

Our Duty to Support Freedom of Speech

The support of freedom of speech is vital to the health and happiness of human beings everywhere, individually, socially, and organizationally. and in all our activities public and private. But the implications and conditions of that support vary over context, even though the ultimate grounds for that support do not. In particular, convincing arguments have been made for why public sector sovereignties have the onus to protect freedom of speech by accepting it as a negative right, such that no laws be passed which effectively, even if indirectly, discourage or ban the speech of individuals and groups in a manner that hinders the discussion and consideration of topics in the public forum.

A more careful consideration of this case for freedom of speech should lead us now in the direction accomplishing three things: first, defining better just what that value of freedom of speech is that we ought to be supporting (and what it isn't); who, besides public sector sovereignties have the obligation to support it (and how); and whether anyone or any agency has any kind of duty to protect freedom of speech not only as a negative right, but as a positive right as well.

So far, we are speaking in moral and not legal terms and will largely continue to do so, although toward the end we will be in position to comment on what our moral legislative obligations may be as well.

Most of the case made for freedom of speech has been as a negative right. A negative right is an obliging claim not to be impeded from the pursuit of something as a good.

A positive right, on the other hand, is an obliging claim not only not to be impeded from, but to be duly assisted as well in the pursuit of something as a good. We will return to consider whether freedom of speech should, to any extent or in any manner, be considered as a positive right as well as a negative right.

Now, if the negative right to freedom of speech is the obliging claim for us or any one of us not to be hindered from its pursuit as a good, this prompts two questions. The first is: what does it mean to pursue something *as good* as opposed to merely pursuing it, and why that difference matters. The second is: in relation to whom or to what agency do we have such a right, and why?

The difference between pursuing something *as a good* and pursuing something *simpliciter* has to do not so much with the intentions of the pursuer whether good or bad, but of the assumed or assumable grounds of that pursuit – not by the pursuer, but by those who would be obliged to support the pursuer's right. One of the few axioms upon which Socrates ever insisted, and with which, I think, we are ill-advised to differ, is that all rational agents choose under the guise of the good: the implication being: whether with good intentions or not. So use of an agent-oriented criterion here would leave us nowhere.

The upshot of this is that freedom of speech obliges us not to pose obstacles to the speech of others as long as it is plausible or non-absurd that the object or aim of such speech may be good.

This, in turn, prompts the question: what kind of speech is it that is at least plausibly good, i.e., on-absurd to imagine as good? It would have to be according to a fair standard and easily recognizable; otherwise, once again, we would be going nowhere.

The answer I give is that someone is pursuing or engaging in speech as a good – even if it may be objectionable to some, and even though it may in fact be deceived or poorly researched, as long as that speech is not itself a case of being an obstacle to someone else's freedom of speech, or if it is, that the message of that speech is or can be summarized by a non-absurd truth-claim subject to being criticized by others in the public forum.

This may at first sound like a criterion far short of the mark of “good speech”, unless we define and consider speech itself - at least in the sense that it obliges our support as a right – as the content of the public forum itself. Speech is of little or no private use; its main use is for the ongoing processes of truth-claims in the public forum. This may and sometimes does require hard language, displeasing images, and certainly requires constant, rigorous scrutiny of all opinions, good or bad, true or false, pleasing or displeasing relevant enough to be expressed at all.

Besides the aforementioned case of speech that itself prevents or hinders the free speech of others, what this also excludes from the onus of our non-hindrance of free speech is only things destructive of or not belonging to the public forum at all: most notably, the invasion of the privacy of persons, speech that superfluously endangers the lives of persons or is intended only to incite destruction rather than engage others in dialog. For example, venting. When I vent, I am speaking, but without any conceivably constructive intent; instead, just full throttle Freudian *thanatos*. I do vent sometimes, but I try to do it in private, well aware that it is irresponsibly dangerous and destructive speech that fails to rise even to the level of being a possible opinion at all.

In short, not all speech is public, but all public speech is speech intended for the public forum, and should, for that sake, be protected, to be processed there fairly and ultimately in a truth-oriented manner. This is what being a rational social organism is all about. This excludes all speech aimed superfluous invasions of privacy, incitement to violence, venting, and speech that palpably endangers the lives of others or impedes their own free speech.

The onus of supporting free speech in this manner, and as a negative right, lies with all of us, individually and collectively, as we are all monitors of the public forum and must see to its healthy development and maintenance.

For similar reasons, it is the onus, too, of all public sector sovereignties: municipal, state, provincial, regional, national, international, or transnational, to legislate effectively for the sake of good speech in the public forum.

It is not for utilitarian reasons alone that this is our common duty. It is because allowing the public forum to atrophy by the brute force of bullies is the consummate of inhumanities in that it will surely lead to other inhumanities of all kinds. The public forum is our mechanism of self-correction the atrophy of which is the atrophy of our prospects of human happiness and the prospering of life on this planet.

With all that said, can we now conclude that the right to freedom of speech must also be accepted in some sense as a positive right and not merely a negative right?

Let's compare freedom of speech to something else that is clearly only a negative right and see what that comparison reveals to us.

Anyone has the right to write poetry and submit it for publication. If I as an educated adult try to write poetry, have a real bad case of writer's block, and let others know about it, no one has the obligation to help me overcome my writer's block. But if it turns out that my writer's block comes from someone in my environment trying to prevent me, or through their mistreatment of me posing an obstacle to my productivity; or stems from a health problem of some kind; then those who notice such things may consider that unfair and try to help me have that obstacle removed from my life. If I manage to write poems, no one has an obligation *per se* to publish them, and no one in my life has the obligation, unless I pay them to do it, to make sure my poems get published. But if it is discovered that the publisher has a prejudice against me that caused him to reject my poems, then maybe you have the right to have that obstacle removed as well.

Trying to liken freedom of speech to a case like this makes us notice some key disanalogies: in the first place, while my poems may be a good for society, they are not a vital necessity for human happiness. This at least leads toward our concluding that freedom of speech is at least collectively a positive right, in that it is up to each of us and all of us to monitor and maintain a healthy public forum for the sake of us all.

It may seem that that would be enough; but imagine a public forum that is easy and accommodating for the participation of some, but not others. At first, we might take it person by person, helping one person at a time remove the obstacles from their robust inclusion in the public forum. But then, recognizing this lacuna as a case of atrophy or underdevelopment, we might recognize it as positive duty to help build the public forum into what it should be, but is not yet.

An older college friend of mine who seemed bound for graduate school and the higher ranks of academia surprisingly, after obtaining his bachelor's degree, took off for South and Central America, at the time knowing little Spanish. Six years later, I saw him again, finding out he had just recently returned to the U.S. from South America to begin his Master's Degree here. When I questioned him about his hiatus and what he had been doing all that time, he replied that, besides learning a lot of Spanish and some Portuguese, he had with difficulty learned how to

build, maintain, and operate printing presses, and teach others how to do the same. When I asked how many printing presses, he responded: a pretty good number. When I asked him how he got the money, he said, that was the hard part and the other big part of his learning: he learned how to apply for grants, raise and manage money, and pass on those skills to others as well. When I asked him why he did all this, his answer was: people need to be heard.

Just somebody doing his duty for freedom of speech!