

# *Expression as Realization: Speakers' Interests in Freedom of Speech*

*Jonathan Gilmore*

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JONATHAN GILMORE

EXPRESSION AS REALIZATION: SPEAKERS' INTERESTS  
IN FREEDOM OF SPEECH

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**ABSTRACT.** I argue for the recognition of a particular kind of interest that one has in freedom of expression: an interest served by expressive activity in forming and discovering one's own beliefs, desires, and commitments. In articulating that interest, I aim to contribute to a family of theories of freedom of expression that find its justification in the interests that speakers have in their own speech or thought, to be distinguished from whatever interests they may also have as audiences or third parties for speech. Although there are many differences among such speaker-centered theories, a core commitment that most share is that expressive liberty plays a fundamental role in securing or constituting some form of individual self-realization. My account is a defense and elaboration of what I take to be one specific (but not exclusive) way in which the nature of such self-realization should be understood. In my proposal, self-realization is sometimes internally related to the very activity of expression, viz, expressing ourselves is one way in which we come to form and know our own minds.

In what follows I argue for the recognition of a particular kind of interest that one has in freedom of expression: an interest served by expressive activity in forming and discovering one's own beliefs, desires, and commitments.<sup>1</sup> In articulating that interest, I aim to contribute to a family of theories of freedom of expression that find its justification in the interests that individuals have *qua* speakers, to be distinguished from whatever interests they may also have as audiences or third-parties for speech. Although there are many differences among such speaker-centered theories, a core commitment that most share is that expressive liberty plays a fundamental role in

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<sup>1</sup> I'm grateful to Alexander Nehamas, Owen Fiss, and Michael Della Rocca for their generous criticisms and suggestions in this project's early stages. This paper has been much improved through the comments of anonymous referees for this journal.

securing or constituting some form of individual self-realization.<sup>2</sup> My account is a defense and elaboration of what I take to be one specific (but not exclusive) way in which the nature of such self-realization should be understood.<sup>3</sup> Drawing on the recognition that sometimes we don't seem to know what our desires, beliefs, and commitments are until we try to express and convey them to others, I argue that self-realization is sometimes internally related to the very activity of expression. Expressing ourselves is one way in which we come to form and know our own minds.

In Sect. I, I discuss certain widely adopted explanations of the value of freedom of expression and argue that they serve, in principle, as defenses or explanations only of audience- and third-party interests in freedom of speech. My claim is not that these theories fail to identify some of the substantial values supporting expressive liberty, only that they fail to account except in a derivative sense for at least one fundamental kind of value: the interest that speakers have in their own expression. That there *exists* such a speaker's interest that can ground a right to freedom of expression is a premise of those theories organized around some notion of self-realization. In Sect. II, I try to characterize and defend a plausible explanatory sense in which that interest in self-realization can depend on (and thus be appealed to in a justification of) free expression. In that characterization, our interest in expressing our thoughts, beliefs, commitments, and so on, lies not just in the results that may follow from their articulation (such as persuading others of our view) but also in the very role such expression plays in developing and discovering the content of those thoughts, beliefs, and so on. In Sect. III, I briefly address how we might understand the political, not just individual or

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<sup>2</sup> Generally speaking, such theories hold that 'the fundamental, positive value of the constitutional free speech guarantee is furtherance of individual self-realization, a broad value that includes (1) the individual's development of her personal powers and abilities, and (2) the individual's ability and opportunity to make all levels of life affecting decisions....' Martin Redish, *Money Talks: Speech, Economic Power, and the Values of Democracy* (New York: NYU Press, 2001), p. 71. C. Edwin Baker offers perhaps the most comprehensive version of this argument, holding that '*individual self-fulfillment and participation in change are fundamental purposes of the first amendment*' (his emphasis), from *Human Liberty and Freedom of Speech* (New York and Oxford: Oxford University Press, 1989), p. 51. For an earlier formulation of this view, see Thomas Emerson, *The System of Freedom of Expression* (New York: Vintage Books, 1971).

<sup>3</sup> For an analysis of First Amendment scholarship on this approach, see Brian C. Murchison, 'Speech and the Self-Realization Value', *Harvard Civil Rights-Civil Liberties Law Review* 33 (1998): 443.

personal, relevance of that speaker-based justification of freedom of expression.

#### I. AUDIENCE AND THIRD-PARTY INTERESTS IN THEORIES OF FREE EXPRESSION

One general kind of theory of free speech – what I will refer to as *consequentialist* – conceives of expression as deserving protection because of some fundamental value that such protection enhances. This value can be understood in different ways. It may be the value of the content of the speech that is freely expressed.<sup>4</sup> The value may also, or instead, be understood to lie not in the content of the speech but in a feature of its protection: for example, it may be stressed that in permitting even speech that is offensive or patently false the virtue of toleration is exhibited, and the instantiation of such toleration in that instance may encourage toleration in other, more worthy, situations as well.<sup>5</sup> And, finally, a defense may refer to the value of a particular kind of content, such as that of speech that serves as a check on official power. There are, of course, countless goods that are made possible or enhanced by free speech. Consequentialist theories explain the value of expressive liberty as supplied by a subset of those goods in which such free expression plays a causal or constitutive role.

Another kind of theory – what I will refer to as the *self-government* account – relies on the proposition that in a democracy, individuals are sovereign judges of whether their government properly pursues the public good and respects the rights of individuals.<sup>6</sup> As the final authority over a state's legitimacy, individuals must be self-governing or autonomous in a manner that means they must make up their

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<sup>4</sup> This would be the point of the 'marketplace of ideas' metaphor expressed in Justice Oliver Wendell Holmes' famous dissent in a 1919 Supreme Court decision that 'the best test of truth is the power of the thought to get itself accepted in the competition of the market', *Abrams v. United States*, 250 U.S. 616 (1919). See Frederick Schauer, *Free Speech: a Philosophical Enquiry* (Cambridge: Cambridge University Press, 1982), pp. 16, 34.

<sup>5</sup> See Lee C. Bollinger, *The Tolerant Society: Freedom of Speech and Extremist Speech in America* (New York: Oxford University Press, 1986).

<sup>6</sup> See Alexander Meiklejohn, 'Free Speech and Its Relation to Self-Government' (1948), revised and reprinted in *Political Freedom: The Constitutional Power of the People* (1965); and Cass R. Sunstein, *Democracy and the Problem of Free Speech* (New York: Free Press, 1993).

own minds about what ideas they should be exposed to, and not have that determined for them by others (however well-intentioned). Here, expressive liberty is not described as justified by its consequences but by its being a necessary condition or constituent of the sort of political autonomy associated with democratic self-rule.<sup>7</sup> There are many varieties of this argument: some hold that all expression must be free from state censorship; others see political autonomy as requiring the freedom of only political speech, or whatever speech is required for self-government construed in exclusively political terms.<sup>8</sup>

In what follows, I want to show how even though such consequentialist and self-government theories significantly disagree over the bases upon which the freedom of speech is founded, they reveal near unanimity over whose interests justify such protection of free speech: *audiences for speech or third parties*, not the speakers themselves. That is, while these theories are concerned with how to explain the right to free speech that we accord to a speaker, I argue that each justifies that right only with reference to the benefits such expression has for *others*, not for the speaker him- or herself.

Among consequentialist explanations, those that appeal to the metaphor of the marketplace of ideas are the most obvious example, where the freedom is justified as a heuristic means for discriminating among competing ideas. Here the interests at stake belong to those who rely on the decisions of the marketplace, or the variety of choices it offers, not those who, as speakers, submit their speech as candidates for truth to it.

Tolerance, although certainly to the advantage of those toward whom it is directed, is similarly justified with reference to the public interest: the goal of shaping a tolerant society, one that allows 'the independent communication of willing speakers and audiences engaged in discussion central to the formation of values'.<sup>9</sup> That such tolerance might offer a benefit to those who engage in the protected expression is only derived from the primary benefits accruing to the public good. Thus, arguments against the censorship of hate speech

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<sup>7</sup> 'The harm of coming to have false beliefs is not one that an autonomous man could allow the state to protect him against through restrictions on expression'. T.M. Scanlon, 'A Theory of Freedom of Expression', in *The Difficulty of Tolerance* (Cambridge: Cambridge University Press, 2003), p. 17.

<sup>8</sup> See Sunstein, *Democracy and the Problem of Free Speech*.

<sup>9</sup> David Richards, 'Toleration and Free Speech', *Philosophy and Public Affairs* (Autumn, 1988), p. 334.

or the like do not typically appeal to how well such freedom serves the interests of the bigoted speaker.<sup>10</sup>

Finally, justifications based on checks on government power primarily serve the public's interest in liberal democracy being preserved, an interest unlikely to be realized, on balance, without the availability of external critique. But, here again, it's not the particular critic whose interests are served – those interests may be partisan, purely oppositional, anarchic, anti-democratic, or simply the self-interested desires of only a small party of elites. Rather, such freedom of expression serves the interests of those who are audiences and third-parties (i.e., the public) just in case such dissent, whatever its motivation, exposes a genuine abuse of power.

Among self-government theories, the relative emphasis placed on audience or third-party interests is more subtle. In one version, developed by Alexander Meiklejohn, freedom of speech protects the availability of the kind of information and ideas necessary for such public discourse to function.<sup>11</sup> Thus, democratic legitimacy depends on the state not imposing limits on the expression of information except when it is not politically relevant or when it interferes with 'responsible and regulated discussion'.<sup>12</sup> In a competing approach developed by Robert Post, the value of freedom of speech vis-a-vis self-government is found not solely in its protecting the ideas necessary for the process of collective decisionmaking, but also in its protecting the process of democratic legitimation 'through which

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<sup>10</sup> This is why Mill can be a consistent utilitarian even as he writes that if 'all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind'. It would seem that for a utilitarian the minor cost born by one censored person would be more than outweighed by the benefits granted everyone else. But because Mill thinks that the costs and benefits of such censorship do not accrue principally to the speakers but, rather, to others who are potential audiences, he can argue for such toleration of all expression on utilitarian grounds. Censorship robs 'the human race; posterity as well as the existing generation; those who dissent from the opinion still more than those who hold it'. Mill, *On Liberty* 2.1.

<sup>11</sup> Alexander Meiklejohn, *Political Freedom: the Constitutional Power of the People*. Owen Fiss argues in a similar vein that when speech is due constitutional protection it is not for its relevance to autonomy but for its 'actual effect': 'On the whole does it enrich public debate? Speech is protected when (and only when) it does, and precisely because it does, not because it is an exercise of autonomy'. Fiss, 'Free Speech and Social Structure', *Iowa Law Review* 71 (1986): 1405, 1408–1411. Fiss adds, '[t]he approach I am advocating is not concerned with the speaker's autonomy, real or effective, but with the quality of public debate. It is listener oriented' (pp. 1416–1417).

<sup>12</sup> Meiklejohn, *Political Freedom: the Constitutional Power of the People*, p. 24.

citizens come to identify a government as their own'.<sup>13</sup> Here, the security from state-interference afforded even cognitively insignificant speech may sometimes serve in support of self-government in making salient the principle that it is the public, not an official authority, that determines a vision of collective identity in a democracy.

In Meiklejohn's version of the self-government theory, state authorities cannot decide whose voices should be heard, but it's the 'hearing' not the 'voicing' that is protected. Indeed, it would be compatible with that self-government argument for freedom of expression if a great majority of the population were unable to express themselves publicly at all – say, because of the expense imposed by media monopolies – so long as everyone were exposed to the relevant ideas and information necessary for public debate.<sup>14</sup> By contrast, in Post's account there is a rationale for the protection of speakers expressing themselves. For, in his view, the functioning and survival of a democratic system depends on individuals recognizing themselves as self-determining agents with the formal opportunity to participate in public deliberation.<sup>15</sup> Such self-identification would be threatened if only certain individuals were free to express their views, even if all relevant information and views necessary for public debate were thereby expressed.

However, in both forms of the self-government theory, the ultimate interests at stake that are taken to justify such freedom are

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<sup>13</sup> R. Post, 'Reconciling Theory and Doctrine in First Amendment Jurisprudence', in L.C. Bollinger and G.R. Stone, *Eternally Vigilant: Free Speech in the Modern Era* (Chicago: University of Chicago Press, 2003), p. 166. See also Post, 'Meiklejohn's Mistake: Individual Autonomy and the Reform of Public Discourse', *University of Colorado Law Review* 64 (1993); and Post, *Constitutional Domains: Democracy, Community, Management* (Cambridge: Harvard University Press, 1995), pp. 179–196.

<sup>14</sup> Meiklejohn explicitly affirmed this point, arguing that what matters in expression is only its content, not to whom it belongs, remarking 'what is essential is not that everyone shall speak but that everything worth saying shall be said'. Meiklejohn, 'Free Speech and its Relation to Self-government', p. 389.

<sup>15</sup> Post writes: the 'formal opportunity to speak and to hear constitutes a necessary but not sufficient condition for the creation of this sense of self-determination', *Constitutional Domains*, p. 192. See also, Joseph Raz, 'Liberalism, Skepticism, and Democracy', *Iowa Law Review* 74 (1989): 79–84 for the point that a commitment to the value of self-determination is in part constitutive of democracy. Christina E. Wells ['Reinvigorating Autonomy: Freedom and Responsibility in the Supreme Court's First Amendment Jurisprudence', *Harvard Civil Rights-Civil Liberties Law Review* 32 (1997)] argues that the debate over whether or not a defense of free speech based on autonomy is central to the Supreme Court's protection of free expression obscures the ways in which respect for individual autonomy can be reflected in limitations – not just protections – of certain categories of speech, e.g., those that threaten to undermine rational public deliberations.



those that individuals have *qua citizens* or members of a democratic polity engaged in collective determination, not the interests they have *qua speakers* aiming to express and convey their views.<sup>16</sup> That is, in the self-government theories, an individual does have an interest in her own speech being free but this is construed only as an indirect consequence of her primary interest in the preservation and legitimacy of a democratic system.<sup>17</sup>

Now it may be, as some theorists hold, that the most comprehensive theories of freedom of expression offer justifications grounded in audience or third-party interests. And it may be possible to explain the history of First Amendment jurisprudence through appeal to the Court's reliance on one or more of those theories.<sup>18</sup> But I want to suggest that such explanations (both within constitutional interpretation and more broadly) offer a significantly more limited and contingent defense of expressive liberty than they purport to provide. That is, there are certain fundamental interests a speaker has in her own expressive activity that fail to be accounted for in those theories based on audiences and third parties, but which

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<sup>16</sup> While Meiklejohn's and Post's approaches don't, of course, exhaust the category of self-government theories, they illustrate the basic framework of such theories. In his 'Freedom of Expression', *Philosophy & Public Affairs* 22(3) (1993): 207–263. J. Cohen develops a self-government account that recognizes the justificatory power of speakers' interests in a theory of free speech. However, that provision for speakers' interests reflects his acknowledgment that there is a plurality of interests at stake in freedom of expression, beyond those that are featured in theories narrowly based on self-government.

<sup>17</sup> It should also be noted that there are self-government theories that appeal to a general concept of personal autonomy as the interest underlining freedom of speech. There, a right to free speech is defended on the grounds of its trespass being inconsistent with respect for such autonomy. See, for example, Thomas Nagel's remarks:

[t]hat the expression of what one thinks and feels should be overwhelmingly one's own business, subject to restriction only when clearly necessary to prevent serious harm distinct from the expression itself, is a condition of being an independent thinking being. It is a form of moral recognition that you have a mind of your own: even if you never want to say anything to which others would object, the idea that they could stop you if they did object is in itself a violation of your integrity (Nagel, 'Personal Rights and Public Space', *Philosophy and Public Affairs* 24 (1995): 96, 83–107).

However, this particular kind of appeal to autonomy is too broad a defense of expressive liberty. For its justification of free expression applies in exactly analogous fashion to justifications of the right to make one's own decisions about a wide range of activities (e.g., concerning one's health) that are largely self-regarding. One needs a more narrow account of the distinctive values or interests at stake in freedom of expression to decide under what conditions a right to such freedom is being violated (and how to balance its protection against other potentially competing rights).

<sup>18</sup> See Larry Alexander, *Is There a Right of Freedom of Expression* (Cambridge: Cambridge University Press, 2005).

should be accounted for in an explanation of the value of free speech.<sup>19</sup> Although Sect. II, which introduces my positive account of certain speaker-based justifications for freedom of expression, can stand alone, I want to explain how that account is motivated by certain problems in the scope of theories (i.e., consequentialist and self-government views) that are based only on the interests of audiences and third parties.

One concern is that audience- and third-party-based approaches are in principle compatible with there being prior-restraint on certain expressions, even if likely to be true or obviously political in nature, if they add nothing to what others have already heard or believed. The interest that a speaker may have in expressing himself is unrecognized by such approaches, meaning that they would, in principle, sanction the censorship of, say, a protest that merely repeated what on other occasions in front of the same audience had already been said.<sup>20</sup>

Similarly, it isn't clear how a theory of expressive liberty that counts only audience and third-party interests could pose an objection to the censorship of one expressing one's political or moral commitments in cases in which one's audience already knows what those commitments are. Nor can theories of free expression based on audience or third-party interests explain why largely self-regarding forms of expression – e.g., those generated by a desire to instantiate or endorse a form of life or a given identity – would be protected (except derivatively, via audience or third-party protections). When

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<sup>19</sup> A speaker-based theory of freedom of expression might accept that the relative exclusion of considerations of speaker's interests from the scope of many theories does not make a significant practical difference in what sorts of prohibitions and privileges associated with freedom of expression are held to be legally justified. For most individuals are at once speakers and audiences (as well as third parties) for speech. The interests that they have as speakers might enjoy an *indirect* protection via the protection of the interests they have as audiences or third parties. However, knowing how and when to apply any political or legal principle typically requires some articulated conception of the grounds upon which the principle is based. A decision about, for example, what kind of speech should not be accorded First Amendment protection (e.g., libel and advertising), or what do do when unfettered expression conflicts with privacy or security, needs to identify whether the interests speakers have *qua* speakers serve as a grounding for free speech, or only the interests they have *qua* audiences and third parties.

<sup>20</sup> I should acknowledge that the means by which some content is expressed (say, by certain individuals, in a given style, in a redundant manner) can contribute to the reception and efficacy of the expression. So my claim that audience-based views would in principle allow the censorship of redundant views would apply to only a subset of those views, wherein the form and manner of the expression plays a minimal role in its content and achievement of its ends. For the interests one might have in such redundant expression, see Kenneth Karst, 'Equality as a Central Principle in the First Amendment', *University of Chicago Law Review* 43 (1975): 20–68: 'even the repetition of speech conveys the distinctive message that an opinion is widely shared' (p. 40).

one adopts or discovers a given identity – social, political, religious, gendered, and so on – and tries to express that identity in how one lives, one isn't necessarily interested in furnishing any cognitive content about that identity to others.<sup>21</sup> By contrast, First Amendment protections against forms of forced avowal and association (as in mandatory patriotic pledges and prayer) seem to be only weakly justified by an appeal to the interests of audiences and third parties but strongly justified by the interests of individuals in not being forced to express views that they do not hold or wish to endorse. Audiences and third parties do have an interest in knowing that an individual's expression of her beliefs or values is genuine, and not coerced, but that interest seems secondary compared to the individual speaker's interest in the free exercise of her conscience.<sup>22</sup> Finally, a concept of freedom of expression that grounds it solely in the interests of audiences and third parties cannot explain why it seems intuitively right to count as censorship the prohibition of forms of self-expression (e.g., gang-related tattoos or religious symbols) even when they are intended to be hidden from others.

In light of those problems with justifications of expressive liberty based solely on audience and third-party interests, I suggest we should look at the interest we may have in our expression being free where the interest is internally related to the very exercise of expression. If our interest is only in the *content* of expression, it isn't clear that it matters whether the source of that content is our own expressive activity or that of others. But if it can be shown that one has a fundamental interest in the content of an idea being expressed by *oneself*, a theory of free expression may need to reflect one's identity as a speaker, not just as a listener or third party.<sup>23</sup>

<sup>21</sup> See Joseph Raz, 'Free Expression and Personal Identification', in *Ethics in the Public Domain* (Oxford: Oxford University Press, 1996) for this and other ways in which there can be an intrinsic value in the expressing of a belief, independent of the informational value of the content that is expressed.

<sup>22</sup> See Seana Shiffrin, 'What Is Really Wrong with Compelled Association', *Northwestern Law Review* 99 (2005): 839–888; and C. Edwin Baker, 'Turner Broadcasting: Content-Based Regulation of Persons and Presses', *The Supreme Court Review* (1994): 57–128.

<sup>23</sup> That a speaker's interest in expression should be reflected in any comprehensive justification of freedom of expression is one of the premises of Cohen's theory of expressive liberty (see footnote 16 *supra*). Cohen appeals to informational, deliberative, and expressive interests as fundamental *pro tanto* justifications for a theory of freedom of expression that respects a stance of value pluralism about competing moral and political orders. Although that account offers a persuasive justification for the claim that individuals have certain kinds of fundamental *expressive* interests (in matters of personal obligation, political justice, and human welfare), only that interest relating to matters of personal obligation is clearly identified by Cohen as an interest the speaker has *qua* speaker. This paper proposes an additional speaker's interest that has a broader scope.

## II. EXPRESSION AS REALIZATION

One way in which one may have a fundamental interest in one's own expressive activity appears in connection with moral, religious, or other normative beliefs that are putatively such that one cannot genuinely hold them unless one is disposed to express them. For some, one cannot genuinely be a pacifist without protesting against the threat of war; genuinely be an evangelical without conveying to others one's faith; genuinely be committed to social reform without communicating one's beliefs about how social policy should change.<sup>24</sup> The holding of certain beliefs, commitments, and desires may carry an obligation to express them. Those obligations cannot be satisfied via the expression by others in one's stead. Joshua Cohen thus criticizes those accounts of freedom of expression that restrict its justification to the interests exclusively served by its role in public discourse or successful communication. For the interest served by expression – even if it is typically communicative – may not be best captured in those terms.<sup>25</sup>

However, not all beliefs, commitments, and desires are constitutively such that their significance to an individual depends on their being expressed by that individual. Such cases occupy a realm of expressive behavior too narrow to support a general defense of free expression, although they do expose a significant speaker-based interest that is not directly recognized in consequentialist and self-government theories. The same concern for the scope of the justification of free expression applies to those justifications of freedom of speech that appeal to the value of allowing forms of dissent from majority views and certain social norms.<sup>26</sup> Although the extent to which minority (anti-authoritarian, unconventional, eccentric, offensive) viewpoints are protected is a good indication of whether a political system is genuinely committed to freedom of expression, not everyone who has a speaker's interest in expressing her views has such minority or oppositional points of view. What we want, as I see it, is a

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<sup>24</sup> Denying that all protection-deserving expressive acts are communicative, C. Edwin Baker offers the example of a person participating in a political demonstration or religious ritual 'to establish herself as having openly embodied self-defining commitments', in 'Harm, Liberty, and Free Speech', *S. California Law Review* 979 (1996): 984.

<sup>25</sup> Cohen, pp. 224–225.

<sup>26</sup> See S. Shiffrin, *Dissent, Injustice, and the Meanings of America* (Princeton: Princeton University Press, 2000).

way of showing how speakers have an interest in their own expression that depends on features associated with expressive behavior more broadly exhibited.

In what follows, I argue that if we understand expression not as the simple translation of a belief from a mental to a publicly available form but as a phenomenon in which the articulation of the belief is part of the process in and by which it is constituted, then we can see how the freedom of expression can be founded on the recognition of an intrinsic value in the act of expressing: a value that the speaker has in forming his or her ideas and knowing his or her own mind.

In defending this speaker-based interest in expressive liberty, I draw on a substantial tradition (referred to in this paper's beginning) of seeing certain notions of self-realization as central to an account of freedom of expression. C. Edwin Baker defends this perspective – which he calls the 'liberty theory' – in arguing that,

speech is protected not as a means to a collective good but because of the value of speech conduct to the individual. The liberty theory justifies protection because of the way the protected conduct fosters individual self-realization and self-determination without improperly interfering with the legitimate claims of others.<sup>27</sup>

In what follows I accept that view sketched above, but I try to connect more transparently the processes of (i) an individual expressing her beliefs, desires, and commitments, and (ii) her self-realization. In doing so, I mean to eschew the often indeterminate or merely intuitive notions of self-realization often appealed to by other theorists. I offer, instead, a specific account of certain cognitive mechanisms by which at least one kind of self-realization through self-expression may occur. It should be noted, I do not assume that such an account will identify an interest that is served only via expressive behavior. For, of course, many kinds of behaviors may contribute to self-realization. Some critics of the

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<sup>27</sup> Baker, 'Scope of the First Amendment Freedom of Speech', *UCLA Law Review* 964 (1978): 25. Although Baker recognizes such self-realization as an independently valuable good for individuals and for the communities they constitute, he argues that respect for such self-realization is *also* required if individuals are to be treated as bearing, in the eyes of the state, equal worth as 'autonomous moral beings'. Without such respect, instantiated in permitting such self-realization through expression, individuals 'become mere objects for manipulation or means for realizing someone else's ideals or desires'. In later articles Baker places greater emphasis on such a free-expression justification founded on individual autonomy considered as a status, rather than as a value or instrumental good. See his 'Autonomy and Informational Privacy, or Gossip: The Central Meaning of the First Amendment', *Social Philosophy and Policy* 21 (2004).

self-realization approach charge that if a value furnished via freedom of speech can be fostered in ways other than through freedom of speech then that value cannot serve as a principled defense of such freedom.<sup>28</sup> However, that a fundamental interest may be served via multiple means does not entail that it cannot serve as a justification for the existence of any particular one of those means.<sup>29</sup> Furthermore, even if expressing our beliefs is not the only means by which we become aware of them, it is a particularly effective means in rationally assessing them, seeing how they stand in relation to our other beliefs, and opening them to assessment by others.

In the most general sense, one does not always have control over what one expresses. One may express shock and surprise through raised eyebrows, while intending nonetheless to appear cool and nonchalant. And one may not have authority over the correct interpretation of what one's behavior expresses, however intentional one's expression is. One may think of one's compliment to a colleague as an expression of admiration, while others more accurately see it as manifesting condescension. And one may express one's beliefs without any intention to express them, such as in the way my carrying an umbrella suggests that I believe it will rain. In such a general sense of expression, there is no distinction between expressing one's thoughts and manifesting or revealing them.

In a more narrow sense relevant to freedom of speech, expression occurs when the content of a given mental state (a belief, desire, attitude, and so on) is given a publicly accessible form (an utterance, gesture, inscription) with the intention that others be able to recognize that mental state from its manifestation. The intended audience may not be any particular person: it may be people in general, God, posterity, even oneself addressed from an external point of view. Here, we can describe the expression as *realizing* the mental state, as bringing it into view in the sense in which the external is no

<sup>28</sup> Robert Bork, for example, argues that an interpretation of the First Amendment as being justified by the value of self-realization or individual flourishing found in artistic expression would result in there being nearly no limits to the scope of First Amendment protections, as almost any activity or expression might exhibit that value. Robert H. Bork, 'Neutral Principles and Some First Amendment Problems', *Indiana Law Journal* 47 (1971).

<sup>29</sup> One might propose, for example, that the value of self-realization offers a pro tanto justification for furthering many kinds of activities, among them those that depend on free expression, but that justification in some domains (e.g., non-linguistic behavior) can be outweighed or canceled by other competing interests (such as the interest others have in not suffering certain kinds of harms). See Joel Feinberg, 'Harm to Others', *The Moral Limits of the Criminal Law Volume 1* (1987): 29–31, for an account of criminal laws being justified by harms that wrongfully set back the interests of others.

more than a publicly available form of the internal – the same content existing invariantly across private and shared incarnations.<sup>30</sup>

But we can exploit the ambiguity of the term ‘realization’ to point to a different way of conceiving of the expression of a thought. For realization has not only the meaning of ‘exposure’ or ‘discovery’ but of ‘bringing into being’, as in the way, for example, a person’s behavior realizes what was once only an inchoate desire; a building realizes what was once only a design; a computer program, as an algorithm, is realized only in a given hardware and software configuration; and, a person’s particular flourishing or happiness is realized in one form of life or another. Here, realization is not the re-presentation of an existing thing in a different form, but the emergence of the thing itself. In this sense expression refers not to the public manifestation of a pre-existing intentional state but the creation or emergence of the intentional state in its expression. The expression of a belief plays a *constitutive* role in the belief; the expression of a desire plays a role in the formation of that desire.

This notion of expression as realization is familiar in artistic forms of creation, where a painter may depend on the process of producing a work to come to know what her goals in creating the work really are. Adding one element, and then another, being satisfied and dissatisfied by turn, and then reflecting on why some features of the work seem right and others not is part of the development of the work, that is, part of figuring out what the work is or is supposed to be. What an artist wants to express in her work may emerge only in the process of creating the work.<sup>31</sup> My question is whether this

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<sup>30</sup> This description captures only one species of expression. A more general account of intentional expression would need to capture the way in which one’s actions or their products can be intentionally expressive, without expressing one’s own attitudes or belief (e.g., a painting may express melancholy, without the artist feeling that emotion; and an utterance of ‘thank you’ may be conventionally expressive of gratitude, even if the person saying it does not feel grateful). See the alternative accounts of ‘evidential’ notions of expression in W. Davis, *Meaning, Expression and Thought* (Cambridge: Cambridge University Press, 2003) and K. Bach and R. Harnish, *Linguistic Communication and Speech Acts* (Cambridge: MIT Press, 1979).

<sup>31</sup> Consider here Montaigne’s assertion that ‘I have no more made my book than my book has made me – a book consubstantial with its author’ (from ‘Of Giving the Lie’).

process might find an analogy in many of the more pedestrian forms of expression we engage in all the time.<sup>32</sup>

One way to begin is with the uncontroversial observation that our behavior (verbal and otherwise) manifests desires, tacit beliefs, emotions, attitudes, and other mental representations about which we are often unaware. We may find, for example, that a given instance of behavior is inexplicable until – when prompted for an explanation – we attribute to ourselves a belief or desire we didn't realize we had.<sup>33</sup> Or we may not know what we think until we find the words that seem to fit the thought that we are trying to express – a point illustrated in E. M. Forster's quip, 'How can I tell what I think 'til I see what I say?'<sup>34</sup> However, that process by which we may learn of our beliefs, desires, commitments, and so on – although perhaps ubiquitous – does not reflect the kind of interest I mean to describe in expression as realization. For while it is true that in expressing ourselves we may learn of beliefs or desires we did not realize we have, that manner of expression is not of the *intentional* kind that is germane to an account of the interests we have in freedom of expression. For the kinds of contexts in which one might unintentionally *manifest* or reveal beliefs of which one was unaware far exceed those in which one engages in specifically intentional expressive behavior with the end of communicating one's views.

A kind of case that better illustrates the interest we have in our own expressive activity occurs when, in intending to express some particular thought that I have, I discover what the thought is only when I put it into words or some other external form. In such cases, my intentional disclosure of the content of the thought may not leave the thought unchanged.

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<sup>32</sup> For an account of freedom of expression that defends the view, endorsed here, that such creative features of artistic expression are exhibited in ordinary expression, see Timothy Macklem, 'The Art of Expression', in his *Independence of Mind* (Oxford: Oxford University Press, 2007). In the philosophy of art, the view that artistic expression is a process of realizing – as bringing into being – certain thoughts, rather than merely representing them, can be found in, e.g., R. G. Collingwood, *The Principles of Art* (Oxford: Oxford University Press, 1958); John Dewey, 'The Act of Expression', in *Artistic Expression*, ed., John Hospers (New York: Meridian, 1970), pp. 72–94; M. Merleau-Ponty, 'Cezanne's Doubt' in *Sense and Non-sense* (Northwestern University Press, 1964); and Jonathan Gilmore, *The Life of a Style* (Ithaca: Cornell University Press, 2000).

<sup>33</sup> On so-called tacit beliefs, and the distinction between analyses of believing as occurrent (as involving some introspectable mental act), and as dispositional (as a matter of what a subject would do or say in response to a given stimulus), see H.H. Price, *Belief* (London: Allan & Unwin, 1969); William G. Lycan, 'Tacit Belief', in R.J. Bogdan, ed., *Belief: Form, Content, and Function* (Oxford: Clarendon Press, 1986); and John Searle, *The Rediscovery of the Mind* (Cambridge, MA: MIT Press, 1992).

<sup>34</sup> Forster, *Aspects of the Novel* (Harcourt, 1927), p. 101.



Consider experiences in which it seems that we don't know what we really believe, desire or are committed to until we try to express those thoughts in a public way. Take, for example, how I might think that I endorse a given moral or political principle but, in trying to articulate what I mean by that or in trying to live by that principle in practice, I show that I'm really committed to that principle only in a narrow sense or in relation to certain kinds of people. Were I reflective enough to discover the distance between that principle and its less-than-full endorsement in the way I express it, I might then realize that I had endorsed only a crude understanding of the principle. Or I might discover that while I was committed to it in some sense in the abstract I wasn't in fact ready to follow the demands of its application in the real world. Or, finally, I might find that such a principle cannot, as I thought of it, be coherently enacted, leaving me uncertain as to whether the principle is meaningful at all in the formulation to which I thought I was committed.

I might espouse, for example, the belief that people should be treated equally. Then, trying to express that belief, I see not just that the statement is vague but that it seems to impose obligations of much greater scope than I am committed to. I then specify that what I really endorse is, say, not equal treatment of others in all respects, but that every person deserves to be treated with equal moral respect and as possessing equal dignity as human beings. This better captures the fact that my belief in equality was not a belief that I ought to treat strangers, friends, members of my family, and myself identically. This process could continue indefinitely, and may succeed only through reliance on how others (such as experts) use the concepts that I employ. The expression of a belief may thus play a role in making it more adequate to the state of affairs it is intended to represent.<sup>35</sup>

There are several ways in which such articulation of a belief (desire, commitment, and so on) may affect its content. It may be that I discover what general perspective the belief is part of, or what it entails, or follows from. Or my thought may acquire a more stable identity in virtue of my expression of it, where my stating of my beliefs forces me to reflect on what it is I have *reason* to believe. It

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<sup>35</sup> Consider the analogous process in which the history of a scientific concept (planet, species, schizophrenia, or germ) is the history of its being adjusted to better fit the natural kind it purported to capture in its original formulation.

may be that, in trying to convey my thought, I give it a more fine grained content than it had in its pre-expressed state. Or I may discover that the belief as I express it is in tension with my other beliefs, making me less confident in whether I have sufficient reason to hold it. Or my beliefs may acquire greater precision as I successively express, restate, reflect on, and respond to them, the way Nabokov's handwritten manuscripts show him putting down a phrase, then an alternative after that, and then trying a third, never crossing out a line but all the while zeroing in on what he wants to say. Finally, one might call attention to something, e.g., one might exclaim, 'That's beautiful!' before an image, and in doing so discover *what* one thinks coincident with one's intentional expression of that thought.

Of course, I may discover that I'm unable to express what I want to convey in the words, locutions, theories, and concepts that are available to me – leaving my beliefs and desires much less anchored in what they commit me to than I thought they were. Or, after finding out that what I was able to say fell short of what I wanted to express, I might discover an adequate means of expression in a new metaphor or conceptual distinction of which I had been unaware. Some kinds of questions are not fully articulated at the beginning of one's inquiry, but emerge through continual refinement and restatement as the inquiry proceeds. Sometimes not until the discovery of a particular perspective on the significance of one's questions or concerns – a characterization that often seems obvious in retrospect – does one's endeavor become coherently structured and intelligible.

It should be emphasized that this discussion of the emergence of beliefs and desires in the process of expressing them must not be taken to imply any particular view of the nature of such mental representations. For it may be that the phenomenology of the experience I describe is a poor guide to the ontology of, and relationship among, our mental states. That is, even if I may gain a better sense of my beliefs, desires and commitments from the kind of bringing into relief that such expression affords, that practical and psychological phenomena may not tell us anything useful about how to individuate such intentional states, or what their existence and proper attribution depends on. My description of what I've called

expression as realization is thus agnostic with respect to a variety of theories of beliefs and views about the relation among tacit commitments and beliefs.<sup>36</sup>

It should also be noted that the processes I describe often occur 'internally' without any publicly available expression of the thoughts one has. In trying to figure out what one does believe, or has reason to believe, one need not, of course, utter, inscribe, or otherwise manifest one's beliefs. This observation might suggest that our interests as speakers are located not in the *expression* of our mental representations, but merely in the *possession* of those mental representations and in being able to perform, perhaps only 'silently', the trial-and-error formulations of them described above. However, my claim is not that it is impossible to garner the benefits of such expression when the linguistic or other formulation is achieved only internally, but that the external expression of such ideas plays a characteristic role in forming those ideas.<sup>37</sup> The discovery of what one wants to say often occurs through one's attempts to say it.<sup>38</sup>

It should be noted that if the process of expression plays a role in giving a belief a determinate content, the *failure* to express one's beliefs may also play a role in clarifying them. Such failure can occur in a number of ways.

What my utterances mean depends not only on how my words are properly used in my language, but on how I understand those words. So if I'm mistaken about the meanings of the words I use, I will misstate my beliefs. A correct interpretation of what I mean to say will require an awareness of how I (incorrectly) understand those

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<sup>36</sup> These include dispositionalist views that identify having a belief P with being disposed to act (in the right circumstances) as if P is true; and functionalist views that see having a belief P as being in a state with a certain causal-functional role, in which, e.g., one is apt to make certain inferences from P. For the dispositionalist view see, Gilbert Ryle, *The Concept of Mind* (London: Hutchinson, 1949) and R.B. Marcus, 'Some Revisionary Proposals About Belief and Believing', *Philosophy and Phenomenological Research* 50 (1990): 133–153. For a representative functionalist view see Brian Loar, *Mind and Meaning*, (Cambridge: Cambridge University Press, 1981).

<sup>37</sup> Even when a belief is expressed only internally, there is a difference between the expression being an adequate presentation of the belief and the expression only *seeming* to be an adequate presentation. One way of exposing that potential discrepancy between a genuine and only apparent adequacy is checking that expression against the responses of others and seeing whether they understand the expression as it was intended. The demand made by others to better convey one's meaning often forces one to decide or discover what one means.

<sup>38</sup> The speech-act of publicly expressing my beliefs, desires, or commitments, may also put me in a different relationship to them than when they are merely internally voiced; for my sincere assertion of, say, a belief that P may impose upon me a kind of commitment to P being the case, a commitment that – all things being equal – others are justified in holding me to. I don't take on that commitment merely by avowing the belief to myself.

words in the shared language and thus what I intended (but failed) to express through them. Another kind of failure of expression occurs when I cannot find adequate means to express my beliefs. Such would be the case if, as in the first form of failure, I learned that I was using certain words improperly (in ways the shared language does not sanction) but I could not then find appropriate terms to use as substitutes or would not assent to any available interpretation of what I meant to say.

Of course, there is no guarantee that the discovery of adequate means of expression will ever occur, leaving one unable to express one's belief and raising the question of whether one actually has any such belief, that is, whether one's supposed belief bears a commitment to an intelligible state of affairs.<sup>39</sup> If I try to capture in words my belief in the moral wrongness of a given way of life but fail repeatedly to express that belief in adequate ways, it may be because there is no content to such a belief; I may be simply expressing a feeling of disgust that I mistake for – or try to 'rationalize' with – a belief with a cognitive dimension.

In this discussion I am trying to defend the view that not only may expression be conducive to the formation of a belief, desire or commitment, but that the process of such expression is a kind of achievement, one in which one may fail – for lack of the appropriate terms, lack of reflection, lack of exchange with others, and so on. John Searle seems to deny the possibility of such failed meaning, when linguistic, in his 'principle of expressability', according to which it is *always possible* to express what one means to communicate. But we should notice that Searle's claim is more precisely that it is never *impossible* for one to express what one intends to convey. For, as he acknowledges, his claim holds only for what is in principle true, for one may as an empirical matter lack the terms to say what one wants to say.<sup>40</sup>

Sometimes the processes I describe above reflect only how the content of a thought can be indeterminate until the thought is given

<sup>39</sup> For the dependence of the content of an expression on the available means of expression, see Daniel Dennett, *Consciousness Explained* (Boston: Little Brown and Co., 1991).

<sup>40</sup> '[F]or any meaning X and any speaker S whenever S means (intends to convey, wishes to communicate in an utterance, etc.) X then it is possible that there is some expression E such that E is an exact expression of or formulation of X'. Searle acknowledges that a given language may not in fact 'contain the words or other devices for saying what I mean' in *Speech Acts: An Essay in the Philosophy of Language* (Cambridge: Cambridge University Press, 1969), pp. 19, 20.

a conventional form of expression.<sup>41</sup> The articulation of a belief may thus only eliminate an unresolved dimension of what we believe by forcing us to choose one linguistic expression – and thus what state of affairs we are committed to being the case – over another. Or such articulations may tell us what we believe, whether as individuals or groups, only because such expression exposes such things as our self-deception, ambiguities in what we believe, tacit beliefs we didn't realize we had, and so on.

In such cases, we may be inclined to describe what occurs not as the discovery or formation of a belief in its expression but as the *replacement* of one vague belief by another, more determinate one. How one individuates a mental representation such as a belief or desire would thus determine whether one sees an instance of a belief being formed in its expression as a change (development, realization) within a belief or a replacement of the belief with a different one.

But if the dependence of our beliefs, desires, and commitments on their external articulation is great enough, then it seems plausible to describe such beliefs, desires, or commitments as not simply expressed in their being articulated but, in a sense, *formed* or completed in that articulation. Our beliefs and desires may be explained by and dependent on already existing mental representations, be they other beliefs and desires, proto-beliefs and proto-desires, or attitudes, feelings, and perspectives that cannot be captured in propositional form. These constituents of the mind, insofar as they are held stable and insofar as we are largely rational, serve as factors in our assent to, or rejection of, the particular external or public form the beliefs and desires take on in our attempts to articulate them. But the process of articulation can play a role in constituting the content of the thought that is eventually expressed. Lionel Trilling remarked

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<sup>41</sup> For the view that to be in possession of a belief requires the possession of a public language in which that belief is formed, see Stuart Hampshire, for whom the relation between belief and its expression in words is 'not a mere contingent matter of fact,...The expression of a belief is not the inessential act of clothing it with words; it is the only way of making the belief definite, as a belief in this statement rather than that', Hampshire, *Thought and Action* (New York: Viking, 1960), pp. 141–142. For a contrary account of belief along dispositional lines in which it is not *in principle* true that holding of a belief requires linguistically expressing it, see R. B. Marcus, 'Some Revisionary Proposals About Belief and Meaning', who notes that identifying '[v]erbalization as a necessary condition of believing precludes our discovering and then reporting *what* we believe'. For, 'when acting out of belief we need not precede or accompany such actions with verbal, sentential accompaniments' (pp. 139, 141).

that 'Hamlet is not merely the product of Shakespeare's thought, it is the very instrument of his thought'.<sup>42</sup> I suggest that we can sometimes see a belief (desire, commitment) and its expression as coming into being together.

### III. PERSONAL OR POLITICAL INTEREST, POSITIVE OR NEGATIVE FREEDOM?

I've argued that, in addition to the interests we have as audiences for others' expression, we have a substantial interest in our own expression: the value of forming our thoughts and making them perspicuous, to ourselves and others.

Although that interest is a personal one, and thus among the many interests we have as private individuals, it is an interest also deserving of political recognition, at least within participatory democracies. For it is an assumption of any such participatory system that when individuals engage in discourse about matters of public or political concern, they are not *always* merely asserting, without reflection, other people's views. Rather, the assumption (only *prima facie*) is that when individuals advocate for a particular view, say of a social policy or political candidacy, they are aware of and have to some non-trivial degree rationally assessed what it is they are endorsing. It is a condition, that is, of democratic political systems that individuals have some of the self-understanding required for a genuine commitment to the views they express, that is, for those beliefs, commitments, desires, and so on, to be recognizably their *own*.<sup>43</sup> They cannot always be merely parroting the views of someone else hidden behind the scenes.<sup>44</sup> More generally,

<sup>42</sup> Trilling, 'Freud and Literature', in *The Liberal Imagination: Essays on Literature and Society* (1950): 34–57, 52.

<sup>43</sup> It has also been argued that another dimension of self-realization, the development of good character (in such respects as inquisitiveness, epistemic modesty, independence of judgement, etc.) is fostered via freedom of expression both as a personal interest and an interest with political value. See Vincent Blasi, 'Free Speech and Good Character', in Bollinger and Stone, eds., *Eternally Vigilant: Free Speech in the Modern Era*, pp. 61–95.

<sup>44</sup> One sees this feature of public debate, I suggest, in the controversies over what degree of freedom of expression should be accorded to the kind of speech – from, e.g., corporations and lobbyists – that is not straightforwardly assimilated to the expression of particular individuals' own views. See, for example, Justice John Paul Stevens' dissenting opinion in the recent *Citizens United v. FEC* (130 S. Ct. 876): 'one fundamental concern of the First Amendment is to "protect[t] the individual's interest in self-expression"'. He contrasts such self-expression with corporate speech, identifying the latter as only 'derivative speech, speech by proxy' and thus not justifiable in terms of the same interests adduced as belonging to individual speakers.

although the debate over what conditions are required for an individual's actions to be free and autonomous is too complex and nuanced to address here, it is highly plausible that those conditions include a substantial ability to rationally assess one's beliefs, desires, and commitments, rather than just to submit to them. One's expression of one's beliefs and commitments, I've proposed, contributes to that sort of critical reflection and potentially genuine endorsement.<sup>45</sup> Although a proponent of the self-government theory of freedom of expression might argue that the above points show only that there is a *coincidence* between the personal interest I have in my own expression and the interest I have as an autonomous political agent or citizen in my expression, those two kinds of interests are distinct. However, in reply, we can see how the satisfaction of the political interest one has in one's own expression can depend upon the satisfaction of one's personal interest in that expression: the political relevance of my speech often depends on that speech expressing views that genuinely belong to – are genuinely endorsed by – me.<sup>46</sup>

To conclude, although analyses of freedom of expression are usually couched in negative terms, as explanations of why there should be no or only very limited official constraints on expression, a theory such as mine based on self-realization implies an understanding of the freedom of expression as 'positive' in character, as requiring perhaps not just limits on a state's interference with expression but sometimes the state's active provision of the means required for expression to be possible. For if expression is a kind of achievement, the occurrence of which is not guaranteed simply by the absence of constraints, then a right to free expression may imply a duty to provide what makes that achievement possible. Mill understood rights largely as side-constraints that enjoin protection against societal or state intrusion into one's purely self-regarding affairs. Millian theories accordingly do not typically propose that critics have a right to any information that they need in order to play

<sup>45</sup> See Harry Frankfurt's related point that when a person decides to identify with a desire, to desire to have that desire, he 'constitutes himself'. Frankfurt, 'Identification and Wholeheartedness', in *The Importance of What We Care About* (Cambridge: Cambridge University Press, 1988), p. 170.

<sup>46</sup> See Owen Fiss, 'A Freedom Both Personal and Political', for a related analysis of how a theory of freedom of expression that is based on the self-government theory can recognize the personal dimensions of self-realization as politically significant. In Bromwich and Kateb, eds., *John Stuart Mill, On Liberty* (New Haven: Yale University Press, 2003).

a role in the democratic process; they make only the much narrower demand that the state be forbidden from preventing speech that would otherwise be heard.<sup>47</sup> But one can also argue for a notion of rights related to human flourishing, where the respect of such rights means a state has a duty to enable their exercise. One would be suspicious of the sincerity of a governmental policy described as committed to the flourishing and self-realization of its citizens but which ignored the bases upon which expressive capacities and their exercise depend (e.g., education, literacy, and a diversity of media). However, my suggestion is that, in principle, a commitment to self-realization carries with it some degree of commitment to enabling the expressive activities through which such self-realization is, in part, achieved.

In the case of scientific ideas, where standards for success are largely a matter of truth and explanatory power, the value of expression is largely invariant over potential speakers. That is, it is irrelevant to truth of an idea (to be distinguished from the reasons that epistemically justify it) whether it be a philosopher, scientist, or another, who expresses it. But in the case of political views, which by their nature are contested, and in many cases of commitments, attitudes and points of view – which are not only statements of fact but expressions of value – it matters who does the expressing. This is true of religious views as well. Indeed, despite the relative emphasis of most philosophical explanations of freedom of expression on what value or interest can be recognized in the content of expression, not the act of expression, one of the major forces behind the historical development of a notion of freedom of expression was a desire to enshrine in political terms a right to conscience or religious freedom. The goal there was not to discover some true and complete statement of faith but to allow the expression of faith, whatever its content (of course, only within certain boundaries). The free expression of religious and political values matters not just because of any truth such expression may convey, but because the beliefs,

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<sup>47</sup> In some cases, Supreme Court jurisprudence has held that this demand extends to a duty of the state to avoid abridging freedom of speech by failing to protect its exercise. See, for example, Justice Hugo Black's dissenting opinion in *Feiner v. New York*, 340 U.S. 315 (1951) that the state bore a constitutional duty to prevent the threats of violence by hecklers in a crowd from silencing a public speaker. In the more recent *Forsyth County, Georgia v. Nationalist Movement*, 505 U.S. 123 (1992), the Court held that it was unconstitutional to demand that the cost of protecting participants in a rally from hostile audiences be borne by the participants themselves.



attitudes, and points of view that it makes manifest are constitutive of who we are.

The foregoing argument for the interest we have in our own expressive activity is meant to show the lack of comprehensiveness of standard audience and third-party based justifications for protection of free expression. However even if such an interest is recognized it may not override our other interests (such as in security, equality, and privacy) often appealed to in justifications of limits to free expression. Also, such an interest in one's own expressive activity may not override other sorts of interests that, in alternative ways, support expressive liberty, such as the (audience and third-party based) interests we have in toleration, truth, democratic deliberation, and so on. The best way to balance among those competing interests, both within freedom of expression and between the freedom of expression and other sorts of interests, is a normative question that admits of no easy answer. For the very criteria employed in deciding among those competing interests may themselves express certain contestable evaluative conceptions of which interests are most significant. However, if expressing our beliefs is one way in which we form and discover those beliefs, then the costs and consequences of curtailing that expression – even if its adds nothing to what others already know – cannot be excluded from the calculations of what the best balance among competing political values should be.

*Yale University, New Haven,  
CT, USA  
E-mail: Jonathan.gilmore@yale.edu*