

Freedom of expression: general info

Free speech in the ancient democracy was not a protected right but an expression of the freedom from hierarchy, awe, reverence and shame. It was thus an essential ingredient of the egalitarianism of that regime. That freedom was challenged by the consequences of the rejection of shame (aidos) which had served as a cohesive force within the polity.

In 399 BC an Athenian jury convicted Socrates, then age 70, on two counts: rejecting the gods of the city and corrupting the young. Both of these charges involved solely things he said, not any physical actions. In history's first democracy renowned for freedom of speech, Socrates was convicted and executed for exercising it. The final speech of Socrates to the jury, as reconstructed by the master-writer Plato in Apology, enshrined Socrates forever as an heroic martyr for the cause of intellectual honesty and freedom of speech. His memorable declaration that "the unexamined life is not worth living" rings triumphantly through the ages, distinguishing intellectual elites and free minds from superstitious masses. His jury is remembered as the beginning of the end of free speech in Athens - and worldwide - for two thousand years. (<http://www.cambridge.org>)

Origins and academic freedom

Freedom of speech and expression has a long history that predates modern international human rights instruments. **In Islamic ethics** freedom of speech was first declared in the Rashidun period by the caliph Umar in the 7th century.[5] In the Abbasid Caliphate period, freedom of speech was also declared by al-Hashimi (a cousin of Caliph al-Ma'mun) in a letter to one of the religious opponents he was attempting to convert through reason.[6] According to George Makdisi and Hugh Goddard, "the idea of academic freedom" in universities was "modelled on Islamic custom" as practiced in the medieval Madrasah system from the 9th century. Islamic influence was "certainly discernible in the foundation of the first deliberately-planned university" in Europe, the University of Naples Federico II founded by Frederick II, Holy Roman Emperor in 1224.[7]

One of the earliest **Western defenses of freedom of expression is Areopagitica (1644)** by the English poet and political writer **John Milton**. Milton wrote in reaction to an attempt by the English republican parliament to prevent "seditious, unreliable, unreasonable and unlicensed pamphlets". Milton advanced a number of arguments in defense of freedom of speech: a nation's unity is created through blending individual differences rather than imposing homogeneity from above; that the ability to explore the fullest range of ideas on a given issue was essential to any learning process and truth cannot be arrived upon unless all points of view are first considered; and that by considering free thought, censorship acts to the detriment of material progress. Milton also argued that if the facts are laid bare, truth will defeat falsehood in open competition, but this cannot be left for a single individual to determine. According to Milton, it is up to each individual to uncover their own truth; no one is wise enough to act as a censor for all individuals.[8]

Noam Chomsky states that: "If you believe in freedom of speech, you believe in freedom of speech for views you don't like. Goebbels was in favor of freedom of speech for views he liked. So was

Stalin. If you're in favor of freedom of speech, that means you're in favor of freedom of speech precisely for views you despise." [9] **An often cited quote that describes the principle of freedom of speech comes from Evelyn Beatrice Hall (often mis-attributed to Voltaire) "I disapprove of what you say, but I will defend to the death your right to say it," as an illustration of Voltaire's beliefs.** [10] Professor Lee Bollinger argues that "the free speech principle involves a special act of carving out one area of social interaction for extraordinary self-restraint, the purpose of which is to develop and demonstrate a social capacity to control feelings evoked by a host of social encounters." The free speech principle is left with the concern of nothing less than helping to shape "the intellectual character of the society". According to Bollinger tolerance is a desirable, if not essential, value and protecting unpopular speech is itself an act of tolerance. Such tolerance serves as a model that encourages more tolerance throughout society. However, critics argue that society need not be tolerant of the intolerance of others, such as those who advocate great harm, such as genocide. Preventing such harms is claimed to be much more important than being tolerant of those who argue for them. [11]

Democracy

One of the most notable proponents of the link between freedom of speech and democracy is **Alexander Meiklejohn**. He argues that the concept of democracy is that of self-government by the people. For such a system to work an informed electorate is necessary. In order to be appropriately knowledgeable, there must be no constraints on the free flow of information and ideas. According to Meiklejohn, democracy will not be true to its essential ideal if those in power are able to manipulate the electorate by withholding information and stifling criticism. Meiklejohn acknowledges that the desire to manipulate opinion can stem from the motive of seeking to benefit society. However, he argues, choosing manipulation negates, in its means, the democratic ideal. [12] Eric Barendt has called the defence of free speech on the grounds of democracy "probably the most attractive and certainly the most fashionable free speech theory in modern Western democracies". [13]

In "**On Liberty**" (1859) **John Stuart Mill** argued that "...there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered." [20] Mill argues that the fullest liberty of expression is required to push arguments to their logical limits, rather than the limits of social embarrassment. However, Mill also introduced what is known as the harm principle, in placing the following limitation on free expression: "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others." [20]

In 1985 **Joel Feinberg** introduced what is known as the "**offence principle**", arguing that Mill's harm principle does not provide sufficient protection against the wrongful behaviours of others. Feinberg wrote "It is always a good reason in support of a proposed criminal prohibition that it would probably be an effective way of preventing serious offense (as opposed to injury or harm) to persons other than the actor, and that it is probably a necessary means to that end." [22] Hence Feinberg argues that the harm principle sets the bar too high and that some forms of expression can be legitimately prohibited by law because they are very offensive. But, as offending someone is less

serious than harming someone, the penalties imposed should be higher for causing harm.[22] In contrast Mill does not support legal penalties unless they are based on the harm principle.[20] Because the degree to which people may take offense varies, or may be the result of unjustified prejudice, Feinberg suggests that a number of factors need to be taken into account when applying the offense principle, including: the extent, duration and social value of the speech, the ease with which it can be avoided, the motives of the speaker, the number of people offended, the intensity of the offense, and the general interest of the community at large.[20]

The Internet

International, regional and national standards recognise that freedom of speech, as the freedom of expression, applies to any medium, including the Internet.[3]

Freedom of information

Jo Glanville, editor of the Index on Censorship, states that "the internet has been a revolution for censorship as much as for free speech". [23] Freedom of information is an extension of freedom of speech where the medium of expression is the internet. Freedom of information may also refer to the right to privacy in the context of the Internet and information technology. As with the right to freedom of expression, the right to privacy is a recognised human right and freedom of information acts as an extension to this right.[24] Freedom of information may also concern censorship in an information technology context, i.e. the ability to access Web content, without censorship or restrictions.[citation needed]

The World Summit on the Information Society (WSIS) Declaration of Principles adopted in 2003 reaffirms democracy and the universality, indivisibility and interdependence of all human rights and fundamental freedoms. The Declaration also makes specific reference to the importance of the right to freedom of expression for the "Information Society" in stating:

"We reaffirm, as an essential foundation of the Information Society, and as outlined in Article 19 of the Universal Declaration of Human Rights, that everyone has the right to **freedom of opinion and expression**; that this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Communication is a fundamental social process, a basic human need and the foundation of all social organisation. It is central to the Information Society. Everyone, everywhere should have the opportunity to participate and no one should be excluded from the benefits of the Information Society offers." [25]

According to the **Reporters without Borders (RSF) "internet enemy list"** the following states engage in pervasive internet censorship: Cuba, Iran, Maldives, Myanmar/Burma, North Korea, Syria, Tunisia, Uzbekistan and Vietnam.[27] A widely publicised example is the "Great Firewall of China" (in reference both to its role as a network firewall and to the ancient Great Wall of China). The system blocks content by preventing IP addresses from being routed through and consists of standard firewall and proxy servers at the Internet gateways. The system also selectively engages in DNS poisoning when particular sites are requested. The government does not appear to be

systematically examining Internet content, as this appears to be technically impractical.[28] Internet censorship in the People's Republic of China is conducted under a wide variety of laws and administrative regulations. In accordance with these laws, more than sixty Internet regulations have been made by the People's Republic of China (PRC) government, and censorship systems are vigorously implemented by provincial branches of state-owned ISPs, business companies, and organizations.[29][30]

Freedom of Expression Award

The Freedom of Expression Award was established by Amnesty International in 2001, aiming to reward a Festival company whose performance makes a significant contribution to the public's greater awareness and understanding of human rights issues. In 2007 we relaunched the Award as a partnership with the *Big Issue* in Scotland, the biggest weekly current affairs and entertainment magazine in Scotland. This new collaboration will secure the Award's position as a central feature of the Edinburgh Festival. (<http://www.amnesty.org.uk>)

What is....

Freedom of speech: liberty to express opinions and ideas without hindrance, and especially without fear of punishment. Despite the constitutional guarantee of free speech in the **United States**, legal systems have not treated freedom of speech as absolute. Among the more obvious restrictions on the freedom to say just what one likes where one likes are laws regulating incitement, sedition, defamation, slander and libel, blasphemy, the expression of racial hatred, and conspiracy. The liberal tradition has generally defended freedom of the sort of speech which does not violate others' rights or lead to predictable and avoidable harm, but it has been fierce in that defence because a free interchange of ideas is seen as an essential ingredient of democracy and resistance to tyranny, and as an important agent of improvement. The distinction between an action falling under the description of speech and one which does not is not clear cut, because many non-verbal actions can be seen as making a statement—for example, burning a flag or destroying a symbol. Again, valued freedom of speech embraces publication—writing, broadcasting, distributing recordings—as well as oral delivery of ideas. (Andrew Reeve <http://www.answers.com/topic/freedom-of-speech>)

Defamation is harming another's reputation by words either spoken or published. It is a civil action giving rise to substantial damages in some instances. The **BBC propounds defamation** to be any statement exposing the aggrieved party to "hatred, ridicule or contempt", causing "them to be shunned or avoided", Discrediting "them in their trade, business or profession" and generally discrediting "them in the eyes of right thinking members of society".

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