

## **Avoid offence by not reading this**

The following is written by someone who might easily be accused of protecting his own patch – I want yet again to remind you of the merits of free speech.

I shouldn't have to. It's one of the foundations of democracy, of the so-called free world. It's what sane Americans are relying on to restrain Donald Trump. It is a weapon against public relations, that dark art of trying to convince us black is white.

I'm not the only one worried that Christchurch might add to existing constraints on the right to say what we want. I've just read a warning by old journalism mate Bill Ralston, that no matter how appalled we are about the massacre, we shouldn't rush in and add further unnecessary impediments to people having their say.

I know a bit about this, having trotted out a 100,000-word dissertation on related matters in the early 1990s when the country was one of the last in the western world to pass law protecting the right to solace.

But that was before the internet took hold. We're now in an age in which anyone and everyone can express a view on anything without having to reveal who they are or demonstrate the barest of writing (or thinking) skills.

Initially, people dominating the internet declared that traditional legal and social brakes like defamation, privacy and taste no longer applied, that it was impossible to act against an unidentifiable poster hidden within an amorphous netherworld.

That was quickly disproven and today it's theoretically as risky as ever to write something about someone that can't be proven in court. I say "theoretically" because pursuing such a case is still insanely expensive and therefore the privilege of the wealthy. No real change there.

What we face now is a backlash, and like all backlashes there is the risk of over-reach. Human rights are temptingly under-regulated by our laws, especially as they apply to sexuality, gender and religious belief, says Ralston.

To that I would add "ageism", an emerging issue for baby-boomers. And politicians, whose statements critical of our apparent selfishness may gain approval from the next generations down, but be offensive to those still most likely to vote in elections.

The point is, though, people who say such things must have the right to do so. Ralston quotes that old saw about defending “to the death” someone’s right to say something, even when you disagree.

That is the basis of free speech, a right that has had to be safeguarded continuously for the last 400 years, that has been diluted by encroaching regulation, and is always under threat, even when there isn’t a significant event to re-jeopardise it.

Some decades ago, a poll in Britain asked people to rank in importance some dozen or so rights enjoyed in democracies. The right to drive rated near the top, while freedom of speech languished at the bottom. It wasn’t perceived to be under threat, so nobody worried about it.

Long forgotten were early struggles in places like England, where four centuries ago the monarch could order your tongue cut out for saying something contrary to royal interests.

New Zealand has been near the top of the world on freedom of speech ever since such scales began. We usually rank in the first five, have never dropped out of the top 10, and consistently rate ahead of Britain and the US.

Media freedom is not actually guaranteed in our Bill of Rights Act, not like it is in the American constitution. Despite that, our courts have been loathe to hamper the efforts of New Zealand journalists to get to the truth.

No Kiwi reporters have ever been jailed for writing something, mainly because a strong sense of fairness and balance has always guided their efforts. The extremes seen in media activity in the US, Australia and the UK have been a rarity here.

Which is all the more reason why politicians must tread carefully when they respond to the current pressures. What seems like an opportunity to try to constrain new excesses should be resisted in favour of a simpler remedy – if it offends you, don’t watch, read or listen to it.

That does leave a more difficult question: how do we protect the most vulnerable, our children? These days, a primary school kid with an iPad can buy a car or look at porn. In that arena, my crusade falters somewhat.

JT column for Ap 27 2019 – new threats to free speech