# FREEDOM OF EXPRESSION AND THE ARGUMENT FROM SELF-DEFENCE

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*Some philosophers hold that stifling free expression stifles intellectual life. Others reply that freedom of expression can harm members of marginalized groups by alienating them from social life or worse. Yet we should still favour freedom of expression, especially where marginalized groups are concerned. It's better to know who has repugnant beliefs as it allows marginalized groups to identify threats: free expression qua self-defence.*



## Free Expression and Intellectual Life

As a philosopher I value freedom of expression: everyone should be permitted to express their opinions and ideas without fear of retaliation, censorship, or sanction (unless the speech incites violence). And a large part of the appeal is that I revel in strange, compelling arguments that challenge my beliefs and assumptions. Perhaps that says more about my personality than it says about the value of freedom of expression; not everyone, for instance, enjoys intellectual debate like I do (just ask my loved ones). It would be a sloppy intellectual argument that rested on the peccadillos of one individual given that freedom of expression norms are supposed to govern the interactions of individuals across a free society. We need more reason to support freedom of expression than just appealing to the temperament of an intellectual, which may or may not reflect the social value of freedom of expression.

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However, if we stand back, it looks like freedom of expression norms are key to intellectual life: they allow disagreeing parties to express differing opinions without social or political reprisal. If those who disagree keep silent, then intellectual inquiry would stop – how could it not? How can we explore the merits of a moral viewpoint or public policy if those on the opposite sides are reticent to express their perspectives? You may wonder why we would *need* them to express their perspective to engage the topic intellectually. The answer is straightforward: if we don't engage with those who hold different perspectives from us, especially where they hold radically different perspectives, we'll be in a far poorer position to understand *why* we disagree, or even if we disagree. How can we know we disagree with someone if we don't understand what they believe and why? The philosopher John Stuart Mill made this point defending the *intellectual* value of freedom of expression in the second chapter of *On Liberty*:

> He who knows only his own side of the case, knows little of that. His reasons may be good, and no one may have been able to refute them. But if he is equally unable to refute the reasons on the opposite side; if he does not so much as know what they are, he has no ground for preferring either opinion […] Nor is it enough that he should hear the arguments of adversaries from his own teachers, presented as they state them, and accompanied by what they offer as refutations. That is not the way to do justice to the arguments, or bring them into real contact with his own mind. *He must be able to hear them from persons who actually believe them; who defend them in earnest, and do their very utmost for them*.

Antiquated language aside, Mill is offering an *intellectual* defence of free expression: without freedom of expression, we cannot really have an intellectual discussion; there would be beliefs and viewpoints we may disagree with that

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wouldn't be expressed. How can I know I'm right in my political, moral, or religious views, if I don't know why other folks disagree with me? This is why it isn't enough, for rigorous intellectual inquiry, to attempt to conjure possible reasons opponents may have to reject our views, or views foreign to our own and the reasons in favour of them. We often suffer from poor imaginations and worse incentives to think up good reasons that we're wrong – if you doubt me, try imagining a good reason that counts against one of your deeply held beliefs. We need someone with beliefs distinct from ours, with an incentive not only to express them, but to do disputes intellectual justice. And this way we can make contact with views different from ours, and (hopefully) the best reasons for them; stifling freedom of expression makes this harder, if not impossible, depending on how much stifling we're talking about. If we're aiming for intellectual rigour, we want capable individuals moved to offer reasons in favour of their views on every (legitimate) side of a dispute. We are likely to be in a poor place, by ourselves, to think of the best reasons for different positions in a debate.

Notice that I've used the term 'norm' to frame the discussion over freedom of expression; when the topic of freedom of expression arises – in the United States, anyway – people are often quick to emphasize that freedom of expression is a *legal* protection afforded to American citizens, among other citizenry, by the state and constitution. (We should keep in mind that we're examining the *morality* of freedom of expression, not the legal status.) However, this is too quick: without social norms that govern freedom of expression, the legal freedoms afforded by the state won't do much. Just imagine a country where abortion is *legally* permitted, but women who exercise their legal right to an abortion are shamed, mocked, and even denied employment. The effect would be, despite the legal protections, to significantly reduce women's freedom to have an abortion – exercising the right to abortion would often simply be too costly. So freedom of expression must be



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reflected in societal norms too, along with legal protections, to be robust enough to be intellectually useful.

Since we need freedom of expression for intellectual reasons, it looks like freedom of expression is a norm that produces a social good. However, even supposing we need freedom of expression norms and laws for *intellectual* reasons, we may wonder if there are other compelling reasons that stack up *against* freedom of expression. We explore that angle to the freedom of expression debate in the next section.

## Moral Reservations about Free Expression

Despite intellectual reasons for freedom of expression norms, critics have offered compelling *moral* reasons against them: words can hurt, and hurt terribly. Verbal abuse, by example, can inflict long-lasting psychological scars; freedom of expression can, and sometimes is, used as a cudgel against marginalized and minority groups in society. Even if speech doesn't incite violence, it can do *serious* psychological harm. There's a sense in which free expression can marginalize, control, and even erase individuals and groups from the social conversation society deems *other*: folks too distinct from the rest of society to have a perspective worth heeding. Consider that homophobic slurs, as awful as they are, need not incite violence; however, voicing such beliefs, especially repeatedly, can inflict serious psychological trauma. Imagine that a neighbour regularly expressed their opinion that your sexual orientation or partner choice was unnatural and wrong; even if you disregarded what they said, we can see how (mere) speech, especially if toxic and relentless, can cause harm. As some free speech critics argue:

> This [freedom of speech] logic expects members of marginalized groups to debate their very humanity. As a queer faculty member, it means I am expected

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> to engage in a discussion about the validity of my identity: whether it is real, whether it might be symptomatic of demonic possession or perhaps a mental illness. Students and faculty of color, similarly, are expected to debate the reality of their experiences and their right to equitable systems.[1]

The logic of this argument – call it *the self-defence argument* – is that it would be wrong to prop up freedom of expression norms when speech can be used to question the validity of members of marginalized groups. A discussion, say, over whether homosexual men are possessed by demons or mentally ill would be sanctioned under freedom of expression norms, but at what cost? Are we supposed to tolerate discussions over whether folks of colour deserve restitution for the sins of the past, and institutional inequalities in the present? When free expression supporters point to the instrumental value of free expression – for, say, preserving rigorous intellectual discussion – they often omit to say that words can do serious harm. And the reply, by freedom of expression supporters, that harmful speech should be addressed with more speech may not be convincing to someone who, day in and day out, has to hear, either explicitly or not, that their rights and identity aren't really a thing (that matters). Speech, and other forms of expression, can influence societal norms, and the wrong social norms can do real harm.

This isn't to say that hate speech, by itself, is *violence*, but that speech *can* produce psychological trauma. If one doubts this, we need point to cases of parents who verbally abuse their children, and lose custody as a result; if parents can (rightly) lose their custody of their children because of psychological trauma produced by verbal abuse, it isn't unreasonable to think speech can harm folks in society at large. To speak to the interaction between the moral reasons for which we may want to curtail freedom of expression, and the intellectual reasons to scale back restrictions on expression: perhaps free expression *is* good



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for rigorous debate, but only when parties to that discussion are on comparable social footing; often, people in marginalized groups don't have comparable social footing though – and that's part of the problem.

At this juncture, someone will no doubt reply that non-threatening speech, even if it's mean or unsavoury, shouldn't be curtailed as it doesn't run afoul of the harm principle (defended by Mill, the philosopher we encountered earlier). Words *aren't* violence, although they can encourage violence; and thus even with respect to, say, hate speech, focusing on members of marginalized groups and individuals, the state, and society as a whole, has no right to curtail free expression. The harm principle can be stated as:

> The only purpose for which power can be rightly exercised over any member of a civilized community, against their will, is to prevent harm to others.

And since words *aren't* violence, the critic continues, we have no recourse – assuming the harm principle should govern interactions among citizens in society – against speech that is mean, hateful, or even degrading. However, this seems too quick: words *aren't* violence, but they can still harm those singled out by, say, hate speech, especially when speech comes from individuals with greater prestige and privilege. Words can perpetrate *psychological* harm, and perniciously shape social and societal norms; consider that the phrase 'sticks and stones can break my bones, but words will never hurt me' is simply false.

However, suppose you're not convinced by this; you think that psychological harm aside, words don't harm *enough* to justify using government or societal sanctions, and other social and legal tools, to curb expression. We will grant for argument's sake that words can inflict *psychological* harm – this looks plausible enough – so that the harm principle would apply to speech after all. Should we then conclude that freedom of expression norms, laws, and

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whatnot should be curtailed? We answer that question, in the negative, in the last section.

## Curtaining Speech Can Harm Too

However compelling the argument from self-defence against free expression is, it is a doubled-edged philosophical sword: the appeal to self-defence one can offer *against* free expression can be rejigged to support them too. First, however, consider an insight from the famous Chinese general and strategist, Sun Tzu, who observed (in *The Art of War*) that:

> All warfare is based on deception. Hence, when we are able to attack, we must seem unable; when using our forces, we must appear inactive; when we are near, we must make the enemy believe we are far away; when far away, we must make him believe we are near […] Even though you are competent, appear to be incompetent. Though effective, appear to be ineffective.

How are deception and war related to free expression? Restricting speech, and especially speech from individuals and groups who use their power and influence to challenge the validity and identity of marginalized group members, forces such individuals to hide what they really think and believe, and perhaps only express their views on something like a free speech black market that is hard to detect or regulate. And even if this mostly silences their oppressive speech, it has a nasty by-product: we have a poorer idea of who holds repugnant and morally objectionable views than we would, had they been permitted to (largely) speak their minds without fear of reprisal. This isn't to deny that speech can cause psychological harm, but instead to argue that there are bad consequences to banning speech too that may outweigh whatever good is achieved by



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curtailing free expression. By analogy: in a military campaign, generals want to know things like the enemy's plans, troop movements, supply chains, and so forth. If a general could install tracking devices in the gear of enemy troops (undetected) to track their movements, they surely would. There is value to knowing more, instead of less, about one's enemies; whereas if freedom of expression is curtailed, individuals with repugnant viewpoints gain the element of surprise.

While this analogy may appear extreme, and not perfectly analogous, we should consider that if speech can produce serious psychological harm because it originates from individuals in society who disvalue, disdain, and even hate people from minority and marginalized groups, one can only imagine what else craven individuals would do to members of such groups if they got the opportunity. (This is likely to be rare, but it is still something worth considering.) And the worse one's enemies are, in terms of intent and capacity to carry out evil, the more one would want to know about them; using social pressure and the power of the state then to shut them up would have a perverse side effect: it would force their bigoted views on the black market, and make it harder to use social pressure to change hearts and minds (if possible). The last thing we want to do in response to folks who hold such views is to socially quarantine them with others who think just like them, isolated from those who disagree, and who may be about to change their minds before their views become too radical or perverse. We want the chance to change hearts and minds, and short of that, remain aware of who, in society, bears watching.

And for purposes of self-defence and preservation, it is probably good to know whether folks are prejudiced and bigoted, for no other reason than we can keep an eye on them; just as, in the midst of war, we would want to know the location of our enemies. The appeal to self-defence should resonant with everyone, especially folks most at risk from freedom of speech abuses; the worse the people

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expressing repugnant views, the more reason we would have to want to know who they are, using free expression as a means of unwitting self-identification. Individuals from marginalized groups especially have an interest in knowing who among them has bigoted and closed-minded views, instead of being in the dark about what their neighbours, co-workers, fellow citizens, and whatnot *actually* believe about them. Learning this can be painful, of course, but the consequences of not knowing whether someone holds morally odious beliefs can be even worse (in some cases, anyway). We should prefer, for example, clumsy and recognizable Nazis instead of the charming and subtle ones; we want to see them coming and prepare, instead of being taken by surprise, and the same applies to people with objectionable beliefs. As the saying goes: 'forewarned is forearmed'.

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## Note

[1] From Kamden K. Struck, 'Free Speech for Some, Civility for Others', *Inside Higher Ed*, 21 September 2018.



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