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Le dossier comporte les documents suivants :

- **Document 1: Don't Let Terrorists Determine the Limits of Free Speech**, by Afshin Ellian, Time, May 4, 2015
- **Documents 2: Even noxious ideas need airing—censorship only makes them stronger**, by Jacob Mchangama, The Economist, Jan 31st 2020
- **Documents 3 : Free Speech Is Killing Us**, by Andrew Marantz, nytimes.com, Oct. 4, 2019
- **Documents 4: Free speech advocates of different persuasions**, by Harley Schwadron, Wall Street Journal, 2017

Merci de bien vouloir SAUTER DES LIGNES

Don't Let Terrorists Determine the Limits of Free Speech

BY [AFSHIN ELLIAN](#) MAY 4, 2015 [Time](#)

Afshin Ellian is professor of jurisprudence at the law faculty of Leiden University and the author of [Freedom of Speech Under Attack](#).

The terrorist attack at the cartoon exhibit and contest featuring Muhammad in Garland, Texas, should be seen as an attack on America and the spirit of freedom that it represents.

At this point, I'm not interested in the political agendas of the attendees, including Dutch politician Geert Wilders. Their political motivations are irrelevant. We shouldn't forget that jihadists recently murdered European Jews in Brussels and Paris simply for being Jewish, not because they defamed Islam. Terrorists also threaten Muslims who aim to reform Islam. Muslims themselves are the most direct victims of their extreme co-believers. For example, in the Netherlands, imams who work openly with the government to combat radicalization are being threatened. In the 1980s, I fled from Iran, and some of my relatives were executed because they were against the tyranny of the ayatollahs. Even in The Netherlands, I've had to have the protection of bodyguards.

What is important is that the mere *possibility* of sharing ideas has been seriously limited due to terrorist attacks. Unfortunately, terrorism works in this way. Terrorists hate freedom. Their attacks target our culture of equality, religious freedom, freedom of expression, and tolerance.

In The Netherlands, the 4th of May is a day on which we remember those who lost their lives during World War II. After World War II, Europeans pledged to defend freedom. It's a dark coincidence that on this year's 4th of May we witnessed a terrorist attack at an event dedicated to free speech, where a Dutch politician made use of one of his rights: the right to speak freely, even about controversial matters. In his brilliant book *The Tyranny of Silence*, Flemming Rose—whose newspaper published the Danish Muhammad cartoons years ago—asks politicians and intellectuals to join a quest for freedom and to offer protection to those who live under threat. Tyranny can only win when we accept its victory; it takes courage to be free.

Today, some intellectuals and politicians are saying: "Freedom of speech is good, but..." That *but* is a huge problem. The only limitations to free speech should be legal ones. Terrorists should never be allowed to create an exception to free speech.

Terrorists can't be allowed to determine the limits of free speech. At the same time, states should combat the adherents of terrorism more effectively. We need a climate that enables individuals to remove their fears. The right to free speech becomes a hollow phrase when people engage in self-censorship out of fear for their lives. I call on European and American intellectuals to constitute a committee for the protection of freedom of speech in the Western world. It's not the freedom of intellectuals, politicians, and journalist that must be combated but the abuse of freedom by jihadism. Europe and America must never be safe havens for jihadism. Security and freedom are closely joined. Whenever a society applies self-censorship out of fear for terrorism, freedom dissipates.

Why do jihadists fear freedom? They are afraid of allowing curiosity to flourish in Islamic communities. In the West, books are read rather than recited. Jihadists live in fear on a daily basis that their children, too, will one day start reading books. Once they do, they may turn out to be a cartoonist, the next Rushdie, an Islamic theologian, or even a philosopher.

Even noxious ideas need airing—censorship only makes them stronger

Restricting free speech in the name of liberty fuels illiberalism, says Jacob Mchangama of Justitia, a Danish think-tank

The Economist, Jan 31st 2020 Jacob Mchangama

“Freedom of expression has its limits. Those limits begin where hatred is spread ... where the dignity of other people is violated.”

So said Angela Merkel in a speech to the Bundestag last November. The German chancellor grew up under a communist dictatorship and leads a country where vicious propaganda once paved the way for genocide. So few people have stronger credentials when it comes to balancing the pros and cons of free speech. And she is not the only democratic leader concerned about extremism. French President Emmanuel Macron has worried that the internet is becoming a “threat” to democracy.

Ms Merkel and Mr Macron have overseen laws clamping down on online hate speech and fake news, adding new layers to already extensive limits on free speech. Other democracies—including Britain and Denmark—seem poised to follow. And ever-more restrictive “community standards” by Facebook and Twitter fuel this from the private sector.

But despite the good intentions, they are charting¹ a dangerous course. Fighting illiberal ideas with illiberal laws not only perpetuates illiberalism. It also removes the “steam valve” that lets noxious ideas get diluted in society rather than build up pressure until they explode.

The attempt to rein in the internet in the name of democracy raises problems both in principle and in practice. Removing millions of posts based on subjective criteria such as “hate”, “extremism” and “offense” often results in collateral damage that winnow² important discussions in society—especially if the role of censor is placed on tech companies whose rules lack transparency and due process.

Speech that directly incites violence obviously must be prohibited and punished (though admittedly, there can be some gray areas). But when policing speech that is clearly non-violent, as many of these rules do, no group is more than a political majority away from being the target rather than the beneficiary of the suppression of ideas. And the efforts by democracies to limit online expression are regularly imitated by authoritarians.

The arguments for and against tolerating extreme speech are well rehearsed. Yet history provides insights that can help democracies draw the boundaries based on centuries of experience. Despite the unprecedented speed and ease of communication offered by the Internet, the dilemmas faced by current generations are hardly unique.

Moral panics tend to erupt whenever the public sphere is democratised and marginalised groups are given a voice through new technology or new rights. The pattern repeated itself with the printing press, newspapers, telegraph, radio, cinema, television and now the internet.

At such junctures, those who traditionally shaped public opinion fear that the new, openly-expressive “mob” will be manipulated by dangerous ideas and propaganda that will corrode the social and political order. (Is it any surprise, then, that mainstream politicians and legacy media outlets blame social media for “weaponising” free speech.)

From the very start, the concept of free speech has been a perpetual tug of war, usually between the privileged who are willing, within limits, to tolerate open discussion, and previously powerless groups who assert their rights to make themselves heard. The elitist vs. egalitarian conception of free speech stretches back to antiquity. It takes form in the differences between Athenian democracy and Roman republicanism.

In Athens, “*isegoria*” (equality of speech) and “*parrhesia*” (uninhibited speech) were cherished values. “*Isegoria*” allowed all free-born adult male citizens to debate and vote in the Athenian assembly, and “*parrhesia*” allowed them to be candid and bold when expressing opinions (though there were limits).

¹ Tracer une voie

² Séparer, exclure

The Roman republic, by contrast, was rigidly top-down and elitist. Ordinary citizens were not allowed to speak in popular assemblies and there was no Roman equivalent of “*parrhesia*”. [...]

This conflict would repeat itself in the early modern era. When Enlightenment thinkers in the 18th century established the principle of free speech, they looked to Rome rather than Athens. While they demanded a voice in public affairs, they did not necessarily think that everyone should enjoy such a right.

Voltaire, for instance, fought hard for freedom of the press (though he never wrote “I disapprove of what you say, but I will defend to the death your right to say it”). Yet he welcomed “enlightened despotism” and the privileged status of “*les philosophes*” over the uneducated, whom he felt “must be treated as monkeys” to some degree.

[...] While these historical examples of censorship are a far cry from today’s restrictions, they are a reminder that an egalitarian concept of free speech depends on recognising the equality of all people, and that one’s right to expression is contingent on a willingness to concede the same right to others, be they minority groups or political opponents.

However proponents of limited speech argue that the rise of totalitarianism in the 20th century changes the calculus of tolerance. After all, the Nazis shamelessly exploited the press freedom of the Weimar Republic to spread their propaganda, only to ruthlessly censor their opponents once in power in 1933. [...]

Democratic politicians warned that press freedom had become “the most poisonous weapon against democracy”. Draconian measures were introduced to curb political extremism. In Prussia, 284 newspapers were suspended by decree in little over a year, ensnaring liberal ones too.

Not only did this fail to stem the tide of national socialism, it often had the very opposite effect: it played into the hands of Nazi propaganda. Goebbels proudly proclaimed *Der Angriff* Germany’s “most frequently banned daily.” The censorship didn’t stop huge Nazi electoral gains that helped bring Hitler to power.

Once in power in 1933, the Nazis eagerly exploited these democratic but illiberal precedents to target the opposition press until it could be crushed entirely. And yes, they surely would have censored their opponents anyway, but having the mechanisms already in place was convenient and made it easier for them to attack their opponents for hypocrisy.

Today we are reaching a historic crossroads for free speech. The internet is the new public sphere. But it presents the same challenges as did radio a century ago and the printing press before that. Far-right websites and leaders not only attract readers with their venom, but parlay³ criticisms, victimhood and censorship into a seductive lure to strengthen their appeal.

The history of free speech suggests that these restrictions are themselves dangerous. It winnows the internet’s initial promise of global “*parrhesia*”, the uninhibited speech of ancient Athens. If the content prohibitions grow, some of those excluded from the public sphere might be the 21st-century equivalents of history’s suppressed reformers. After all, both Gandhi and Martin Luther King were imprisoned for nonviolent protests by the leading democracies of their day. As late as 1979 the editor of a British LGBT magazine was convicted for blasphemous libel.

Free speech remains an experiment in exposing society to new ideas. No one can guarantee the outcome of allowing everyone an equal voice. And all freedoms come with costs and risks. But history suggests that absent⁴ authoritarian methods, suppressing ideas empowers them, while giving all human thought an airing is the best way to advance societies committed to freedom, democracy and tolerance.

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<https://www.economist.com/open-future/2020/01/31/even-noxious-ideas-need-airing-censorship-only-makes-them-stronger>

³ Faire fructifier

⁴ Ici, absent = « en l’absence de »

Free Speech Is Killing Us

Noxious language online is causing real-world violence. What can we do about it?

www.nytime.com

By Andrew Marantz

Oct. 4, 2019

Mr. Marantz, a New Yorker staff writer, is the author of the forthcoming book “Antisocial.”

There has never been a bright line between word and deed. Yet for years, the founders of Facebook and Twitter and 4chan and Reddit — along with the consumers obsessed with these products, and the investors who stood to profit from them — tried to pretend that the noxious speech prevalent on those platforms wouldn’t metastasize into physical violence. In the early years of this decade, back when people associated social media with Barack Obama or the Arab Spring, Twitter executives referred to their company as “the free-speech wing of the free-speech party.” Sticks and stones and assault rifles could hurt us, but the internet was surely only a force for progress.

No one believes that anymore. Not after the social-media-fueled campaigns of Narendra Modi and Rodrigo Duterte and Donald Trump; not after the murder of Heather Heyer in Charlottesville, Va.; not after the massacres in a synagogue in Pittsburgh, two mosques in Christchurch, New Zealand, and a Walmart in a majority-Hispanic part of El Paso. The Christchurch gunman, like so many of his ilk, had spent years on social media trying to advance the cause of white power. But these posts, he eventually decided, were not enough; now it was “time to make a real life effort post.” He murdered 51 people.

Having spent the past few years embedding⁵ as a reporter with the trolls and bigots and propagandists who are experts at converting fanatical memes into national policy, I no longer have any doubt that the brutality that germinates on the internet can leap into the world of flesh and blood.

The question is where this leaves us. Noxious speech is causing tangible harm. Yet this fact implies a question so uncomfortable that many of us go to great lengths to avoid asking it. Namely, what should we — the government, private companies or individual citizens — be doing about it?

Nothing. Or at least that’s the answer one often hears from liberals and conservatives alike. Some speech might be bad, this line of thinking goes, but censorship is always worse. The First Amendment is first for a reason.

After one of the 8chan-inspired massacres — I can’t even remember which one, if I’m being honest — I struck up a conversation with a stranger at a coffee shop. We talked about how bewildering it was to be alive at a time when viral ideas can slide so precipitously into terror. Then I wondered what steps should be taken. Immediately, our conversation ran aground. “No steps,” he said. “What exactly do you have in mind? Thought police?” He told me that he was a leftist, but he considered his opinion about free speech to be a matter of settled bipartisan consensus.

I imagined the same conversation, remixed slightly. What if, instead of talking about memes, we’d been talking about guns? What if I’d invoked the ubiquity of combat weapons in civilian life and the absence of background checks, and he’d responded with a shrug? *Nothing to be done. Ever heard of the Second Amendment?*

Using “free speech” as a cop-out is just as intellectually dishonest and just as morally bankrupt. For one thing, the First Amendment doesn’t apply to private companies. Even the most creative reader of the Constitution will not find a provision guaranteeing Richard Spencer a Twitter account. But even if you see social media platforms as something more akin to a public utility, not all speech is protected under the First Amendment anyway. Libel, incitement of violence and child pornography are all forms of speech. Yet we censor all of them, and no one calls it the death knell of the Enlightenment.

Free speech is a bedrock value in this country. But it isn’t the only one. Like all values, it must be held in tension with others, such as equality, safety and robust democratic participation. Speech should be protected, all things being equal. But what about speech that’s designed to drive a woman out of her workplace or to bully a teenager into suicide or to drive a democracy toward totalitarianism? Navigating these trade-offs is thorny, as trade-offs⁶ among core principles always are. But that doesn’t mean we can avoid navigating them at all. [...]

⁵ Embed (v) = s’implanter, s’incruster

⁶ compromis

I am not calling for repealing the First Amendment, or even for banning speech I find offensive on private platforms. What I'm arguing against is paralysis. We can protect unpopular speech from government interference while also admitting that unchecked speech can expose us to real risks. And we can take steps to mitigate those risks.

The Constitution prevents the government from using sticks, but it says nothing about carrots.

Congress could fund, for example, a national campaign to promote news literacy, or it could invest heavily in library programming. It could build a robust public media in the mold of the BBC. It could rethink Section 230 of the Communications Decency Act — the rule that essentially allows Facebook and YouTube to get away with (glorification of) murder. If Congress wanted to get really ambitious, it could fund a rival to compete with Facebook or Google, the way the Postal Service competes with FedEx and U.P.S.

Or the private sector could pitch in on its own. Tomorrow, by fiat⁷, Mark Zuckerberg could make Facebook slightly less profitable and enormously less immoral: He could hire thousands more content moderators and pay them fairly. Or he could replace Sheryl Sandberg with Susan Benesch, a human rights lawyer and an expert on how speech can lead to violence. Social media companies have shown how quickly they can act when under pressure. After every high-profile eruption of violence — Charlottesville, Christchurch and the like — tech companies have scrambled to ban inflammatory accounts, take down graphic videos, even rewrite their terms of service. Some of the most egregious actors, such as Alex Jones and Milo Yiannopoulos, have been permanently barred from all major platforms.

"We need to protect the rights of speakers," John A. Powell, a law professor at the University of California, Berkeley, told me, "but what about protecting everyone else?" Mr. Powell was the legal director of the American Civil Liberties Union in the late 1980s and early 1990s, and he represented the Ku Klux Klan in federal court. "Racists should have rights," he explained. "I also know, being black and having black relatives, what it means to have a cross burned on your lawn. It makes no sense for the law to be concerned about one and ignore the other."

Mr. Powell, in other words, is a free-speech advocate but not a free-speech absolutist. Shortly before his tenure as legal director, he said, "when women complained about sexual harassment in the workplace, the A.C.L.U.'s response would be, 'Sorry, nothing we can do. Harassment is speech.' That looks ridiculous to us now, as it should." He thinks that some aspects of our current First Amendment jurisprudence — blanket protections of hate speech, for example — will also seem ridiculous in retrospect. "It's simpler to think only about the First Amendment and to ignore, say, the 14th Amendment, which guarantees full citizenship and equal protection to all Americans, including those who are harmed by hate speech," he said. "It's simpler, but it's also wrong."

I should confess: I used to agree with the guy I met in the coffee shop, the one who saw the First Amendment as an all-or-nothing dictate. This allowed me to reach conclusions with swift, simple authority. It also allowed me to ignore a lot, to pretend that anything that was invisible to me either wasn't happening or didn't matter.

In one of our conversations, Mr. Powell compared harmful speech to carbon pollution: People are allowed to drive cars. But the government can regulate greenhouse emissions, the private sector can transition to renewable energy sources, civic groups can promote public transportation and cities can build sea walls to prepare for rising ocean levels. We could choose to reduce all of that to a simple dictate: Everyone should be allowed to drive a car, and that's that. But doing so wouldn't stop the waters from rising around us

⁷ Par décret

