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CENSORED!
Developing a framework for making sound decisions fast

Abstract

Public sector leadership often demands fast thinking and rapid response. Our decisions are more likely to be sound, however, when they are informed by 'slow thinking' when we are not in crisis mode. The art of 'thinking, fast and slow' (Kahneman, 2011) is illustrated by decisions of the Office of Film and Literature Classification (the Classification Office) in the days following the Christchurch mosque shootings on 15 March 2019. This article engages with political philosophy to support the Classification Office in applying its decision framework and encourages public sector investment in 'slow thinking', so that public administration can be both responsive and anticipatory, pragmatic and principled.

Keywords freedom of expression, censorship, Christchurch mosque shootings, liberty-limiting principles, public good

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The Christchurch mosque shootings

On 15 March 2019, a white nationalist terrorist attacked worshippers at two mosques in Christchurch during Jumu'ah (Friday prayer). Brenton Tarrant, an Australian citizen, was arrested and charged with 51 murders, 40 attempted murders and engaging in a terrorist attack. He was sentenced on 27 August 2020 in the High Court at Christchurch to life imprisonment without parole after changing his plea to guilty.

Minutes before the attacks, Tarrant sent a 74-page manifesto titled 'The Great Replacement' to various email accounts, websites and media outlets. Links were shared on platforms such as Twitter and 8chan.[1] The manifesto referenced Norwegian terrorist Anders Breivik and others as inspiration for his attacks. The Christchurch shootings and the gunman's manifesto have in turn been cited as inspiration for planned and actual racial attacks in the United States, Germany and Norway.

Tarrant livestreamed the first 17 minutes of the attack at Masjid Al Noor on Facebook Live. The original livestream was viewed some 4,000 times before Facebook took it down. Copies of the livestream were reposted on other websites and social media and file-sharing platforms, including LiveLeak, YouTube, Twitter, Reddit, 4chan and 8chan. It was uploaded repeatedly to Facebook and subsequently removed 1.5 million times in the first 24 hours.[2] Between 15 March and 30 September 2019, Facebook reported taking down 4.5 million pieces of content related to the Christchurch mosque shootings (Rosen, 2019b).

It is not known how many New Zealanders viewed the horrific footage of the killings, but initially social media algorithms 'recommended' the livestream to users as trending content. Many members of the public, including children, viewed it while not fully comprehending what they were seeing.

The need to balance speed of response with principled, clear consideration is critical when dealing with digital harm events. Social media dynamics can propagate harmful material with incredible speed, creating pressure for immediate responses. On the other hand, responses that have not been thought through well can have wide-ranging, unintended consequences, significantly impacting on human rights, including freedom of expression.

Enter the chief censor

On 18 March 2019, three days after the mosque attacks, the Classification Office issued a decision (Classification Office, 2019a) classifying the Christchurch mosque attack livestream as objectionable. On 23 March 2019 the Classification Office issued a further decision (Classification Office, 2019b), classifying the 'Great Replacement' manifesto as objectionable.

In effect, this banned the possession or distribution of both the livestream and the manifesto.[3] Distributing objectionable material can result in a maximum of 14 years imprisonment. A number of people have been charged and convicted in New Zealand for possession and/or distribution of the livestream video and/or the manifesto, with sentences ranging from discharge without conviction to home detention, to terms of imprisonment of around two years for the most serious cases.

Section 14 of the New Zealand Bill of Rights Act states that everyone has 'the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form'.

Classifying the livestream video and manifesto as objectionable presented challenges, given how quickly and widely the harmful material was propagating online, and the need for access to information for legitimate reporting on a national tragedy. The Classification Office was well placed to respond, however, for two reasons. First, it had previously considered and issued decisions on a range of similar material: for example, computer video files showing execution, beheading and dismemberment by militants acting for the Islamic State (ISIL/Daesh) (Classification Office, 2018). Second, the Classification Office has a framework for decision making that it consistently applies to classification decisions. This enabled rapid decision making to confirm and justify its instinctual, system 1 'fast thinking' (Kahneman, 2011).

Classification Office framework

The Classification Office's notices of decision routinely follow a framework for decision making that we summarise here as:

- the presumption of liberty;
- the meaning of 'objectionable';
- publications that are 'deemed to be objectionable';
- matters to be given particular weight; and
- additional matters to be considered.

This framework is shaped and informed by the New Zealand Bill of Rights Act 1990, the Film, Videos and Publications Classification Act 1993 (FVPC Act) and Court of Appeal findings on classifications made under the FVPC Act.

The presumption of liberty

Section 14 of the New Zealand Bill of Rights Act states that everyone has 'the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form'. Section 5 states that this freedom is subject 'only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society'. The New Zealand Bill of Rights Act, section 6, states that 'wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning'.

The presumption is, therefore, freedom of expression. Any limitation of this freedom by the state should be reasonable, lawful and demonstrably justifiable.[4]

The meaning of 'objectionable'

Section 3(1) of the FVPC Act states that a publication is objectionable if it 'describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good'. The Classification Office also takes into account the Court of Appeal's interpretation of 'matters such as sex, horror, crime, cruelty, or violence' in section 3(1), as set out in *Living Word Distributors v Human Rights Action Group (Wellington)*:

> The words 'matters such as' in context are both expanding and limiting. They expand the qualifying content beyond a bare focus on one of the five categories specified. But the expression 'such as' is narrower than 'includes', which was the

> term used in defining 'indecent' in the repealed Indecent Publications Act 1963. Given the similarity of the content description in the successive statutes, 'such as' was a deliberate departure from the unrestricting 'includes'.
>
> The words used in s3 limit the qualifying publications to those that can fairly be described as dealing with matters of the kinds listed. In that regard, too, the collocation of words 'sex, horror, crime, cruelty or violence', as the matters dealt with, tends to point to activity rather than to the expression of opinion or attitude.
>
> That, in our view, is the scope of the subject matter gateway. *(Living Word Distributors v Human Rights Action Group (Wellington)*, 2000, paras 27–9)

In classifying a publication, the main question is, therefore, whether it deals with any section 3(1) matters in such a manner that the availability of the publication is likely to be injurious to the public good and 'deemed to be objectionable'.

Publications 'deemed to be objectionable'

Under section 3(2) of the FVPC Act, a publication is deemed to be objectionable if it promotes or supports, or tends to promote or support, certain activities listed in that sub-section.

In *Moonen v Film and Literature Board of Review*, the Court of Appeal stated that the words 'promotes or supports' must be given 'such available meaning as impinges as little as possible on the freedom of expression' in order to be consistent with the New Zealand Bill of Rights Act (*Moonen v Film and Literature Board of Review*, 2000, para 27):

> Description and depiction … of a prohibited activity do not of themselves necessarily amount to promotion of or support for that activity. There must be something about the way the prohibited activity is described, depicted or otherwise dealt with, which can fairly be said to have the effect of promoting or supporting that activity (para 29).

Mere depiction or description of any of the section 3(2) matters will generally not be enough to justify a classification as objectionable. When used in conjunction with an activity, the Classification Office defines 'promote' to mean the advancement or encouragement of that activity, and 'support' to mean the upholding and strengthening of something so that it is more likely to endure. A publication must, therefore, advance, encourage, uphold or strengthen, rather than merely depict, describe or deal with one of the matters listed in section 3(2) for it to be deemed to be objectionable under that provision.

> Given the presumption of liberty, six principles singly or in combination may justify government intervention that restricts freedom or coerces people to do something they would not freely choose to do …

Matters to be given particular weight

Where a publication is not 'deemed' to be objectionable under the FVPC Act, section 3(3) of the Act specifies matters the Classification Office must particularly consider in determining whether a publication is objectionable. For example, the Classification Office considered section 3(3)(d) and section 3(3)(e) to be relevant to its classification of the 'Great Replacement' manifesto as objectionable:[5]

> s3(3)(d) The extent and degree to which, and the manner in which, the publication promotes or encourages criminal acts or acts of terrorism.
>
> s3(3)(e) The extent and degree to which, and the manner in which, the publication represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristics of members of that class, being a characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993. (Classification Office, 2019b)

Other matters to be considered

Section 3(4) of the FVPC Act specifies six further matters the Classification Office shall consider for material like the 'Great Replacement' manifesto, all of which are referenced in the classification decision (ibid.):

(a) the dominant effect of the publication as a whole;
(b) the impact of the medium in which the publication is presented;
(c) the character of the publication, including any merit, value, or importance that the publication has in relation to literary, artistic, social, cultural, educational, scientific, or other matters;
(d) the persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available;
(e) the purpose for which the publication is intended to be used;
(f) any other relevant circumstances relating to the intended or likely use of the publication.

Developing the decision framework

Restricting freedom of expression by classifying a publication as 'objectionable' is not a decision to be made lightly, even when there is an immediate and significant risk of digital harm. To support the Classification Office in applying its decision framework, we have looked to political philosophy to clarify two requirements of the legal framework established by the New Zealand Bill of Rights Act and the FVPC Act. First, what liberty-limiting principles, singly or in combination, may lend weight to reasonable, lawful and demonstrably justifiable limits on freedom of expression (New Zealand Bill of Rights Act, s5)? Second, what might reasonably be meant by 'public',

'the public good' and 'injurious to the public good' (FVPC Act, s3(1))?

Liberty-limiting principles

Given the presumption of liberty, six principles singly or in combination may justify government intervention that restricts freedom or coerces people to do something they would not freely choose to do (Bromell, 2019, pp.76–84; Feinberg, 1973, 1980). Principles 1–4 broadly seek to prevent harm. Principle 5 seeks to prevent harm and/or promote welfare. Principle 6 seeks to promote welfare.

Because the critical question for the Classification Office is whether the availability of a publication is 'likely to be injurious to the public good' (FVPC Act, s3(1)), the harm principle is especially relevant, along with principles 2–5 that extend the harm principle in various ways.

The harm principle

The harm principle holds that *restricting freedom may be justifiable if (and only if) the intervention prevents harm to specified others (private harm) or unspecified others (public harm).*

The *private harm principle* may justify a state enacting laws: for example, that prohibit and punish burglary, assault, child sexual abuse, rape, manslaughter and homicide.

The *public harm principle* may justify restricting a person's freedom to prevent public harms, which are of two main sorts:

- behaviours that risk significant harm to unspecified others: for example, driving while under the influence of drugs and/or alcohol, discharging a weapon in a public place, or selling a product known to be unsafe; and
- behaviours that risk significant harm to public institutions and practices: for example, tax evasion, welfare benefit fraud, refusing to perform jury service, counterfeiting currency, or smuggling.

State coercion may be justifiable in terms of the public harm principle because, even though a single instance of harm or risk of harm may do little actual damage, government regulation and enforcement prevent these practices becoming general.

Private harm is dealt with under the criminal and civil law. Classification decisions primarily concern public harm. The question is whether the availability of a publication risks significant harm to unspecified others. We elaborate on this below, in the section on the public good.

In an age of digitally enabled terrorism and violent extremism, governments need to be mindful of the risk of individuals and groups inciting, threatening or resorting to violence in response to offence ...

The legal moralism principle

The legal moralism principle is an extension of the public harm principle (Feinberg, 1973, p.37): *restricting freedom may be justifiable if (and only if) the intervention prevents behaviours that conflict with a society's collective moral judgements, even when those behaviours do not directly result in physical or psychological harm to (specified) others* (Himma, n.d.).

In super-diverse societies, reaching settled political agreement on immoral acts that ought to be regulated by the state even when those behaviours do not directly result in physical or psychological harm to (specified) others is difficult at best. Yet Feinberg suggests there may still be grounds for a 'pure version' of legal moralism, reflecting that 'the world as a whole would be a better place without morally ugly, even "harmlessly immoral," conduct, and that our actual universe is intrinsically worse for having such conduct in it' (Feinberg, 1973, p.40). Potential examples legislated in the FVPC Act include 'sexual conduct with or upon the body of a dead person', or 'bestiality' (ss2, 3).

The offence principle

The offence principle holds that *restricting freedom may be justifiable if (and only if) the intervention prevents offence to some specified or unspecified others.*

The FVPC Act adopts a harm approach to determining what is and is not objectionable. 'Objectionable', rather than 'offensive', appears to be deliberately preferred as the key operational term in the FVPC Act. By contrast, the likelihood that material may cause offence is a key consideration in broadcasting standards (Broadcasting Standards Authority, 2018, 2020). This may reflect a concern to ground the significant powers and sanctions contained in the FVPC Act in a more objective way than is offered by the concept of offence, which can be highly subjective. The Classification Office typically does not factor in offence as an element 'injurious to the public good' that might lead to a publication being banned.

This is an area that requires ongoing thinking and development, however, because offence and harm increasingly intersect in the area of 'hate speech', which is currently regulated under human rights legislation in New Zealand.[6] In an age of digitally enabled terrorism and violent extremism, governments need to be mindful of the risk of individuals and groups inciting, threatening or resorting to violence in response to offence, particularly where the offence is felt in areas of core values. This has played out repeatedly in acts of terrorism, including the beheading of French teacher Samuel Paty on 16 October 2020 (Mallet and Murphy, 2020).

The precautionary principle

The precautionary principle is a more recent extension of the harm principle: *restricting freedom may be justifiable if (and only if) the intervention prevents private and public harm now and/or in the future.*

The precautionary principle extends the harm principle by inviting us to assess the risk of harm over time, particularly the

sorts of harm that may prove serious and irreversible. For example, a government impact assessment of a UK age verification legislative proposal designed to block children accessing online pornography sites noted that:

> There is evidence of harm but the exact nature and long-term effects are uncertain. It is also uncertain whether effects are causal or correlational. The Government is of the view that there is sufficient expert opinion that pornographic content can lead to harm to people under 18, whether or not this relationship is causal or correlational. (Department for Culture, Media and Sport, 2018, p.5)[7]

The paternalism principle

The paternalism principle holds that *restricting freedom may be justifiable if (and only if) the intervention prevents harm or ensures a benefit to specified or unspecified others.* The principle provides a potential justification for preventing people from doing something that will harm them, or for obliging them to do something 'for their own good'.[8]

Dworkin (1983) sets out four conditions for the paternalism principle to justify the state restricting freedom in order to prevent harm to those whose freedom is restricted:

- the state must show that the behaviour governed by the proposed restriction involves the sorts of far-reaching, potentially dangerous and irreversible harm that a rational person would want to avoid;
- on the calculations of a fully rational person, the potential risk of harm outweighs the benefits of the relevant behaviour to the individual or individuals whose liberty is interfered with;
- the restriction preserves a wider range of freedoms for the individual in question; and
- the proposed restriction is the least restrictive alternative for protecting against the harm.

The welfare principle

The welfare principle holds that *restricting freedom may be justifiable if (and only if) the intervention secures a benefit to some unspecified others.* For example, local authorities bill property owners for rates (property taxes), which in part fund the construction and operation of public facilities such as museums, libraries, swimming pools and sports arenas, even if we do not use these facilities personally.

> ... a liberal democracy requires us to live together, with all our differences, under the rule of law and without recourse to domination, humiliation, cruelty and violence ...

The six liberty-limiting principles help clarify when state intervention that restricts freedom may be justifiable to prevent harm ('injury'). They are best thought of as 'specifications of the *kinds* of reasons that are always relevant or acceptable in support of proposed coercion, even though in a given case they may not be conclusive' (Feinberg, 1973, pp.33-34, emphasis in original). Because the principles are not mutually exclusive, the case for intervention may be stronger where an argument credibly applies two or more principles in combination. They provide a catalogue of reasons to help assess whether the availability of a publication is likely to be 'injurious to the public good' (FVPC Act, s3(1)) and therefore whether restricting freedom of expression in any particular case may be lawful, reasonable and demonstrably justifiable (New Zealand Bill of Rights Act, s5).

The harm principle, the legal moralism principle, the offence principle and the precautionary principle lend weight to the classification of the Christchurch mosque shooter's livestream and manifesto as objectionable. They add force to the argument that these were reasonable, lawful and demonstrably justifiable restrictions of free expression, in order to prevent actual and potential harm to specified and unspecified others, now and in the future, whether through the perpetrator's own acts, incitement to others to act similarly, or provocation of retaliatory acts.

Injury to the public good

What, though, are we to understand by 'public' and 'the public good' in a super-diverse, digitally connected society?

The public (or common) good is typically used in the context of an appeal to individuals or interest groups to prioritise those elements in their own good (their 'interests') that they share indiscriminately with others over those elements that benefit or concern only them (Barry, 1965, pp.203–4). There are two terms to clarify here: the noun 'good', and the adjective 'public' that qualifies it.

First, what do we mean by 'the good'? Clearly, we do not all share the same conception of 'the good'. People want and value different things. Given different and conflicting conceptions of 'the good', the tradition of political liberalism has generally agreed that the state has no business telling its citizens what we should think, feel, believe or value. But while the individual's freedom of thought, conscience and expression is paramount, our human connections, communities and collective identities also matter to us, and this plays out in both private and public space as we seek to promote our interests and ideas.[9]

At best, we achieve a 'civil give-and-take' (Etzioni, 2015, p.6) that works out our disagreements and negotiates priorities and trade-offs through an exchange of public reasons. Iris Young wrote about this as a politics of difference without exclusion; but equally a politics without community, a politics of unassimilated otherness, a togetherness of strangers, 'differentiated solidarity' (Young, 1990, p.237, 2000,

p.221). More recently, Chantal Mouffe has advocated a politics of agonism without antagonism (Mouffe, 2005, 2013). It means 'we should try to avoid fights over the public space that force into it more than it can contain without the destruction of civility' (Nagel, 2002, p.20).

At the very least, a liberal democracy requires us to live together, with all our differences, under the rule of law and without recourse to domination, humiliation, cruelty and violence (Bromell, 2019, ch.7). This reinforces the Classification Office's primary objective of minimising risk of harm, rather than preventing offence, promoting 'right thinking' or otherwise preferring any particular conception of the good.

The adjective 'public' that qualifies 'the good' is also critical. Something is 'public' if it directly or indirectly concerns, or could potentially concern, any member or members of a community indiscriminately (Barry, 1962, pp.195–6; Bromell, 2017, p.59). We unpack this in four steps.

First, 'the public' does not necessarily mean everyone whatsoever in an absolute, aggregate sense. It means everyone in the sense of 'anyone at all'. A facility is 'public' not because every member of a community uses it, but because it is open in principle to anyone indiscriminately. We use 'public' in this sense when we talk about going to a 'public meeting', using 'public transport', or the 'publication' (as opposed to the private printing) of a leaflet or book. By contrast, a private facility or event is not open to anyone indiscriminately.

Second, a 'public' is constituted within history, in a specific context at a particular point in time (Barry, 1965, p.192; Etzioni, 2015, p.24). When a bus drivers' strike inconveniences 'the public', we do not mean the strike has inconvenienced absolutely everyone whatsoever in a community. Disruption of public transport services inconveniences the 'travelling public', including students, commuters (and their employers) and people with no access to private transport.[10] So we have to do with multiple publics (and counter-publics), rather than some imagined singular collectivity ('the public').

Third, among 'diverse publics of a multiple public sphere' (Asen, 2000, p.425), something is 'public' if it is 'open to witness':

> The public is the space in which witnessing can take place. Conversely, one is a private being – a solely personal actor – when one's actions cannot be witnessed by others. The private sphere is the domain in which one can only be witnessed by intimate observers. (Coleman and Ross, 2010, p.5)[11]

Fourth, we can distinguish public from private in terms of the direct and indirect consequences of actions. This is critical when assessing whether government intervention is justifiable to prevent or respond to something that is, or is deemed to be, injurious to the public good. Barry (1965, pp.191–2), following Bentham, distinguished private, reflective, semi-public and public offences (or injuries):

- a private injury damages one or more identifiable individuals;
- a reflective injury damages one's own self;
- a semi-public injury affects a portion of the community (a 'public') and, depending on the duration and severity of the offence, may justify government action;
- a public injury produces some actual or potential danger either to all members of a state, or to an indefinite number of non-assignable individuals (anyone at all) in a specific context who may be affected by the consequences of an action.

Distinguishing public from private in this way can usefully inform classification decisions, which characteristically concern harm that is open to witness and likely to cause public or semi-public injury, rather than private or reflective injury, by promoting or supporting prohibited activity.

Digitisation introduces additional layers of complexity to traditional concepts of 'public' and 'private' space. The ever-present risk of private digital recordings being copied to public digital spaces (that is, becoming 'open to witness') is an ongoing challenge for the Classification Office. The precautionary principle (discussed above) sheds some light on this, but striking a balance between freedom of expression and prevention of harm is no light or easy matter.

Clarifying the meaning of 'public', 'the public good' and 'injury to the public good' in this way lends weight to the classification of the Christchurch mosque shooter's livestream and manifesto as objectionable, because the livestream portrayed acts of cruelty and violence resulting in *actual* semi-public and public injury, and because the manifesto encourages and promotes *potential* acts of cruelty and violence that could also result in semi-public and public injury.

Given the presumption of liberty, all acts of censorship need to go through processes of justification, even when events demand rapid decision making.

Thinking fast *and* slow

In reflecting on the decision framework used by the Classification Office, we have considered liberty-limiting principles that singly or in combination may lend weight to reasonable, lawful and demonstrably justifiable limits on freedom of expression; and we have reflected on 'the good' and distinguished public and private in ways that clarify what might reasonably be meant by 'the public good' and 'injurious to the public good'.

We have taken time to think about this, because instinctual, system 1 'fast thinking' can lead us astray. Given the presumption of liberty, all acts of censorship need to go

through processes of justification, even when events demand rapid decision making. And insight gained from responding in a balanced way to digital harms will increasingly be needed as the impact of new technologies expands to touch nearly every aspect of our lives.

We cannot make sound, durable decisions fast in public administration if we do not also invest time and resource in system 2 'slow thinking' that is effortful, reflective, deliberative and reasoned:

> Whatever else it produces, an organization is a factory that manufactures judgments and decisions. Every factory must have ways to ensure the quality of its products in the initial design, in fabrication, and in final inspections. The corresponding stages in the production of decisions are the framing of the problem that is to be solved, the collection of relevant information leading to a decision, and reflection and review. (Kahneman, 2011, p.418)

Making space and time for 'slow thinking' in public administration requires ongoing investment in public sector capability building, including:

- developing explicit and transparent analytical and decision-making frameworks, informed by doing political philosophy in ways that bring moral clarity to the choices we confront as citizens and as public officials (Howard, 2018, p.20; Bromell, 2016; Sandel, 2009, p.19);
- contributing to public discussion, to inform open debate of issues, options, challenges and opportunities;
- supporting anticipatory governance (Boston, 2016) – scanning the horizon and planning and preparing ahead, not 'management by crisis' or merely reacting to one event after another; and
- cultivating in public servants the virtue of prudence – the exercise of practical wisdom acquired through critical reflection on experience (Bromell, 2019, pp.168–9).

Thinking fast and slow can help us exercise public leadership that is both responsive and anticipatory, both pragmatic and principled.

1 8chan is a platform for user-created message boards. It has been linked to the alt-right, white supremacism, multiple mass shootings and child pornography. 8chan went offline in August 2019 when internet service providers denied it access to the clearnet (publicly accessible internet) following the shootings in El Paso and Dayton. It was relaunched as 8kun in November 2019 through a Russian hosting provider.

2 1.2 million copies of the livestream video were blocked at upload; 300,000 versions of the footage were successfully uploaded and had to be removed by moderators (Rosen, 2019a; RNZ, 2019).

3 New Zealand legislation does allow for the chief censor to grant exemptions to individuals including researchers, academics, specialists and media, so that necessary research, analysis and reportage can be undertaken. A significant number of exemptions have been granted for this purpose.

4 A decision may be *justifiable* without necessarily being justified. Whether or not a decision is justified may only become clear through a review and appeal process and/or the settled agreement of the public over time. The FVPC Act provides for review of classification decisions (part 4) and appeals to the High Court (part 5).

5 In classifying the livestream video, the Classification Office did 'deem' the content to be objectionable, as it tended to promote or support the infliction of extreme violence (FVPC Act, s3(2)(f)).

6 Two weeks after the Christchurch mosque attacks, Minister of Justice Andrew Little initiated a review of New Zealand's hate speech legislation. In June 2020 the minister said Labour was still in talks with its support parties and that legislation was not likely to go to Cabinet until after the general election (Devlin, 2020).

7 As it turned out, the UK government withdrew the age verification proposal in October 2019 because of criticisms from privacy rights advocates and those who thought the age verification checks could too easily be bypassed by virtual private networks (UK Parliament, 2019).

8 Gerald Dworkin explains that paternalism is 'the interference with a person's liberty of action justified by reasons referring exclusively to the welfare, good, happiness, needs, interests, or values of the person being coerced' (Dworkin, 1983, p.20).

9 Bromell argues for 'three-cornered thinking' about the individual, the community and the state, rather than either/or thinking about liberalism and communitarianism, neutrality and perfectionism (Bromell, 2019, ch.7).

10 A critical point for public policy is that a person who never uses public transport, goes to concerts or requires public health services might nevertheless consider what arrangements or services they would prefer if they were a member of the relevant public within a given context at a particular point in time (Reeve, 2018; Bromell, 2017, p.60).

11 Thomas Nagel laments a decline of respect for the boundaries between the private and the public, concealment (or at least reticence and privacy) and exposure: 'The liberal idea, in society and culture as in politics, is that no more should be subjected to the demands of public response than is necessary for the requirements of collective life' (Nagel, 2002, p.13).

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