

## FREEDOM OF SPEECH, FREEDOM OF SELF-EXPRESSION, AND KANT'S PUBLIC USE OF REASON

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**Abstract.** This article turns to early modern and Enlightenment advocates of tolerance (Locke, Spinoza, John Stuart Mill) to discover and lay bare the line of argument that has informed their commitment to free speech. This line of argument will subsequently be used to assess the shift from free speech to the contemporary ideal of free self-expression. In order to take this assessment one step further, this article will finally turn to Immanuel Kant's famous defense of the public use of reason. In the wake of Katerina Deligiorgi's readings of Kant, it will show that the idea of free speech requires a specific disposition on behalf of speakers and writers that is in danger of being neglected in the contemporary prevailing conception of free speech as freedom of self-expression.

**Keywords:** John Locke, Baruch Spinoza, Immanuel Kant, John Stuart Mill, freedom of speech, freedom of self-expression, public use of reason, Enlightenment.

Contemporary debates about free speech or freedom of speech primarily deal with the question how free speech should be (in the sense of both "How free should speech be?" and "How should free speech be?"), and not (or at least not mainly) with the question why speech should be free.<sup>1</sup> Admittedly, there seems to be no reason to urge the latter question: it is rather generally agreed upon today (at least in liberal democratic societies) that freedom of speech should be both esteemed and categorically defended because it is both a fundamental human right and a key pillar of democracy and of the (scientific) quest for knowledge. Nevertheless, the question does deserve attention. For what exactly informs our modern commitment to free speech as a human right? And in which respect free speech should be considered to be intrinsically bound up with democracy and the quest for knowledge? Such questions not only touch upon values that should be reflected upon in debates on how free speech should be (in both senses of that sentence).

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<sup>1</sup> Ash (2016): 79. David van Mill's "Freedom of Speech" (2017) is illustrative in this respect. Meant as a state of the art, his article almost exclusively focuses on questions about the scope of Mill's harm principle ("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") as a source of reasonable and legitimate limits on the exercise of free speech, and on the hot topics related to these questions in the majority of contemporary literature on free speech (offense, hate speech, pornography).

They also touch upon what exactly is, or should be meant, by 'freedom' and 'speech' when one examines and defends the idea of free speech.

In this article I intend to contribute to debates about these questions. First I will turn to early modern and Enlightenment advocates of tolerance (including John Stuart Mill) in order to lay bare the line of argument that has informed their commitment to free speech. Onora O'Neill's special Gifford Lecture in Memory of Professor Susan Manning (1953–2013), entitled "From Toleration to Freedom of Expression,"<sup>2</sup> will guide me through this enterprise. The line of argument developed by Locke, Spinoza and Mill will enable me to address subsequently the individualistic conception of freedom that informs our commitment to free speech today and tends to transform defenses of free speech into defenses of free self-expression. In order to assess this tendency and its consequences, I will finally turn to Immanuel Kant's famous defense of the public use of reason. In the wake of Katerina Deligiorgi's reading of Kant,<sup>3</sup> I will show that in Kant's view the very idea of free speech requires, and even presupposes, a critical stance and open-minded disposition on behalf of speakers and writers that are in danger of being neglected in contemporary defenses of free speech as free self-expression.

### **Early modern and Enlightenment pleas in favor of tolerance**

It is generally agreed upon that early modern pleas and arguments in favor of tolerance are the birthplace of the modern commitment to free speech. It is also well-known that these pleas dawned in an age in which Europe was divided by disastrous religious conflicts. Early modern pleas in favor of tolerance carry the traces of these events. They address both heads of churches and sovereigns of states who used censorship and exclusion and persecuted those deemed heretics in order to not only remain in power, but also protect and ensure the alleged truths and values that they considered fundamental by prohibiting the spreading and propagation of opinions and religious convictions deemed false and dangerous. Onora O'Neill emphasizes that this censors' stance is not stupid or silly by definition. For obvious reasons, even contemporary western (European) states are quite reluctant to allow for the unlimited spreading of e.g. ideological viewpoints akin to the ones cherished by Islamic State. According to O'Neill, the main problem of the censors' stance lies not in the attempt to protect values deemed funda-

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<sup>2</sup> O'Neill (2013).

<sup>3</sup> Deligiorgi (2005). Deligiorgi's interpretation of Kant's idea of the public use of reason does resemble the readings of that very same idea by Arendt (1978) and O'Neill (2015), but also differs in details to an important extent.

mental, but rather in its premise, viz., the censors' conviction that their beliefs about these values are unequivocally and undeniably true, and that adverse beliefs will unavoidably subvert and destroy these values. It is this stern conviction that informs the censors' policy. Accordingly, early modern protests and reactions against censorship on behalf of church leaders and statesmen take the shape of pleas in favor of a policy of tolerance.

The concept of tolerance aimed at in these early modern pleas is not the kind of tolerance by which one simply accepts the existence of adverse opinions without taking them seriously (the kind of tolerance akin to indifference). In these early modern pleas, to ask for tolerance on behalf of the sovereign is to ask him to grant to those legitimately under his authority the freedom to disagree openly or to express adverse opinions and beliefs, whether or not he deems these opinions or beliefs false, utterly wrong or repulsive. In this sense, tolerance is not an easy, but a rather demanding stance on behalf of the sovereign: it demands that the sovereign accept and endorse the idea that truth is better off and can only flourish by allowing a "diversity of opinions." It is the latter idea that is at the center of John Locke's famous plea in favor of tolerance in his *Epistola de Tolerantia*, published anonymously in 1689. According to Locke, it is not Christian religion that should be held responsible for the factions, tumults, and civil wars that mark his era, but "the refusal of tolerance": "if we consider right, we shall find it [the cause of those evils] to consist wholly in the subject that I am treating of. It is not the diversity of opinions, which cannot be avoided; but the refusal of toleration to those that are of different opinion, which might have been granted, that has produced all the bustles and wars, that have been in the Christian world, upon account of religion."<sup>4</sup> Yet tolerance of different opinions not only avoids the calamities that divide Locke's Christian world. Above all, it is the only secure way to safeguard those goods which the censors aim to protect by their refusal of tolerance.

The business of laws is not to provide for the truth of opinions, but for the safety and security of the commonwealth [...]. And so it ought to be; for truth certainly would do well enough, if she were once left to shift for herself. [...] She is not taught by law, nor has she any need of force to procure her entrance into the minds of men. Errors indeed prevail by the assistance of foreign and borrowed succours. But if truth makes not her way into the understanding by her own light, she will be but the weaker for any borrowed force violence can add to her.<sup>5</sup>

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<sup>4</sup> Locke (1991): 51–52.

<sup>5</sup> Ibidem: 41–42.

Truth can only prevail when difference of opinion is allowed, because truth can only convince those who are not forced by law to confess against their own mind. And this is especially the case, Locke claims, in matters concerning true religion:

[N]o man can, if he would, conform his faith to the dictates of another. All the life and power of true religion consists in the inward and full persuasion of the mind; and faith is not faith without believing. Whatever profession we make, to whatever outward worship we conform, if we are not fully satisfied in our own mind that the one is true, and the other well-pleasing unto God, such profession and such practice, far from being any furtherance, are indeed great obstacles to our salvation.<sup>6</sup>

Locke's plea in favor of tolerance and the allowance of the diversity of opinion in religious matters appears to make use of a specific line of argument. It is not the value of individual freedom of opinion and belief as such that is at the center of his *Epistola de Tolerantia*. The prevailing idea is rather that truth can only "shift for herself," make her way by her own light and satisfy or fully persuade the minds of men, when these minds are freed from the dictates and prohibitions of the civil magistrate and the fear of persecution. In this respect, Baruch de Spinoza seems to have taken Locke's line of argument already a few steps further in his famous plea in favor of tolerance almost two decades earlier. In the *Tractatus Theologico-Politicus*, published in 1670, it is indeed the "natural right or faculty" of every human being "to reason freely and to form his own judgment on any matter whatsoever"<sup>7</sup> that informs the argument to a great extent:

[A] sovereign is thought to wrong his subjects and infringe their right when he seeks to prescribe for every man what he should accept as true and reject as false, and what are the beliefs that will inspire him with devotion to God. All these are matters belonging to individual right, which no man can surrender even if he should so wish.<sup>8</sup>

A sovereign who cherishes the latter idea, Spinoza claims, even should be expected to grant citizens the liberty to express their thoughts. For "the most tyrannical government will be one where the individual is denied the freedom to

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<sup>6</sup> Ibidem: 18.

<sup>7</sup> Spinoza (1989): 291.

<sup>8</sup> Ibidem.

express and to communicate to others what he thinks, and a moderate government is one where this freedom is granted to every man," since "not even men well versed in affairs can keep silent, not to say the lower classes. It is a common failing of men to confide what they think to others, even when secrecy is needed."<sup>9</sup> But beside this appeal to the natural right of men, also appeals to a kind of wisdom on behalf of the sovereign underpin Spinoza's plea in favor of toleration. Since "it is impossible for the mind to be completely under another's control,"<sup>10</sup> it is not in the interest of sovereigns at all to control men's minds, although that can be the sovereigns' right.<sup>11</sup> For the greater the effort to force men and "to deprive them of freedom of speech, the more obstinate do they resist."<sup>12</sup> Intolerance incites anger, resistance, malice, sedition, and war; in contrast, the freedom to say what one thinks not only "can be granted without detriment to public peace, to piety, and to the right of the sovereign," but also "must be granted if these are to be preserved."<sup>13</sup> The wise sovereign hence acknowledges the natural capacity of men to form their own judgment. He will allow for the liberty to communicate these judgments, "not to mention that this freedom is of the first importance in fostering the sciences and the arts, for it is only those whose judgment is free and unbiased who can attain success in these fields."<sup>14</sup>

Unlike Locke, Spinoza's plea in favor of the acknowledgement of both the human beings' natural right to form their own judgment and the liberty of expression undoubtedly foreshadows to a large extent the ideas that inform our contemporary commitment to free speech. But, at the same time, also Spinoza does not appear to value individual opinion and the liberty to express it for the individual's sake as such. Rather, like Locke, he appears to cherish freedom of thought and speech as something that will enable men to "obey God whole-heartedly and freely,"<sup>15</sup> to hold justice and charity "in universal esteem,"<sup>16</sup> and to attain success in arts and sciences. Also in Spinoza's plea in favor of tolerance the central part is played by the claim that those goods that the sovereigns had always wished to protect by force are actually endangered by that policy, and will only be

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<sup>9</sup> Ibidem: 292.

<sup>10</sup> Ibidem: 291.

<sup>11</sup> Ibidem: 292.

<sup>12</sup> Ibidem: 295–296.

<sup>13</sup> Ibidem: 299.

<sup>14</sup> Ibidem: 295.

<sup>15</sup> Ibidem: 55.

<sup>16</sup> Ibidem.

secured and promoted by allowing freedom of thought and expression.<sup>17</sup> For sure, Spinoza's plea in favor of these freedoms is undeniably based upon the recognition of the human beings' individual capacity to think for oneself as a natural and inalienable right. But Spinoza's commitment to the freedom to exercise this natural right is at least equally, not to say primarily, informed by common goods that will only flourish when tolerance is the policy. In this respect, it is rather obvious in Spinoza's view to advise against granting the liberty of expression "unreservedly."<sup>18</sup> It can only be granted "provided one does no more than express or communicate one's opinion, defending it through rational conviction alone, not through deceit, anger, hatred, or the will to effect such changes in the state as he himself decides."<sup>19</sup> Precisely in view of the values that are at stake, the 'difficult' policy<sup>20</sup> of tolerance on behalf of the sovereign obviously must meet equal duties and responsibilities on behalf of the speakers and writers according to Spinoza.<sup>21</sup>

### **John Stuart Mill on the liberty of thought and discussion**

As said above, early modern and Enlightenment pleas in favor of tolerance carry the traces of the circumstances in which they were launched. This inevitably raises the question as to whether and, if so, to what extent one can use the line of argument underlying these pleas in order to either model or assess contemporary ideas and debates on free speech. It is interesting to notice in this respect, however, that quite a similar line of argument still structures the plea in favor of liberty of thought and discussion of a philosopher that up till our days is cherished as the champion of the contemporary idea of free speech: John Stuart Mill. Mill undeniably represents an important turning point in the history of the modern idea of free speech. Unlike Spinoza, he "unreservedly" champions the idea that in discussions no single opinion is allowed to be excluded. He appears to defend indeed that, except for those expressions that harm, every opinion has to be allowed to be expressed freely, no matter what it contains or how it is asserted. To "those who say that the free expression of all opinions should be permitted, on condition that the manner be temperate, and do not pass the bounds of fair discussion," Mill replies

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<sup>17</sup> Also John Milton's plea for freedom of speech does not defend this freedom for its own sake; it is primarily a tacit defense of truth. See: Schwartz (2012).

<sup>18</sup> *Ibidem*: 292.

<sup>19</sup> *Ibidem*: 293.

<sup>20</sup> This expression refers to Scanlon (2003).

<sup>21</sup> Onora O'Neill emphasizes that this is a common element in early modern and Enlightenment pleas in favor of tolerance. She refers to William Blackstone, Thomas Jefferson and Thomas Paine. O'Neill (2013).

by referring to “the impossibility of fixing where these supposed bounds are to be placed.”<sup>22</sup> Mill rather emphasizes that it is mostly opinions contrary to those commonly received that are accused of being intemperate and offensive, or of suppressing facts, misstating elements of cases, misrepresenting opposite opinions and the like. He concedes that opinions are often expressed in a manner that is morally reprehensible and disgraceful; and he warns against intemperate ways of discussion, especially on the side of those holding the prevailing opinion, because it “does deter people from professing contrary opinions, and from listening to those who profess them.”<sup>23</sup> Yet he holds that all these matters belong to the morality of public discussion, and that “law and authority have no business” in this matter.<sup>24</sup>

At the same time, however, one cannot but affirm that also Mill’s famous chapter on the liberty of thought and discussion in *On Liberty* is not a full-blown defense of individual freedom of thought and expression for its own sake, viz., for the sake of the value of that individual freedom *simpliciter*. It is rather the value of truth that undeniably is at the very center of Mill’s argument. Or, to be more precise: it is “the mental well-being of mankind (on which all their other well-being depends)”<sup>25</sup> that is at stake in Mill’s defense of free thought and discussion. Mill’s famous chapter on the liberty of thought and discussion is entirely devoted to a discussion of four distinct grounds that prove that free speech is indispensable to the aforementioned mental well-being. 1) Any opinion compelled to silence may be true.<sup>26</sup> 2) Prevailing opinions are rarely or never the whole truth. Hence “it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.”<sup>27</sup> 3) Even if a prevailing opinion contains the whole truth, it runs the risk of being held in the manner of prejudice “unless it is suffered to be, and actually is, vigorously and earnestly contested.”<sup>28</sup> 4) Finally, without the liberty of discussion, true opinions become “a mere formal profession,” “deprived of its vital effect on the character and conduct,” and “preventing the growth of any real and heartfelt conviction, from reason or personal experience.”<sup>29</sup> Moreover,

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<sup>22</sup> Mill (1929): 64.

<sup>23</sup> Ibidem: 66.

<sup>24</sup> Ibidem.

<sup>25</sup> Ibidem: 63.

<sup>26</sup> Ibidem.

<sup>27</sup> Ibidem: 63–64.

<sup>28</sup> Ibidem: 64.

<sup>29</sup> Ibidem.

Mill's defense of the liberty of thought and discussion primarily addresses those holding prevailing opinions. It is up to them in the first place to acknowledge that every opinion benefits from the collision with other opinions or error, and that truth (viz., the mental well-being of mankind) is not threatened by freedom of discussion, but primarily by formal profession and dogmatism. Also in this respect, Mill's plea in favor of free speech is the heir of the early modern advocates of tolerance. The most conspicuous (and to my knowledge generally neglected) element in Mill's plea in favor of the liberty of expression, however, consists in the way Mill estimates the value of individual opinions:

If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind. Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons or on many. But the peculiar evil of silencing the expression of an opinion is that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it.<sup>30</sup>

Apparently, Mill's disapproval of silencing opinions is not informed by the value of an opinion to its owner, but rather only by the value of that opinion to the mental well-being of the human race, of "posterity as well as" of "the existing generation." Opinions have to be allowed to be expressed, not out of respect for those holding and cherishing them, but in the interest of mankind, viz., due to their value in the common quest for truth. To be more precise, Mill does not claim that only those opinions that contain a valuable contribution to this quest deserve to be expressed. On the contrary, in Mill's view every opinion counts because truth, viz., the mental well-being of mankind, will benefit from each and every opinion (and it is upon the collision with other opinions to decide in which manner that will be). But as a consequence, silencing opinions is considered by Mill to be wrong and repulsive because it robs mankind, and not because it is a violation of an individual right as such or *simpliciter* (according to Mill, silencing an opinion actually is a private injury, but an injury that eventually could be taken into account if an opinion were only of value to a few).

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<sup>30</sup> Ibidem: 19–20.



Mill's defense of the liberty of thought and discussion appears to reveal and reaffirm a quintessential aspect of the early modern and Enlightenment pleas in favor of tolerance. To be sure, these pleas in favor of tolerance endorse the value and the interest of individual freedom to express opinions. In this respect, especially Spinoza and Mill without any doubt can be considered as the heralds of the contemporary ideal of free speech as a fundamental human right. Nevertheless, it is clear from Mill's defense of the liberty of discussion that it is not this freedom as such (*viz.*, the value endorsed by it) that is at the center of the aforementioned pleas and informs the commitment to free speech. It is common goods or common values such as truth, the mental well-being of mankind, good government, peace, justice, true religion or the flourishing of the sciences and the arts that are decisive in the arguments of the philosophers discussed above in favor of free speech. As Onora O'Neill has shown convincingly, the central part in early modern and Enlightenment pleas in favor of tolerance is played by the contention that the common goods or values that the sovereigns aimed to protect by prohibiting opinions or beliefs deemed subversive, are actually better off and even can only flourish by granting individuals the freedom to express their beliefs and opinions.<sup>31</sup> In this respect, individual freedom of thought and expression is acknowledged as fundamental indeed, but mainly because it is beneficial to goods commonly shared.

### **Freedom of speech and freedom of self-expression**

Without any doubt, also our contemporary commitment to free speech is informed by common goods such as democracy and truth. Respect for liberty of thought and discussion is deemed one of the main indicators to estimate the democratic level of (inter)national policies. Attacks on freedom of the press are almost unanimously considered and condemned as assaults on one of the most vital Enlightenment ideals liberal democratic societies are said to be the rightful heir. Also today free speech is hence deemed crucial for the preservation of important values we cherish.<sup>32</sup> Yet it is not only values such as democracy or truth that free speech is considered to revolve around today. Free speech is also particularly said today to be the keystone of a specific, highly esteemed ideal of individual freedom.<sup>33</sup>

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<sup>31</sup> O'Neill (2013).

<sup>32</sup> Van Mill (2017).

<sup>33</sup> Timothy Garten Ash seems to have in mind this conception of freedom when he discusses the human beings' individual "self" as the first of four ideals that informs our contemporary engagement with free speech. Ash (2016): 73–75.

In this part of the article, I shortly present this ideal of individual freedom, and I will subsequently evoke and assess the manner in which this ideal inspires both the conception of free speech and the way in which free speech is said to preserve other values.

The contemporary idea of free speech is affected and informed significantly by the idea that freedom equals individual sovereignty. According to this ideal of freedom, human beings are free when they (are given the opportunity to) live an independent and self-contained life, and when they are granted accordingly the rights to think for themselves, to hold convictions as they will, and to live their lives and make decisions in accordance with these thoughts, beliefs, and convictions. According to Ash, the freedom to reveal through speech to others who we are (insofar as we wish to) and to speak our mind, is deemed part and parcel of this sovereign existence. "Strapped into a straitjacket with [...] lips taped shut, I may inwardly reflect 'my thoughts are free; you can't take that away from me'"<sup>34</sup>; but I will experience this situation (that is closely akin to the purely inward freedom of the Stoic slave) first and foremost as a denial of who I am, and as a rejection of, or even an attempt to silence, obstruct and annihilate what I deem dear and important. In this respect, prohibiting the possibility to express my thoughts and convictions and to speak my mind when I wish to do so, is considered an assault on the very essence of my being a self-contained human being. By virtue of this conception of freedom, freedom of speech is hence to a large extent tantamount to freedom of self-expression: defending the inalienable right of free speech becomes part and parcel of defending the alienable right of human beings to live their life sovereignly. Or, unlike Mill but using his phrasing, it is considered to be one of the peculiar evils of silencing an opinion today, that it robs us as sovereign and self-contained human beings, hindering, prohibiting or forbidding us "to be fully ourselves."<sup>35</sup>

In a sense, it goes without saying that freedom of self-expression has always been part and parcel of free speech. For how to conceive of freedom of speech if it does not contain the freedom to express what we deem dear, important or true? But when freedom of speech is one-sidedly conceived of as freedom of mere self-expression, viz., when free speech is conceived of as something I am entitled to first and foremost by virtue of my having the right to reveal my self-contained beliefs and to speak my mind unreservedly, free speech risks to evolve into an abstract idea. For one of the main problems of this conception of free speech is that it

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<sup>34</sup> Ibidem: 73.

<sup>35</sup> Ibidem.

becomes hard to imagine to which extent it can be deemed beneficial or even vital for truth and democracy, or to which extent it can turn out to be a good friend of the common goods free speech was said to be intrinsically bound up with.<sup>36</sup> Can we reasonably claim that free speech is beneficial for truth and the mental well-being of mankind, if truth is trusted to be the final result of a process in which everyone is free to advertise and sell her own opinions and convictions on the “marketplace of ideas” (a metaphor used famously by Supreme Court justice Oliver Wendell Holmes in a 1919 Supreme Court case)?<sup>37</sup> Can free speech be reasonably believed to be vital for good governance, if self-expression is said to deserve maximal protection and hence minimal restriction, and if the difficult virtue of tolerance evolves consequently into something akin to indifference (merely accepting the opinions of all others, without taking them seriously)? When free speech is seen as meant to be exercised first and foremost by self-made and self-contained atoms using their right to express themselves and speak their mind without reserve, it inevitably risks to lead to a loosening of the tight bond with the values (truth, democracy, true religion, justice, etc.) free speech was said to be beneficial for in the early modern and Enlightenment pleas in favor of free speech.

One might object in this respect that to plead in favor of free speech actually and essentially revolves around the acknowledgment of the radical diversity of opinions and outlooks on life and, hence, around a liberal and broad-minded acceptance of the irreducible differences between self-contained human beings. The best thing to do, as a consequence, is to face these facts by giving them full credit and by confining ourselves to the prevention of blows. In my view, however, this policy and the ideal of free self-expression by which it is informed, ignore and even run counter to a crucial aspect of the early modern and Enlightenment concept of free speech of which they claim to be the heir. Early modern and Enlightenment pleas in favor of tolerance first and foremost aim at the acknowledgment of common values (such as peace, justice, truth, good government, the sciences and the arts) as *public* issues, *viz.*, as issues on which to decide no one should have exclusive rights. To say that these values inform the early modern and Enlightenment commitment to free speech primarily means, in other words, that according to the early modern and Enlightenment advocates of tolerance, these values can only be preserved and flourish when they are allowed to become matters of public concern, *viz.*, issues of debates and discussions in which to participate no one

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<sup>36</sup> Onora O’Neill actually suggests that freedom of self-expression is a false friend of freedom of speech. O’Neill (2013).

<sup>37</sup> Ash (2016): 75.

should be excluded. According to these advocates, granting free speech is hence about the freedom to participate in a *social practice*, and not about individual freedom to speak one's mind *simpliciter*. Or, to put it in other words, the kind of freedom the aforementioned advocates of tolerance have in mind is an inclusive one, emphasizing the value of each and every opinion within the common quest for truth, democracy, and the like. By contrast, the kind of freedom that is implied in freedom of self-expression is exclusive, emphasizing first and foremost the value of each and every opinion to its "owner" (to use Mill's phrasing), and claiming the right of that opinion to enjoy worldly existence besides other opinions.

The shift from the idea of free speech implied in the early modern and Enlightenment pleas in favor of tolerance to the contemporary idea of free self-expression is hence not an innocent one: it reflects the growing influence of an individualistic ideal of freedom. One might observe that this ideal itself stems from the Enlightenment's idea of autonomy and self-determination, and that it hence has always been already implied in the modern commitment to free speech from its earliest days onwards. However, in order to demonstrate that this is not, or at least not necessarily, the case, I will finally turn to Immanuel Kant's famous defense of enlightenment. I will show that according to Kant, free speech (under the guise of the freedom to make public use of reason) and autonomy (under the guise of Kant's famous *sapere aude*) are intrinsically bound up with each other indeed, but imply a critical stance and a broad-minded disposition that are in danger of being neglected in the contemporary idea of free self-expression.

### **Immanuel Kant on the public use of reason**

Kant's approach to freedom of thought and expression undeniably differs from the manner in which these freedoms come to the fore in Locke's and Spinoza's pleas in favor of tolerance and in Mill's defense of the liberty of thought and discussion. Nonetheless, there is common ground to a considerable degree. Like Locke, Spinoza, and Mill, Kant claims that freedom of thought and speech has to be cherished because of its being beneficial and vital for common goods, such as good government and true religion. According to Kant, good government is self-government of the people,<sup>38</sup> and hence it obviously implies the freedom of the people to think and (hence) to speak for themselves. And also true religion requires, according to Kant, that people are "in a position of using their own understanding confidently and well in religious matters" as "in all matters of con-

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<sup>38</sup> Kant (1784): "The touchstone of whatever can be decided upon as law for a people lies in the question: whether a people could impose such a law upon itself" (WA, AA 8:39).

science,” and are (hence) each left free to express their thoughts (as will become apparent).<sup>39</sup> Like Locke, Spinoza and Mill, also Kant claims, moreover, that these freedoms require a certain stance or policy on behalf of the monarch. In political matters, the legislative authority of the monarch “rests precisely in this, that he unites in his will the common will of the people,”<sup>40</sup> and this implies the freedom to establish this common will through free speech. And in religious matters a prince is needed who opposes “the spiritual despotism of a few tyrants within his state,” and “considers it his *duty* not to prescribe anything to human beings in religious matters but to leave them complete freedom” – a prince, thus, who “even declines the arrogant name of tolerance”<sup>41</sup> (while tolerance presupposes that human beings remain subjects under the prince’s authority, and hence exposes the prince “to the reproach *Caesar non est supra grammaticos*”).<sup>42</sup> But, unlike Locke, Spinoza, and Mill (at least at first sight – I will come back to this), to release the human race from minority on behalf of the monarch (and from spiritual despotism on behalf of the aforementioned tyrants) actually only establishes the necessary condition in order for human beings to *acquire* freedom of thought, viz., the ability to think freely for themselves, by progressively emerging also from *self-incurred* minority. Thus, in Kant’s writings on enlightenment, freedom of expression comes to the fore as a *conditio sine qua non* to *establish* the autonomy that is intrinsically bound up with Kant’s views on good government and true religion. Freedom of thought is itself the common value that is needed to guarantee good government and true religion; and in order for this value to flourish, freedom of expression is indispensable. In the following, I expound on this in more detail.

Kant famously defines enlightenment as a process of having “the courage to make use of your own understanding,” viz., to think freely, which means to think without the guidance or direction of others.<sup>43</sup> Enlightenment is, in other words, a process of acquiring freedom of thought, and hence of *becoming* intellectually independent.<sup>44</sup> But what does it imply to think freely according to Kant? What does it imply to make use of one’s own understanding? In a concluding footnote

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<sup>39</sup> Ibidem: WA, AA 8:40.

<sup>40</sup> Ibidem: WA, AA 8:39–40.

<sup>41</sup> Ibidem: WA, AA 8:40.

<sup>42</sup> Ibidem.

<sup>43</sup> Kant (1784): “Enlightenment is the human being’s emergence from his self-incurred minority. Minority [or tutelage] is inability to make use of one’s own understanding without direction from another. This minority is self-incurred when its cause lies not in lack of understanding but in lack of resolution and courage to use it without direction from another. Sapere aude! Have the courage to make use of your own understanding! is thus the motto of enlightenment” (WA, AA 8: 35).

<sup>44</sup> Deligiorgi (2005): 57.

at the end of a text published two years after his famous text on enlightenment, Kant comments on his definition of enlightenment as follows:

Thinking for oneself means seeking the supreme touchstone of truth in oneself (i.e. in one's own reason); and the maxim of always thinking for oneself is enlightenment. [...] To make use of one's own reason means no more than to ask oneself, whenever one is supposed to assume something, whether one could find it feasible to make the ground or the rule on which one assumes it into a universal principle for the use of reason.<sup>45</sup>

To think freely or to learn to make use of one's own understanding implies, in other words, that one learns to recognize "reason's prerogative of being the final touchstone of truth." "Failing here," Kant says, "you will become unworthy of this freedom, and you will surely forfeit it too."<sup>46</sup> The recognition of the prerogative of reason is thus quintessential in Kant's conception of freedom of thought. Without this recognition, we even lose and forfeit this freedom in the end, since we run the risk of submitting ourselves again under the tutelage and direction of others.<sup>47</sup>

Thus far, Kant's conception of enlightenment seems to imply only a mere shift of authority. Does becoming intellectually independent only mean, according to Kant, that instead of being directed by the guardians, one has to submit to the authority of reason? Yes – but in Kant's view, recognizing reason's authority does not imply the submission to a transcendent and substantive source of truth (as if an appeal to reason would imply in advance on which side we will come out<sup>48</sup>). According to Kant, reason itself can be a source of error: that is precisely the reason why not reason itself, but the critique of reason is at the center of Kant's philosophical enterprise. Hence, the recognition of reason's authority comes down to the acknowledgement of an instance the very existence of which totally depends on the freedom of critique:

Reason must subject itself to critique in all its undertakings, and cannot restrict the freedom of critique through any prohibition without damaging itself and drawing upon itself a disadvantageous suspicion. Now there is nothing so important because of its utility, nothing so holy, that it may be exempted from this searching

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<sup>45</sup> Kant (1786): WDO, AA 8:146.

<sup>46</sup> *Ibidem*.

<sup>47</sup> Deligiorgi (2005): 59–61.

<sup>48</sup> Kant (1781/1787): KrV, A 747/B 775.

review and inspection, which knows no respect for persons. The very existence of reason depends upon this freedom, which has no dictatorial authority, but whose claim is never anything more than the agreement of free citizens, each of whom must be able to express his reservations, indeed even his *veto*, without holding back.<sup>49</sup>

Freedom of critique is a quintessential part of Kant's conception of the freedom of thought in general and of Kant's conception of the Enlightenment process of becoming intellectually independent and learning to think for oneself in particular. Since individual freedom of thought can only be acquired by recognizing reason's prerogative, enlightenment implies that one not only must have the courage, but also must enjoy the freedom to submit one's opinions to the critique of all others. For the reasonability of what one thinks totally depends on this critique and cannot exist without it. Without this critique, we even finally lose our ability to think freely, according to Kant:

The freedom to think is opposed first of all to civil compulsion. Of course it is said that the freedom to speak or to write could be taken from us by a superior power, but the freedom to think cannot be. Yet how much and how correctly would we think if we did not think as it were in community with others to whom we communicate our thoughts, and who communicate theirs with us! Thus, one can very well say that this external power which wrenches away people's freedom publicly to communicate their thoughts also takes from them the freedom to think – that single gem remaining in us in the midst of all burdens of civil life, through which alone we can devise means of overcoming all the evils of our condition.<sup>50</sup>

Thus, the ability to think for oneself finally appears to depend on freedom of speech, according to Kant. Intellectual independence or freedom of thought cannot exist without the freedom to think in community with others, and hence without the freedom to speak and write without constraints. It is therefore Kant's central claim in his famous text on enlightenment, that for enlightenment, seen as the ability and courage to think for oneself,

[...] nothing is required but freedom, and indeed the least harmful of anything that could even be called freedom: namely, freedom to make public use of one's reason

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<sup>49</sup> Kant (1781/1787): KrV, A 738–739/B 766–767.

<sup>50</sup> Kant (1786): WDO, AA 8:144.

in all matters. [...] The public use of one's reason must always be free, and it alone can bring about enlightenment among human beings.<sup>51</sup>

Kant's conception of enlightenment contains the claim that one can only be freed from the direction of prejudice, error, and false belief by being allowed to make public use of one's reason, viz., to expose one's opinions and heartfelt beliefs in debates and disputes with others. Freedom of speech (the freedom to make public use of one's own reason) is hence the very condition of the possibility of free thought and intellectual independence. In order to become intellectually independent, one must be allowed to test one's judgment by the understanding of others, so Kant claims:

[I]t is so certain that we cannot dispense with this means of assuring ourselves of the truth of our judgment that this may be the most important reason why learned people cry out so urgently for freedom of the press. For if this freedom is denied, we are deprived at the same time of a great means of testing the correctness of our own judgments, and we are exposed to error.<sup>52</sup>

Freedom of thought and intellectual independence need this 'final touchstone' delivered by the opinions of others, this "*criterium veritatis externum*";<sup>53</sup> they hence cannot but be achieved only in the common critical practice that is guaranteed by freedom of speech.<sup>54</sup>

One cannot but observe that Kant's view of freedom of thought (as something that has to be acquired) differs significantly from the way it is conceived of in Locke's and Spinoza's pleas in favor of tolerance (and actually even from the way freedom of thought is usually seen): people actually always already "think for themselves," always already do hold opinions of their own. Locke and Spinoza seem to plead in favor of the acknowledgment of this fact, and hence of the natural diversity of opinions in the first place. Yet, one might wonder at the same time how both Locke and Spinoza are able to deem this diversity of opinions beneficial for the common goods this diversity is said to be intrinsically bound up with, if they do not conceive free speech (as the expression of this diversity) also as a kind of critical exchange between these opinions. In my view, Kant's 'peculiar' estimation of the critical role of freedom of speech and freedom of the pen for the estab-

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<sup>51</sup> Kant (1784): WA, AA 8:36-37.

<sup>52</sup> Kant (1798): Anth, AA 7:128-129.

<sup>53</sup> Ibidem.

<sup>54</sup> Deligiorgi (2005): 69-77.



lishment of the common goods actually fills a gap: it reveals that sovereign individual thinking (thinking freely, viz., thinking for oneself) cannot exist without weighing adverse opinions. In this respect, Kant's view comes close to Mill's defense of the liberty of *discussion*: also Mill points at the indispensable role of the collision with other opinions in order to enhance the growth of real and heartfelt individual opinions. Free speech can only be deemed beneficial and vital for common goods if it is conceived of as a common (critical) practice of exchange.

Against the background of this conception of free speech, Kant explicitly criticizes the idea that informs the concept of free speech as mere self-expression:

[I]t is a subjectively-necessary touchstone of the correctness of our judgments generally, and consequently also of the soundness of our understanding, that we also restrain our understanding by the understanding of others, instead of isolating ourselves with our own understanding and judging publicly with our private representations, so to speak. [...] He who pays no attention at all to this touchstone, but gets it into his head to recognize private sense as already valid apart from or even in opposition to common sense, is abandoned to a play of thoughts in which he sees, acts, and judges, not in a common world, but rather in his own world (as in dreaming).<sup>55</sup>

Mere self-expression indeed comes down to "judging publicly with our private representations." It is intrinsically bound up with a withdrawal from the common world and a retreat into one's own. According to Kant, this disposition comes near to the disposition of a madman: "the [...] universal characteristic of madness is" indeed "the loss of common sense (*sensus communis*) and its replacement with logical private sense (*sensus privativus*)."<sup>56</sup> Elsewhere in his *Anthropology*, Kant characterizes the disposition on which the idea(l) of self-expression is based as the disposition of the logical egoist: "the logical egoist considers it unnecessary also to test his judgment by the understanding of others; as if he had no need at all for this touchstone."<sup>57</sup>

From a Kantian perspective, the very problem of the conception of free speech as freedom of self-expression hence appears to be that the latter is informed by a withdrawal into oneself and by a loosening of the ties that relate individuals with a common world, a world that is inhabited by fellow humans in the plural. According to Kant, the opposite of logical egoism is indeed pluralism, "that

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<sup>55</sup> Kant (1798): *Anth*, AA 7:219.

<sup>56</sup> *Ibidem*.

<sup>57</sup> *Ibidem*: *Anth*, AA 7:128–129.

is, the way of thinking in which one is not concerned with oneself as the whole world, but rather regards and conducts oneself as a mere citizen of the world.”<sup>58</sup> Freedom of self-expression hence places private sense in the center; free speech, on the contrary, is intrinsically bound up with the idea of *sensus communis*. In Kant's view, this “common sense” does not equal “the banality of common opinion”;<sup>59</sup> it refers to “the idea of a communal sense, i.e., a faculty for judging that in its reflection takes account (a priori) of everyone else's way of representing in thought, in order as it were to hold its judgment up to human reason as a whole and thereby avoid the illusion which, from subjective private conditions that could easily be held to be objective, would have a detrimental influence on judgment. Now this happens by one holding his judgment up not so much to the actual as to the merely possible judgments of others, and putting himself into the position of everyone else, merely by abstracting from the limitations that contingently attach to our own judging.”<sup>60</sup> Freedom of speech is thus grounded in what is generally known as Kant's conception of an “enlarged mentality,” a mentality or intellectual disposition that is open to other points of view and hence runs counter to the danger of encapsulating oneself in one's own opinions. Intellectual independence and an enlarged mentality are in this sense two aspects of the same stance, enabled by granting human beings freedom of speech, viz., the public use of one's own reason.<sup>61</sup>

### **In conclusion**

From the early days of the Enlightenment onwards, freedom of speech was defended against those who used censorship to safeguard and protect what they believed to be the absolute truth or true religious belief. The earliest modern advocates of freedom of speech were convinced that only free speech can deliver trustworthy and reasonable judgments about right and wrong, and can protect civil society against the disastrous effects of the dogmatism and fanaticism of its guardians and rulers. What we can learn from Kant is that it runs counter to the intentions of these early advocates of free speech to conceive of freedom of speech using the model of freedom of self-expression. The ideal of self-expression is based on a dubious conception of individual freedom of thought, according to which the individual withdraws into a private and isolated sphere in which there is no room

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<sup>58</sup> Ibidem: Anth, AA 7:130.

<sup>59</sup> Ibidem: Anth, AA 7:129.

<sup>60</sup> Kant (1790): KU, AA 5:293–294.

<sup>61</sup> Deligiorgi (2005): 77–85.

for the viewpoints of fellow humans and no courage to transcend the limits of one's own prejudices. To conceive freedom of speech along the lines of this individualistic stance is dubious, precisely because it paradoxically, but undeniably, comes too close to and even risks to evolve into the dogmatism and fanaticism of those the earliest advocates of freedom of speech stood up against.<sup>62</sup>

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