

# Global Overview of Censorship Law & Policy

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# Overview

Governments around the world have plans to enact sweeping legislation that will crush freedom of expression online. Under the guise of preventing “harm” and holding large tech companies accountable, several countries are establishing a vast censorship framework. Although authorities claim that their goal is merely to protect us from “disinformation,” vague definitions and loopholes will create avenues for broad application, overreach, and abuse.

In Ireland, for example, citizens can now be imprisoned for possessing material that officials decide is “hateful.” Under the RESTRICT Act in the US, the government may soon have the authority to monitor the internet activity of any American deemed to be a security risk. Many new laws will not only have a chilling effect, they will also restrict the public’s access to information. In Canada, a state agency can now filter and manipulate what Canadians can see online, and in Australia, a single government official can compel social media companies to remove posts.

Through this international effort, government officials and NGOs aim to gain total control over online speech by forcing tech companies to comply with their desired rules. UK lawmakers have threatened to imprison social media managers who don’t censor enough content, and Brazil has introduced some of the strictest penalties for platforms that fail to remove “fake news.” Under the European Union’s Digital Services Act, large tech companies must share their data with “vetted researchers” from non-profits and academia, thereby ceding content moderation to NGOs and their state affiliates.

The Twitter Files gave us a window into the ways government agencies, civil society, and tech companies work together to censor social media users. Now, key nations are attempting to explicitly enshrine this coordination into law. Altogether, these laws will crack down on dissent, criminalize speech, and construct an insurmountable global censorship system.

## Ireland

### “Hate Speech” Bill

#### Description:

- The Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022 makes it a criminal offense to possess hateful material.
  - *Section 10.1.a:* A person is guilty of an offense if the person “prepares or possesses material that is likely to incite violence or hatred against a person or a

group of persons on account of their protected characteristics or any of those characteristics with a view to the material being communicated to the public or a section of the public, whether by himself or herself or another person.”<sup>1</sup>

- Under this bill, individuals are presumed guilty.
  - *Section 10.3:* “In any proceedings for an offence under this section, where it is proved that the accused person was in possession of material such as is referred to in *subsection (1)* and it is reasonable to assume that the material was not intended for the personal use of the person, the person shall be presumed, until the contrary is proved, to have been in possession of the material in contravention of *subsection (1)*.”
- Punishment for this offence can be a fine, imprisonment up to 5 years<sup>2</sup>, or both.

#### History:

- The bill was introduced by *Teachta Dála* (member of parliament) Helen McEntee of the *Fine Gael* party.
- The *Dáil* (lower house of parliament) has voted to pass the bill. It is now moving to the *Seanad* (upper house/Senate).
  - Only 14 out of 160 members of the *Dáil* voted against the bill.
  - If the bill is passed by the *Seanad*, it may still be possible for the Irish president to refer it to the Supreme Court.
  - On April 23, 2023, the *Dáil* voted against amendments to make the bill less extreme. These amendments were to 1) include the UN Convention on Human Rights protections on Free Speech in the bill, and 2) remove the criminal penalties for possession of hateful material that is not communicated.<sup>3</sup>
- In 2019, the Irish National Police established the *Garda National Diversity and Integration Unit* (*Garda* is the Irish police force). This unit monitors hate crimes and non-crime “hate incidents.”
  - Hate incidents are defined as: “Any non-crime incident which is perceived by any person to, in whole or in part, be motivated by hostility or prejudice, based

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<sup>1</sup> Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022, Section 10.1.a <https://data.oireachtas.ie/ie/oireachtas/bill/2022/105/eng/initiated/b10522d.pdf>

<sup>2</sup> John Kierans, “Bigots, racists and homophobes will get up to five years in jail if convicted under Ireland's new hate laws”, *Irish Mirror*, September 29, 2022, <https://www.irishmirror.ie/news/irish-news/crime/bigots-racists-homophobes-up-five-28114762>

<sup>3</sup> *Dáil Éireann* debate Wednesday April 26, 2023, Vol. 1037 No. 2 <https://www.oireachtas.ie/en/debates/debate/dail/2023-04-26/20/>

on actual or perceived age, disability, race, colour, nationality, ethnicity, religion, sexual orientation or gender. <sup>4</sup>

- The *Garda* also asks citizens to report hate crimes.<sup>5</sup>
- The *Garda* has created a computer record of non-crime hate incidents on the PULSE system.

#### Support:

- The Irish Council for Civil Liberties
  - In 2017 the ICCL produced a report called “Lifecycle of a Hate Crime”<sup>6</sup> that included general recommendations for law enforcement to increase reporting and monitoring of discriminatory motives for both crimes and non-crimes. *Garda* policies may have been influenced by these recommendations.
  - On February, 21, 2023, Laura Luna Liboni, ICCL Policy Officer on Equality and Hate, stated, “After years of campaigning for legislative change, we strongly welcome this Bill.” She added: “If we are serious about tackling hate crime and hate speech in our society, then the Government will have to introduce other measures in support of this legislation to challenge the beliefs and attitudes underlying hate.”<sup>7</sup>
  - However, in 2022 Doireann Ansbro, the ICCL’s head of legal and policy, previously commented that the bill’s definitions were not clear enough and that the provision for “freedom of expression” should be more explicit.<sup>8</sup>
- The Coalition Against Hate Crime

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<sup>4</sup> *An Garda Síochána Garda National Diversity & Integration Strategy 2019-2021*  
<https://garda.ie/en/crime-prevention/community-engagement/community-engagement-offices/garda-national-diversity-integration-unit/diversity-and-integration-strategy-2019-2021-english-v1-1.pdf>

<sup>5</sup> Garda Report Hate Crime Now Leaflet  
<https://garda.ie/en/crime-prevention/community-engagement/community-engagement-offices/garda-national-diversity-integration-unit/hate-crime-poster-english.pdf>

<sup>6</sup> Amanda Haynes and Jennifer Schweppe, “Lifecycle of a Hate Crime: Country Report for Ireland,” *Irish Council for Civil Liberties*, 2017  
<https://www.iccl.ie/wp-content/uploads/2018/04/Life-Cycle-of-a-Hate-Crime-Country-Report-for-Ireland.pdf>

<sup>7</sup> “Hate Crime Coalition welcomes progress of Hate Crime Bill as first key step to tackling hate crime,” *Irish Civil Liberties Council*, February 21, 2023  
<https://www.iccl.ie/news/hate-crime-coalition-welcomes-progress-of-hate-crime-bill-as-first-key-step-to-tackling-hate-crime/>

<sup>8</sup> Cormac McQuinn, “Calls for improvements to new hate speech legislation to avoid courts struggling to interpret law,” *The Irish Times*, November 8, 2022,  
<https://www.irishtimes.com/crime-law/2022/11/08/calls-for-improvements-to-new-hate-speech-legislation-to-avoid-courts-struggling-to-interpret-law/>

- The Coalition is a group of 22 civil society organizations that has pushed for hate crime legislation. The Coalition is chaired by Liboni of the ICCL.

#### Opposition/Criticism:

- Eco-socialist *TD* Paul Murphy argued that Section 10 of the bill “is the creation of a thought crime.”<sup>9</sup> Murphy proposed amendments that were defeated.
- Socially conservative *TD* Peadar Tóibín argued, “This Bill is a threat to the democratic function of our society in the long term. The Bill is out of step, in many ways, with the views of people.”<sup>10</sup>
- In an interview Professor Gerard Casey of the University College Dublin argued that the bill will have a chilling effect: “It’s not the actual number of convictions that might be prosecuted and carried through, it’s the self-censorship that people will impose on themselves in order to avoid any possible harm.” (25:50)<sup>11</sup>
- Free Speech Ireland, a group started by Cork University students, has created a petition in opposition to the bill.<sup>12</sup> The petition has not yet reached its signature goal.

#### Alex Sheridan, Director of Free Speech Ireland:

- Most of the voices were NGOs, however some came from non legislative elected representatives such as former Dublin Mayor Hazel Chu.
- Many of the NGOs are funded by Open Societies Foundation or Open Democracy, usually in combination with a grant from the EU and Irish department of Justice.
- Here is a list of the biggest lobbyists:
  - Fingal Communities Against Racism
  - Former Dublin Mayor Hazel Chu
  - Uplift
  - BeLongTo Youth Services
  - National Union of Journalists
  - INAR Ireland
  - Union of Students of Ireland
- The main individual we believe is driving this bill, and has been for the last 5 years is Shane O'Curry the director of INAR Ireland.

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<sup>9</sup> <https://twitter.com/FreeSpeechIre/status/1651288549340196867>

<sup>10</sup> *Dáil Éireann* debate, Thursday 10 Nov, 2022 Vol. 1029 No. <https://www.oireachtas.ie/en/debates/debate/dail/2022-11-10/35/>

<sup>11</sup> “A Hate Crime Is a Thought Crime, *Gript Media*, February 1, 2023, <https://www.youtube.com/watch?v=EBaJ6S2taAk>

<sup>12</sup> Ireland Says “No” to Hate Speech Laws Change.org petition, <https://www.change.org/p/ireland-says-no-to-hate-speech-laws>

- He had been front and centre for the campaign for hate speech legislation in this country but not so much a public figure beyond the occasional radio appearance.
- INAR I don't believe is funded by the Irish Department of Justice, it however receives substantial contributions from Open Societies.
- INAR is a branch of ENAR

## Ben Scallan Interview:

- 73% of public responses to Ireland's new "hate speech" law were against it. Irish lawmakers wanted public input because they were hoping to get support; since they didn't, the PM is claiming that these responses were hijacked and don't really reflect public opinion.
- Ireland used to have Catholic blasphemy laws. Now it is essentially enacting secular blasphemy laws.
- Ireland is an NGO-ocracy. It has 30,000 organizations for a population of 5 million. The size of the NGO complex is 5.9 billion euros. The total Irish annual budget is about 100 billion euros. There is not one clear NGO or individual that stands in the woke censorship effort because there are so many.
- During covid the health ministry was flagging social media posts as misinformation, even if they did not contain false claims about covid. For example, a post about an anti-lockdown protest was flagged as misinformation.
- Ireland is not only a tolerant society, it is also a victim of British colonialism and ethnic discrimination. Just one generation ago the living conditions in Ireland were abysmal and poverty was extremely high. Due to their own history, Irish people usually identify with the hardships of colonized people and racial minorities. Yet NGOs have created a fake crisis of racism and white privilege in Ireland to justify their existence.
- Culturally, Irish people tend to be agreeable because it is historically very rural, so people usually behave as they would in a small community where they do not want to cause friction.
- The Irish economy depends on tech giants. This makes politicians more willing to acquiesce to the cultural and political values of woke tech companies.
- The Hate Speech bill represents government weakness. They feel a need to clamp down on potential dissent around certain issues. One example is that they passed a gender recognition bill which ultimately allowed a violent male to be in a women's prison. Many people don't agree with this. As the results of these kinds of policies become more clear, the government is trying to make sure people can't criticize them.
- During the Dark Ages in Europe, Irish monks were able to keep manuscripts and knowledge to preserve Western culture. Scallan says Ireland is a "jewel of Western civilization" and this is part of why it's such a travesty that the NGO-ocracy is attacking civil liberties in Ireland.

Further information (Ben Scallan):

## GOVERNMENT SET UP AN "ELECTORAL COMMISSION" TO FORCIBLY STAMP OUT MISINFORMATION DURING POLITICAL CAMPAIGNS:

Earlier this year, on February 9th 2023, the Irish government established the Electoral Commission. This is an organisation which fulfils a lot of mundane logistical functions, such as reviewing constituency boundaries, registering political parties, and similar bureaucracy.

However, it also has another more concerning remit - namely, clamping down on so-called "misinformation" during elections and referendum campaigns. As reported by *The Irish Times* last year, before the Commission was established:

*"Social media giants such as Facebook, Twitter and Instagram will be forced to take down misleading information at election time under proposed legislation.*

*The Electoral Reform Bill 2022 envisages the Electoral Commission having the power to investigate online claims that amount to disinformation at election times.*

*It would be able to order social-media outlets to take down offending posts, correct them or label them as potential misinformation.*

*It would also be able to order any host of any online platform to publish a statement informing all readers of manipulative or inauthentic behaviour or the use of an undisclosed bot."*

While this organisation is allegedly independent of government, it "reports directly" to the Irish parliament, and a large number of its members are nominated by the government.

To give a sense of the current composition of this organisation, one of its members is John Curran, who is a former government Junior Minister. Another is Professor Caroline Fennell, who is an academic that was recently appointed as the Chair of the Independent Anti-Racism Committee, which delivered the government's radical "National Action Plan Against Racism," including recommendations around hate speech laws.



This newly-created organisation has powers which will come into effect on a phased basis, and it will likely become a force in Irish politics in coming elections and referenda.

## DURING THE COVID-19 PANDEMIC, THE IRISH NATIONAL HEALTH SERVICE WENT FAR BEYOND CLAMPING DOWN ON “MISINFORMATION”:

During the COVID-19 pandemic, Gript Media revealed that Ireland’s national health service, the HSE, [went far beyond simply reporting misinformation](#), either deliberately or negligently. Posts reported for “misinformation” during that period include, but are not limited to:

- Articles from mainstream media outlets, including the New York Times, Reuters, and an article from an associate editor of the British Medical Journal.
- Early reports that the AstraZeneca and J&J vaccines could be linked to blood clots.
- At least two videos of parliamentarians speaking in their respective Parliaments, neither of which contained any incorrect medical information.
- Political comments about lockdowns and anti-lockdown protests, even when those comments contained no medical claims or references to COVID-19.
- Posts which made negative comments about particular individuals working in the medical or academic fields, but which made no medical claims.
- Posts which were clearly and unambiguously jokes.

Gript also revealed that the HSE paid almost €110,000 in taxpayer money over the span of 9 months to a private company called Kinzen, to help the Department of Health “combat misinformation” - in part by flagging posts on social media. This is significant, as private companies are less susceptible to FOI requests than public bodies and government departments are, and as such it’s much harder to ascertain their internal workings.

# Canada

## Bill C-11 “Online Streaming Act”

### Description:

- Bill C-11, the Online Streaming Act, empowers the Canadian government to regulate digital streaming platforms like Netflix, YouTube, and Spotify.
- Under the 1968 Broadcasting Act, Canada requires TV and radio broadcasters to play, promote, and develop a certain amount of Canadian programming. C-11 extends this requirement to digital platforms and gives the Canadian Radio-television and Telecommunications Commission (CRTC) new powers to create discoverability rules for Canadian content online.
- Critics and independent Canadian content creators argue that the bill will allow the CRTC to filter social media feeds and manipulate algorithms to favor state-affiliated media and other political content aligned with the Trudeau government. The CRTC chair stated that the bill would not be used in this way. However, since the bill allows the CRTC to determine what “Canadian content” should be prioritized on YouTube and social media feeds, this will necessarily make other content less visible/discoverable.

### History:

- Bill C-11 is the follow up to C-10, which stalled in 2021. The bill was introduced by Cultural Heritage Minister Pablo Rodriguez.
  - After the Freedom Convoy, Rodriguez praised the Canadian media for their negative coverage and suggested they should get more funding.<sup>13</sup> Social media and YouTube played a large role in the Convoy’s popularity.
- The Senate Standing Committee on Transport and Communications proposed an amendment that would protect small content creators from the regulation. The Senate approved the compromise but the House rejected the amendment.
- In October 2022 Canadian Heritage Parliamentary Secretary Chris Bittle and Liberal MP Lisa Hepfner sent a letter to the Lobbying Commissioner asking for an investigation into Digital First Canada, a group representing Canadian digital content creators. This story was leaked to the press when the DFC’s director was appearing before the Senate. This sparked accusations of witness intimidation.

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<sup>13</sup> Cosmin Dzsurdzsa, “Minister in charge of CBC applauds legacy media’s convoy coverage,” *True North*, May 9, 2022, <https://tnc.news/2022/03/09/minister-in-charge-of-cbc-applauds-legacy-medias-convoy-coverage/>

## Support:

- Rodriguez and other government officials claim that C-11 will have a positive effect by forcing streaming platforms to pay their fair share towards funding Canadian content.
  - Rodriguez accuses those who oppose the bill of spreading “disinformation.”<sup>14</sup>
- In parliament, MP Andreanne Larouche for the Quebec Bloc said, “If violating freedom of expression means ensuring that Quebec content is well represented online then that's worth it.”<sup>15</sup>

## Opposition/Criticism:

- Canadian TikTok and YouTube creators have lobbied against the bill. Some creators accused federal officials of intimidation.<sup>16</sup>
- Margaret Atwood criticized the bill, telling the *Globe and Mail*, “bureacrats should not be telling creators what to write.”<sup>17</sup>
- John Carpay, president of the Justice Center claims that although some sections of the bill say the CRTC will not target Canadians who create podcasts and videos, other sections create loopholes that can be abused. “What the OSA gives with the right hand, it takes back with the left,” he argues.<sup>18</sup>
- Conservative MP Leslyn Lewis states, “Bill C-11 is dangerous in its own right, but it is also a precedent for a government that wishes to extend this form of technocratic control to other areas beyond online content. It sets the foundation and the testing ground for artificial intelligence and algorithms to be used to control the masses.”<sup>19</sup>
- The Canadian Taxpayers Federation pointed out that the government’s claim that regulation is needed to support Canadian content is not supported by the data. Canada already ranks first among peer countries in terms of expenditures on television production per capita and employment in film and television per capita.<sup>20</sup>

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<sup>14</sup> <https://twitter.com/RebelNewsOnline/status/1653176378521702400?>

<sup>15</sup> <https://twitter.com/mgeist/status/1640452576758886406?>

<sup>16</sup> Raisa Patel, “I felt gaslit, *The Toronto Star*, December 1, 2022, <https://www.thestar.com/politics/federal/2022/12/01/i-felt-gaslit-indigenous-tiktok-creator-says-federal-officials-were-disrespectful-in-tense-meeting.html>

<sup>17</sup> Marie Wolf, “Margaret Atwood on Bill C-11 and why bureaucrats shouldn’t tell authors what to write,” *Globe and Mail*, February 3, 2023, <https://www.theglobeandmail.com/politics/article-margaret-atwood-on-bill-c11-and-why-bureaucrats-shouldnt-tell-authors/>

<sup>18</sup> John Carpay, “Federal government moves to regulate,” *The Interim*, June 8, 2022, <https://theinterim.com/columnist/john-carpay/federal-government-moves-to-regulate/>

<sup>19</sup> Leslyn Lewis, “Bill C-11: It’s about more than censorship,” *leslynlewis.ca*, <https://leslynlewis.ca/blog/bill-c-11-its-about-more-than-censorship/>

<sup>20</sup> Jay Goldber, “Bill C-11: A Fatally Flawed Gateway to Government Censorship,” *Canadian Taxpayers Federation*, June 2022, <https://www.taxpayer.com/media/Final%20C-11%20Report.pdf>

- The CTF notes that the bill is a way to “regulate expression as programming.”
  - “The bottom line is that the potential scope for regulation is virtually limitless since any audio-visual service anywhere with Canadian subscribers or users is caught by the rules.”
- Under the Access to Information Act, law professor Michael Geist obtained documents confirming that the government recognizes the bill will have little economic impact.<sup>21</sup> These documents suggest that the government is knowingly making false claims about increased job opportunities and revenue from large tech companies.

## Liberal Party Proposals<sup>22</sup>

- Political truth oversight body
- Mandatory press source tracing
  - “Request the Government explore options to hold on-line information services accountable for the veracity of material published on their platforms and to limit publication only to material whose sources can be traced.”<sup>23</sup>
- Disclosure of critics’ communications<sup>24</sup>
- C-18: mandated payments for links

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<sup>21</sup> Michael Geist, “Bill C-11 Estimates Revealed: Internal Government Documents Show No Impact on Net Employment, Admit Streamers Already Invest Millions in “Unofficial Cancon,” April 14, 2023,

<https://www.michaelgeist.ca/2023/04/bill-c-11-estimates-revealed-internal-government-documents-show-no-impact-on-net-employment-admit-streamers-already-invest-millions-in-unofficial-cancon/>

<sup>22</sup>

[https://2023.liberal.ca/wp-content/uploads/sites/565/2023/05/Policy-Resolutions-2023-National-Convention\\_OFFICIAL\\_ENG.pdf](https://2023.liberal.ca/wp-content/uploads/sites/565/2023/05/Policy-Resolutions-2023-National-Convention_OFFICIAL_ENG.pdf)

<sup>23</sup>

<https://www.michaelgeist.ca/2023/05/liberal-party-policy-proposal-would-limit-online-publication-to-material-whose-sources-can-be-traced/>

<sup>24</sup>

<https://www.michaelgeist.ca/2023/05/this-must-stop-government-and-liberal-party-go-all-in-on-speech-regulation-with-political-truth-oversight-bodies-mandated-press-source-tracing-and-disclosure-of-critics-communications/>

# UK

## Online Safety Bill

- The UK's Online Safety Bill is a 260-page proposal that establishes "duty of care" responsibilities for tech platforms to keep "online harm" away from children. If a company fails to censor content they can be fined up to 10% of the company's global revenue.
- This is ostensibly just to shield children from violent and pornographic material, but what constitutes "online harm" can be much broader. Under this bill, a single government official can declare content to be harmful.
- Recently the bill was made even harsher with inclusion of threats to imprison tech platform managers who do not censor enough content.
- Critics have warned that UK officials are likely to abuse this bill, noting that UK police and prosecutors have already targeted social media users for "grossly offensive" messages.

## Counter Disinformation Unit

<https://bigbrotherwatch.org.uk/wp-content/uploads/2023/01/Ministry-of-Truth-Big-Brother-Watch-290123.pdf>

<https://www.youtube.com/watch?v=tNlcapT2dfI&feature=youtu.be>

## New Zealand

- Former New Zealand PM Jacinda Ardern called for a crackdown on internet freedom in 2022, equating disinformation to a "weapon of war."
- Official Information Act requests in New Zealand reveal that there was a joint effort between NGOs, news media organizations, and the New Zealand government to set narratives and censor dissenting views online during COVID-19.

- Government documents show direct coordination between the Disinformation Project (think tank), Stuff (mainstream media), the Prime Minister’s cabinet, and the Health Ministry.<sup>25</sup>
  - Phil Shaw Information Act Requests:
    - <https://fyi.org.nz/request/21371/response/82258/attach/5/Release%20document.pdf>
    - <https://fyi.org.nz/request/20990/response/80631/attach/3/Records%20for%20release.pdf>
    - <https://fyi.org.nz/request/21354/response/80971/attach/5/Release%20document.pdf>
    - <https://fyi.org.nz/request/20992/response/81178/attach/5/Appendix%20A%20FINAL%20Redacted.pdf>
  - Here is the latest in NZ CIC:
    - [https://www.dia.govt.nz/diawebsite.nsf/Files/online-content-regulation/\\$file/Safer-Online-Services-and-Media-Platforms-Discussion-Document-June-2023.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/online-content-regulation/$file/Safer-Online-Services-and-Media-Platforms-Discussion-Document-June-2023.pdf)
- Netsafe was a conduit between the Health Ministry and Facebook.<sup>26</sup>
- The Institute for Strategic Dialogue was contracted by the Department of Internal Affairs to produce reports for the New Zealand government.<sup>27</sup>
- In 2021, there was already an established relationship between the New Zealand government and Facebook to deamplify, post-delete and use temporary bans in order to censor COVID-19 “misinformation”. This relationship was also used to amplify government information.<sup>28</sup>
- The New Zealand government implemented a \$ 55 million NZD Public Interest Journalism Fund that was accessible to journalists for projects that met certain criteria within the government’s “approved narrative”.
  - *“The \$55 million Public Interest Journalism Fund will support New Zealand’s media to continue to produce stories that keep New Zealanders informed and engaged, and support a healthy democracy. The \$55 million package will be made up of \$10 million in 2020/21, \$25 million in 2021/22 and \$20 million in 2022/23.”<sup>29</sup>*

<sup>25</sup> <https://fyi.org.nz/request/21371/response/82258/attach/5/Release%20document.pdf>

<sup>26</sup> <https://fyi.org.nz/request/20990/response/80631/attach/3/Records%20for%20release.pdf>

<sup>27</sup>

<https://fyi.org.nz/request/20992/response/81178/attach/5/Appendix%20A%20FINAL%20Redacted.pdf>

<sup>28</sup> <https://fyi.org.nz/request/19947/response/78715/attach/3/Release%20documents%20Part%201.pdf>

<sup>29</sup> <https://mch.govt.nz/media-sector-support/journalism-fund>

- In June 2023, the Department of Internal Affairs released a discussion document titled, "Safer Online Services and Media Platforms".<sup>30</sup> The document outlines a proposed legislative overhaul to regulate online media. Included in this proposal is the regulation of all forms of public media by the use of compliance codes enforced by an independent regulator who could issue penalties.

- The following statements within this document show cause for concern over what type of content will be regulated. For example it states,

*"The government's [Police, Customs, Internal Affairs] role should be limited to dealing with illegal material and a regulator will take a more proactive approach to consumer protection."*

However, they also state that the regulator will have no powers to remove or moderate legal content,

*"The regulator would have no powers to moderate or require takedown of legal content."*

It's clear that the regulator has no power over both legal and illegal content. The following extract outlines how the regulator will be used to pressure media service providers to censor content that would fall within the legal, or non-criminal, category.

*"The new regulator would make sure social media platforms follow codes to keep people safe. Media services like TV and radio broadcasters would also need to follow new codes tailored to their industry. The regulator would have the power to check information from platforms to make sure they follow the codes and could issue penalties for serious failures of compliance."*

The compliance codes are outside of the legislative framework and therefore the censorship criteria by which platforms must comply are undefined and subject to change.

- It is already anticipated that these changes will target smaller-players who will not comply:

*"There will probably be some deliberate non-compliance by smaller players, but we expect the biggest platforms to participate willingly – including the biggest social media companies."*

New Zealand presentation by Phil Shaw:

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[https://www.dia.govt.nz/diawebsite.nsf/Files/online-content-regulation/\\$file/Safer-Online-Services-and-Media-Platforms-Discussion-Document-June-2023.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/online-content-regulation/$file/Safer-Online-Services-and-Media-Platforms-Discussion-Document-June-2023.pdf)

### Kiwi Culture

- As a generalisation, New Zealanders are very non-confrontational.
- Very “left” leaning
  - Social redistribution
  - Education system
  - Media
- Very multicultural

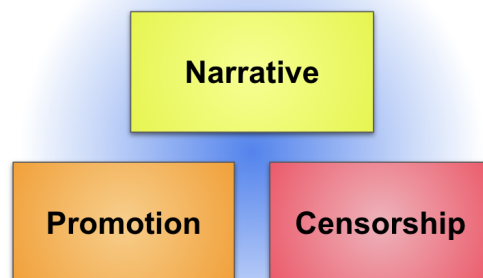
### Law

- Bill of Rights Act 1990
- Human Rights Act 1993
- Harmful Digital Communications Act 2015
- Harassment Act 1997

Our culture, as a general rule, is very non-confrontational. If saying something has the possibility of causing an argument, or disagreement, then we don't say it. As a result, we typically self censor ourselves on contentious issues. We are also a culture that does not like to protest. Most protest occurs from people who lean toward collectivist ideologies - we often have a very loud and vocal minority.

### COVID-19

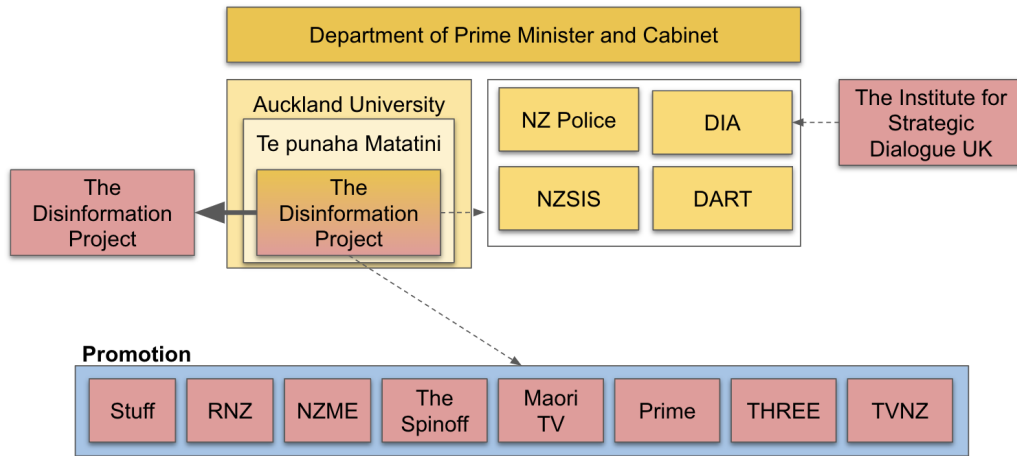
- Govt. public health policy = “sole source of truth”
- Govt. rapidly established three capabilities:
  - Censorship
  - Promotion
  - Narrative



COVID-19 hit and our government took a very cautious approach with a population wide lockdown.

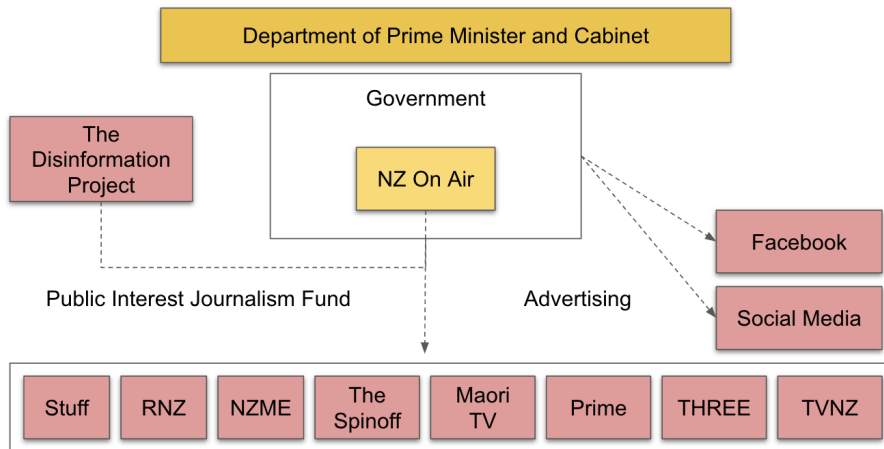


## New Zealand SITREP: Narrative



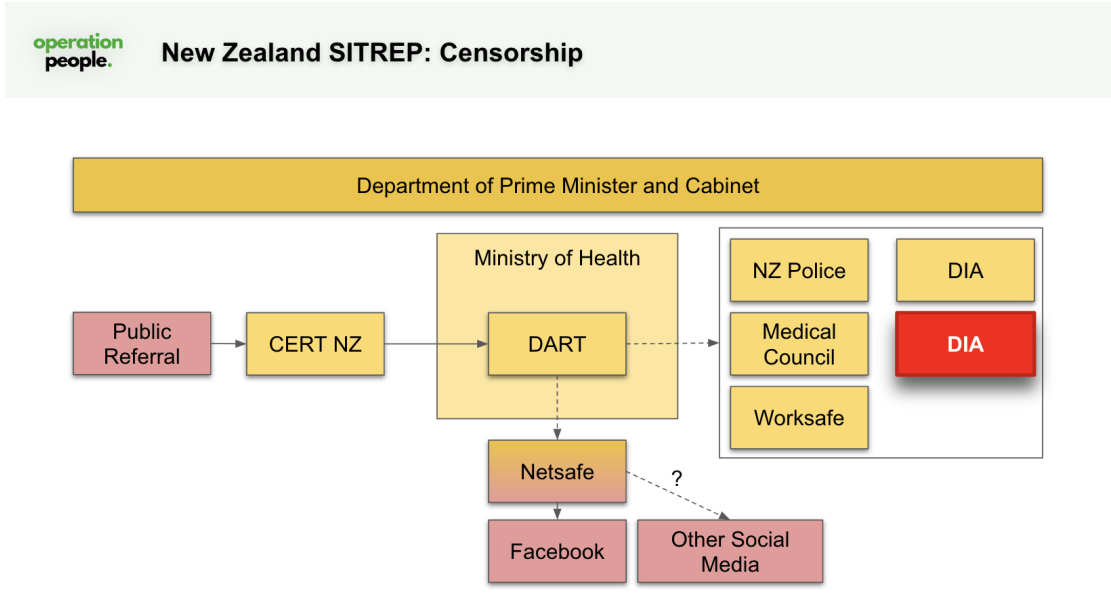
The first and most important component for censorship in New Zealand is the narrative. For this the DPMC requested Te Punaha Matatini begin the surveillance of the mis and disinformation landscape. Subsequently the Disinformation Project was set up in 2021 and soon after began to set the narrative about the “far-right”, “conspiracy theorists” and “anti-vaxxers”. We have looked into the lead researchers of the organisation and found their ideology is consistent with neo-Marxist, post-colonialist, feminist ideologies, in short - they are Critical Theorists and even by the directors own admission, use this ideology in their work and their identity. The disinformation project masquerade as scientists but are nothing more than activists.

## New Zealand SITREP: Promotion

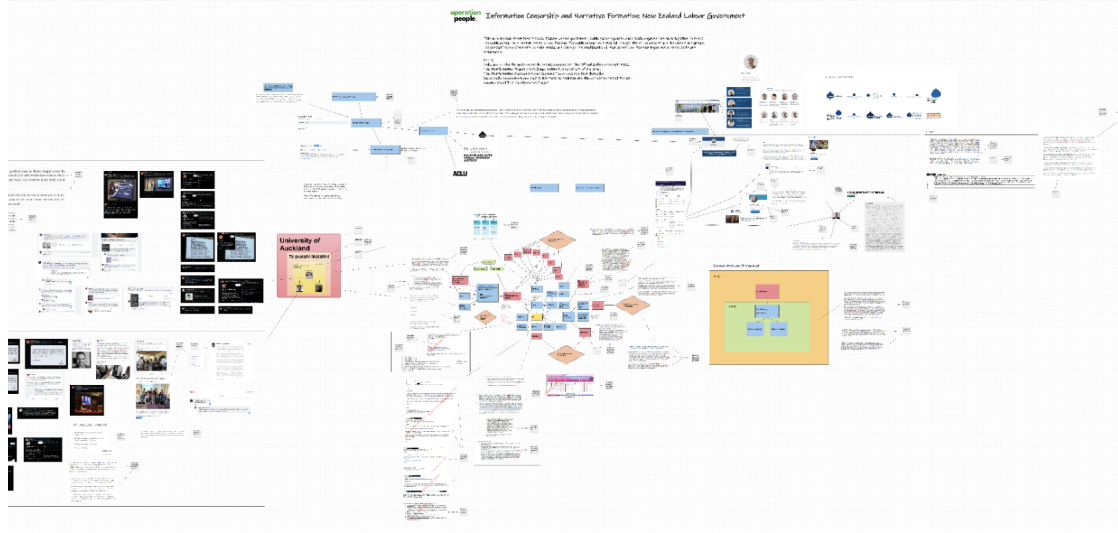


The second part of the system is the promotion of the narrative. This sought to amplify the

governments messaging in a seemingly innocuous way while the censorship component removed the opposite perspective on social media. The promotion of the narrative was using the agenda-setting effect, it was telling people “what to think about, rather than directly telling them what to think”. During the pandemic, we had advertisements on all platforms telling us about masks and being kind etc. We also had the Public Interest Journalism Fund available to media companies that pushed the ideology of the current government. This was used as rewarded system for pushing the “right” messaging. And finally, the Disinformation Project appeared on mainstream media, a lot, to push their narrative. The mainstream media never questioned them on why they were the arbiters of the truth.



The censorship component is the final executive component in the system. This was headed up by the Department of Prime Minister and Cabinet who had oversight over the entire complex. The central agency at the heart of this complex was the Disinformation Assessment and Response Team that sat within the Ministry of Health. They acted as a clearing house for all of government and initially were used to censor COVID-19 dissidents but this very quickly expanded to include a range of politically motivated targets, for example in a government document on disinformation they describe “conservative ideals around family structure” as being a “broader threat”. This illustrates just how extreme the government was prepared to go, and that they were open to censoring commonly held ideals.



Finally, some of the censorship complex has been moved around and we need to continue the track down where the elements have gone. More recently a document was released outlining a plan to regulate media in New Zealand to ensure that media only produces content within compliance codes. This will present a significant threat to smaller independent players in New Zealand that are prepared to challenge the narrative.

## Australia

### Online Safety Act

- Under the Australian Online Safety Act, the eSafety Commissioner can compel major social media platforms to remove “cyber abuse” directed toward Australians. The commissioner is also asking people to report “hate speech” to her office and empowering “fact checkers” to get material removed.
  - The Institute of Public Affairs is opposing a constitutional referendum that will create a race-based body separate from the executive and legislature (Māori Voice to Parliament). Through the eSafety office, government-aligned fact checkers have labeled their research as misinformation on Facebook.
  - The eSafety Commissioner asked Reduxx Mag to censor or delete an article that identified a trans activist who was accused of injuring players in a womens’ soccer game. The commissioner also asked Twitter to delete the Tweet about

the article. She claimed the article violated Australian law but did not specify which law.

## USA

### RESTRICT Act

- The RESTRICT Act (Bill S. 686) makes it illegal for Americans to use TikTok.
- It also gives the government the power to access the computer of anyone deemed a national security risk. This access applies to desktop, mobile, gaming, payments, private security keys, cameras, and more. The bill makes it a criminal act to use a VPN to bypass banned apps. Penalties for violations include 20 years in jail, property seizure, and \$1 million in fines.
- An appointed Secretary of Communication can deem anything a risk to security at any time without public disclosure. Activities under this act are not subject to Congressional oversight or FOIA requests.

## European Union

### Digital Services Act

Description:

- The EU Digital Services Act (DSA) was introduced along with the Digital Markets Act (DMA). The DSA aims to regulate social media and online marketplaces, while the DMA aims to prevent tech companies from engaging in unfair business practices.
- The 19 platforms that will be considered “very large online platforms” subject to special obligations of the DSA are AliExpress, Amazon Store, AppStore, Bing, Booking, Facebook, Google Maps, Google Play, Google Search, Google Shopping, Instagram, LinkedIn, Pinterest, Snapchat, TikTok, Twitter, Wikipedia, YouTube, and Zalando.
- VLOPs must:<sup>31</sup>
  1. “Address any risk they pose on society, including public health, physical and mental well-being.”

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<sup>31</sup> “More responsibility, less opacity: what it means to be a ‘Very Large Online Platform,’” European Commission, 25 April, 2023, [https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_23\\_2452](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_23_2452)

2. Ensure privacy and safety for minors
  3. Make efforts to prevent the spread of illegal content and disinformation.
  4. Clearly identify ads
- Article 40(4) gives vetted researchers access to data from larger online platforms and search engines. Researchers include academics and NGOs.
    - “Article 40(4) of the DSA requires VLOPs and VLOSEs to provide access to data to previously vetted researchers for the purpose of conducting research that contributes to the detection, identification and understanding of systemic risks in the EU and the assessment of the adequacy, efficiency and impacts of risk mitigation measures. This is a much welcome innovation of the DSA, and one that reflects pleas by politicians, civil society representatives, and academics for many years.”<sup>32</sup>
    - Vetted researchers will have platform data. This means NGOs, academia, and civil society will get access to content moderation data and algorithms.
    - The DSA “also requires online platforms of any size to explain their content moderation decisions and publish those explanations in an openly accessible database, inspired by the Berkman Klein Center’s Lumen database of notice and action requests.”<sup>33</sup>
  - The DSA will set a global standard when it goes into effect in early 2024.

#### History:

- The DSA was prepared by Margrethe Vesager (Executive Vice President of the European Commission for A Europe Fit for the Digital Age) and by Thierry Breton (European Commissioner for Internal Market).
- The DSA and DMA are part of the EU’s 150 billion euro digital transformation plan. Of the EU’s 750 billion euro COVID recovery plan, 20% is going to digital transformation.<sup>34</sup>

#### Support:

- A large amount of support comes from NGOs/civil society groups.

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<sup>32</sup> Edelson, Laura; Graef, Inge & Lancieri, Filippo. “Access to Data and Algorithms: For an Effective DMA and DSA Implementation,” CERRE, February 2023, [https://www.politico.eu/wp-content/uploads/2023/03/15/230223\\_Access-to-Data-Algorithms.pdf](https://www.politico.eu/wp-content/uploads/2023/03/15/230223_Access-to-Data-Algorithms.pdf)

<sup>33</sup> “Advancing Platform Research through the EU Digital Services Act Advancing Platform Research through the EU Digital Services Act,” Harvard Law School, April 6, 2023, <https://hls.harvard.edu/events/advancing-platform-research-through-the-eu-digital-services-act-advancing-platform-research-through-the-eu-digital-services-act/>

<sup>34</sup> Frances G. Burwell and Kenneth Propp, “Digital Sovereign in Practice: The EU’s Push to Shape the New Global Economy,” Atlantic Council Europe Center, October 2022 [https://www.atlanticcouncil.org/wp-content/uploads/2022/11/Digital-sovereignty-in-practice-The-EUs-push-to-shape-the-new-global-economy\\_.pdf](https://www.atlanticcouncil.org/wp-content/uploads/2022/11/Digital-sovereignty-in-practice-The-EUs-push-to-shape-the-new-global-economy_.pdf)

- At the Stanford Internet Observatory, Martin Husovec, board member of the European Information Society Institute, explained, “DSA... tries to give right of collective action to NGOs to basically enforce certain types of obligations” (53:25).<sup>35</sup>
- Speaking at the Stanford Internet Observatory, Obama called the DSA a way to “regulate the abuses that are seen in Big Tech companies.”<sup>36</sup>
- Hilary Clinton tweeted her support.<sup>37</sup>

#### Opposition:

- The main groups lobbying against the Digital Services Act include big tech companies like Google, Facebook, and Microsoft.<sup>38</sup>

## People of Interest/Key Players

#### European Based Agents

- The European Centre for Algorithmic Transparency (ECAT) is embedded within the EU’s existing Joint Research Centre (JRC), a long-established science facility that conducts research in support of a broad range of EU policy making, from climate change and crisis management, etc. The group has a dedicated focus on the DSA, supporting lawmakers to gather evidence to build cases so they can act on any platforms that don’t take their obligations seriously....Commission officials describe the function of ECAT being to identify “smoking guns” to drive enforcement of the DSA.<sup>39</sup> Leaders & Researchers at ECAT listed below:
  - POI: Yves Punie- Deputy Head of Unit Algorithmic Transparency
  - POI: Alberto Pena Fernández- Co-Head of Unit
  - POI: Emilia Gómez- Lead Scientist

#### US-Based Agents

- U.S.-EU Trade and Technology Council (TTC): “gives officials in the United States and Europe a venue to make sure that their respective efforts are aligned” regarding digital policy.<sup>40</sup> Scholars express support through Brookings Institution<sup>41</sup> (Sam Wooley Below)

<sup>35</sup> <https://www.youtube.com/watch?v=np05wM3h2mc>

<sup>36</sup> <https://twitter.com/accountabletech/status/1517267407194238980?s=20>

<sup>37</sup> <https://twitter.com/HillaryClinton/status/1517247388716613634?s=20>

<sup>38</sup> <https://corporateeurope.org/en/2020/12/big-tech-brings-out-big-guns-fight-future-eu-tech-regulation>  
<sup>39</sup> [https://techcrunch.com/2023/04/18/ecat/?guccounter=1&guce\\_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce\\_referrer\\_sig=AQAAANX-kt4u8DMbz8WRxZYSVJqjkT7dko-fNSmcZNDphFimlO2zgwSN7KjKkEwdoTo8BLVp39kK8Knf2nFNrMuTXZzxf0\\_nKoDeWDr067qqqNvWm3xvj1cgE4elsqlmdv4WYiPNHR1uI9FuMmCrbA3ooElcblPTMvXmbs3VJHm4Wcib](https://techcrunch.com/2023/04/18/ecat/?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAANX-kt4u8DMbz8WRxZYSVJqjkT7dko-fNSmcZNDphFimlO2zgwSN7KjKkEwdoTo8BLVp39kK8Knf2nFNrMuTXZzxf0_nKoDeWDr067qqqNvWm3xvj1cgE4elsqlmdv4WYiPNHR1uI9FuMmCrbA3ooElcblPTMvXmbs3VJHm4Wcib)

<sup>40</sup> <https://www.brookings.edu/techstream/an-agenda-for-us-eu-cooperation-on-big-tech-regulation/>

<sup>41</sup> <https://www.brookings.edu/blog/techtank/2021/01/06/four-lessons-for-u-s-legislators-from-the-eu-digital-services-act/>

- POI- Samuel Wooley: proponent of increased collaboration between US/EU through TTC^^ Assistant Professor at University of Texas, Austin with grants from Omidyar Network (ON) and is a research assistant working on the Project for Democracy and the Internet at Stanford University. Has held past research affiliations at the Oxford Internet Institute, University of Oxford and the Center for Information Technology Research in the Interest of Society (CITRIS) at UC Berkeley.<sup>42</sup>
  - Before joining UT, Sam led research teams at the University of Oxford, University of Washington, and Institute for the Future. He has served as a research fellow at Google Jigsaw, the Anti-Defamation League, the German Marshall Fund of the United States, the Center for Media, Data and Society, and the Tech Policy Lab
- POI-Aanya Schiffrin: attended University of Navarra in Spain to get PhD in Disinformation. Is the director of the Technology, Media, and Communications at Columbia University's School of International and Public Affairs. Hosts discussions with EU members<sup>43</sup> regarding the DSA and has advised/encouraged the development of similar legislation since 2017.<sup>44</sup>
- POI- Daphne Keller: directs the Program on Platform Regulation at Stanford's Cyber Policy Center<sup>45</sup>, writes pieces in support of DSA and advocates US adopt similar policies.<sup>46</sup>

## Brazil

### Bill #2630 "Fake News Bill"

- Bill 2630 (also known as Bill 2020) aims to fight the spread of fake news on social networking and messaging platforms.<sup>47</sup> The bill would make social media companies, search engines and social messaging services accountable for the fake news that circulate on their platforms.<sup>48</sup> Specific policies include the National Congress creating

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<sup>42</sup> <https://journalism.utexas.edu/faculty/samuel-woolley>

<sup>43</sup> <https://www.youtube.com/watch?v=jsVnvoN4iMA>

<sup>44</sup> <https://www.cjr.org/watchdog/europe-fights-fake-news-facebook-twitter-google.php>

<sup>45</sup> <https://cyberlaw.stanford.edu/about/people/daphne-keller>

<sup>46</sup> <https://thehill.com/opinion/technology/534411-for-platform-regulation-congress-should-use-a-european-cheat-sheet/>

<sup>47</sup> <https://www.jota.info/opiniao-e-analise/artigos/pl-das-fake-news-entenda-o-que-e-seu-impacto-e-as-principais-criticas-18042022>

<sup>48</sup> <https://www.reuters.com/article/brazil-internet/brazil-lawmakers-to-vote-on-controversial-bill-to-clean-up-social-media-idUKL1N36V14F>

a council that will be responsible for carrying out studies, opinions and recommendations on freedom, responsibility and transparency on the internet.<sup>49</sup>

- Originally published in 2020 by Alessandro Vieira, the bill is up for a vote on June 25th.<sup>50</sup>
- Supporters of the bill express concern regarding a January 8th insurrection relating to the recent election in Brazil, along with the rise of right-wing hate and conspiracies and concerns about internet-inspired violence in schools.<sup>51</sup> Avaaz specifically coordinated a protest in front of the National Congress to protest victims of school massacres.<sup>53</sup>
- Opponents of the bill express concern regarding the immunity granted to public officials, the broad language surrounding “social peace and economic order” along with hefty fines and jail time.<sup>54</sup>

## Brazil History/Context - from Eli Vieira (journalist)

- Brazil has never had a strong free speech culture. *Injuria*, or crime of offense was punishable by law. This lends itself to the idea of feelings being protected.
- There is also a “disrespect to authority” crime that is a legacy from the military dictatorship.
- Bolsonaro signed a law making it a crime to practice (ill-defined) “psychological violence” against women.
- In the 1980s, a law against racism included a provision against racial offense. Under Lula’s current government, this law became harsher. This is a basis for expanding censorship to “hate speech.”
- Hate is not a big problem though. A recent London School of Economics survey found that Brazil was more tolerant than the US and the UK.
- In the 1990s and 2000s the main political groups were the Workers’ Party and the Social Democrats. The right surged with Bolsonaro. For many years, people did not want to be right wing due to the association with the military dictatorship. Still today, 80% of

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<sup>49</sup><https://docs.google.com/document/d/1n2JRuBpLkVoaVK6ZFhd17lfsbAulWHrLvQbDZ9Yu2Y/edit?usp=sharing>

<sup>50</sup> <https://www25.senado.leg.br/web/atividade/materias/-/materia/141944>

<sup>51</sup> <https://www.opendemocracy.net/en/democraciaabierta/brazil-crack-down-fake-news-disinformation-lula-restore-trust-internet/>

<sup>52</sup> <https://www.devdiscourse.com/article/politics/2437459-brazil-lawmakers-to-vote-on-controversial-bill-to-clean-up-social-media>

<sup>53</sup> <https://www.channelnewsasia.com/business/brazil-pushes-back-big-tech-firms-campaign-against-fake-news-law-3459696>

<sup>54</sup> <https://www.devdiscourse.com/article/politics/2437459-brazil-lawmakers-to-vote-on-controversial-bill-to-clean-up-social-media>



journalists in Brazil say that they are on the left or center-left and only 4% say that they are on the right.

- Bolsonaro became well known because he was willing to say shocking things. Facebook played an enormous role in his campaign. Elites' inability to control the narrative after the advent of social media is a large part of why censorship is expanding in Brazil.
- Besides hate, the January 8 Congress attack is a main rationale for the censorship.
- The Supreme Court is driving the censorship. Judge De Moraes is the main person doing this. He has expanded the court's power so that it would have the ability to start investigations itself.
- The press is in favor of censorship because social media destabilizes their business. De Moraes cites the mainstream press to justify his actions.
- De Moraes likes to cite "scientific" work from NetLab, a lab at the Federal University of Rio de Janeiro.
  - NetLab: <https://www.netlab.eco.ufrj.br/> - the Stanford Internet Observatory of Brazil?
  - NetLab is led by Rose Marie Santini
- The Supreme Court sees itself as the arbiter of what is appropriate. Judges quote Dworkin and Rawls in their decisions. There is a specific academic environment around law in Brazil. Law degrees are very popular, but conservative interpretations of the law are not usually taught/studied.
- The Supreme Court takes it upon itself to solve things. It is engaged in judicial activism. The constitution is the 3rd largest in the world and is constantly being amended. This adds to the Court's power.
  - One justice declared that the court is "supreme" not because it is above all other courts, but because it is above the rest of the government powers. Another retired justice said the court is the "editor" of the nation. This is not in the constitution.
- 40% of the clauses in the Fake News bill were added last week, so people don't know what's in it. De Moraes suggested clauses for the updated bill. He has already been taking down social media posts, and he suggested putting this process into law (this is an admission that what he was doing wasn't legal).
- An example of De Moraes' censorship: 8 very important businessmen had a private WhatsApp group. A journalist infiltrated the group, and took screenshots. De Moraes punished the businessmen for "incitement," including one businessman who had only used a sticker in the chat.

- De Moraes also censored a Marxist party (PCO) for making fun of him online. The profile of the party is now blocked in Brazil.
- De Moraes was appointed in 2017 by Michel Temer. He was associated with the right and the left called him "fascist." Now though, all of De Moraes' pro-censorship arguments are based on the leftist idea of "care."
- NGOs: Sleeping Giants Brazil is an American anti-Trump group that pretended to be started by just a young couple who moved to Brazil. They pressure advertisers and members of parliament. Eli investigated a WhatsApp group they have, and found that every phone number was American. It is likely that the numbers were purchased.
- The two main justifications for censorship are "You can say whatever you want, but you are not free from consequences for what you say," and the idea of "pre-censorship" that comes from the military dictatorship. Under the dictatorship, things were censored "before the fact," but now the idea of doing this comes from the left.
- Last month a judge from a lower court banned Telegram and seemed to have no understanding of end-to-end encryption.

## People of Interest/Key Players

Atlantic Council Expanding Digital Forensic Research on Disinformation in Brazil.<sup>55</sup>

- POI: Jason Marczak "senior director of the Atlantic Council's Adrienne Arsht Latin America Center" & GWU Professor<sup>56</sup> Attended Tufts & John Hopkins International Studies.<sup>57</sup>
  - Hosted talk with former Minister of Justice Sergio Moro to discuss "forward looking public policy" as democracy is questioned across the world, and what that means for upcoming elections in Brazil with former Justice Sergio Moro and Valentina Sader (Atlantic Council) in 2022<sup>58</sup>:
    - Sader (13:37): The Brazil Supreme Electoral Court recently increased cooperation with social media platforms to counter disinformation ahead of this year's elections in October. What are some ways the judiciary can enforce those and make sure this information is not so widespread?
    - Moro (13:55): This is a difficult task. The courts probably need to have a stronger approach about punishment. It is very difficult to avoid the spread of fake news, this happens so quick and it is difficult to reach the courts with a proper measure in a proper time. So maybe the point was

<sup>55</sup> <https://www.atlanticcouncil.org/job-opportunity/research-assistant-brazil-digital-forensic-research-lab/>

<sup>56</sup> <https://www.atlanticcouncil.org/expert/jason-marczak/>

<sup>57</sup> <https://www.linkedin.com/in/jason-marczak-a2973520/>

<sup>58</sup> <https://www.facebook.com/AtlanticCouncil/videos/757350301904060/>

to try to identify who is the author, who is the one that gets the credit for this misinformation, and punish them.”

- Marczak expresses support for Judge De Moraes and says this is a good direction: “Leaders across the Brazilian political spectrum have condemned the violence; *what is needed are swift actions to hold responsible those directly and indirectly complicit in the ransacking of Brazilian institutions.* That started on Sunday with the arrest of hundreds of looters and the order by Supreme Federal Court Justice Alexandre de Moraes calling for the ninety-day removal of Federal District Governor Ibaneis Rocha following the absolute failure of Federal District security.”
- POI: Ricardo Sennes: “nonresident senior Brazil Fellow” at the Atlantic Council<sup>59</sup>
  - Commented “that social media, in particular the spread of disinformation, as well as the engagement of the evangelical church and the active participation of judiciary agencies in the elections represented new trends in the Brazilian electoral process” in 2018.<sup>60</sup>
- POI: Valentina Sader “associate director and Brazil lead at the Atlantic Council”<sup>61</sup> and went to American University. Graduated in 2018 and worked as an RA with “Professor [Matthew Taylor](#) with research, compilation of data, and organization of findings on representation, bureaucracy, and the judiciary in Brazil.” Her first listed job after graduation is with the Atlantic Council.<sup>62</sup>
- Sader interviewed as part of public response to Brazil January 8th Riots entitled “Anti-Democracy Riots in Brazil” where she blamed social media and private messaging for the events in Brasilia.<sup>63</sup> Specific comments outlined below:
  - Sader: “We saw them on social media. We saw them on whatsapp groups, telegram and the republic. There was enough time for Brazilian police to organize and make sure this did not culminate in what ended up happening in Brazil”
- This is the same messaging the Atlantic Council has used regarding Disinformation in Brazil from 2019:<sup>64</sup>
  - Disinformation in Brazil’s elections included organic disinformation spread through encrypted messaging platforms.
  - Brazilian authorities began research into disinformation starting 2016.

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<sup>59</sup> <https://altamar.us/breakdown-in-brazil/>

<sup>60</sup> <https://afghanistan.wilsoncenter.org/event/teleconference-brazilian-elections-results-and-expectations>

<sup>61</sup> <https://www.atlanticcouncil.org/expert/valentina-sader/>

<sup>62</sup> <https://www.linkedin.com/in/valentinagsader/>

<sup>63</sup> <https://www.c-span.org/video/?525112-4/valentina-sader-anti-democracy-riots-brazil>

<sup>64</sup> <https://www.atlanticcouncil.org/wp-content/uploads/2019/09/Disinformation-in-Democracies.pdf>

# Germany

## General comments on the German situation (Micha):

- There is very little debate about censorship in Germany. The awareness that the NetzwerkdG (network enforcement law) is at the forefront worldwide is low. Most institutions demand more, not less censorship. A majority of Germans perceive social media as an unsafe untrustworthy place, so the demand for more hate speech legislation is relatively high.
- The public broadcasters are still distinctively powerful in Germany and still manage to control a large part of the population. In particular in west Germany they still enjoy high trust and push the elite consensus narrative shared by most in the educated / managerial class on the rest of the population.
- Obviously the opposition to the progressive/liberal consensus is increasingly notable in polls and street demonstrations (mainly in smaller towns and in the East). But politically it is currently an impasse as all mainstream parties agree on most issues, incl. censorship and no-one will for the time being allow the AfD (Alternative für Deutschland) to have political influence (this might change in the East after next year's elections). A game changer might be if Sahra Wagenknecht finally goes ahead with the new party which might enjoy high support (Wagenknecht is still a MP for Die Linke but has been very vocal against the liberal consensus on a range of key issues including COVID, immigration and the Ukraine war).
- As a strategic approach for freedom of speech in Germany I would focus on organizing the working classes (the plumbers and the carpenters) more than anything else. I see the educated classes as rather lost at this stage. The left/greens are now the authoritarian force in Germany (and beyond). The few educated real liberals among the educated class still have to wake up if they ever will.

## Background (Elena):

- Germany has seen a shift in public discourse towards censorship "as an individual civil duty", i.e. private individual citizens targeting other individuals in a new denunciation infrastructure or "hubs", both online, as well as in real life
- This denunciation infrastructure includes, among others the "Meldestelle Antifeminismus" ("Reporting office for antifeminism"), funded by tax money, and orchestrated by the Green Party Amadeu-Antonio-foundation, to target "sexist, misogynist, or queer phobic" occurrences both in real life and online. The main enemy is "right-wing populism". This is how it works:



- We are currently seeing the installation of a whole new bureaucratic apparatus in which individuals are encouraged to "report" others.
- Other examples include the "Green Internet Fire Brigade" (an organisation within the Green Party) that encourages users to report others for "online hate", any many more

## Hate Speech Law

### Description:

- The German NetzDG law was passed in 2020.
- Under this law, police actually go to people's homes for hate speech violations, including jokes.<sup>65</sup> According to the New York Times, 1000 people have been charged or punished. A special unit tracks down anonymous accounts with the help of Google and Twitter. Google said it provides 85% of information requests to the German Government. Police confiscate devices as evidence, even in cases of simple jokes or inflammatory comments. In one famous case, someone wrote, "You are such a penis" to a city official on Twitter, and police raided his home.
- The justification for the law was increasing anti-immigrant sentiment online.

### History:

- Important context for Germany's harsh speech restrictions is the history of denazification. This was an Allied effort to remove Nazi ideology from German society following World War II. This initiative did not just include removing Nazis from power and holding tribunals, it also had a central censorship component, which some critics at the time said was no different from Nazi book burnings.<sup>66</sup>

<sup>65</sup> <https://www.nytimes.com/2022/09/23/technology/germany-internet-speech-arrest.html>

<sup>66</sup> <https://content.time.com/time/subscriber/article/0,33009,776847,00.html>

- Under this censorship program, the US Army took control of German newspapers, theaters, radio, and book publishers/dealers; it also issued directives that made possession of one of 30,000 banned books a punishable offense. Criticism of the Allies was prohibited. For example, one newspaper that revealed the cost of Allied occupation (which was charged to the German public) was banned.
- This context is why, before 2020, Germany already had long-standing speech restrictions for Nazi-related materials, Holocaust denial, and anti-semitic statements.
- German law has a concept called “Volksverhetzung” which means “incitement to hatred” or “incitement of the popular hatred.” Under this law, insulting or defaming groups of people can count as “incitement.” This usually applies to Holocaust denial, but is also the basis for a broad understanding of anti-immigrant sentiment as “incitement,” and for expansion of German censorship to online speech.
- To justify Germany’s online “hate speech” law, authorities claim the contemporary far-right presents extreme danger similar to the danger posed by the Nazis, and in light of this any censorship is not only justified, but necessary.
  - “History of hate” is often brought up as rationale for Germany’s harsh online censorship laws.<sup>67</sup>
- East Germany also has a history of mass surveillance under the Stasi. Some critics of Germany’s online hate speech law argue that there are parallels with the Stasi. Censorship in East Germany applied to art, literature, film, and journalism.
  - Herbertus Knabe, a German historian and former director of the Stasi Crimes Memorial, wrote on his blog that Anetta Kahana, the head of the anti-racist NGO Amadeu-Antonio-Stiftung, was an “unofficial collaborator for the Stasi.”<sup>68</sup>
- Germany’s legislation has influenced hate speech laws in at least Austria, and it appears to have influenced EU legislation as well. German politicians interpret Germany’s Network Enforcement Act as a blueprint for the Digital Services Act.

Support:

- Former Chancellor Angela Merkel was supportive of the legislation, saying in a speech, “Expressing an opinion does not come at zero cost,” and “freedom of expression has its limits.” She continued, “This house must and will oppose

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<sup>67</sup> <https://www.nytimes.com/2018/05/19/technology/facebook-deletion-center-germany.html>

<sup>68</sup> <https://hubertus-knabe.de/der-fall-kahane/>

extreme speech, otherwise our society will no longer be the free society that it was."<sup>69</sup>

#### Opposition:

- In 2018, Human Rights Watch criticized Germany's Network Enforcement Act.<sup>70</sup> The German director of HRW said, "It is vague, overbroad, and turns private companies into overzealous censors to avoid steep fines, leaving users with no judicial oversight or right to appeal." HRW also noted that a political street artist and a satire magazine were censored under this law.
  - HRW predicted that the law would have a "domino effect" - it seems that this is exactly what happened
- David Kaye, UN special rapporteur, said the law was inconsistent with international human rights.
- Big Tech complied with German authorities to enforce the original draft of the law, but has opposed recent 2022 amendments and filed a lawsuit to put them on hold.<sup>71</sup>

#### Fact-Checkers:

- Micha Narberhaus: A large part of "narrative setting" in Germany happens through fact-checking organizations. These include:
  - Volksverpetzer
  - Correctiv
- Fact-check funding is from:
  - Mercator
  - Bosch-Stiftung

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<sup>69</sup> [https://twitter.com/dw\\_politics/status/1199643245560643584](https://twitter.com/dw_politics/status/1199643245560643584)

<sup>70</sup> <https://www.hrw.org/news/2018/02/14/germany-flawed-social-media-law>

<sup>71</sup>

<https://www.euractiv.com/section/internet-governance/news/german-reinforcement-of-hate-speech-law-faces-opposition-from-big-online-platforms/>

# Scotland

## Hate Crime And Public Order Act 2021 (will not be enforced until 2024)

### Description:

- Made “stirring up hatred” a criminal offense. Criminalized hate speech “at the dinner table.”

### History:

### Support:

- The Coalition for Racial Equality and Rights produced a report<sup>72</sup> about online hate speech. CRER is a branch of Open Society-funded ENAR.
- The government consulted<sup>73</sup> with CRER about the legislation. Jennifer Galbraith of CRER advised the Justice Committee about the law.<sup>74</sup>
- CRER advised the government through the Justice Committee that the law should include expansive reporting and should consider “insulting” behavior to be part of “stirring up hatred.”<sup>75</sup>

### Opposition:

- Various artists and writers came out in opposition to the law before it was passed. In an open letter, they argued that, “The right to critique ideas, philosophical, religious and other must be protected to allow an artistic and democratic society to flourish.”<sup>76</sup>

# Austria

## Hate Speech Law

- Criminalizes “incitement” in broad terms.
- Offenses can be reported. Platforms are obligated to remove the offense.

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<sup>72</sup>[https://static1.squarespace.com/static/615c1bee105b4f55a98326d0/t/616d66357f51613cde1d0515/1634559547848/18\\_Hate\\_Online.pdf](https://static1.squarespace.com/static/615c1bee105b4f55a98326d0/t/616d66357f51613cde1d0515/1634559547848/18_Hate_Online.pdf)

<sup>73</sup> <https://consult.gov.scot/hate-crime/independent-review-of-hate-crime-legislation/>

<sup>74</sup> <https://www.scottishparliament.tv/meeting/justice-committee-november-17-2020>

<sup>75</sup>[https://static1.squarespace.com/static/615c1bee105b4f55a98326d0/t/61715cbb8bed7f670b9c0432/1634819261397/01\\_Hate\\_Crime\\_and\\_Public\\_Order\\_Scotland\\_Bill.pdf](https://static1.squarespace.com/static/615c1bee105b4f55a98326d0/t/61715cbb8bed7f670b9c0432/1634819261397/01_Hate_Crime_and_Public_Order_Scotland_Bill.pdf)

<sup>76</sup>

<https://www.humanism.scot/2020/08/11/coalition-of-artists-authors-journalists-and-campaigners-call-for-changes-to-hate-crime-bill/>



- Based on the German hate speech law.
- Martin Sellner (far-right nationalist) was charged under this law for something he wrote on his Telegram channel. He faced three years in prison, but the charges were dropped.
  - The Telegram post said that asylum centers in Germany “pose more danger” to children than the Reichsbürger movement. (Reichsbürger is similar to Q-anon.)

## California

### CA vs. Hate Hotline

- Established in May 2023, this is a hotline where people can report hate crimes and “hate incidents” that include bullying, name calling, and denial of service. They will then be contacted by a “care coordinator.”
- From the LA Times, citing Kevin Kish, director of the CA Civil Rights Department: “Kish said the state hotline builds on the efforts of groups such as Stop AAPI Hate and the LA vs. Hate initiative in Los Angeles County...”<sup>77</sup>
- From the Open Society Foundations website: “ Between March 2020 and February 2021, Open Society grantee Stop AAPI Hate documented nearly 3,800 self-reports of anti-Asian hate incidents.”<sup>78</sup>
- Stop AAPI Hate reports: <https://stopaapihate.org/reports/>

## Italy

### LONDON – CENSORSHIP INDUSTRIAL COMPLEX

An overview of Italy – by Martina Pastorelli, journalist

Italy is a country with a chronic lack of pure publishers and a consequent dependence of newspapers and TV on large corporations and political parties whose control of Italian state television has historically been shared out between government and

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<https://www.latimes.com/california/story/2023-05-02/californians-can-report-hate-incidents-get-help-through-statewide-hotline>

<sup>78</sup> <https://www.opensocietyfoundations.org/voices/a-history-of-anti-asian-hate-in-the-united-states>

opposition. This and the growing subjugation of our political-economic system to American power and influence have all played their part in an ever-reducing availability of a plurality of information and a squeezing-out of freedom of expression.

In theory, the latter is protected by Article 21 of our Constitution, which says: *"Everyone has the right to freely express their thoughts through speech, in writing and by any other means of dissemination. The press cannot be subjected to authorization or censorship"*.

In practice, this Article is being by-passed by social media platforms that block and ban content under the pretext of tackling disinformation and 'hate speech' and not complying with their fluid and unpublished 'rules' and policies. They behave as if they were publishers without applying the rules that govern publishers. Meanwhile the corporate media either looks the other way or increasingly joins this attack on freedom of thought and expression.

Against a backdrop of a country "with already limited sovereignty", the Covid-pandemic accelerated the shift in this worrying direction. It ushered in a political, economic and media pact moving in lock-step to censor, hide and mislead.

The media has fully aligned itself with the institutions it should be holding to account. Together, they are championing a shared project passed down in the form of diktats from the EU and the UN with its Agenda 2030, from the US and from the global corporations that now govern our world. The Italian media, with some very rare exceptions, no longer provides information. Instead, it churns out propaganda and constantly repeats narratives handed down from above, that describe a parallel reality ever-more divorced from objective truth and people's actual lives.

Severe but fair in his assessment, Italy's greatest living philosopher, Giorgio Agamben, has pointed out that "the behaviour of the media in these two years will go down as one of the most shameful pages in our country's history."

A very recent example of how potent the Censorship Industrial Complex has become in Italy is the total silence surrounding the revelations by the TV programme "Fuori dal Coro" and the daily newspaper "La Verità" of chats and emails from the first - and so far only - judicial inquiry into the initial phase of the pandemic management. The contents are very serious and disturbing but no one else has written a line, or said a word, not even to deny what they reveal. Just silence, which is an astonishing form of censorship. To give you an idea of what we are talking about:

The former Health Minister who wrote to his colleagues: *"We must instil fear to impose these restrictions"* to which they replied: *"OK then and let's not show the data you sent me"*; the Heads of the Medicines Agency who stayed silent about post injection injuries so as *"not to kill the vaccine"*; the removal of reports of adverse events in babies from the official records; the Internal Directive from the Health Authorities who wrote: *"We must learn not to answer"*; and internal exchanges at the same Authorities on what was happening like this: *"With all due respect, many are dead and others will die."*

These revelations were met with total silence.

On the contrary, the still very powerful former Prime Minister and European Commission technocrat Mario Monti said: *"In an emergency, less democratic methods must be found for the administration of information."*

Of course, Covid is not an isolated case. On the fetish theme of group-thinkers - homotransphobia - an attempt was made to pass a law (the "Decreto Legge Zan") which, by setting out specific aggravating circumstances for hate crimes and discrimination in matters of gender and homotransphobia, would have severely squeezed freedom of thought and expression for those defending their natural rights. For example, arguing that a biologically male trans athlete should not compete against women could have been read as an expression of hate and discrimination punishable by up to 4 years in prison. As a result of protests, an article was added that *"allowed freedom of opinion"*. But for what is already a constitutionally protected right to be *"allowed"* is a legal absurdity, with the 'thought police' granting something the constitution provides for by right. The law did not pass, but its promoters have not given up and it is easy to predict that they will try again.

The latest example of this ongoing assault by the Censorship Industrial Complex is happening on the climate issue. This has become the new 'national emergency' where anyone who calls for reflection and a scientific debate is silenced or attacked. In one national newspaper a professor from a very prestigious university recently demanded that *"denying climate change must be made a criminal offence."*

On the subject of the war in the Ukraine, the tune is the same. Anyone who is not against Russia, whoever has any misgivings about this conflict, immediately becomes the object of a defamatory campaign and is criminalised. By way of illustration:

Italy's 'newspaper of record' – Il Corriere della Sera - a year ago published on its front page the photos and names of the 'non-aligned' academics, journalists and politicians who questioned the wisdom of the war. This blacklist of Italian so-called 'Putin sympathisers', who were characterised as guilty of "*boycotting the government's choices*" were said to be on a Secret Service list of suspects. The Services denied this, but not before the media butchery of these people was complete. It's widely understood that this was a way to send warnings, intimidate and to throw mud at any critical voices.

More recently Youtube removed the film "Referendum" which aims to break the wall of silence by proposing a vote on blocking the shipment of arms to Kiev. The message is clear; this is something we are not meant to talk about.

Youtube had already distinguished itself in 2020 with the largest de-platforming in Italy to date: that of Byoblu, a channel with 500,000 subscribers and 200 million views. The pretext was familiar: 'violation of their policies' which after the pandemic do not tolerate content that spreads misinformation in the medical field, or contradicts information provided on COVID-19 by the local health authorities or by the 'World Health Organization'.

Byoblu was forced to buy a digital channel and is struggling to survive.

What's so worrying is that most of the journalistic world is not batting an eyelid in the face of all this. The very people who should be the champions and guardians of freedom of expression have decided this is no longer a value, that the truth is no longer worth telling and instead has decided to self-censor.

The bottom of the barrel was reached when we witnessed journalists applauding Prime Minister Mario Draghi as he entered his press conferences in scenes reminiscent of Pyongyang.

The question is whether Italy's tamed journalists are an exception, or whether they are the sign of things to come elsewhere.

## Julian Assange

- The JA case raises fundamental Art 10 (freedom of speech) issues.

- The US is applying its censorship laws (Espionage Act) extraterritorially, asserting universal jurisdiction over speech. It is bringing charges against a foreigner (Australian citizen) in a foreign jurisdiction (UK).
- There is no allegation JA/WL acted on direction of any state, enemy or otherwise. The accusation is that JA conspired with a source to obtain, that he possessed and 'communicated' official government documents -the potential sentence amounts to 170 years. The case concerns the Iraq war Logs, Afghan War diaries, US state department cables, Gitmo detainee assessment briefs, as well as the Rules of Engagement published in the collateral Murder video release in 2010.
- The charges include three charges of what the RCFP calls 'pure publication'
- The High Court has rejected JA's application for leave to appeal, meaning the lower court's ruling is now affirmed by the High Court and therefore precedent-setting. This means the English courts have accepted the US arguments about dual criminality (a similar case on the same facts could be brought here—even though no publisher has ever been tried before for these activities), that re-publication is equally a crime, and that political offences (including political speech as in this case) is no bar to extradition. The grounds of appeal for your reference:  
<https://www.craigmurray.org.uk/wp/wp-content/uploads/2023/06/assangehighcourtappeal.pdf>
- The political precedent is set whereby borders are porous and speech can be not only censored but also criminalised by any country willing to do so
- JA has a final chance to seek leave to appeal to a separate panel of two High Court judges in a public hearing. If that application fails the UK will extradite. The case poses a grave threat to the First Amendment in the US:  
<https://cpj.org/2022/12/cpj-partners-send-letter-calling-for-us-to-drop-charges-against-julian-assange/amp/>
- The European Court of Human Rights (ECtHR) can issue an emergency injunction (aka Rule 39) to stop his extradition on the basis of risk of irreparable harm
- In this case, extradition to a possible life sentence for speech protected by the European Convention of Human Rights (true information exposing state crimes). However the Sunak government is gearing up to ignore Rule 39 (see <https://policyexchange.org.uk/wp-content/uploads/Rule-39-and-the-Rule-of-Law.pdf>).
- The effect on all 46 country members of the Council of Europe could be devastating.