

A CULTURE-CENTRED APPROACH TO HATE SPEECH REGULATION

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ABOUT CARE

The Centre for Culture-Centred Approach to Research and Evaluation (CARE) at Massey University, Aotearoa New Zealand, is a global hub for communication research that uses participatory and culture-centred methodologies to develop community-driven communication solutions to health and wellbeing. Through experiments in methods of radical democracy anchored in community ownership and community voice, the Centre collaborates with communities, community organisers, community researchers, advocates and activists to imagine and develop sustainable practices for prevention, health care organising, food and agriculture, worker organising, migrant and refugee rights, indigenous rights, rights of the poor and economic transformation.

Prof Mohan J Dutta is the Director of CARE and author of books such as *Neoliberal Health Organizing*, *Communicating Health*, and *Voices of Resistance*.

This white paper may include images and texts around topics such as sexual violence, physical violence, identity-based discrimination and harassment, and genocide. I encourage you to care for your safety and wellbeing while reading this paper.

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We begin this response by noting that laws against incitement of hate are necessary in extreme situations. However, a culture-centered analysis suggests that laws against incitement are not effective in transforming cultures of intolerance and hate that are held up by powerful political and economic interests¹. Those in places of power deploy hate to serve their political and economic gains. Simultaneously, we note that powerful political and economic interests use hate speech laws to silence dissent and erase articulations from the margins. As anti-racist academics and activists, collaborating with social justice activists, we have experienced and witnessed the silencing processes through manipulation of legal frameworks around hate speech.

Our activist collaborators have been harassed and persecuted by authoritarian states under the guise of promoting racial and/or religious harmony². It is vital to critically interrogate the individualization of hate in laws against incitement. Instead, structural transformations are needed in the form of policies that are explicitly anti-discriminatory, guarantee and support equality of vulnerable communities, and protect the fundamental human rights of vulnerable groups³.

We propose a culture-centered policy framework to addressing hate speech that tackles the political economy of hate and builds communicative infrastructures for the voices of communities at the “margins of the margins.”⁴

DISMANTLING THE CARCERAL STATE

The carceral state is a product of the infrastructures of colonialism and slavery⁵. Indigenous, Black, and minority communities of colour are disproportionately incarcerated by racist judicial systems, including racist police practices that disproportionately target Indigenous and minority communities⁶. It therefore goes against the underlying theoretical analysis of anti-racism to propose strategies for addressing hate speech by putting individuals in jail. Given the disproportionate number of Indigenous and minority people in prison systems in Aotearoa⁷, we worry that any new legislation will continue to perpetuate and further exacerbate these inequities. Progressive policies directed at addressing racism and hate should seek to reduce the number of people in jail. Any solution that seeks to jail individuals for participating in creating and disseminating hate speech is antithetical to building harmonious societies committed to dialogue. It is vital to recognise that individual racist behaviors and/or behaviors of hate are embedded within structures that promote and perpetuate racism⁸.

Moreover, it is often the footworkers of the ideologies of hate, themselves coming from marginalised contexts, that face the full power of the carceral state, often with multiple structural barriers to securing justice. At the same time, the politicians and capitalist classes that seed the hate and profit from its circulation continue to perpetuate the hate with impunity. Consider for instance the context of the US where Donald Trump largely remains protected, with large legal teams to argue his case, as individuals participating in the Capitol riots are placed in prison.

BUILDING ANTI-RACIST POLITICAL CULTURES

Racist ideologies are often deployed as tools for politicians in building political communication strategies⁹. Racism in political discourse is a key strategy for recruitment of supporters as well as for manipulation of public opinion. Amidst the ongoing neoliberal reforms, attacks on unions, and depletion of the fundamental necessities of life (housing, decent food, decent wage), the political class has drawn on racist tropes to weaponize hate in electoral games and to accelerate the consolidation of wealth in the hands of few¹⁰. Over the last decade, digital platforms have been strategically deployed to disseminate racist discourses, as part of broader political marketing strategies of mainstream political parties. Politicians often strategically craft divisive messages that directly appeal to the underlying ideology of hate. Consider for instance that global movement of the divisive rhetoric of Trump across national cultures¹¹. Similarly, consider the Islamophobic ideology that underlies the politics of hate orchestrated by the ruling Bharatiya Janata Party (BJP) in India¹². Pay attention to the anti-Indigenous ideology of hate that is manipulated by Jair Bolsonaro in Brazil¹³.

We witness threads of divisive rhetoric that feed hate in Aotearoa New Zealand. Consider similarly the sustained and ongoing attacks on critical anti-racist pedagogy spearheaded by politicians seeking to appeal to a white supremacist voter base. The recognition that current political culture is intertwined with and profits from the circulation of racist discourses is a key element in building anti-racist interventions. A publicly funded database should be created for tracking racism in political discourses across communication channels. Such a database, along with an anti-racist pedagogy that is incorporated into public and education, is vital to building an antiracist political culture. Similarly, monitoring campaign funding offers another avenue for holding politicians accountable for their roles in the production and dissemination of hate.

MAPPING GLOBAL NETWORKS OF HATE

The ideology of hate travels. White supremacists for instance connect through digital platforms, co-creating an overarching architecture of hate that is expressed digitally and in various forms of white supremacist violence¹⁴. Moreover, white supremacists intersect with and pick up strategies from other ideologies of hate, such as Islamophobia that drives Hindutva ideologues¹⁵ and Islamophobia supported by Zionists¹⁶. It is vital that a structurally based analysis of racist hate speech looks closely at the global flows of racist ideologies, the intersections between various forms of locally experienced racisms, and the connections between the various forms of racism expressed in local contexts.

MONITORING AND REGULATING MONEY TRAILS

Racist ideologies are held up and disseminated through communication infrastructures that fund the production and circulation of these ideologies¹⁷. The economic resources that underlie racist hate speech need to be closely monitored and regulated. Those communication platforms that carry and circulate racist hate speech need to be monitored and held accountable. Regulations may be multi-layered, all the way from placing penalties on racist hate speech to censoring racist hate speech. Beyond hate speech, multiple forms of racist discourses need to be monitored and categorised.

Reporting mechanisms should be created that require organizations to disclose the funders of racist communication, with a publicly available repository that makes publicly available the money trails funding racist discourses. Funding should support the tracking of the financial flows of racism and hatred. Simultaneously, minority communities, and particularly those at the “margins of the margins” should be offered empowerment education on how to report racism, how to follow up with it, and how to have their voices heard.

POLICIES GUARANTEEING EQUALITY

To address hate speech and cultures of intolerance, it is vital that policies are explicitly anti-discriminatory, guarantee and support equality of vulnerable communities, and protect the fundamental human rights of vulnerable groups.

BUILDING DIALOGIC SPACES

Dialogic spaces are both material and philosophical infrastructures for conversations, rooted in norms and logics that are invitational to diverse communities at the margins¹⁸. Allowing space for courageous conversations, empowering individuals and communities to authentically voice their experiences, and supporting these conversations are the building blocks for foregrounding narratives which are often not heard.

It is critical to note that the terms of dialogue, when dictated by the mainstream logics of whiteness, continue to perpetuate the erasure of minority communities. Therefore, the very rules and norms of communication and participation must be re-imagined through the participation of communities in community-led anti-racist solution development. This process of community participation in dialogue and the cocreation of dialogic norms is a cyclical and iterative process. Dialogic spaces alter the structures of the status quo, shifting the dynamics of power to the “margins of the margins” through the presence of diverse voices offering diverse accounts of lived experiences with racism. These diverse voices resist the erasures, communicative inversions and distortions that are often carried out by racist structures that are often carried out by racist structures that are embedded in the dominant cultural values of whiteness. It is vital that such dialogic spaces are built across a variety of contexts from public areas to schools to workplaces to non-governmental organisations and Crown structures. Through dialogue, registers are created for listening to the voices of diverse minority communities that are often the targets of hate.

CONCLUSIONS

1. Define clearly the extreme situations where laws on incitement of hate would apply.
2. The scope of the current hate speech proposal is ambiguous. This ambiguity is a major problem in the current proposal, given the historic structural racism of the Crown and the deployment of punitive policies to target vulnerable communities. Note that the current biases in police practices further exacerbate our concerns about the implementation of policies that are ambiguous.
3. Recognise that hate speech laws are not effective in transforming cultures of intolerance and hate.
4. Recognise that the carceral system is racist and colonial, historically disproportionately impacting Māori and Pasifika communities.
5. Based on the existing inequities within structures, hate speech laws are likely to disproportionately impact Māori, Pasifika, and ethnic minority communities.
6. Hate speech laws can be deployed as tools for silencing rights-based critical conversations, such as legitimate and necessary decolonizing critiques of the apartheid and settler colonial practices of Israel. Communicative inversions are deployed by those in power to silence dissent.
7. Build a publicly funded database for tracking hate in political discourses across communication channels.
8. Monitor political campaign funding and its relationship to hate.
9. Map and regulate global networks and threads of hate.

10. Map connections among ideologies of hate.
11. Build explicitly anti-discriminatory policies and create protections for vulnerable communities including Māori, Pasifika, Muslims, transgender communities, and migrants.
12. Build dialogic spaces for difficult conversations.
13. Create infrastructures for the voices of vulnerable and marginalised communities. Safeguard these infrastructures. For instance, build infrastructures for listening to the narratives and voices of refugee communities that are often erased.
14. Build frameworks for participation of people and communities at the “margins of the margins” that are often the targets of hate. The participation of these voices are missing from the current proposal.
15. Address the ecosystem of hate. Any hate speech law needs to be situated alongside education programmes, community-led solutions for antiracism, and support infrastructures for marginalised communities.

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