

Why Free Speech?

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Why free speech?

Many of us struggle to make sense of what is without doubt a deepening global socio-economic and political crisis, and at the heart of this crisis lies an unprecedented and multi-directional assault on freedom of speech. But what is free speech? How should it be exercised and to what ends? These are more difficult questions to navigate in contexts of growing divisions in society, the crises of state governabilities, people's governmentalities and disparities in power and wealth. Debates about freedom of speech are not new; however, the form they take now seems particularly vindictive and violent. Across the world, we are witness to disturbing moves to curtail free speech in liberal democracies and totalitarian states alike and among left wing as well as right wing movements. As recent events show, free speech is the first casualty of all forms of authoritarianism including religious fundamentalism. And from this flow a range of other crackdowns on civil society and serious human rights violations that cannot be challenged. This is why the debate on freedom of speech has become increasingly urgent.

Freedom of speech refers to a political idea and to a principle enshrined in international law as a necessary condition for the enjoyment and protection of other human rights. However, it is not possible to talk of free speech in the abstract; it must be linked to specific historical and social formations and to struggles for secularism and democracy. In this issue, we analyse the concept and practice of free speech from a number of

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different angles and global contexts, drawing out key themes and questions. Most notably:

- Free speech is inextricably bound up with the protection of democratic and human rights values that are now under threat from all directions.
- Free speech is selectively used and weaponised by different political movements –secular and religious.
- The assault on free speech has created conditions for a post-truth society characterised by widespread disinformation, distrust in state institutions and in the fragmentation of a democratic public sphere.
- The attack on the right to freedom of speech is not simply about suppression but also about the policing of free speech.
- Freedom of speech is integrated into neoliberal systems of power and exploitation in which the media plays a key role.
- The internet has played a specific role in suppressing speech and reinforcing structures of inequality and patriarchy and in unravelling the promise of democracy.
- The control of the media by unaccountable corporations amounts to state failure to regulate hate speech and online abuse.
- Demarcating the line between free speech and hate speech is critical to contest racism and other forms of hatred and harm, but this is a tricky task.
- The curtailment of free speech is often a precursor for violence and intimidation against the most powerless groups including women and minoritised people, who are particularly singled out for targeted attacks. The suppression of free speech has a specific impact on women, undermining the feminist imagination and resistance worldwide.

In the remainder of this introduction, we link these key themes and questions through a discussion of recent and past examples of attacks on free speech while signposting the contributions to this issue. We show how these themes work together in different conjunctures – which authors in this issue seek to untangle. The articles, voices of dissent, book reviews and artwork draw on long-term experience, activism and research from south Asia, north America, Europe, north Africa and the Middle East, seeking to understand past and recent contests over freedom of speech.

Free speech and democracy

As we brought this issue together, Putin's forces were entering Ukraine, wreaking devastation on the country and its peoples. Putin's pretext, in a slogan that is both nonsensical in its turning of reality on its head as well as deeply ideologically significant, has been the 'de-Nazification' of Ukraine. While it is widely known that there are neo-Nazi forces in the Ukrainian military and politics, they have not been dominating the state and the act of invasion is only reinforcing them. Putin acts like a Nazi at the same time he is claiming to set out to rid Ukraine of Nazism.

It is not only Putin and his supporters who embody an ideology akin to this. We are seeing the rise of the far right in other parts of the world. Indeed, there are shared characteristics of the far right – both secular and religious – in the US and Russia. Nicholas J. Fuentes, a notorious US racist and white nationalist, tweeted the support of his organisation for Putin's actions in Ukraine. Fuentes, whose extreme right version of Christian fundamentalism is discussed in this issue, developed his political organisation, the 'America First Political Action Conference' in order to drag the Republican party even further right than it has moved already. For these organisations Ukraine represents a country where west European and US democratic and neoliberal principles were in the ascendancy and needed to be checked, while among these white supremacist groups Russia is now seen to be crucial for white survival (Olmos, 2022).

In this context where we have moved far beyond 'speech' it may seem trivial to focus on the issue of freedom of speech. But it is more important than ever that this key characteristic of liberal democracies, whatever their faults, is defended in this present time. We believe that the issue is not so much about curtailing or banning particular pronouncements of the far right, but defending the principles of democracy against these extreme erosions. These values include a commitment at least in principle to the equality of all. Indeed, this defence can be taken to be a form of resistance to the moves discussed above. Parallels can be drawn between the situation now and resistance to the Nazis and their collaborators in the Second World War. There were many types of resistance that did not deploy arms. In the early years of occupation one act of resistance was the distribution of anti-Nazi literature.

In parallel, resistance today can take the form of not only Ukrainian people taking up arms to fight the Russian aggressor, or Russian dissidents challenging state propaganda (Rosenberg, 2022) but also acts such as demonstrating against the invasion or taking in refugees. It might also take the form of defending the rights of all to self-determination and freedom against all threats to their very survival.

Putin, Fuentes and others represent extreme versions of far-right thinking. However, as one of us, Alison Assiter, wrote in her recent book (reviewed in this issue), Bolsonaro, Trump, Modi and Orban are all, in their different ways, drawing on forms of Christian or Hindu fundamentalism in order to deride the notion of a human right.

In these understandings an obligation to protect 'precious land' becomes the basis of a reconstructed political identity that displaces ideas of rights as 'establishment' and misguided. In this respect they share with some who purport to be on the opposite side, the religious fundamentalist leaders in Saudi Arabia or Iran, a disregard for the concept of a human

right. Given this setting, we would have hoped for a robust defence of the notion of a right – at least as a precondition for making deeper changes in the world – from the left of the political spectrum.

However, there are critics on the left as well who critique rights as Enlightenment-inspired, Eurocentric and constructed in the image of imperial and colonial powers. In its turn, this critique is inspired by a theoretical position that is postmodern, postcolonial and dismissive of its opponents as reductionist, dualist and essentialist. The working of this theoretical positioning, where a romanticisation of essentialised ‘other-identity’ claims has impeded an intellectual understanding of fundamentalist threats to human rights and especially women’s rights – thus preventing the development of a critique of fundamentalist political agendas – is discussed in *Feminist Dissent* Issue 2 on [Gender and Fundamentalism](#). As Kenan Malik has pointed out recently, the paradox is that historically, the demand for free speech was at the heart of movements for social justice. However, this is now used against the powerless by both right and left wing forces as a weapon of control (Malik, 2021).

Two recent events in the UK have shown that free speech is increasingly curtailed by the rich as well as the powerful. In the first example, Islamists have succeeded in having the film ‘The Lady of Heaven’ about Fatima, the daughter of the prophet Mohammed – told from a particular Shia point of view – pulled from cinemas. Following a well-trodden path, many hardline pro-Taliban protesters and spokespersons gathered outside a well-known chain of cinemas demanding in increasing menacing tones that the film be banned as blasphemous and offensive to all Muslims (Wolf, 2022). What the example highlights is the chilling impact on debates and discussions about the history and theology of Islam, as a diverse range of Muslim voices are drowned by those who assert themselves forcefully, through

fear and violence, as the voice of the community – and in doing so entrench dogmatism and sectarianism.

The second event is an example of the increasing use of strategic lawsuits against public participation (SLAPPs), intended to silence journalists and public watchdogs (Perfect, 2020). In this case, libel actions were brought by the multimillionaire Brexiter, Arron Banks, against the investigative journalist Carole Cadwalladr over comments she made in a TED Talk and a tweet about Banks' close connections with Putin and the Russian state. The judge ruled that the comments Cadwalladr made were in the public interest and in doing so, he gave a decision that upheld the freedom of the press to cover these matters. Cadwalladr's success represents an all too rare victory of journalism over the rich and the powerful who use defamation laws – knowing that ordinary people will find it exorbitantly costly to defend themselves – as their personal weapon of choice to suppress scrutiny and criticism.

Cadwalladr described how the experience of going through the proceedings was 'crushing' and 'debilitating'. She had to crowd fund to raise the vast sums of money needed to defend herself against the charge of defamation (Adams, 2022). The suppression of free speech through suing individual women separately from their corporate publishers reaches beyond Cadwalladr's case. A further example is that of Catherine Belton who is being individually sued, as well as her publisher, by billionaire Roman Abramovich and a Russian state energy company over her book *Putin's People: How the KGB took back Russia and then took on the West* (Index on censorship, 2021).

All of the articles and Voices of Dissent in this issue seek ways to understand how freedom of speech is weaponised or threatened in complex and very different historical and social circumstances and in ways that serve to undermine the principle as a key value of democracy that is

pretty much shared by people across the world – even if the actions of their governments suggest otherwise.

In the opening article of this issue, *Freedom of speech and democracy*, Dagmar Wilhelm draws on philosophy and recent challenges to examine the democratic defence of free speech. She argues that seeing freedom of speech as primarily grounded in democracy has important implications in situations where speech can be seen as harmful in a relevant sense and in consideration of what we can or should do about harmful speech. She suggests ways of weighing up the dangers or values of specific cases.

Through an analysis of the specific example of the Turkish state in *Disciplining speech, violating rights: recurrent and shifting patterns in the context of Turkey*, Pinar Donmez demonstrates how the specific contours of public discourse in Turkey were shaped by Kemalist socialism as much as by capitalism, nationalism, neoliberal and fundamentalist forces – all of which at different moments have politicised free speech in ways that serve their interests. These forces have come together often to suppress socialist and progressive movements in which dissenters have been branded ‘enemies of the state’ by fundamentalist forces and the Turkish state at different times.

Both Wilhelm’s and Donmez’s contributions show that what is at stake in the struggle for democracy is the right of all citizens to exercise autonomy, including the ability to freely communicate ideas and acquire knowledge in pursuit of equality and to hold power to account. Yet in these politically volatile times, as the threat to democracy grows so too do the impediments to free speech. Growing authoritarianism brings with it a growing culture of fear, intolerance, surveillance and violence, all themes that are explored by many of the authors in discussing the rise and impact of the far and religious right on freedom of speech in this issue.

Free speech, the far right and religious fundamentalisms

The question of free speech and censorship has come to shape and even define much of contemporary political life across the world. It lies behind calls to ban and burn books and silence and even murder artists, writers and journalists whose works are condemned as ‘blasphemous’ ‘obscene’ ‘offensive’ and ‘unpatriotic’ by powerful state and non-state forces alike. In August 2022, as we were finalising this introduction, the author Salman Rushdie was stabbed at a literary event in the US. The accused is a 24 year old man who claimed to have read two pages of Rushdie’s novel, *The Satanic Verses* (see FD statement [Rushdie's Right to Write - Feminist Dissent](#)). Rushdie is the most famous example in recent times of an author whose life has been threatened following accusations of blasphemy. In 1989 he was threatened with death by the then Ayatollah Khomeini for insulting Islam and was forced into hiding. Those who dared to translate *The Satanic Verses* were not spared and some were killed.

As the recent stabbing shows, this attack on free speech was not a temporary aberration but a warning sign of the rise of fundamentalism and religious identity politics that is primarily characterised by the suppression of dissent by any means necessary. In 2020, the wider crisis in open debate had prompted prominent writers and artists, including Rushdie, to write an open letter pleading for an end to the current intolerance of opposing views and for more open debate (Harper's Magazine, 2020) [A Letter on Justice and Open Debate | Harper's Magazine \(harpers.org\)](#) . This intervention is also referenced by Wilhelm in her argument about free speech, democracy and negotiating the line between free speech and the public good.

As indicated in the previous section, we have published previous issues of this journal linking a challenge to the concept of a right to free speech to various forms of fundamentalism. Religious intolerance has arisen in many places and has threatened to undo progressive and democratic struggles

for substantive rights to equality and justice. In the cases of Iran and Saudi Arabia, sex discrimination is legalised. Inequality between the sexes is enshrined into the constitution and the leader of the state can only be a man.

The concept of free speech is not just in retreat in authoritarian regimes but also in liberal democracies where, with alarming frequency, acts of dissent are criminalised and countless defamation suits are issued against citizens by state and non-state forces. In *Contested narratives of the pandemic crisis: the far right, anti-vaxxers and freedom of speech*, Stephen Cowden and Nira Yuval-Davis analyse the convergence between the neo-Nazi 'alt right' and Christian fundamentalist movements and the way these groupings have mobilised opposition to Covid vaccinations in the US within the historical and political context of state responses to public health. They demonstrate how the pandemic crisis has been exploited by the far right through the extensive use of the internet, which has facilitated the spread of misogynistic and racist conspiracy theories – and this specific phenomenon is also referenced in Wilhem's article.

Cowden and Yuval-Davis draw attention to parallel political developments in the US that have on one hand, led to a crisis of trust in state institutions and on the other, the fragmentation of the public sphere as a common space of public debate and good. They also explore the key role played by the internet in facilitating online extremist propaganda and conspiracy theories and how the far right has used the internet to create a post-truth state where science and material reality is eschewed in favour of debates about feelings and beliefs. They argue that in the context of neoliberalism, unaccountable commercial corporations lacking in complete transparency have failed to regulate the boundary between free speech and hate speech, which is further compounded by an equally abject failure of the state to mount a vigorous defence of the role of the welfare system and human rights. They call on the progressive left to engage in a robust

defence of free speech that also involves a more nuanced debate on the thorny question of where to draw the line between free speech and hate speech.

Ironically, silence from parts of the left in many contexts has created a political vacuum that has allowed the far right and religious right forces to step in as so-called defenders of free speech when in reality, their agenda aims to utilise free speech and democratic systems of governance to dismantle democracy altogether. In the Voices of Dissent section Marieme Helie-Lucas, in her article *“On Freedom of Speech and Censorship”*, recounts the role of the left during the Algerian civil war that involved the Algerian government and Islamist groups in the 1990s. She notes the alarming willingness of the left and alleged human rights defenders to challenge state generated atrocities against the civilian population while remaining silent about the killings and torture of thousands of civilians, many of them women, by Islamist forces. The resounding silence and acts of self-censorship by the left undermined the right to freedom of expression and the struggle for other human rights, the consequences of which are still being felt today. This is seen for example in the failure of many on the left to condemn the massacre of journalists at *Charlie Hebdo* and the assassination of the French teacher Samuel Paty. Helie-Lucas points to the need to pay close attention to the selective use of freedom of expression and other human rights by forces across the political spectrum and the very real threat this poses to advancing democratic freedoms. In the UK there have been violent attacks on members of parliament targeted for their views and voting actions. In 2021 David Amess, a Tory MP who was well known for his criticism of the Iranian regime, was murdered in his constituency surgery. His killer, a supporter of Islamic State, claimed he sought revenge against MPs who had voted for airstrikes on Syria (*BBC News*, 13 April 2022). In 2016 a far-right supporter killed Labour MP Jo Cox and in 2010 another Labour MP, Stephen Timms - who

had voted in favour of the Iraq war, was stabbed by a supporter of *Al Qaida*.

Free speech and the suppression of feminist politics

A number of authors in this issue explore the close link between freedom of expression, feminist resistance and women's rights, an area that is often ignored or downplayed by advocates of free speech. Yet as many of the authors point out where there is the suppression of freedom of opinion, there is also likely to be a culture of gendered censorship and misogyny that not only severely limits the ability of women to fully participate in society on equal terms but keeps them in a state of fear and subjugation. We are living in an age where thinkers and activists who dare to express a particular point of view are 'no-platformed' – hounded, vilified, ridiculed, threatened and ultimately killed. We have seen a rise in the 'extra-judicial' killings of journalists and writers. Women in particular seem to bear the brunt of misogynist violence, threats and harassment. From Gauri Lankesh, who was killed in India in 2017, to Daphne Caruana Galizia in Malta in 2017 and Anna Politkovskaya in Russia in 2006, what we see are critics and dissidents who are murdered for speaking out against their governments and attempting to hold them to account. In many such cases, their killers are not even brought to justice. These events have shaped a toxic culture of silence and censorship that has suppressed debate, discussion and protests – but it is the most marginalised and powerless who are disproportionately affected because they only have their voices to raise in challenge against injustice.

Afiya Zia's work in particular draws attention to the ways in which diverse feminist voices, feminist activism and forms of protest are identified for censorship in Pakistan (Zia, 2022) and silenced in Afghanistan by the Taliban and anti-imperialist western commentators (Atlantic Initiative, 2021). Documenting the shifting political strategies of different groups of

feminists and the annual Aurat (women's) demonstrations across Pakistan, she shows how feminists are attacked by religious fundamentalists and labelled 'cultural assassins' of the nation who consequently must be controlled. While she draws specific attention to the ways in which feminist protestors are frequently charged with blasphemy and threats used to normalise what is said and not said in public, she also challenges sections of feminist movements that do not listen to – or actively close down – the voices of other feminists.

In Bangladesh, freedom of speech for women has been curtailed by religious fundamentalists and authoritarian governments in direct and indirect ways through – among other factors – the framework and curricula of religious education. Marzana Kamal, in her article "*Teen Brides, Migrant Husbands and Religious Schooling: an Analysis of Young Women's Experiences of Marriage and Schooling in Rural Bangladesh*" evidences how, despite claims to the opposite, young women's lives are circumscribed by only attending 'modernised' or government-recognised *madrassas*. While some secular academic topics are taught in these schools in addition to Arabic and Quranic verses, the young women's educational attainment and agency in marriage is limited in comparison to those attending secular schools. More broadly, Kamal demonstrates in her study villages, religious schooling and the practice of teen marriage continue to curb women's ability to question and criticize prevailing patriarchal norms. It is one way that conformity to strict gender roles is maintained.

Across the world, governments and fundamentalist and conservative forces alike have spared no effort to police women's freedom of expression in the name of preserving cultural, religious and national identity. For example, many fundamentalist governments have entered reservations or retreated from key human rights laws and standards, particularly those relating to women's rights in the family. In another

example, the recent withdrawal by Turkey's authoritarian government from the Istanbul Convention that sought to eliminate domestic violence was a clear attack on feminist activists accused of undermining family values and promoting homosexuality (*BBC News*, 20 March 2021). However, it is not only suppression by governments and right-wing forces that is causing alarm. In her Voices of Dissent piece in this issue, Maryam Namazie, who has been threatened with death by the Iranian regime, details how her challenges to Islamic fundamentalism have led to the online censoring of her Ted X talk about the silencing faced by ex-Muslims, as well as attempts to cancel her talks in the UK by student groups (who see themselves as leftist).

Increasingly, it is the digital sphere and internet technology that has facilitated the silencing of women, marking a new and dangerous moment for women and to their assertion to the right to freedom of expression. Salil Tripathi's article *Women and Online Harassment* particularly focuses on the internet, which is playing an ever more integral role in controlling feminist dissenting voices. This has gone hand in hand with the de-democratisation of public discourse and the creation of a culture of impunity for violence and abuse. He talks about a continuum of violence against women that starts with online abuse and ends with the murder of female dissenters and journalists. He concludes by noting that far from fulfilling the promise of freedom for women, the internet has become a double-edged sword with which the principles of privacy and anonymity are used to mount sustained abuse against women. His plea for the need to examine the role of the internet through a gendered lens is – in our view – central to any defence of freedom of expression and indeed democracy itself and must be urgently heeded.

Free speech and gender identity ideology

Debates on free speech have become particularly acrimonious around the issue of gender identity and feminism, with a clash between trans rights and women's rights at its centre.

On one side of the debate there are 'gender critical' feminist voices of those who believe that biological sex is significant in categorising a woman; it is a biological reality that is different from a person's gender identity. Patriarchal oppression is grounded partly in biological sex, which is why sex-based rights and protections need to be permitted in law. They argue that the logic of the trans gender identity ideology – sex is a social construct and assigned at birth – is to erase the legal and political category of sex altogether. This wields serious implications for women's rights in all areas of life such as health, sports, education, women only services, prisons and in the collection of government data in the census that informs policy and laws. While there is acceptance of a spectrum in biological sexual development, whether or not biological sex is an immutable category remains a subject of debate. But this is not the same as arguing that sex is an innate feeling that has no basis in material reality. On the other side, are trans rights campaigners who believe that the group of women is already diverse and adding one more group – trans women – (and they will not be a large number) would simply add to this diversity. Moreover, if a person feels very strongly that the body they were born with is not right for them, it is their right to be able to identify with the one that feels right for them. Speech that vilifies or ridicules trans people potentially undermines their dignity. A dominant, although not exclusive, perspective from trans activists is that vilifying trans people includes the claim that what counts as a woman is shaped primarily through their biological sex.

The issue between 'gender critical' feminists and trans activists is thus primarily about what constitutes being a woman (never a man). Trans activists claim that if a person feels strongly they are in the wrong body,

they should be able to transition and call themselves a member of the group they transition into or they should be able to self-identify without transitioning – and denying their right to do so amounts to ‘transphobia’. On the other hand, ‘gender critical’ feminists argue that it has been highly challenging to develop a feminist movement and it is important to be able to be clear about who counts as a woman; in order, to develop measures to challenge violence against women, sex selection abortion, FGM, child marriage and so on. It is important to have ‘sex -based’ rights that depend, at least in part, on biological facts about women. Many of those espousing this position argue that they do not seek to deny trans people the right to live free from violence and discrimination and in dignity and safety but to safeguard feminism from a paradigm shift that shores up a regressive form of gender identity politics rooted in patriarchal norms of masculinity and femininity. They point to the irony of where feminism and queer politics find themselves, since both movements began by critiquing gender norms that are now essentialised.

Our central concern in this issue is how the debate has become divisive and politically incendiary with serious implications for women’s right to free speech. Spaces for serious and nuanced discussions on what it means to be female and oppressed are rapidly shut down and those who challenge the current orthodoxy of the trans gender movement are silenced through tactics that would not look out of place in women’s accounts of sexual and domestic abuse; they are vilified, harassed, threatened with rape and other forms of extreme and misogynistic violence and often forced to leave their jobs for being ‘transphobic’. Feminists are attacked for saying that sex matters and for opposing self-identification, which is treated as hate speech. Women are cancelled, no-platformed and banned for being feminist and for not centring trans women’s views in their discourse. The dominant voices in trans politics appear to be focused on condemning ‘cis women’ (women whose assigned sex is female at birth and who identify as a woman) as inherently

privileged and exclusionary. 'Gender critical' feminists, who critique the dominant trans position and come from a wide range of political, including left socialist positions, are labelled 'TERFs' (trans exclusionary radical feminists). There are those in the trans community who do not share this view but their voices are often drowned out in the debate.

The censorship of feminist voices is evident at all levels of society and it is growing. 'Gender critical' activists, journalists, students and academics alike, are routinely denounced, targeted and intimidated into silence in ways that stultify the free exchange and expression of ideas that ought to form the bedrock of a democratic society. It would appear that the strategy of many trans activists is to denounce and police other feminist critical viewpoints but not to debate those who challenge a dogmatic transgender identity ideology.

A recent example would be the students at the University of Sussex who demanded that the feminist professor of philosophy Kathleen Stock be sacked for allegedly transphobia. In May 2021, she published her book *Material Girls – Why Reality Matters for Feminism*, which was deemed to be 'hateful' even though many had not read the book. (This is a tactic that is also utilised by fundamentalists who call on followers to ban and burn books like Salman Rushdie's *Satanic Verses* without the need to read or engage with their content.) Commentators have pointed out that far from being anti-trans rights, Stock's book is respectful and compassionate towards trans people while also making an irrefutable case for the need to retain sex as a biological category that deserves political and legal protection (Kovats, 2022). Stock concludes her book with a call for solidarity between feminists and trans activists. Although Sussex University vice-chancellor Adam Tickell supported Stock's right to free speech over trans rights or gender identity, the local university and college union branch disagreed (Lawrie, 2021). It called for an investigation into 'institutional transphobia' which eventually led to Stock resigning from her post, stating that the furore had 'effectively ended' her career at Sussex.

(*Times Higher Education*, 2021) This follows related cases, including that of JK Rowling, who was accused of transphobia due to her suggestion that menstruation is somehow a fundamental quality of womanhood. She wrote: 'If sex isn't real, the lived reality of women globally is erased,' 'I know and love trans people, but erasing the concept of sex removes the ability of many to meaningfully discuss their lives' (Twitter, 2020). There are a number of other recent high-profile cases where the freedom of speech of 'gender-critical' feminists has been attacked. These include the cases of Maya Forstater, Allison Bailey and Raquel Rosario Sánchez, who were compelled to defend their right to free speech in employment tribunals and courts.

Maya Forstater lost her job at the Center for Global Development for posting a series of tweets about sex as an immutable biological fact and gender self-identification as a problem for women's rights, which was perceived to be offensive to trans people. At the initial hearing in 2019, she argued that her employers directly discriminated against her for holding such views and although she presented cogent evidence to demonstrate the basis of her views, she lost her case. The tribunal judge ruled that her views were 'not worthy of respect in a democratic society'. Forstater appealed against the decision, which was heard in April 2021 by an Employment Appeals Tribunal. At this hearing, the judge reversed the earlier ruling with a determination that stated that her gender critical views constituted philosophical belief, which is protected under the Equality Act 2010 (*The Guardian*, 10 June 2021). In coming to its decision, the tribunal reiterated an important principle: views deemed offensive to some people does not mean that they are outside the scope of legal protection and furthermore, the manifestation of such beliefs through speech and action are also protected under the Equality Act as long as they do not undermine the rights of others. The Forstater ruling was invoked in the Employment Tribunal judgement in the case of Allison Bailey – a barrister, lesbian and gender critical campaigner – who had tweeted

criticism of the LGBTQ+ charity Stonewall's position on trans rights (Bailey, 2022). In July 2022 the tribunal found that Bailey was directly discriminated against and victimised by her barrister chambers on the basis of her gender critical beliefs (*The Guardian*, 27 July 2022).

Raquel Rosario Sanchez's case highlights another recurring aspect of the problem – the failure of institutions to protect feminists threatened with violence for questioning and criticising trans gender identity ideology or their association with those that do (*Times Higher Education*, 2022). In this case, the court accepted that Rosario Sanchez, a PhD student at Bristol University, was the victim of a hate campaign and threatened with violence by a fellow student because of her links with the feminist organisation, *Woman's Place UK*, which has criticised the politics of the contemporary trans movement. According to Rosario Sanchez, the university gave her various untenable options such as leaving the university or dropping her PhD but none sought to tackle the students who orchestrated the campaign of hate against her. Instead, the university argued that the bullying and harassment took place on social media, which it could not control (*BBC News*, 21 April 2022). As we write this, there may well be other cases pending in the courts where women have been similarly silenced and discriminated against for airing 'gender critical' views in public.

The growing censorship of gender critical voices in other universities led the University of Essex to commission discrimination barrister Akua Reindorf to review two events concerning the 'no platforming' of external speakers, Professor Jo Phoenix (Open University) and Professor Rosa Freeman (University of Reading). They had been disinvited as speakers because of their views on trans rights and gender identity. In the case of Professor Phoenix, fears that her views constituted 'hate speech' against trans people and the potential disruption caused by her presence led the university to cancel her talk. No attention was paid to the fact that an abusive and threatening flyer was circulated in the university against her

(University of Essex, 2021). In the case of Professor Freeman, a decision was made to cancel her participation in a roundtable discussion on the current state of antisemitism that formed part of the University's Holocaust Memorial week of events. Concerns were raised about her views on gender identity, which were compared to those of Holocaust deniers. The Reindorf report published in May 2021 concluded that the universities involved had breached the rights of both women to freedom of expression and they had failed to take reasonable steps to protect freedom of speech as set out under the equality law and in their own policies on speech and academic freedom. The report recommended that the universities apologise publicly to both women; take steps to comply with their legal and regulatory obligations and review their relationship with the charity Stonewall, which gave 'bad advice' to the universities (Cloisters, 2021). The universities have refused to implement the latter recommendation.

Whilst the Reindorf report represents a small step towards restoring freedom of expression in academic institutions, the issue has not gone away (*The Guardian*, 4 July 2021). Many in academia are avoiding rigorous debates on issues of power, inequality and rights that were once a normal aspect of academic life. Interestingly, the links made between those who express 'gender critical' views and those who express antisemitism (see below) are not new. Although the two are radically distinct, the chief executive of Stonewall, Nancy Kelly, has often made the comparison in order to effectively label such critiques by feminists as fascist (*The Jewish Chronicle*, 2021).

Gender identity activism has also systematically sought to prevent or ban academic and clinical research into what is particularly happening to children who are transitioning; a highly controversial issue with far reaching consequences (*The Telegraph*, 2019). There is concern among gender critical feminists and many in the medical professions that

numbers of children are forced into surgeries for showing signs of gender non-conformity when they may be signs of emerging homosexuality or adolescent confusion (*The Guardian*, 28 July 2022). Partly in response to these conflicts, in 2020 the NHS commissioned an independent investigation into identity services for children and young people. The Cass Review published an interim report that raised concerns about ‘unsafe and unviable’ practices and the approach of services offered in the only NHS gender identity clinic for children (Cass Review, n.d.). By 2023 the clinic will be replaced by two regional hubs that would each involve a wider range of paediatric clinicians and assessment processes, linked to stronger data and evidence.

Debates about gender identity and women’s equality and representation are also suppressed and excluded within progressive political parties and within the left, human rights and social justice movements. Debate and discussion and disagreement is vital to enabling each of us to consider views that challenge our own. Freedom of expression indeed is noted as a key right in the Universal Declaration of Human Rights (article 19). It is also in the European Convention on Human Rights (article 10). At the moment it is enshrined in UK law through the Human Rights Act 1998: ‘Everyone has the right to freedom of expression. This right shall include the freedom to hold opinions and to receive and impart information and ideas without interference by public authority.’ The left has singularly failed to grasp the significance of the right to free speech and instead conceded the space to right wing forces that portray themselves the champions of free speech, while using it to dismantle the rights and freedoms of others – including women and all sexual minorities. Witness recently enacted laws that target trans identified youth in the US (Reuters, 2022) or LGBTQ+ groups in Hungary (France 24, 2021), which are based on disinformation and the deliberate mix-up between homosexuality and paedophilia.

The problem is not new. The left has in some ways foreshadowed the contemporary trans debate but lessons were not learned. Black and minority secular feminists in particular have for years been warning against the left forming alliances with religious fundamentalists, who often masquerade as anti-racists and human rights defenders, and use left political spaces to sanitise and legitimise a profoundly regressive religious ideology. Religious fundamentalist projects are not concerned with challenging racism but with policing speech and with reinforcing patriarchal family values by imposing strict gendered norms and laws that restrict the rights of women, sexual minorities – including trans people – and internal religious dissenters. Feminists such as Maryam Namazie and Pragna Patel (in this journal), or Gita Sahgal – who exposed the problematic relationship between the pro-Taliban fundamentalist Moazzam Begg and Amnesty International (referenced in the article by Marieme Helie Lucas) – have been denounced as ‘Islamophobic’ or ‘racist’, and silenced, de-platformed or harassed by Islamists and other religious fundamentalist forces. Similarly on the gender question, many trade unions, political campaigns and the Labour Party continue to censor and kick out feminists associated with Woman’s Place UK (made up of feminists from different backgrounds, including socialist and trade union activism) and has sought to promote laws protecting sex and gender reassignment equally. The complicity of the left in accommodating gender and religious fundamentalist ideologies as part of the anti-racist and anti-imperialist project has only strengthened voices on the political right, fragmented solidarities and encouraged the growth of authoritarianism from below.

There are those on the left, including some anti-racists, who argue that to oppose what they term ‘trans civil rights’ equates to buying into a right wing agenda based on dehumanising and essentialising the ‘other’ (Siddiqui, 2021). They point to a convergence between the interests of gender critical feminists and the traditional far right. This view is not

without foundation. In the US some feminists have indeed chosen to align themselves on a single-issue basis with Christian right forces that promote anti-LGBT ‘family values’ and anti-abortion policies (Egerton, 2022). In the UK, we have also witnessed an alliance forming between feminists and conservative religious forces who oppose teaching sex education in schools because it promotes respect for diverse family relationships and includes the teaching of trans identities in simplistic terms without any factual basis. Complex debates can be pursued about the content of what is taught in sex education classes and how feminists should position themselves politically in such debates – but this cannot and should not lead feminists to ally with the religious and far right, even if they are forced out of the left and made politically homeless. *Feminist Dissent* and many feminists across the world have consistently argued that women and sexual minorities are among the first casualties of fundamentalist and ultra-conservative forces, which are no respecters of equality and human rights principles.

Today, these forces represent one of the greatest threats to women and girls as well as to people who are same-sex attracted, other sexual minorities and those deemed to be non-conformists. The Iranian fundamentalist regime, for example, is willing to pay for sexual reassignment surgery because it sees the existence of gays and lesbians as the greater threat to the patriarchal contract. But this does not mean that trans people are safe either given the toxic environment that stigmatises trans people and declares them to be suffering from psychological and sexual disorders that require medical treatment to become normal (Parshi, 2014/2015). Everyone has the right to live as they wish in security and dignity and without fear of discrimination and stigma, but this cannot be achieved by hitching feminism or indeed any other social justice movements to regressive ideological projects.

The charge that feminists have allied with the right wing has also been made by highly influential feminist scholars such as Judith Butler, whose work has lent legitimacy to the trans ideological project. In developing a post secular, post- modernist line of thinking, Butler rejects the idea of gender identity being rooted in the biological reality of sexual division and instead argues that it is constructed through subjectivities, feelings and performative speech acts determined by cultural gender norms, which in turn creates the reality of the sexual binary¹. Those who deny this perspective she argues are 'TERFs', at once 'anti-feminist, homophobic and transphobic' as well as enablers of 'one of the most dominant strains of fascism in our times' (*The Guardian*, 7 September 2021).

Butler's work ignores the wealth of progressive multi-dimensional struggles that have been waged by black and white feminists in the UK and feminists around the world (including some contributors to *Feminist Dissent* journals) who have challenged racism, imperialism, fundamentalism and other right wing movements and neoliberalism in equal measure without bowing down to the binary logic of 'you are either with us or against us'. This is a disingenuous viewpoint that is gaining traction precisely because of a) the resurgence of right wing forces across Europe and the world, b) the lack of proper debates on the complexities of these issues and c) the left's failure to defend free speech for fear of encouraging racism or 'Islamophobia' or 'transphobia.'

Interestingly, opposition voices are now emerging in the Labour Party in response to the party's decision not to allow the 'gender critical' Labour Women's Declaration Group to have a stand at the forthcoming annual Labour Party conference (*The Guardian*, 31 July 2022). The Women's Declaration Group view is based on the need for spaces for learning and discussion as potential legislators of a future Labour government. The journalist [Caroline Fourest](#), when discussing identity politics, put it more eloquently: 'When you cannot debate together, you don't live together.'

It's not a society, it's about becoming a capitalistic parking lot where ideology is dead, but identity approach replaces it. But replaces it in the direction of what? Confrontation between minorities, while all this time Donald Trump is waiting and the right wing is giving the impression of addressing the real issues. It's a nightmare for the left.'

Ultimately what troubles us is that trans gender identity ideology depends on the erasure of the category of women and their right to speak and be heard. Those who are targeted are not only those who speak out about women rights or trans rights but who seek to do their work in the fields of politics, science, education, culture, sports and so on and need to focus on specific implications for women. Gains that have been achieved by the women's movement in all aspects of life are being dismantled. We cannot think of any other rights movement that is predicated on silencing and eliminating women or other powerless groups as political subjects. Historic struggles for black rights or caste rights for example, have sought inclusion in the wider community based on the right to equality for all but not on the evisceration of the 'other'. As the commentator Eszter Kováts says, it is not as if 'the prevailing inequalities between women and men would disappear if we queer, blur or destabilise the categories themselves' (Kováts, 2022).

We have reached a critical juncture in the history of feminism and this is why we must create spaces for debate and discussion.

The line between free speech and hate speech

It seems that one of the most urgent questions facing us is to think through the limits of free speech and the line to be drawn between freedom of speech and hate speech – something that is extremely difficult to do in the abstract.

In October 2021, the academic David Miller was sacked by Bristol University. Our profound disagreements with the work of Miller in debates over the definitions of 'Islamophobia' and how he characterises those who oppose his definition as right wing and hostile to Muslim people have been discussed in an earlier issue of this journal (please see [The Poverty of Apologism: the British Left, Feminism and the Islamic Right](#) in FD (1), pp. 67-80.) However, his ideas should be robustly debated so that people can make up their own minds. The [official reason](#) for his dismissal was that his lectures about Israel, Jews and Zionism 'did not meet the standards of behaviour we expect from our staff'. His disciplinary hearing included a third-party investigation that found in favour of Miller and concluded that Miller's comments 'did not constitute unlawful speech', but he was sacked anyway on the ground of 'duty of care to his students' (University of Bristol, 2021).

Underlying this case, although this was not the official reason for the sacking, is the question of antisemitism. His criticisms of students who supported the state of Israel were not seen as criticism of their ideas but of who they were seen as people. Miller's case makes clear that the idea of free speech has to involve the idea that identities and political activities are not beyond criticism and must be open to critical interrogation. In the UK context, both sides in the Miller case would claim to be defending human rights. But it is really important that we are clear about what counts as speech that can legitimately be curtailed – that is 'hate speech'. Even if it does constitute such speech, there remains a question whether it is right to ban a person from expressing it. Even if speech does undermine the dignity of some group or individual, there remains a question as to whether or not it is right to ban it or to 'no-platform' the person who is expressing it. Discrimination is surely recognised for what it is partly through hearing views that challenge it, rather than through suppressing such speech. It is argued by those who wish to curtail certain forms of speech – and David Miller's lectures were regarded as falling into

this category – that they constituted ‘hate speech’. Hate speech is recognised (and outlawed) in English law, but the concept is also commonly used in a non-legal context to designate any speech that is degrading, insulting, defamatory, negatively stereotyping or liable to incite hatred or violence against any group of people by virtue of their race, religion, nationality, sexual orientation or disability. Opponents allege that Miller engaged in such speech.

The expression ‘hate speech’ was coined by a group of US legal scholars in the 1980s. They noted that different legal systems tackled harmful racial discrimination in varied ways. When Mari Matsuda used the term in 1989 her central purpose was to highlight how the US legal system failed victims of harmful racist speech by providing them with inadequate means of seeking redress, civil or criminal. She cited several legal cases and examples not associated with actual legal proceedings and not easily actionable under the existing laws (Matsuda, 1989).

The concept of hate speech has been taken up by a range of people on the left to condemn people they believe are misogynistic, racist or xenophobic and therefore violate ideals of respect and tolerance. But it is also used by evangelicals to critique liberals who they regard as attacking their conservative beliefs.

The philosopher Caleb Young suggests that ‘hate speech’ is too broad a term to be usefully analysed as a single category. It includes many kinds of speech acts, each involving very different free speech interests that may cause different kinds of harm. Young distinguishes four main categories of ‘hate speech’ (Young, 2011). Miller’s pronouncements seem to fall into his concept of ‘organised political advocacy for exclusionary and/or eliminationist policies’ which is not illegal.

A further worry is that the term, used in its everyday – as opposed to its legal sense – is not precise. It could be used in a myriad of ways. Sacking

someone from their job for making legal pronouncements would risk eroding the human right to free speech. It also risks disrupting the process that underpins that right's rationale: allowing ideas to flourish and deriving truth, autonomy and justice to emerge from the healthy debate that ensues.

Regulating 'hate speech' could also be regarded as damaging to democracy, especially when even universities shy away from such debate. Students ought to be encouraged instead to debate opinions that they disagree with. For rights and democracy to survive the attacks on them, we must only curtail freedom of speech when its hateful intentions are unequivocal and codified in law. Moreover, even if codified in law, there needs to be room in a democracy for challenging any law if it is found to fail at what it was meant to do – or if it is found to be discriminatory, perhaps in a new way.

Democracies flourish when they protect the life and the liberty of citizens. In a democracy, at least in theory, individuals have rights to life and liberty. As Nozick put it: 'Individuals have rights and there are things no person or group may do to them' (Nozick, 1974). In many versions of democratic theory, there is also a commitment to pluralism of belief and practice. So, to quote the theorist of human rights and justice, John Rawls: 'How is it possible that there exists over time a stable and just society of free and equal citizens profoundly divided by reasonable religious, philosophical and moral doctrines?' (Rawls, 1993: xviii). Many others who believe in a broad form of liberal democracy have asserted the need for such a society to allow for a plurality of ways of life. The commitment to pluralism of values is part of the focus on freedom of the individual. This notion is grounded in the notion of individual autonomy and respect for the person. Of course, questions remain about whether or not allowing, for example, 'one person one vote' in a democracy, actually perpetuates inequalities, given the uneven distribution of wealth across populations and the

tendency of each group to vote to protect its own. Moreover, it is also important to recognise that even liberal democracies curtail the formal rights of their citizens to act as citizens in certain circumstances. Prisoners, for example, in the UK, have their right to vote removed from them although it has been argued that this law violates the European Convention on Human Rights (UK Parliament, 2014). However, even when these points are recognised, it remains the case that liberal democratic principles are far preferable to any form of dictatorship where the rights and freedoms protected in liberal democracies, at least in theory, are severely curtailed.

After the second World War, the General Assembly of the UN proclaimed the Universal Declaration of Human Rights. Underlying the notion of human rights is the view that individuals are entitled to respect as moral agents capable of making choices. Aspects of what has become known as ‘cancel culture’ where individuals are – for many different reasons – prevented from speaking or hounded for appearing to critique the identity of a group, run the risk of moving society away from the core values of a secular democratic state. They risk challenging the very basis of democracies where people ought to be allowed to express their views without fear of losing their livelihood or their lives or of being ‘no-platformed’. Even the latter risks undermining the core principle of liberal democracy. We argue that clear hate crime expressed against any LGBTQ+ individual or group should be challenged. But there is a difference between real and intended hate, and a society that challenges the very basis of the right to liberty.

It must also be noted there is a legal difference between stirring up hatred in order to incite violence on the basis of someone’s race or religion for example, and offending religious values or belief. Religious hate speech has often been reduced to the criminalisation of language or behaviour perceived to cause offence and as such skirts dangerously close to

criminalising thought. Hate speech is a subjective concept and much of it has been translated into the right not to be offended, which actually does not exist in universal human rights law mainly because freedom of expression is a foundational democratic value. This is precisely why – although everyone has the right to freedom of thought, religion and belief without restrictions – the right to manifest those beliefs is a qualified right. It must be balanced against violations of other fundamental human rights and freedoms, including the right of all to be treated with dignity, and even the very right to life itself. It must also be limited when it causes violence, harassment or clearly stirs up hatred of a group of people. There is therefore no absolute right to freedom of speech. However, the pendulum has swung too far in the direction of allowing anyone who feels hurt by a view to demand that it be suppressed. Ultimately, the use of hate speech to curtail free speech ends up hurting the very people – the marginalised, the poor and the powerless – that hate speech is meant to protect because free speech is all that the powerless have to challenge inequality and injustice.

Pragna Patel's article in *Voices of Dissent* draws attention to precisely this dilemma, showing how lines of argument intended to support marginalised Muslim minorities have been used to enhance the power of fundamentalist Hindu groups whose ideologies include discrimination against Muslims. In her account of giving evidence to the All Party Parliamentary Group (APPG) on the problematic adoption of the term 'Islamophobia', she sets out how the line between hate speech and free speech is deliberately blurred by religious fundamentalists, aided and abetted by the British state. She argues that Islamophobia is a nebulous term that relies on subjective perceptions of what constitutes religious hatred and if institutionalised will be primarily be used by fundamentalists and ultra-conservatives to condemn homosexual, feminist, liberal, atheist and secular voices from within Muslim populations because they are

perceived to be the greater threat. The latest controversy surrounding the film *The Lady of Heaven* is a case in point.

Far from addressing the reality of anti-Muslim racism, the term Islamophobia has become a means to shutting down legitimate criticism of Islam and Islamism and to propagate a climate of fear and hatred of non-conformists. This is mirrored by Hindu and other minority fundamentalist groups, which are all more concerned about defending religion from criticism than challenging racism. Rather than advance the struggle against racism, the new language of 'phobia' ultimately serves to strengthen religious fundamentalist projects that seriously undermine solidarity in the antiracist movement.

What is clear is that there are no easy answers to the questions that we posed at the outset. All of the contributions to this special issue show the paradoxes and complexities of the many different contexts where free speech is under attack. Together they indicate the conjunctions of challenges to freedom of speech experienced in states with authoritarian governments *and* in liberal democracies; in regions where fundamentalist religious regimes hold state power *and* where they appear to contest state powers; in countries where activists are targeted by governments *and* where they are opposed by other activists.

Drawing from the different contexts, the articles collectively indicate early warning signs of increasing risks to freedom of speech that require vigilance from us – from when they first emerge as seemingly insignificant criticisms of ideas or ways of living or the targeting of minority interests.

These early warnings include:

- political alliances between politicians and fundamentalist religious groups;
- a lack of clarity in identifying what separates hate speech from free speech, which is then used to justify the policing of ideas in education and other public settings;

- government and non-government criticisms of publicly accountable media organisations including publicly and privately owned broadcasters;
- political and media discourses that challenge human rights law and moves that minimise the accountability of media organisations and public watchdogs;
- the use of SLAPPS against individuals.
- The gendered nature of censorship as a precursor to the curtailment of women's rights.

In combination, these lead to media amplification of conspiracy theories, disinformation campaigns and online abuse of individuals and groups seeking to challenge dominant opinions. The articles have shown that while many of these rising threats to free speech take place in the context of worsening economic and social inequality associated with global neoliberal changes, this is not always the case.

Bringing this issue together took longer than planned due to unforeseen global and local events. Consequently - whilst the powerful arguments are not impacted - some of the contributions may contain slightly dated information or data. As the final piece to be written, we have been continuously updating this introduction as we sought to include discussion of recent examples of attacks on free speech. Sending this to press - in the days following the death of the head of state of the UK - anti-monarchists have been threatened and arrested for attempting to voice their critical views. These moves also engender a wider culture that deems anti-monarchist sentiments as anti-patriotic and as such subject them to social and legal censure. (*The Guardian*, 12 September 2022)

The work of poets and artists can challenge attacks on free speech through deep reflections on issues that are targeted by those who seek to police the lives of others. In this issue, in their respective fields, Antonia Darder

and Houria Niati assert the global importance of the continual shared fight for freedom of expression. Darder's poem 'We are' is a rallying cry to all who fight for freedom from others who seek to control. In her interview, Houria Niati explains how she has overcome both orientalist and far right religious forces through her paintings and photography, which powerfully illustrate this issue with 11 examples. Together they show that free speech has to be defended from multiple directions – and through solidarity between activists, artists and academics.

This issue concludes with three book reviews that all speak to global struggles over free speech. As referenced at the beginning of this introduction, Alison Assiter's ground-breaking *A New Theory of Human Rights: New Materialism and Zoroastrianism* is discussed by Stephen Cowden. Janet Afary's long essay introduces the recent translation from Azeri of *Awake: A Moslem Woman's Rare Memoir of Her Life and Partnership with the Editor of Molla Nasreddin, the Most Influential Satirical Journal of the Caucasus and Iran, 1907-1931* by Hamideh Khānum Javānshir and Liam McQuade's powerful photographs of Belfast's loyalist murals illustrate his review of *Northern Protestants on Shifting Ground* by Susan McKay. Poulomi Desai's pandemic inspired artwork superbly illustrates Cowden and Yuval-Davis' article. They all provide much food for thought.

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ⁱ Judith Butler is currently the Maxine Elliot Professor of Rhetoric and Comparative Literature at the University of California, Berkeley. In 1990 she wrote the book *Gender Trouble*, which established her at the forefront of feminism, women's studies, lesbian and gay studies, and is considered a foundational text of 'queer theory'. In this book Butler retheorised the sex/gender distinction that had been central to the theory and practice of second wave feminism. This distinction situated 'sex' (the physical body as defined by biology) from 'gender' (what we commonly associate with ideas about masculinity and femininity, seen as socially and culturally defined). In *Gender Trouble* (1990) Butler collapsed this distinction arguing that 'sex' was just as much a social construct as 'gender'. She went on to characterise gendered behaviours as acts or 'performances', arguing that this performative dimension constitutes the 'illusion' of a stable, fixed and universal category of 'woman'. She characterised fixed gender categories as necessary for the production of approved heterosexuality, and at the same time, of disapproved homosexuality. The key point here is that for Butler, the body does not have a pre-existing biological reality; rather the meaning of the body is 'signified' through 'discourse' – through a collective act of language. For a more detailed introductory discussion of this and its implications for feminist theory and activism see Salih, S. (2002) *Judith Butler* and Kirby, V. (2006) *Judith Butler: Live Theory*.

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