

Being social: The human right against social deprivation

By Josephine Langbien

Human beings are, by nature, social creatures. We need each other to survive and flourish. Despite this, human rights debates give little attention to interpersonal needs. Associate Professor Kimberley Brownlee, from the University of Warwick, addressed an engaged audience at the Castan Centre to argue that a human right against social deprivation is as fundamental as any right already recognised.

Brownlee opened by quoting Aristotle, who said that “without friends, no one would choose to live, though he had all other goods”. This thinking reflects the fact that humans are the most social of all beings. Brownlee believes that we have a human right against social deprivation, meaning a right to the conditions that are necessary to lead a decent human life, one of which is minimally adequate access to social contact. This is not a right contained in the Universal Declaration of Human Rights, or any other international instrument, but it underlies many existing rights such as the right to participate in public affairs. To be socially connected is, according to Brownlee, a constitutive part of a decent human life.

She argues that, as a species, we must be in contact with other people to survive and prosper. We have a longer period of dependency than any animal – infants need social contact to learn how to walk, speak, and develop cognitively. Psychologically, we tend to break down if denied contact with others. Several studies have linked chronic loneliness with a host of health risks. Many of our major life decisions, such as employment choices, are influenced by social

considerations, regardless of whether we are aware of them or not.

Unfortunately our pressing social needs are often not recognised in institutional practice. Systems governing criminal justice, immigration and healthcare often place many people in forced or incidental isolation. This allows vulnerable people, such as the elderly and disabled, to become acutely lonely due to neglect. In the context of solitary confinement of prisoners, social deprivation can have long-lasting implications for mental health. During question time, Brownlee explained that in a practical sense, she would like to see the right against social deprivation protected first and foremost by addressing these government practices which lead to isolation and neglect.

Brownlee acknowledged that the right will inevitably lead to some conflict with a person’s right to individual autonomy, or to choose not to associate. In these instances she considers that associative needs should be prioritised over associative freedoms. Therefore, it should not be permissible to refuse to associate in certain circumstances, such as where a person is a parent of a young child. Brownlee believes the right against social deprivation should be prioritised because without it, we cannot enjoy any rights which require cognitive and physical functioning. The right is thus at the foundation of all other rights, according to Brownlee and should accordingly become part of the broader human rights conversation.

[See the full video of Kimberley Brownlee’s presentation on our YouTube page](#)

Hate speech laws: What they should and shouldn’t try to do

By Stephen Moore

Laws restricting the making and distribution of hate speech have received a huge amount of attention in recent years. However, while the ambit and enforcement of these laws has been expanded, so too have concerns over the human rights implications of restricting speech. In particular, whether restrictions over hate speech may now encroach upon the freedom of speech, especially where that speech otherwise contributes to democratic discourse.

Gavin Phillipson, holder of a Chair in Law at the University of Durham and publisher of numerous books on human rights implications of the regulation of speech, delivered his talk to help resolve this debate, and suggest potential future directions for hate speech law reform.

Gavin’s talk at the Monash Law Chambers in April of this year was ambitious. Beginning from the disparate approaches to hate speech from the United States to Australia, Gavin sought to address a number of contemporary criticisms of hate speech laws, and ultimately pave the way for a more sustainable approach to hate speech in Australia.

The first group of arguments outlined by Gavin were those criticising the effectiveness of the bans in practice. Gavin, in fact, agreed that there was few examples of democratic societies falling subject to the extreme ideologies of hate speech, and that there was limited evidence that the laws had any effect, particularly in Australia, on the overall prevalence of racism in society.

Gavin also noted the criticism of the implementation of the laws. In particular, he outlined the ever-expanding remit of many of the laws, noting that laws were often brought in under the rubric of preventing racism, but were then expanded to encompass other grounds such as religion and gender. The expansion to religion in particular had

allowed for dominant religious groups, such as the Christian Church in France, to use the laws to shield itself from even legitimate criticism.

Finally, Gavin also canvassed the Australian legislation, criticising the test of ‘insulting or abusive’ language as being one with not only classist overtones (because it favours intellectuals who can express their bigoted views without the use of profanity), but one which is also overly subjective, and could silence legitimate expression.

Gavin responded to many of these criticisms through a number of principled arguments in favour of hate speech laws. In particular, he focused on the way in which hate speech itself aims to deny the humanity of particular groups, and that governments were uniquely placed to ‘recognise’ those people again.

Gavin also responded to a number of the criticisms levelled at the laws, noting that not only was individual harm an important consideration, but equally that the recent experience of the rise of far-right parties in Europe, such as Golden Dawn, suggested that democratic societies were not as ‘resilient’ as previously thought. As such, the laws continued to play an important role in democratic societies, and should be maintained and strengthened.

Ultimately, Gavin sought to demonstrate that hate speech laws, even the ‘over-broad’ ones in Australia, could resist criticism of their scope and operation, and that they were an important feature of any democratic liberal democracy. His talk was extremely educative and interesting, and should be watched by anyone interested in furthering their understanding of human rights.

[See the full video of Gavin Phillipson’s presentation on our YouTube page](#)