FREEDOM OF THOUGHT

By David Schmidtz

Abstract: This essay introduces basic issues that make up the topic of freedom of thought, including newly emerging issues raised by the current proliferation of Internet search algorithms.

KEY WORDS: marketplace of ideas, dignity, Orwell, de-platforming, othering

I. The Marketplace of Ideas

In the Supreme Court case *Abrams* v. *United States* (1919)[1], the dissenting opinion of Oliver Wendell Holmes explicitly articulated the concept of a "marketplace of ideas" for the first time.

> [W]hen men have realized that time has upset many fighting faiths, they may come to believe, even more than they believe the very foundations of their own conduct, that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That, at any rate, is the theory of our Constitution. It is an experiment, as all life is an experiment. Every year, if not every day, we have to wager our salvation upon some prophecy based upon imperfect knowledge. While that experiment is part of our system, I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country.

To free our minds, John Stuart Mill would have agreed, we need a climate of opinion where unanimity is conspicuously absent. On college campuses, we want students to face a *not* united front. We know from research on the phenomenon of anchoring and adjustment that if one professor implicitly asks students to justify deviating from one standard, we had better hope other professors are asking students to justify deviating from quite different

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[1] *Abrams v. United States*, 250 U.S. 616 (1919).

standards. We pull our students; for teachers, pull goes with the territory. Pull can be healthy, too, so long as professors pull in different directions.

We must at the same time resist any temptation that we (or our students) may have to react to contrary opinions by copping out: by concluding that all opinions are mere opinions, and that there is no truth. As Mill would have insisted, we must take responsibility for putting ideas into testable form as best we can, and accept the plain lesson of experience that not all opinions are equal. A free society lets Copernicus disagree with Ptolemy, but a free society does not stop there. It also leaves the rest of us free to figure out—indeed responsible for figuring out—who is right.

At the heart of successfully discharging this responsibility is an embrace not of relativism but of humility. In intellectual and personal life, *not needing to be right* is a massively underrated freedom. People who do not treat discussions as gladiatorial contests to be won or lost are people who are still growing.[2] We speak too much of competition implicit in the marketplace, and too little of the more fundamental cooperation. The hope we take to market is a hope not of being able to win but of being able to trade. Fundamental to the marketplace of ideas is that we come to it hoping to share.

Mill might have agreed that trying too hard to be novel and provocative is a recipe for producing junk. Genuinely original thinkers are the ones who are trying to tell the truth, not the ones who are trying to be original. Some ideas are better than others at pointing us toward truth. And sometimes the better idea is also an original idea. That is why we have a slogan that our job is not to teach what to think, but how to think. Implicitly, there are ways to think, and there are better and worse ways to think. And somewhere in our classroom sits a student who can go beyond us. That is part of the point of being a teacher.

What does the idea of freedom of thought encompass? Does it entail freedom to speak? Does it entail a right to be listened to? John Stuart Mill, as interpreted in this volume by Daniel Jacobson, felt that no opinion can legitimately be censored on grounds of its falsity, immorality, or even its harmfulness. If a right to freedom of thought were less than absolute, it would be less useful in promoting human progress.

One general response to an interpretation as stringent as Jacobson's is that Mill was a utilitarian, so surely he must have regarded human rights as rules of thumb: generally effective strategies for promoting the greatest happiness of the greatest number. But the rejoinder is a pair of empirical claims. First, the right to freedom of thought is, after all, useful. But, second, regarding that right as less than absolute would not be useful. Freedom of thought has its utility precisely by virtue of being a matter of absolute right, and a foundation of individual human dignity. This fundamental dignity

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[2] This thought is distilled from the concluding paragraphs of David Schmidtz and Jason Brennan, *A Brief History of Liberty* (London: Blackwell, 2010).

cannot be traded off on pain of it coming to be viewed as something dangerously less than a fundamental dignity. We can, of course, entertain philosophical thought experiments that ask us whether we could accept one day of censorship in order to prevent the universe from blowing up. However, we cannot regard such thought experiments as having any potential to justify entrusting the power of censorship to a government that inevitably will come to regard investigative reporters as a security risk. If we regard the right as something to sacrifice in a crisis, we are confusing the idea that we need x with the idea that x can be set aside whenever we need something else more.[3] The former does not imply the latter.

Essays by Adam D. Moore, Andrew Koppelman, and Frederick Schauer further explore the plausibility of absolutism regarding freedom of speech. They consider respects in which freedom of speech and freedom of thought are not the same thing, and whether free speech might best be regarded as a means to the true end of encouraging free thought. They relate free speech and free thought to issues concerning privacy (Moore), censorship (Koppelman), and propaganda (Schauer).

As Koppelman puts the Millian argument, being required to keep one's thoughts to oneself results in the atrophy of thought. Consider the loneliness of the character Winston Smith as depicted in Orwell's *1984.* In that novel, even facial expressions could be punished as evidence of nonconforming thoughts, so people had to learn to avoid thoughts that could be betrayed by facial expressions. To survive, Winston Smith had to learn to have no perspective of his own. Smith's situation was vastly worse than solitary confinement. He had no human company in which to take solace, *not even his own.*

Silencing and de-platforming have a way of stifling thought by stifling speech. But of course, that does not tell us where to stand on the question of whether to speak whatever happens to be on our mind. Mill's argument against censorship is by no means an argument for blurting out whatever crosses one's mind in an unedited stream of consciousness. Freedom presupposes a confidence that people will use it responsibly, and will practice virtues of dignity, diplomacy, compassion, and discretion. Thoughtless words can hurt, so being a bit slow to speak is part of adulthood. While we can celebrate the freedom to speak uncomfortable thoughts, the fact remains that the wrong speech at the wrong time can be chilling, not merely uncomfortable. If we value the conversation, and do not want to inadvertently stop it, self-censorship is part of the picture when we assess the value

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[3] Analogously, imagine a surgeon thinking about sacrificing one patient in order to save five. Mill understood that in the real world, there is no utility in thinking of surgeons as having any right to sacrifice the one. For one thing, you can stipulate that surgeons are certain that actions do not have unintended consequences, but in the real world, what surgeons actually know is the exact opposite. And Mill meant to be theorizing about morality in the real world. So, Mill knew that consequences can and often do weigh in favor of simple absolutes that enable us to know what to expect from each other, and in particular, enable us to trust surgeons to be on our side when they pick up that scalpel.

and the virtue of free thought. Still, that is not what is going on under conditions like those depicted in *1984.* As Mill was aware, even the tyranny of the raised eyebrow is a danger. Arguably, self-discipline is not something for a community to be proud of unless it is first something for individuals to be proud of. It has to start on the inside. It is not a political achievement unless it is first a moral achievement. If, cowed by social pressure, we practice having nothing to say long enough, there will come a time when we have nothing to say. Unless we feel free to say what we think, we ultimately won't feel free to *think* what we think either.

So, self-censorship driven by pressure rather than by dignity and diplomatic grace can be a terrible master. A basic conundrum: to publish at all is to write in a vocabulary that no longer conforms to the latest fashion (because fashions in vocabulary can change in the time between writing a paper and seeing it appear in print, at least given the time lag associated with academic journals). Consider using the adjective "colored" today rather than the currently correct "person of color." You know better than to use the outdated word, except in the accepted context of referring to the NAACP. Yet, you probably have no idea why one term would be more correct than the other, aside from the fact that one term has a history that the other lacks. Honestly, I too can feel that there is somehow a real difference between those two names, and I feel that we send different signals by using one name or the other. I simply want to mark that, even when there is nothing to be said for using one term rather than another, we are still left having to contend with the fact that terms used by sensitive people today may be rejected by them tomorrow. We will not see the transition coming, and we are not supposed to see it coming.

To some extent the drift of fashion is intrinsically unpredictable. However, it is also true that the arbitrariness can be a weapon, used as a tool for capricious "othering" that leaves any writer with no sure defense other than to cower. Even mentioning such a word as I just mentioned, not even actually using the word, is risky. Many readers will have paused to consider whether my mention of what is now an unfashionable word could or should be used against me.

That is the Orwellian point of changing the vocabulary so that people are chronically terrified, knowing that if they speak at all, they will be using a vocabulary that can be used to mark them as outsiders, and thus as safe to bully. (I chose plural pronouns in the previous sentence because plural pronouns are not gendered, and therefore are politically correct at least for the moment. The downside is that plural pronouns obscure the solitary nature of the terror. Bullying happens to groups, to be sure, yet nothing feels more lonely than being marked as a safe target.)

Keith E. Whittington and Andrew Jason Cohen worry about what Cohen calls the "harms of silence" on college campuses. Whittington notes that, as mentioned earlier, there are flavors of self-censorship. Some are achievements, and part of a maturation process. By contrast, a self-censorship of fear

can degrade the self; it can represent capitulation rather than maturation. Part of the reason we are reluctant to politicize censorship, and use a police state to enforce it, is that we believe in our fellow citizens. When we stop believing, and stop trusting our fellow citizens to be diplomatic and decent, we feel less committed to rise to high standards of diplomacy and decency ourselves, and correspondingly less horrified by the thought of applying all kinds of soft and hard coercion to stifle those who disagree with us.

In the name of making campus a safe space, do we allow campus to become the opposite of safe for anyone who aspires to tell the truth? Is there an effective, proactive way to reestablish campus as a safe space for the expression of uncomfortably novel thoughts? When might freedom of thought imply a duty to have a thick skin and be slow to take offense? When might freedom of thought instead imply a right—or duty—to be a "snowflake"? Mill might have said that these are not rhetorical questions. To the extent that we embrace those implicit liberal aspirations, we will be correspondingly committed to wanting empirical answers about the effectiveness of different ways of promoting them. We will want to compare different ways of encouraging students to think for themselves and to be unafraid to know themselves and know their heritage. (What actually happens when we admonish students to think for themselves? Is there something else we could say that would have a better result?) We have to find out what actually helps them feel like they do have a platform, and feel at the same time that there are enough platforms to go around. We have to learn from experience what encourages students to understand: at its best, the willingness to share ideas, implicit in taking a platform, is all about being unafraid—unafraid to speak, and unafraid to listen.

Molly Brigid McGrath and Teresa M. Bejan each worry about how to regard aggressive campaigns to regulate speech (or thought) that have manifest potential to offend or intimidate. Bejan offers common-sense balance when she identifies a weighty rationale for "no-platforming" and explains why the controversy is best seen as something other than a preference for real freedom over merely formal freedom. She asks, are campuses supposed to be "safe spaces" or places to confront a need for disruptive and often uncomfortable learning? What exactly is the difference? Are we obliged to protect students from ideas they might find challenging? Of course not. Yet, we somehow want to acknowledge that safe spaces are spaces where ideas are not taken too personally. People are not quick to take offense, but they are at the same time willing to go to some lengths to avoid causing offense.

If you have to make an effort to attend a meeting at which offensive views are taken seriously, then the fact that you have to make an effort is some protection from the offense. No doubt some of our club members have weak moments when they would rather be vandalizing rival clubs and preventing the events of their rivals from taking place, but in a free society we end up settling for negotiation, political compromise, and ultimately the adult

form of the sharing economy that is attainable in the marketplace of ideas. Koppelman and Schauer note the concern about intimidation. Bejan's point is that success in opposing intimidation requires nuance. If you defend one side against another, you can be sure the other side will think you are defending the side that fired the first shot, and it will be hard to prove that there isn't a grain of truth in their resentment. The disturbing point remains that any commitment to freedom of expression that fails to acknowledge that the free speech of some has the potential to silence the free speech of others is not serious about securing freedom of expression.[4]

McGrath observes that people who suffer can be damaged by the experience, and may never fully recover. Suffering is not always a step to maturity. It can lead us to develop empathy and compassion. It also can lead to the opposite—to our assuming that the other has no idea what it is like to suffer. Of course, the latter assumption will be factually incorrect. You may have gotten singled out, but it was not only you, and thinking otherwise denies our common humanity. We all come out of the womb terrified of being "othered." Then we spend our childhoods actually being othered. So, anyone who was ever a child knows what being marginalized is like. At the same time, adulthood is all about gracefully accepting a kind of marginalization, because acknowledging other people's lived experience is a process of seeing the world from a perspective that does not put us at the center.

As McGrath tells the story, when (what she calls) a "Polluted" person violates the sacred by speaking prohibited words, or supporting a prohibited policy or politician, she becomes susceptible to a range of repercussions: public condemnation, loss of professional opportunities, social ostracism, forced resignation, firing, de-platforming, slander, exposure of personal details, or refusal of service. What marks someone like, for example, Charles Murray as profane, or even blasphemous, and therefore as someone to de-platform, is that Murray's response to the sacred is clinical rather than reverent. Even when Murray gets his facts right, the very fact of *trying* to get his facts right marks him as a blasphemer.

It is normal and healthy, indeed mature, to want to avoid being offensive. How should we handle the spectacle that results when a colleague fails to avoid offending the most easily offended people on campus? Do we whisper to our colleague that we are on their side, in effect confessing that we wish we had the courage to actually take a stand? Coauthors Justin Tosi and Brandon Warmke worry about the inherent offensiveness of calculated self-promotion under the guise of portraying oneself as a champion of the oppressed. They worry about (and are perhaps offended by) those who stand up to defend a cause while looking over their shoulder to make sure they have jumped on the approved bandwagon. "Ideology" is one name for

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[4] I thank Adam Kissel for the thought. See Catherine MacKinnon, *Only Words* (Cambridge, MA: Harvard University Press, 1993) for a discussion of pornography from which the general idea emerges.

the phenomenon of ideas becoming a source of our sense of identity. And of course, when ideas become a team sport and our sense of identity becomes wrapped up in the team colors that we wear, then debating ideas becomes a team sport where we boo the visiting team and cheer for the home team, irrespective of the merits of the ideas. A sporting attitude of "may the best idea win" is a sentiment easily lost. (Witness how people faux-validate teammates with "likes.")

II. As the Marketplace Becomes a Place of E-Commerce

Has the Internet transformed the marketplace of ideas into something else? If ideas can be said to compete, then has the transformation of the arena in which competition takes place also transformed what it takes to be a winning idea?

Khalil M. Habib revisits Tocqueville on freedom of the press. Richard Sorabji worries about how the rise of Internet news media is reinventing and exacerbating worries about subliminal influence. We're all being corrupted by newsfeeds tailored to pander to whatever confirmation bias is manifest in ascertainable data about what has a history of attracting and holding our surfing attention. Karim Nader homes in on a specific and worrisome example, namely how the search algorithms underlying dating apps are steering us in the direction of having, and satisfying, preferences that we have not endorsed and are in no position to endorse.

Is there some responsibility in a free society to be sensitive to when a source is not really a source, even though the source is saying what we want to hear? Presumably so, but contemporary psychology suggests that this is harder than it looks. Our process for exploring the overabundance of available signals is targeted rather than random. It is steered by normal human confirmation bias: the fact that we are more interested in information that is in line with what we are looking for. (We like surprise at the margins. We like information that extends, or adds credence to, what we want to believe, but we do not like information that shakes our self-confidence.)

Jane Bambauer, Saura Masconale, and Simone Sepe suspect that Internet search engines are exacerbating this problem but that search engines did not invent it. The problem is older, indeed baked into our nature as social animals whose flourishing has always depended on our being able to build places for ourselves in communities of mutual accord. When we agree with each other, it may be partly because we understand the weight of evidence presented, but it also will be at least partly because we want to agree, lest we become the "other."

As Bambauer, Masconale, and Sepe note, even traditional media nowadays has gotten into a habit of presenting views in a panel format where a contrarian view is always on offer, regardless of whether the contrary view has any evidentiary basis, and more often substituting for rather than inviting in-depth inquiry. If Bambauer, Masconale, and Sepe are right, the

disheartening implication is that we have taken the wide-open clash of opinion that to Mill was the driver of liberal progress and reduced it to sound-bite info-tainment.

And a basic fact about us: no matter how sophisticated we are, we will see news about cognitive bias as supporting our skepticism regarding people who see our world differently. The theory predicts that we cannot help seeing it that way. We will not look in the mirror; or even if we do take the lesson to heart for a moment, we will quickly forget.

Path dependency of incoming information means that the order in which we receive bits of information will affect our conclusions. To appreciate how disturbing this should be, suppose that two identical clones were given identical information sets. Confirmation bias implies that these clones would reach different conclusions if the identical bits of information were presented in a different order. Prior bits of information, provisionally accepted as true, become hurdles to our accepting later bits of information that weigh against bits already accepted. But later bits of information, rejected now on the grounds that the evidence for them is not compelling enough to warrant rejecting bits already accepted, would have been accepted had they been received first. Neither clone makes any clear mistake, yet they reach different conclusions. The problem is that they are only human, where being human involves processing information as it comes in. Their only clear mistake occurs when they start to look at those who draw different conclusions from the same information, and conclude in frustration that only a deluded or dishonest person could draw a different conclusion.

If people take their list of Facebook friends as their primary news source, then the rest of the world is bound to be sufficiently unlike that narrow circle to make for a jarring discrepancy. Yet, we cannot count on that being enough to make us want to look in the mirror. Campus clubs might be a bit like those echo chambers. So those who protest other people's clubs are protesting other people's echo chambers. That actually makes some sense. But the better response to the emergence of a rival echo chamber is to take the hint and search for something better than the home team's echo chamber.

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