
Legislative Response To Hate Speech In The USA And Singapore

Introduction

Hate speech is defined as speech that conveys discriminatory or stereotyped ideas based on factors such as race, religion, sexual orientation, ethnicity. These attacks are most prevalent among the online community, manifesting itself in social media sites such as Twitter, Facebook and YouTube. The Internet has rooted itself in our society for more than a couple of decades, but governments all around the world continue to struggle to regulate online speech in a way where neither freedom nor security is compromised (Chen & Chia 2019). Social media sites have also taken up the responsibility to regulate online hate speech through detection and reports.

This essay will explore the different legislations put in place by Singapore and the USA in regards to hate speech and subsequently evaluate the best way of addressing the problem using theoretical arguments by Scanlon, Feinberg and Mill. By assessing the well-known Harm Principle and Offence Principle, I will be undertaking the deontological, consequentialist and virtue ethics position to justify different perspectives of the respective laws. The essay will also examine topics such as religious vilification and freedom of the press and how they pertain to online hate speech, especially in multicultural Singapore where race and religion play a large role in the personal decisions of its citizens (Tan 2019).

Hate Speech Laws in USA

The First Amendment in the United States of America (USA) guarantees freedom of speech. This freedom of speech gives Americans the right to express themselves without the consequence of government interference. While the First Amendment protects hate speech, some states such as Michigan and Massachusetts still enforce laws against religious vilification (Radics and Poon 2017). The only time hate speech can be criminalised is when there is direct incitement of criminal activity of violence. This is following the belief that freedom of speech brings about debates on public matters, even if it develops into something distasteful that causes others to undergo fear or anger (American Library Association 2017). In September 2018, American politician Kiah Morris quit the Vermont legislature after 2 years of gender and racial abuse. Aside from receiving offensive messages online, she also noticed swastikas appearing on the trees next to her house and having her home and car broken into (Baker 2019). Describing her abuse as 'death by a thousand paper cuts', the charges against the case was eventually unpursued due to the 'lack of sufficient evidence' as quoted by the Vermont Attorney General TJ Donovan (Office of the Vermont Attorney General 2019). Due to the political nature of her vocation, threats made against her with political statements are protected by the First Amendment. In addition, there was no imminent bodily harm nor was the intent of the abuser clear.

USA's First Amendment laws allude to that of Mill's (1859) Harm Principle, where speech that falls under the category of 'advocacy' is immune to restrictions. Only forms of instigation which

bring about instant harm are punishable. He believes that censorship is a deterrent of progress and that society has to be open to all points of view, merely causing offense is no grounds for intervention. Giving society the free rein to explore eccentricity, is the way for the nation to progress. In Morris' case, she was not harmed physically,

Hate Speech Laws in Singapore

Singapore is an island city-state off Southern Malaysia, with four main ethnic groups constituting the demographics of the nation - Chinese, Malay, Indian and Eurasian. Ranking the most religiously diverse country in the world (Pew Research Centre 2014), the island's long standing laws on freedom of speech and expression have been internationally criticised (Radics & Poon 2017). The Singapore Government, however, continues to contend that criminalising insult will help to maintain peace and security in the multicultural society, avoiding religious discord and hurt feelings (Tan 2019). Historically, the nation has had numerous instances of tension among racial, religious and ethnic groups which led to violent uproar. Perhaps why the Singapore government fiercely protects existing harmony is due to the fragility of relationships between different groups (Radics & Poon 2017). Under the Sedition Act, hate speech of any form is criminalised and those found guilty will face up to \$5,000 in fines and imprisonment of up to 3 years. In 2015, four days after former Prime Minister Lee Kuan Yew's death was announced, 16-year-old blogger Amos Yee posted videos on YouTube criticising Lee and his policies. He also made an unfavourable analogy between Lee and Jesus, stating that both were 'malicious', 'deceiving others that they were compassionate and kind'. Yee was charged under the Harassment Act as well as Section 298 of the Penal Code, subsequently fleeing to the United States for political asylum (Radics & Poon 2017). Yee's case sparked international controversy, with International Human Rights Organisations criticising Singapore for violating the right to free speech. The opinions towards Yee's case were divided, with one side fighting for the freedom of speech while the other (as supported by the Government) fought for censorship and tougher laws. In an interview conducted with local newspaper The Straits Times in 2019, Home Affairs and Law Minister K. Shanmugam contends that tougher laws will be enforced on hate speech in Singapore. Referring to Australian far-right Senator Fraser Anning's comment after the ChristChurch Mosque Shootings, Shanmugam added that Anning would have "been arrested" if the comment was made by a Singaporean (Tan 2019).

In 'Limits to the free expression of opinion', Feinberg (1975) challenges Mill's Harm Principle, arguing that limiting the freedom of expression can sometimes bring more good than harm - instances such as defamation, inciting panic, invasion of privacy, provoking violence in retaliation or encouraging others to commit crimes are offences that can cause deep psychological harm. In order to more accurately punish those responsible, an Offence Principle is needed to guide public censure (van Mill 2018). Feinberg (1975) however, further illustrates his point by narrowing the scope of his argument, stating that only if the speaker causes harm of magnitude should he be punished. Scanlon's argument on the freedom of expression agrees with that of Feinberg's, contending that the state should have power to control speech in order to protect its citizens from injury (Amdur 1980). In a similar vein, the Singapore government adopts both their perspectives, believing that censoring offensive speech is the key to keeping peace and security of the nation, evident from the way Yee was charged. In Yee's case, it is unsure if he had intentions to harm or was merely expressing a view of his own.

The best way of addressing the problem

With both countries adopting laws on both sides of the spectrum, it is difficult to objectively come to a conclusion about which is the best way of addressing the problem. It is important to note that laws are put in place based on local contexts, especially what each government deems priority. Thus, both laws are equally valid and justified. In order to address the problem, there is a need to consider local, historical and social contexts of each country. Furthermore, censorship of speech also needs to be assessed on a case by case basis, taking intentions, motives and circumstances in which the speech takes place into consideration. Of course, there is no one-size-fits-all punishment as each case varies from each other. On one hand, censoring freedom of speech can be seen as authoritarian while allowing hate speech can incite crimes, violence and/or psychological harm. From a virtue ethics point of view, censoring hate speech goes against the virtue of honesty and therefore speech should not be censored. Similarly, deontologists will claim that censoring hate speech is restricting others on their choices and violating freedom of speech as a fundamental right and thus speech should not be censored. However, consequentialists will deny and argue that there is a certain benefit to censoring hate speech, especially if it brings about peace and security to the nation - something that governments all around the world deem important.

The best way of addressing the problem requires not just the law, but rather a combination of factors, such as: education on media ethics, regulating social media and encouraging conflict sensitive reporting. On the whole, the Singapore government has been largely successful in preserving the peace between these disparate groups for the last fifty years. Due to the volatile nature of offensive speech, what someone deems offensive can quickly turn into something ugly, even if others think otherwise, threatening the peace and security of nations.

Such a principle is hard to apply because many people take offense as the result of an overly sensitive disposition, or worse, because of bigotry and unjustified prejudice. A further difficulty is that some people can be deeply offended by statements that others find mildly amusing. The furore over the Danish cartoons brings this starkly to the fore. Despite the difficulty of applying a standard of this kind, something like the offense principle operates widely in liberal democracies where citizens are penalized for a variety of activities, including speech, that would escape prosecution under the harm principle.

The usual rejoinder to letting the government decide is to let either the intermediary or the online community self-regulate, though often it is a combination of both. For instance, Facebook and Twitter have in place user term agreements and community standards, reporting and flagging mechanisms, moderators, algorithmic filters, and inhouse legal teams to track potential hate speech – in many jurisdictions, they seldom wait for a government order before acting (to remove the post, suspend the user, and so forth)

Conclusion

In conclusion, the issue of hate speech has been so deeply embedded into our society that tackling it requires a multi-pronged approach and not just through the enforcement of laws.