

Dear Editor,

This letter serves to highlight the importance of free speech, beginning with a whistle-stop tour of the law and morals underpinning the principle. It concludes by examining, in light of this law and morality, the seemingly ethical quagmire that surrounds whether or not controversial speakers should be afforded platforms to speak in university debates.

Free speech is protected by the Tenth Article of the European Convention on Human Rights. A classic judicial expression of the supremacy of the principle before the European Court of Human Rights is found in the famous *Handyside*¹ judgment. ‘Freedom of expression constitutes one of the essential foundations of such a [democratic] society.’² More importantly, ‘it is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive...but also to those that offend, shock or disturb.’³

This legal protection of free speech derives from a long-standing moral imperative. It is a principle which has been prized by liberal political philosophers and lawyers for centuries. A Cromwellian system of censorship was the stimulus for Milton’s impassioned and sempiternal defence of free speech:

Lords and Commons of England, consider what nation it is whereof ye are: a nation not slow and dull, but of a quick, ingenious and piercing spirit. Give me the liberty to know, to utter and to argue freely according to conscience, above all liberties.⁴

The search for contemporary affirmations matching the both the sentiment and artistry of Milton’s famous plea is a fertile hunting ground. Felix Frankfurter submits that ‘[l]iberty of thought soon shrivels without freedom of expression.’⁵ For Professor Conor Gearty, ‘[t]o

¹ *Handyside v United Kingdom* (1976) 1 EHRR 737.

² *ibid* 49.

³ *ibid* 49.

⁴ J Milton, *Areopagitica: A Speech for the Liberty of Unlicensed Printing* (1644) in *Prose Writings* (Everyman, 1979).

⁵ *Dennis v United States* 341 US 494, 550 (1951). This point is buttressed by the enduring influence of the

think is to speak.’⁶ Although unquestionably it is a principle central to the modern liberal democracy state, it is so much more than just abstract principle. Salmon Rushdie has intimate experience of the raging fires of discontent which speech can provoke,⁷ and accordingly, it is unsurprising that he believes that ‘[f]ree speech is life itself.’⁸

The *Handyside* case buttresses the notion that free speech necessarily includes the unsavoury. Eschewing the over-used maxim oft misattributed to Voltaire,⁹ I favour the words of Orwell: ‘[i]f liberty means anything at all, it means the right to tell people what they do not want to hear.’¹⁰ And so, keeping in mind the important moral and legal backing for this submission, we (eventually, perhaps belatedly) arrive at this letter’s destination.

Nick Griffin is the leader of a party which received almost a million votes in the UK European elections in 2009.¹¹ His British National Party has reprehensible views which I find abhorrent, but it is unquestionably a well-organised political movement which finds support among many disaffected on the far right of the political spectrum.

I am extremely proud to be able to name University College Cork among my *almae matres* and was pleased to see that the university is seemingly supportive of efforts to have Mr Griffin speak at a debate on the importance of free speech in modern society at the Government and Politics Society later this year. This move follows the withdrawal of his invitation to speak before the Phil in Trinity College Dublin. It also stands in stark contrast to UCC’s position when its Philosophical Society attempted, in 2008, to have controversial and revisionist historian David Irving, who spent time in an Austrian prison for remarks he made questioning

sentiment epitomised by the famous Cartesian dictum *cognito ergo sum* (usually translated as ‘I think, therefore I am’).

⁶ C Gearty ‘Citizenship and Freedom of Expression’ in R Blackburn (ed) *Rights of Citizenship* (1993) Ch 14 272.

⁷ For a good general account of the controversy which surrounded the publication of his book *The Satanic Verses* which led to Ayatollah Khomeini of Iran issuing a *fatwā* ordering Muslims to kill Mr Rushdie, see LW Levy *Blasphemy: Verbal Offense against the Sacred, from Moses to Salman Rushdie*, (London: University of North Carolina Press 1995) Ch 27 ‘The Rushdie Affair: Should All Religions Be Protected or None?’

⁸ Interview in *Time* magazine, issue dated 23 December 1991.

⁹ Here I refer to the well-known quip ‘I disapprove of what you say, but I will defend to the death your right to say it.’ The words are not Voltaire’s, rather they are an illustration of his views in a biography of him written by Evelyn Beatrice Hall. See generally, PF Boller and J George, *They Never Said It: A Book of Fake Quotes, Misquotes, and Misleading Attributions* (Oxford University Press 1989) 124.

¹⁰ G Orwell, unpublished introduction to *Animal Farm*.

¹¹ ‘European Election Results 2009: UK Results’ BBC NEWS 8 June 2009. Available at: http://news.bbc.co.uk/2/shared/bsp/hi/elections/euro/09/html/ukregion_999999.stm (last accessed 12 January 2012).

the Shoah, speak at a similar debate. Ultimately, following loud calls for protest from so-called ‘anti-fascists,’ the University and Gardaí ensured that Mr Irving could not attend. However, the publicity surrounding this led to his appearance on the Late Late Show. The irony being that in demanding that he not receive an audience of a few hundred on a Monday evening in Cork, the self-styled ‘anti-fascists’ inadvertently caused his appearance on national television in front of hundreds of thousands. Needless to say, his views were discussed and the moral fabric of society remained intact.

It does not necessarily follow from the moral and political argument I outlined earlier that one should afford a platform to the likes of Nick Griffin. Obviously, debate invitations are the prerogative of those issuing them and are, by no means, an entitlement. However, I would nonetheless submit that the best way to encourage a genuine discussion of the parameters of the legal and moral free speech principle is by discussing controversial ideas with controversial interlocutors. In legal terms, the views of Griffin are protected by the ECHR. In fact, his views are subject to exceedingly stringent protection as his views are political in nature. The jurisprudence of the Strasbourg Court suggests that political speech enjoys a particularly high level of protection,¹² a position deriving from the view that freedom of political debate is ‘at the very cores of the concept of a democratic society.’¹³ So that the far-right enjoys free speech rights is not in doubt. The real question concerns whether or not these views should be afforded a platform.

The positions of the BNP (in my estimation, anti-immigration,¹⁴ anti-Semitic,¹⁵ and homophobic¹⁶) should be challenged and debated, and where better to do so than in a university? Provided the risk to public safety can be managed, I look forward to his visit to UCC going ahead. If speakers such as these, in unquestioned possession of legal and moral

¹² See generally and by way of example: *Verein Gegen Tierfabriken Schweiz (VgT) v Switzerland* (No 1) (2002) 34 EHRR 4; *Goodwin v United Kingdom*, (1996) 22 EHRR 123; *Jersild v Denmark*, (1995) 19 EHRR 1.

¹³ *Lingens v Austria* (1986) 8 EHRR 407, [42].

¹⁴ In a 1995 article in ‘The Rune,’ Griffin said ‘[m]ass alien immigration and suicidally low birth-rate mean that the White Race is poised on the brink of a precipice of rapid and irreversible decline. If we do not step back now, we face political and then physical extinction. A stark choice. UNITE OR DIE!’ Quoted in ‘BNP: Under the skin,’ BBC PANORAMA, 25 November 2001. Available at: http://news.bbc.co.uk/1/hi/english/static/in_depth/programmes/2001/bnp_special/the_leader/beliefs.stm (last accessed 12 January 2012).

¹⁵ *ibid.* In a 1997 booklet entitled ‘Who are the Mind Benders?’ Griffin claimed to ‘prove that the Jewish people controlled the British media and thereby were able to brainwash white British people into accepting multiculturalism.’

¹⁶ *ibid.* In a 1999 article Griffin said, in the aftermath of the homophobic attack on a gay bar in Soho, that ‘[t]he TV footage of dozens of gay demonstrators flaunting their perversions in front of the world’s journalists showed just why so many ordinary people find these creatures so repulsive.’

rights to free speech, are continually denied the platform to espouse views which represent a genuine minority of public sentiment (at least in the UK and in much of continental Europe), they and their ilk will not go away. Only with airtime can extremists be cut down to size. Pretending that these views do not exist is unproductive. You can block your ears, but the music will continue to play unabated.

If we are to make the aspirations of the *Handyside* case a reality, a necessary part of free speech is its extension to the repulsive and the repugnant. So while European Human Rights Law does not mandate that such a debate must go ahead, it is congruent with the sentiments, favouring the protection of that which we despise, which is expressed therein. We live in a country where a terrorist apologist can run for president, but where the serving leader of a right-wing political party is oft prevented from speaking in public. So long as Mr Griffin does not shout 'fire' in a crowded G19 or Boole 4, legal and moral considerations mean that I believe he should not be silenced.

Is mise le meas,

Eoghan Pádraig McSwiney