

What is the Point of Free Speech?

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Formerly, different ranks, different neighbourhoods, different trades and professions, lived in what might be called different worlds; at present, to a great degree in the same. Comparatively speaking, they now read the same things, listen to the same things, see the same things, go to the same places, have their hopes and fears directed to the same objects, have the same rights and liberties, and the same means of asserting them.

John Stuart Mill, *On Liberty*

No shepherd and one herd! Everybody wants the same, everybody is the same: whoever feels different goes voluntarily into a madhouse.

Friedrich Nietzsche, *Thus Spoke Zarathustra*

I

How might we understand the nature and importance of a right to freedom of speech?

One way to go is to appeal to the rights of speakers and listeners. Individuals would then have a right against state interference in saying what they want to say. On the other hand, listeners have a right to listen to whom they please and thus also would have a right against state interference.

By stopping certain things from being voice or published, for instance, the state would also be violating individuals' rights to hear or read these things if they so choose.

One way of grounding these rights is to deny that legitimate states can interfere with certain types of speech acts, on certain grounds. Thus, for T.M. Scanlon, citizens must be able to accept state authority while still regarding themselves as autonomous, equal, and rational. States that intervene in citizens' reason-giving discourse are incompatible with this ideal. On Scanlon's view, this can ground a "Millian principle." According to this principle:

There are certain harms which, although they would not occur but for certain acts of expression, nonetheless cannot be taken as part of a justification for legal restrictions on these acts. These harms are: (a) harms to certain individuals which consist in their coming to have false beliefs as a result of those acts of expression; (b) harmful consequences of acts performed as a result of those acts of expression, where the connection between the acts of expression and the subsequent harmful acts consists merely in the fact that the act of expression led the agents to believe (or increased their tendency to believe) these acts to be worth performing.¹

Such arguments, though, only apply to *state* interference with speech. They thus leave open the possibility of good deal of sanctions from non-state actors. What's more, these sorts of sanctions seem to be protected by individuals' rights to free association. If I may befriend whom I please and employ whom I please, that makes it permissible for me to distance myself from you or refuse to employ you if I don't like what you say.

Now, this seems to be a routine feature of rights we enjoy within liberal society. For instance, we have the right to marry whom we please, but this does not entail that we have a right to be married to any particular person—for they have a right likewise to refuse our proposal. Freedom of association of this sort is a core component of any plausible scheme of liberal rights.² Importantly, this freedom involves a freedom to *refuse* association in a range of ways. Without this right of refusal, freedom of association cannot mean very much.

However, robust freedom of association can bring about situations where expressing certain opinions results in individuals facing *systematic* and *severe* costs within a particular society. Depending on the particulars, these costs can be comparable to those brought about by

¹ Scanlon, "A Theory of Freedom of Expression," 213.

² Wellman, "Immigration and Freedom of Association."

state sanctions. Mill is keen to emphasize this when he says, “In respect to all persons but those whose pecuniary circumstances make them independent of the good will of other people, opinion, on this subject, is as efficacious as law; men might as well be imprisoned, as excluded from the means of earning their bread.”³ From the perspective of rights though, this seems to be a consequence we must accept. If, for instance, nobody wants to marry a particular person X, then that is simply too bad for X. Any way of remedying the situation for X would involve infringing on others’ right to free association—in this case, to marry whom they please or to refuse to marry altogether.

II

On a different way of understanding the importance of freedom of speech, though, it serves to protect the quality of our epistemic resources.⁴ The problem we face as epistemic agents is that we don’t have access to all the evidence out there. In most cases, it must be brought to us, and before that, it must be discovered. What’s more, we gain most of our knowledge by testimony from others.⁵ We can verify very little by our own efforts. I believe there is a country called Russia, even if I’ve never seen it myself—I take myself to know that Russia exists though, because I assume others’ testimony (from books, television, and so on) to that effect is reliable.

Furthermore, evidence is often mixed—rarely does it all point in one direction. Usually, some of it points one way, some of it points in the other. Mill emphasizes this when he says:

³ Mill, “On Liberty.”

⁴ Joshi, *Why It’s OK to Speak Your Mind*.

⁵ Hardwig, “The Role of Trust in Knowledge”; Goldberg, *Relying on Others*.

The peculiarity of the evidence of mathematical truths is, that all the argument is on one side. There are no objections, and no answers to objections. But on every subject on which difference of opinion is possible, the truth depends on a balance to be struck between two sets of conflicting reasons.⁶

If we take a proposition like $2+2=4$, perhaps it's true that there is no evidence against it. However, even a proposition like *The earth is roughly spherical*, has *some* evidence against it. After all, it looks flat—that is some defeasible evidence against the proposition that it's spherical. And indeed, it would have been reasonable for the average person to believe the earth is flat, say, a thousand years ago. Of course, since then, science has produced ample evidence that defeats the evidence of initial appearance—so that it is no longer reasonable to believe the earth is flat. But the point here is that even on such a well-supported proposition, there is *some* evidence that points the other way, at least initially.

Taken together, these two observations—namely, (i) the fact that we are largely reliant on testimony, and (ii) the fact that evidence is often mixed—mean that for our beliefs to be well-formed, *others* must have the right sorts of incentives. Lack of freedom of expression and inquiry constitute perverse incentives which in turn degrade the justification for our beliefs. Suppose there is a cost to discovering and sharing evidence against some proposition *P*. Unless everyone is insensitive to this cost (in which case it is not a genuine cost), some people will act in line with the incentive. That is, they will avoid collecting or sharing evidence against *P*, at least some of the time. But this will mean that the evidence that makes its way to us will be a lopsided subset of the total evidence out there that is accessible to us in some sense. This itself is a defeater for

⁶ Mill, “On Liberty.”

our belief that P .⁷ In other words, once we notice the existence of the cost discussed above, it behooves us to reduce confidence in P , and if the cost is severe enough, suspend judgment.

To illustrate, suppose someone conducts an election poll and tells you that the Republican candidate for president is going to almost certainly win, given that 70% of the respondents said they would vote R. Surprised (at least indexed to September 2024), you ask how they chose their sample. They respond that the sample is from a rural county in Kentucky. Realizing this, you shouldn't let the poll move your antecedent credence much. Why? Because it's a very biased sample—that county does not represent the country as a whole.

Analogously, the presence of costs for gathering and sharing evidence, as discussed above, will nearly guarantee that that our evidence is a biased subset. But note that these costs need not be imposed by the state. As Mill stressed, they can be imposed by members of our social or professional circles. Recent work suggests that even scientists are prone to impose costs on their colleagues when it comes to results that have certain moral/political/ideological upshots.⁸

If we take this epistemological angle on the importance of free inquiry and expression, the problem is not merely one of balancing the rights of speakers and the rights of free association. The task is to create and maintain institutional structures that mitigate the effects of social and professional pressures that can degrade our epistemic resources. Or at least we can put it in conditional form. *If* we want to have a reasonably accurate picture of what the world is like, *then* we need to find ways to mitigate these pressures on inquirers (be they scientists, journalists, or other epistemic agents).

⁷ Joshi, “The Epistemic Significance of Social Pressure”; Ballantyne, “The Significance of Unpossessed Evidence.”

⁸ Clark et al., “Prosocial Motives Underlie Scientific Censorship by Scientists.”

That said, having a reasonably accurate picture of what the world is like is going to be important for our being able to pursue the social goals we care about.⁹ If policy makers are mistaken about what causes inflation, say, they likely will pursue policies that do not solve the problem, or even make it worse. Many of our goals are idiosyncratic and far from universally shared. Some of us want to be good chess players, others want to travel to Madagascar, others would like a sandwich right now. The corresponding “imperatives,” then, are highly agent relative and in Kant’s terms, hypothetical.¹⁰ Having a reasonably accurate picture of the world, though, is unlike these idiosyncratic aims—for the most part, an inaccurate picture of the world is likely to frustrate our aims, whatever they may be. (There are, of course, some cases where optimism beyond what is rationally supported by the evidence can help our goals. An underdog team that believes they can win is more likely to do so. But these are for the most part, special cases.)

III

Even if the argument of the preceding section is right, though, it might be thought that state censorship ought to be our primary locus of concern because of its unique ability to place costs on us. States—especially repressive states—can be extremely hard to exit. The case of North Korea is a stark example. The news that citizens have access to is heavily filtered through state news (i.e., propaganda) networks, and dissent can often mean imprisonment or death. What’s more, exiting the state is nearly impossible for the average resident. The average news

⁹ Joshi, *Why It’s OK to Speak Your Mind*.

¹⁰ Kant, *Practical Philosophy*.

anchor then cannot practically reason in the following way: “if what I say is not pleasing to the authorities, that’s fine—I can leave and go to some other country that will have me.”

Contrast this with the ideal case of private censorship or social pressure in a relatively liberal society. The thought here would be that individuals can reason thus: “if my current employer A doesn’t like what I say, I can seek employment at B, who would gladly have me.” The presence of this exit option dramatically blunts the cost that employer A can impose on the individual—for, the individual here has a sufficiently attractive set of outside options. J.P. Messina notes that this is one important disanalogy between state and private censorship. He writes:

The chief dissimilarity is that one can typically avoid private censorship at a reasonably low cost, say, by using a different platform (or none at all), by seeking information from non-corporate sources (public radio, public libraries, universities, etc.), or by seeking another employer. By contrast it is very difficult to avoid sanctions for violating laws that impose prior restraints on speech.¹¹

In general, exit options can blunt the force of the sorts of social and professional pressures others can place on us. And the mere presence of these exit options also incentivizes our employers to treat us well. If I, as a software engineer, can easily find employment in any one of a thousand other companies, that incentivizes my employer to treat me well. If on the other hand, my skills are only applicable in one narrow industry dominated by a monopolist, or if my work visa is tied to a specific employer, that gives my boss much more power over me. Similarly, where there is stiff competition among firms, they are likely to treat their customers well, lest they lose business. And at any rate, if one particular business does not want to serve a

¹¹ Messina, *Private Censorship*, 17.

particular customer, for whatever reason, that customer can easily exit and choose from among other suppliers.

Note however, that this reasoning presupposes diversity and heterogeneity. If business A does not want to serve customers with property P, there will be some other business B that will take up these customers (so long as P is consistent with the business making profits). Similarly, in the case of free expression, this type of reasoning presupposes diversity also. If I say something that is displeasing to employer A, it must be the case that there is some other employer B for whom it is not displeasing (or at least not displeasing enough that it makes them reluctant to hire me). On the contrary, if every employer finds it displeasing, for whatever reason, then there is no exit option, *de facto*. The chief threat in this regard then, is *homogeneity*. Where there exist pressures of the kind discussed above in a context of background homogeneity, our epistemic condition with respect to those issues is bound to be compromised.

IV

The problem of censorship is most troubling when it comes to our *epistemic* institutions. A trucking company's goal, in the first instance, is to move goods from one place to another. We don't rely on trucking companies to tell us what the world is like; rather we rely on them to move goods around. A university or newspaper's goal is importantly different—we rely on these institutions to tell us what the world is like. Censorious pressures, backed by homogeneity, in these institutions are thus much more troubling for our epistemic condition.

Presumably the kind of homogeneity relevant here is *ideological* homogeneity. Ideological homogeneity will make it so that the social pressures in these institutions are

uniform—so that if claim P gets you in trouble with one institution, it gets you in trouble with the others as well. In a recent paper, Dan Moller has argued that we might not be able to free ourselves from ideology entirely. Moller gives a normatively neutral characterization of ideology; for him, it consists of “a basic moral claim, a worldview built on top of that claim, and the attempt to politicize this worldview by injecting it into social institutions.”¹²

Moller further argues that in some ways ideology is *desirable* because it provides important goods like “social cohesion and mobilization.” But the injection of the worldview into social institutions in the way Moller discusses it would at least partly consist of presenting individuals with a set of incentives. Those incentives would presumably involve rewards for (publicly) agreeing with the worldview (and helping spread it) and costs for (publicly) disagreeing.

If we take ideology of this form to be an unavoidable aspect of the human condition, the task is to *manage* it rather than trying to get rid of it entirely. When it comes to epistemic institutions in particular, the task (from an epistemic perspective) is to ensure diversity. Thus imagine a world with three different universities, A, B, and C. Suppose they are ideologically diverse—thus A adopts ideology X, B adopts Y, and C adopts Z. Suppose there is an individual within A who comes across some evidence that counts against X. A internally places costs on sharing such evidence given that it adopts X. But from this individual’s perspective, the possibility of exit gives her protection—she can go to B or C.

Contrast this with the case where all three universities adopt X.¹³ Here, the cost for uncovering and sharing evidence against X is much more severe, because there is no exit option.

¹² Moller, “Keeping Ideology in Its Place.”

¹³ For a recent discussion of this as it may apply to our context, see McBrayer, “The Epistemic Benefits of Ideological Diversity.”

For, the individual leaving A will not mean that B is happy to have her since B also adopts X. Given that there is no official state censorship it might well be open to her to abandon scholarship entirely and seek work at a fast-food restaurant or trucking operation—but of course, this might be a huge cost from her perspective since changing careers in this way can be psychologically, socially, and monetarily damaging. Given the *epistemic* costs of social pressure of this kind, moreover, the issue is not merely the (positive) rights, so to speak, of this individual. The bigger issue is that in such a society, we cannot be justified in believing the core claims of the worldview X, even if some or many of them are true.

Another way to put the point is that inquiry can only be *objective* against a backdrop of diversity—of assumptions, methods, cognitive styles, and so on.¹⁴ The thought is that we all come with our subjective biases and idiosyncratic ways of viewing the world. But scientists are people too. So how can science be objective if it is composed of biased individuals? For Helen Longino, science can be objective if it is structured in a certain way. Only as a particular sort of structured social process can scientific inquiry claim objectivity. Importantly for Longino, inquiry can only be objective if there is the possibility of *transformative critique*.¹⁵ And this possibility requires that there be a diversity in the background. So, if I make an unwarranted assumption due to my own blinders, someone else can question my assumption and critique it. But for this to happen it must be the case that this other person does not have the same blinders (though they can have different ones).

¹⁴ Cf. Hong and Page, “Groups of Diverse Problem Solvers Can Outperform Groups of High-Ability Problem Solvers”; Duarte et al., “Political Diversity Will Improve Social Psychological Science”; Hallsson and Kappel, “Disagreement and the Division of Epistemic Labor.”

¹⁵ Longino, *Science as Social Knowledge*.

V

The challenge of preserving free expression then, when its value is understood from an epistemic perspective, does not merely involve guarding against encroachments from the government and its agencies. The challenge is to preserve and allow for a certain type of diversity across epistemic institutions that makes exit practicable—and thus blunts the costs of dissent. Framed this way, the task is also not merely one of preserving academic freedom or the freedom for students to bring speakers on campus.¹⁶

That is because the many of the costs of dissent are *prospective* rather than *retrospective*. Thus, against a backdrop of ideological homogeneity, robust academic freedom and tenure protections may ensure that *once hired or tenured*, individuals are allowed to speak their minds and follow the argument where it leads. But this leaves open a *prospective* cost that many junior scholars or journalists will face—for, dissent may make them unable to find employment. This is so especially if the market for academics, journalists, and so on is competitive. Dissent from the prevailing ideology can easily become the factor that tips the scale against such individuals. Furthermore, systemic costs may affect processes like peer review, grant proposals, as well as potential for lateral moves—these will not be protected by academic freedom principles or liberal campus speech policies.

Supposing we want to have a more accurate, justified picture of the world then, I have argued, there must be adequate diversity in the backdrop when it comes to our epistemic institutions. Against a backdrop of homogeneity, the social pressures will all point one way, making it almost certain that the evidence we end up having is lopsided. In this vein, there has

¹⁶ For a helpful discussion of recent controversies in this regard, see Whittington, *Speak Freely: Why Universities Must Defend Free Speech*.

been much recent discussion of the idea that, when it comes to the academy or journalistic institutions, certain assumptions do not get sufficient scrutiny due to a homogeneity of worldviews.¹⁷

What could be the solution? That is a question for empirical social science and policymaking. My point in this short essay though is to highlight the fact that institutional homogeneity of a certain kind can make it hard for us to have an accurate picture of the world. This is something Mill was sensitive to—indeed he opens *On Liberty*, Chapter 2 by noting that he is not interested in defending freedom of speech against government intervention in particular. But what’s more relevant and philosophically interesting is that against a backdrop of homogeneity of the kind discussed here, institutional pressures can behave *as if* there were systemic government penalties on free speech. Indeed, social pressures can be even more effective than government sanctions, according to Mill. He says, about the situation in Britain at the time, “For it is this--it is the opinions men entertain, and the feelings they cherish, respecting those who disown the beliefs they deem important, which makes this country not a place of mental freedom. For a long time past, the chief mischief of the legal penalties is that they strengthen the social stigma.”

What’s especially challenging in the case of institutional homogeneity is that it can be created and sustained by an *invisible hand* process—in other words, it can be a spontaneous order. No individual or group agent needs to have intended the particular order to come about. This is something Adam Smith and F.A. Hayek emphasized in the case of markets.¹⁸ For Smith,

¹⁷ Pinker, *The Blank Slate*; Jussim, *Social Perception and Social Reality: Why Accuracy Dominates Bias and Self-Fulfilling Prophecy*; Willnat, Weaver, and Wilhoit, “The American Journalist Under Attack: Key Findings.”

¹⁸ Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*; Hayek, “The Use of Knowledge in Society.”

individuals each pursuing their own self-interest can be led to create a market order that promotes the common good, by a process of division of labor and trade. In the case of Smith's discussion, this is a positive outcome. People are led to create the conditions of prosperity and plenty by specializing and getting efficient at producing one part of one good or service and then trading the surplus for what they need. But for Smith, each individual intends only their own gain—they do not directly seek to increase prosperity or GDP.

But as there are “invisible hands,” there might also be “invisible fists.”¹⁹ That is, individuals, each driven by their own interests, can also create and sustain counterproductive norms and outcomes. How might this play out to foster institutional homogeneity? Well, for one, as social creatures we exhibit some tendencies towards conformism.²⁰ Moreover, these tendencies can affect how we form beliefs—not merely what we outwardly say.²¹ Furthermore, there is the phenomenon of “group polarization,” wherein groups tend to form more extreme beliefs over time as they discuss some issue, even if many of the individuals start with more moderate beliefs.²² Importantly, no individual needs to intend that such processes or outcomes take place.

Insofar as the phenomenon is a spontaneous order, the potential task of remedy is also challenging. It is not obvious where the start and what downstream implications any interventions may have. But at the same time, it is a task that seems indispensable, at least if the above arguments are on the right track.

¹⁹ Anomaly and Brennan, “Social Norms, the Invisible Hand, and the Law.”

²⁰ Asch, “Opinions and Social Pressure”; Kuran, *Private Truths, Public Lies*.

²¹ Williams, “Socially Adaptive Belief”; Williams, “Motivated Ignorance, Rationality, and Democratic Politics.”

²² For discussion, see Sunstein, *Conformity*.

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