

THE SOCIAL CHARACTER OF FREEDOM OF EXPRESSION

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Freedom of expression does not simply protect individual liberty from state interference. Rather, it protects the individual's freedom to communicate with others. The right of the individual is to participate in an activity that is deeply social in character that involves socially created languages and the use of community resources.

There are many arguments for protecting freedom of expression, but all seem to focus on one or a combination of three values: truth, democracy and individual autonomy. Freedom of expression must be protected because it contributes to the public's recognition of truth or to the growth of public knowledge, or because it is necessary to the operation of a democratic form of government, or because it is important to individual self-realisation, or because it is an important aspect of individual autonomy. Some arguments emphasise one value over the others. In these single value accounts the other values are seen as either derived from the primary value or as independent but of marginal significance only. However, most accounts assume that a commitment to freedom of expression, which extends protection to political, artistic, scientific and intimate expression, must rest on the contribution that freedom of expression makes to all three of these values.

While the social character of human agency is seldom mentioned in the different accounts of the freedom's value, it is the unstated premise of each. Each account is incomplete without some recognition that individual agency is realised in social interaction. We become individuals capable of thought and judgement, we flourish as rational and feeling persons, when we join in conversation with others and participate in the life of the community. The social emergence of human agency and individual identity can be expressed in the language of truth/knowledge, individual self-realisation/autonomy, or demographic self-government. Each account of freedom of expression represents a particular perspective on, or dimension of, the constitution of human agency in community life. The social character of the freedom has simply been pushed below the surface by the weight of the dominant individualist understanding of rights and agency. As a consequence, most accounts of freedom of expression consist of little more than abstract

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statements that give limited guidance in the resolution of particular disputes concerning the scope and limits of the freedom.

Truth is valued as something recognised or realised by human agents, by individual members of the community exercising their reasoned judgement. The life of truth (or knowledge) is in human reflection and judgement. But reflection and judgement are not simply private processes. Truth is achieved through collective deliberation, through the sharing of ideas and information among community members. Public discussion is valuable to the community, which comes to have a greater knowledge, and to individuals, who come to know truth as community members, to develop as rational agents capable of recognising true opinions, and to live in a community where the pursuit of truth/knowledge is valued.

Democracy understood as collective self-determination involves the formation of public opinion through free and open debate on public issues.

Freedom of expression is not just an instrument for advancing the goal of democratic or representative government. In a democracy the responsibility of citizens for the governance of their community is actualised in public discussion and deliberation. The members of a self-governing community seek common understandings and work towards shared goals through the exchange of views. Through participation in public discourse, the individual becomes a citizen capable of understanding, and identifying with, the concerns and opinions of others and oriented towards the public interest, in the sense that she is concerned with the common good and not simply with the satisfaction of personal preferences.

Autonomy – or self-realisation – based accounts have difficulty explaining the particular value of expression, because they assume that rights, such as freedom of expression, are aspects of the autonomy that the individual retains when he or she enters the social world and that should be insulated from the demands of collective welfare. Within an individualist framework it is impossible to account for the particular value of expression -- of communication between individuals. If we can lift the concepts of autonomy and self-realisation out of the individualist frame, so that they are no longer simply about freedom from external interference or freedom from others, then they may provide some explanation of the value of freedom of expression. If by autonomy we mean a capacity to think, judge, and give direction to one's life and the ability to participate in collective governance, then freedom of expression may have an important role to play in the realisation of autonomy. Similarly, if by self-realisation we mean the emergence of the individual as a conscious and feeling person, freedom of expression may be important to self-realisation. In both cases, however, the value of freedom of expression rests on the social character of human identity, reason, and judgement. Freedom of expression is central to self-realisation and autonomy because individual identity, thought, and feeling emerge in the social realm.

This intersubjective understanding of agency and identity underlies the claims that freedom of expression contributes to the recognition of truth, the advancement of democracy, and the realisation of self. Freedom of expression is valuable because in communicating with others an individual gives shape to his or her ideas and aspirations, becomes capable of reflection and evaluation, and gains greater understanding of her /himself and the world. It is through communicative interaction that an individual develops and emerges as an autonomous agent in the positive sense of being able to consciously direct his or her life and to participate in the direction of his or her community. Through communication an individual creates different kinds of relationships with others and participates in different collective activities, such as self-government and the pursuit of knowledge.

The established accounts of the value of freedom of expression are described as either instrumental or intrinsic (or as concerned with the realisation of a social goal or with the protection of an individual right). Some accounts see freedom of expression as valuable in itself. The freedom is intrinsically valuable because it permits free and rational beings to express their ideas and feelings. Or the freedom must be protected out of respect for the autonomy and rationality of individuals. Other accounts see freedom of expression as important because it contributes to a valued state of affairs: freedom of expression is instrumental to the realisation of social goods such as public knowledge or democratic government.

Intrinsic accounts assume that freedom of expression, like other rights, is an aspect of the individual's fundamental liberty or autonomy that should be insulated from the demands of collective welfare. Yet any account that regards freedom of expression as a liberty (as a right of the individual to be free from external interference) seems unable to explain the other-regarding or community-oriented character of the protected activity of expression of individuals speaking and listening to others. Instrumental accounts of freedom of expression recognise that the freedom protects an other-regarding or social activity and so must be concerned with something more than respect for individual autonomy, something more than individual "venting" or the exercise of individual reason. They assume that the freedom must be concerned with social goals (such as truth and democracy) that are in some way separate from, or beyond, the individual and his/her communicative actions. Yet if freedom of expression is an instrumental right, its fundamental character seems less obvious. Its value is contingent on its contribution to the goals of truth and democracy. And there is no shortage of arguments that freedom of expression does not (always) advance these goals.

The value (and potential harm) of expression will remain unclear as long as discussion about freedom of expression is locked into the intrinsic/instrumental dichotomy, in which the freedom is concerned with

either the good of the community or the right of the individual. The value of freedom of expression rests on the social nature of individuals and the constitutive character of public discourse. This understanding of the freedom, however, has been inhibited by the individualism that dominates contemporary thinking about rights, its assumptions about the pre-social individual and the instrumental value of community life. Once we recognise that individual agency and identity emerge in the social relationship of communication, the traditional split between intrinsic and instrumental accounts (or social and individual accounts) of the value of freedom of expression dissolves. Expression connects the individual (as speaker or listener) with others and in doing so contributes to his/her capacity for understanding and judgment, to her/his engagement in community life and to his/her participation in a shared culture and collective governance.

The arguments described as instrumental focus on the contribution of speech to the collective goals of truth and democracy. However, we value truth not as an abstract social achievement but rather as something that is consciously realised by members of the community, individually and collectively, in the process of public discussion. Similarly, freedom of expression is not simply a tool or instrument that contributes to democratic government. We value freedom of expression not simply because it provides individuals with useful political information, but more fundamentally because it is the way in which citizens participate in collective self-governance. There is no way to separate the goal from the process or the individual good from the public good.

Attaching the label “intrinsic” to autonomy or self-realisation accounts of the freedom seems also to misconstrue the value at stake. Communication is a joint or public process, in which individual participants realise their human capacities and their individual identities. The individual does not simply gain satisfaction from expressing his/her pre-existing views on things: an individual’s views, and more broadly her/his judgment and identity, take shape in the communicative process.

Freedom of expression theories are also categorised as either “listener” or “speaker” centred. Listener-centred theories emphasise the right of the listener to hear and judge expression for her/himself. The listener’s right is protected as a matter of respect for her/his autonomy as a rational agent or for its contribution to social goals such as the development of truth or the advancement of democratic government. Speaker-centred theories emphasise the value of self-expression. The individual’s freedom to express her/himself is a part of her/his basic human autonomy or is critical to his/her ability to direct the development of her/his own personality. Each of these accounts recognises the connection between speaking and listening, yet each values one or the other of these activities. Or, if it values them both, it does so as distinct or independent interests. Freedom of expression is valuable because it advances an important individual interest of the listener (or a more general

social interest) and/or an important individual interest of the speaker. The focus of these accounts on the different interests of the speaker and the listener misses the central dynamic of the freedom, the communicative relationship, in which the interests of speaker and listener are tied. The activities of speaking and listening are part of a process and a relationship. This relationship is valuable because an individual agency emerges and flourishes in the joint activity of creating meaning.

