

Meindl and Graham suggest that this issue may be resolved by making a small change in how morality is assessed. There are two major approaches that have been used to operationalize morality: the third-person approach and the first-person approach. The third-person approach is guided by researchers who deem one set of principles or actions morally good and another set morally bad; the researcher defines morality without consideration of the participant. First-person approaches assess morality according to what the participant herself considers moral. Both approaches have difficulties on their own; the third-person approach has poor construct validity, while the first-person approach is often impractical and difficult to implement. Meindl and Graham advocate for a mixed approach in which both first-person and third-person moral principles are assessed. The basic insight from this paper is that researchers should not take for granted which principles are morally relevant and which ones are not.

In conclusion, this book points out the strengths as well as the shortcomings of empirical moral psychology through philosophical synthesis, empirical study, and assessment of methodologies. Finally, it illustrates how moral psychology might provide an inspiration for other areas of experimental philosophy in that it is self-reflective about its various challenges, challenges that may apply to other domains as well.

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Shiffrin, Seana Valentine. *Speech Matters: On Lying, Morality, and the Law*. Princeton, NJ: Princeton University Press, 2014. Pp. 234. \$35.00 (cloth).

In *Speech Matters: On Lying, Morality, and the Law*, Seana Shiffrin argues for a “thinker-based” theory of free speech; she also argues that there is a crucial connection between the sincere speech of individuals, our moral development, and the very possibility of moral community. The title might lead one to expect the book to be about things like police interrogation techniques and perjury law. Although perjury is discussed in passing and police lies during interrogation are discussed briefly (195–99), these issues are not the focus of the book. Rather, it primarily concerns the justification for a free speech principle: What makes speech so valuable that it warrants the special protections of a free speech principle? Shiffrin offers an answer to this question and spells out the consequences of this answer for various topics including (but not limited to) the moral worth and binding force of promises made to wrongdoers even while under duress and the wrongness of lying even when no one is deceived. The book is complex, interesting, provocative, suggestive, and a pleasure to read.

Based on Shiffrin’s Carl G. Hempel Lectures at Princeton University, the book consists of six interrelated and naturally flowing chapters. In chapter 1, “Lies and the Murderer Next Door,” Shiffrin offers her definition of lying. According to Shiffrin, a lie is (at bottom) an intentional and explicit verbal misrepresentation of the speaker’s beliefs. For Shiffrin, the wrongness of lying is not primarily about deception. In fact, she argues that even “pure lies,” that is, lies that are not be-

lieved and hence do not deceive, are also wrong. What is fundamentally wrong with lies is that they damage our confidence in testimony about speaker belief, and such testimonial trust is absolutely necessary for moral progress and community. She also argues that many lies to wrongdoers (even the murderer at the door) are also wrong for this reason.

Chapter 2, "Duress and Moral Progress," concerns promises made under duress. Shiffrin here argues that, when a coerced person initiates a promise, that promise has some moral weight, even though the promisor was under duress at the time of the promise, even though the promisee is a wrongdoer, and even though the promisee does not hold title to demand that the promise be kept. According to Shiffrin, the promisor must regard the promise as a consideration in favor of doing the promised action; the promisor must give the promise some weight and should not completely ignore the promise and just start from scratch with respect to deciding whether to do what was promised. Giving such a promise, this minimal moral weight is required, according to Shiffrin, to treat all parties to the promise (both the promisor and the wrongdoing promisee) as members of the moral community. Our moral connection to wrongdoers is another theme of the book.

In chapter 3, "A Thinker-Based Approach to Freedom of Speech," Shiffrin argues that speech is valuable because it affords unique access to the content of individuals' minds. We need reliable access to one another's thoughts in order to have a moral community, and we need to be able to express and communicate our own thoughts in order to develop both epistemically and morally. This thinker-based theory of speech explains why we value speech and are and ought to be reluctant to regulate it. Strong speech protections are thus necessary for us to develop as autonomous thinkers, as moral agents, and as a moral community.

In chapter 4, "Lying and Freedom of Speech," Shiffrin argues that lies are not protected by her thinker-based theory of free speech. Only individual's sincere speech, speech that accurately represents the speaker's beliefs, is valuable in the right way. In her free speech system then, there are no free speech reasons to resist regulating lies, and this is so even for pure lies that do not deceive anyone.

Although free speech does not extend any protection to lies on Shiffrin's account, she nevertheless argues that a certain subset of lies (namely, the autobiographical lie) ought to be shielded from legal regulation. In chapter 5, "Accommodation, Equality, and the Liar," Shiffrin argues that even though autobiographical lies are a moral failure (that damages testimonial trust and erodes moral community), we still ought to accommodate these failures since accommodating them signals inclusiveness, and this inclusiveness is both community building and equality promoting. Shiffrin also stresses that we are all prone to such failures anyway.

Finally, in chapter 6, "Sincerity and Institutional Values," Shiffrin argues that certain institutions (e.g., the university) are especially beholden to truth telling. This has the surprising and somewhat radical result that the widespread practice of lying to university research subjects is unjustified, on Shiffrin's account.

One of the many things I like about the book is the tight connection Shiffrin draws between her justification for a free speech principle and the legal treatment of particular categories of speech. If a category of speech is not valuable in the right (free speech principle justifying) way, then free speech considerations

should not afford a reason to resist regulation. Consequently, many confused or misguided reasons for resisting regulation are here handily rejected. The free speech literature as a whole would be greatly improved if more theorists took the care to be clear on this issue.

Shiffrin's account has the additional benefit of unifying existing autonomy accounts. Rather than focus on speakers as some autonomy theories do or on hearers as others do, Shiffrin focuses on thinkers and thereby straddles these two sorts of accounts. She also works to explain what she thinks is right about other sorts of justifications for a free speech principle (namely, those concerning the role of free speech in gaining truth or knowledge and those arguing that freedom of speech is necessary for a properly functioning democracy).

Despite this, I found several of the main claims of the book to be perplexing or underexplained. Take, for example, the nature, morality, and legal regulability of lies. These topics are a central theme of the book. As we will see, Shiffrin's argument for the moral wrongness of lies and her rationale for their legal regulability both focus on the fact that lies involve speakers' use of speech to misrepresent their beliefs. I will argue that although it is true that lies do this, so do many other utterances that are not lies. The resulting problem for Shiffrin is that she must either extend her argument for moral wrongness and legal regulability to this broader class of utterances or explain what is special about lies in particular that warrants this distinct moral and legal treatment.

Shiffrin argues that what really makes lying wrong (isn't the potential deception but) is the damage it does to our collective epistemic trust in individual testimony about speaker belief. Speech is our only access to the content of others' minds, and the very possibility of moral community and moral development rely on this access and thus on sincere testimony about one's beliefs. When we lie, we abuse speech by misrepresenting our beliefs. Doing so damages epistemic trust and thus undermines the very foundation of moral community and moral development. Lies are worse than nonverbal forms of deception, according to Shiffrin, because they involve speech, our only means to access and share mental content. It is precisely because lies use speech to misrepresent what the speaker believes that they are so morally problematic, on Shiffrin's account.

Shiffrin extends this argument about the morality of lying to the legal realm. One might think that a commitment to free speech would render the legal regulation of lies an absolute nonstarter. Shiffrin argues to the contrary that, once we are clear about why we value speech enough to protect it via a free speech principle, we see that lies are not valuable in the relevant way. On her account, speech is valuable precisely because it affords unique and reliable access to the content of individuals' minds. Because lies undermine, rather than promote, this value, there are no free speech reasons to be reluctant to regulate them. Shiffrin's theory of free speech applies only to the sincere speech of individuals and thus affords no free speech protection to lies. (Shiffrin, who rejects the levels-of-scrutiny framework, does say that the regulation of lies ought to be subject to an intermediate level, but her reasons have nothing to do with the speech value of lies; 154.)

The challenge for her account is that there are many ways to use speech to misrepresent speaker belief without actually lying. Suppose, for example, that someone asks me whether I have any children and, intending to mislead my

interlocutor into believing that I am childless, I respond, “I have a cat.” In this case, what I said is misleading, but it is not a lie. It is not a lie because what I said is true, and I believe what I actually said. I do have a cat. What I said is misleading, though, because I intend to get across and, in this conversational context, it is reasonable for my interlocutor to take me to be communicating that I do not have any children. In short, I have used speech to misrepresent my beliefs. Despite this, I have not lied because lying requires actually (explicitly) saying what I do not believe (in this case, that I have no children). Since I have abused speech to misrepresent my beliefs, what I have done is morally wrong for exactly the same reason that lying is wrong (at least according to Shiffirin), and my utterance is not properly afforded any free speech protection for the exact same reason that lies are not protected (at least according to Shiffirin). It seems then that Shiffirin must either agree that all speech by individuals that intentionally misleads about the speaker’s beliefs is just as wrong and just as regulable as lies are or explain what it is about lies in particular that warrants singling them out in these ways.

Perhaps this example of the misleading nonlie seems contrived and the phenomenon in question seems relatively rare. If this were true, the resulting challenge to Shiffirin’s account would be minimal. The truth is that such cases are widespread. In fact, we rarely actually say what we primarily mean. Rather, we say something else that enables our interlocutor to figure out what we primarily mean. This is how language works. Given the highly inferential way that communication and language use function, a focus on lies and what is actually explicitly said requires explanation.

I recognize that there may be evidential reasons to focus on lies. After all, it might be considerably easier to pin down what a speaker actually said on some occasion than to specify what a speaker meant by what she said on that occasion, but such practical reasons to focus on lies are very different from the sorts of reasons offered here. Perhaps the explicit nature of lies damages testimonial trust more than misrepresenting nonlies do. Shiffirin says something along these lines in passing about a different sort of case (152), but given the centrality of her claims about lies and the importance of this challenge, she certainly ought to say more.

It also wasn’t entirely evident to me what theoretical work Shiffirin intends for her thinker-based theory to perform. It is clear that her theory is intended to do the justificatory work of explaining why speech is special in ways that warrant special free speech protections. As I mentioned above, speech is special, according to Shiffirin, because it affords unique access to the contents of other peoples’ minds, and we need this access to be a moral community and to develop as moral agents. It is less clear to me what other theoretical work Shiffirin’s theory is intended to do.

Her theory is definitely not intended to justify or predict actual free speech practice. She denies, for example, that political speech is in any way special (93–94). She says: “One’s thoughts about political affairs are intrinsically and *ex ante* no more and no less central to the human self than thoughts about one’s mortality or one’s friends; in so far as a central function of free speech is to allow for the development, exercise, and recognition of the self, there is no reason to rel-

egate the representation of thoughts about personal relations or self-reflection to a lesser or secondary category, as democratic and truth theories are prone to do" (93).

It seems that political speech is valuable insofar as it allows "an agent to transmit (or attempt to transmit so far as possible) the contents of her mind to others or to externalize her mental contents in order to attempt to identify, evaluate, and endorse or react to given contents as being authentically her own" (93) but is no more valuable than other speech that does the same. (For Shiffrin 'speech' includes many forms of expression.) Thus, it seems that Shiffrin maintains that all speech imparting information about the content of the individual speaker's mind is on a par, at least with respect to its free speech value. My worry is that this condition is satisfied by obviously regulable (even criminal) speech. Consider Maddie who hires an assassin when she says "I want him dead and I want no traces left." She is imparting information about her beliefs, but she is also committing criminal solicitation. Consider one business owner saying to another, "I will raise my prices, if you raise your's." This speaker too is imparting information about his own mental content, but he is also illegally fixing prices.

It is important to note that Shiffrin qualifies the claim that all individual speech imparting information about speaker beliefs is (equally?) free speech valuable. In chapter 4 she excludes lies; on her view, only sincere speech imparting information about the individual speaker's beliefs is free speech valuable. This qualification, although important for her account, is of no use here: the assassin-hiring and price-fixing utterances are sincere, and they would not be criminal if they were not.

Perhaps Shiffrin denies that these criminal utterances are even within the scope of a free speech principle. A principle of free speech protects speech within its scope by making it more difficult to regulate, and it does this by requiring that the justification for regulations meet raised standards. A category of speech may be regulable either because the reasons for regulating it meet the relevant raised standards (as is the case with, e.g., defamation) or because the category of speech in question is not covered by (i.e., not within the scope of) the free speech principle in the first place. Such uncovered utterances, although speech in the ordinary sense, do not and should not count as speech in the technical sense of a free speech principle, and so such speech is regulable without addressing any free speech concerns. Shiffrin explicitly denies, however, that any speech falls into this uncovered category. She says: "I am fairly skeptical of the idea that regulations on some sorts of speech fall entirely outside the scope of the First Amendment, but rather think that the usual examples are either entirely wrong-headed (e.g., the obscenity and fighting words doctrines) or better explained as cases in which First Amendment concerns are adequately answered" (154). Shiffrin's denial that any speech is outside the scope of a free speech principle is curious—perhaps even contradictory—given her treatment of lies. Regarding lies, she maintains that there are no free speech reasons against regulating them, but this is precisely what it means to say that such utterances are entirely outside the scope of a free speech principle: they are afforded no free speech protection.

Presumably, Shiffrin would have to treat these criminal utterances as "cases in which First Amendment concerns are adequately answered" (154), but this

too is curious since they are nowhere treated as First Amendment (free speech) cases. Shiffrin argues in favor of her theory on the grounds that it correctly predicts the lowered free speech status of both commercial and corporate speech (98–102). Thus, it seems that she does expect her theory to make predictions about particular categories of speech and the various levels of free speech protection warranted by such speech. Perhaps some of what she says about the lowered status of corporate and commercial speech could be developed to account for the cases that concern me here. Maybe so, but again Shiffrin should say more.

Speech Matters: On Lying, Morality, and the Law paints a compelling picture of the fundamentally normative nature of language use and its crucial role in coming to know and hence connecting with one another; it provides a justification for a free speech principle, and it explores complex, intriguing, and underexplored issues about our moral relations with wrongdoers. Although it leaves the engaged reader wanting more in some places, it affords ample material for reflection, and there is much to savor.

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Wielenberg, Erik. *Robust Ethics: The Metaphysics and Epistemology of Godless Normative Realism*.

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In *Robust Ethics*, Erik Wielenberg presents a realist theory of moral properties in moral metaphysics and a reliabilist theory of moral knowledge in moral epistemology. The main project of the book is then to defend these views against the most pressing objections to them.

At the foundation of Wielenberg's metaphysics are states of affairs (36). The states of affairs which obtain are facts. Some facts are contingent whereas others obtain necessarily, in all possible worlds. More important, some of the obtaining facts are moral facts that are in part constituted by instantiations of moral properties. These moral properties are both objectively real (i.e., not dependent on human attitudes toward them) and sui generis (i.e., of their own kind; 8 and 14). They are therefore nonnatural properties that are not reducible to any other types of properties. They cannot be investigated by the methods of empirical sciences like natural properties, and they are not divine supernatural properties either.

As an example of moral facts, Wielenberg mentions the fact that some activities such as participating in a loving relationship are intrinsically good (4). The intrinsic qualities of this activity both make the activity good and provide us with reasons to take part in it (7–8). Additionally, some moral facts concerning which nonmoral properties make different actions right and wrong are also both basic and necessary. One example of such facts is “that a given action is an instance of torturing an innocent being just for fun makes it intrinsically bad” (37). In virtue of this type of basic necessary moral fact, other derivative moral facts