) for criticising homosexuality from the pulpit. He said homosexuality was “abnormal, a horrible cancerous tumour in the body of society.” A judge said his words were a hate crime, under a Swedish law that forbids making statements that “express disrespect for an ethnic group or similar group.” Yet the pastor’s sermon represented his deeply held moral beliefs, his true religious feelings. Just as in the days of the Inquisition, he was arrested and punished for holding non-mainstream beliefs, for his thoughts and ideals.

In France, the actress turned animal rights activist Brigitte Bardot has been arrested and fined five times under hate-speech laws for describing the Islamic ritual slaughter of meat as barbaric and uncivilised. Here, too, an individual is punished by law for possessing eccentric moral convictions. And of course, in Australia the Andrew Bolt case further confirmed that hate-speech laws police

political thinking, political criticism, as much as they do blind, ridiculous prejudice.

We must always remember that one man’s hate speech is another man’s deeply held moral outlook. To punish a Christian for ridiculing homosexuality is as outrageous as it would be to punish the publisher of a gay magazine on the basis that he was offending Christians—in both instances, moral or political speech would be punished, under the guise of guarding society against hatred or offensiveness.

And the second problem with the outlawing of hate, with the Empire of Offence, is that it makes tyrants of everyone. It gives us all a licence to take offence and to act on it. It has generated a mob mentality among certain sections of society, inviting them to claim offence and to squash that thing or book or artwork that offended them.

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We have seen this over and over again in recent years, in the rise of Twittermobs that have successfully shut down offensive TV shows or gangs of protesters who have forced apologies from newspapers for having published transphobic articles. In Australia, the successful removal last year of Hizb ut Tahrir’s Uthman Badar from the Festival of Dangerous Ideas by an online collective that had taken offence at the title of his talk, “Honour killings are morally justified,” confirmed the extent to which the cult of inoffensiveness, the legal and moral war on hatred, actively incites people to demand more and more censorship.

A more violent version of this mob mentality could be seen with the massacre of the offensive cartoonists of *Charlie Hebdo* in Paris and the shooting at cartoonists and free-speech activists in Copenhagen. Both France and Denmark have penal codes that outlaw the ridiculing or insulting of minority groups, including faith groups, and those grotesque acts of violence can be seen as the end product of these societies’ dangerous

institutionalisation of a right not to be offended: those Islamist murderers did with guns what the modern state does with fines and imprisonment and PC mobs do with online petitions and hysterical tweets—punished the offensive, the outrageous, those who dared to hurt an infinitesimally small number of people.

Some argue that real censorship only occurs when the state shuts down an idea or a speaker, not when the public does it. But this is illogical. Indeed, as John Stuart Mill argued, the informal, non-legal policing and punishment of speech can be even worse than the use of brute law to crush thinking. This “despotism of custom” lulls people into a “deep slumber of decided opinion”, he said. Self-righteous warriors against offensive speech who think their behaviour has nothing to do with censorship are kidding themselves: in truth, they are the bastard offspring of the Empire of Offence built by censorious Western states in the postwar period.

What we have is a terrible and unholy marriage between states keen to police hatred and emotion and groups or individuals who want to shut down anything which riles their subjective sensibilities.

The state, in signalling that it will punish hateful or offensive speech, actively cultivates mobs of people who demand punishment of stuff that offends them—and in turn, these mobs of permanently outraged people encourage the state to stick harder and firmer to its commitment to outlaw scurrilous material. So those who protested against Uthman Badar last year can say absolutely nothing about Abbott’s recent proposals to outlaw Hizb ut Tahrir, because it was the state that inflamed their narcissistic belief that they have the right to be protected from offence and it was their narcissistic protesting that inflamed the state’s authority to clamp down even harder on the hateful. It’s an ugly entanglement of state authoritarianism and mob sensitivity.

In the Empire of Offence, the state and PC mobs feed off each other, warring in different ways against words they hate, and in the process crushing freedom of thought and speech, even freedom of emotion, in a way that the old religious police could only have dreamt of. We should refuse to have anything to do with the Empire of Offence—we shouldn’t use it, or even indulge it; we should smash it.



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