

Free Speech, Hate Speech, and Higher Education: A Theory

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From left to right: Claudine Gay, former president of Harvard University, Elizabeth Magill, former president of the University of Pennsylvania, Pamela Nadell, a professor at American University, and Sally Kornbluth, president of the Massachusetts Institute of Technology, at a fateful hearing of the House Committee on Education and the Workforce on 5 December 2023 in Washington DC. (NYT, 2023)

Since the beginning of the Gaza War on 7 October 2023, higher education has been the site of a series of skirmishes in the longstanding *free speech wars* (see, e.g., NYT, 2023; Emanuel, 2023; French, 2023; Carter, 2024). Conceptual, moral, and sociopolitical confusions abound; and emotions have been and are running high on all sides. Therefore, it seems to me that it would be helpful to present and defend, as briefly, clearly, distinctly as I can, a philosophical theory of free speech and hate speech in higher education.

Free speech is the liberty of unfettered expression in opinion, thought, and lifestyle, hence the liberty to engage in what John Stuart Mill called “experiments of living” (Mill, 1859/1978: ch. III, p. 54), aka, *experiments in living*, and above all the liberty

to express edgy, challenging beliefs and ideas by means of talk, writing, or any other communicative medium. Free speech has many important goods, including scientific truth, aesthetic beauty, profound artistic or philosophical insight, and authentic self-realization — and their pursuit. But the *highest* good of free speech is manifest when we exercise the liberty to engage in peaceful criticism of and protests against violations of respect for human dignity and human oppression, and in peaceful resistance against immoral uses of sociopolitical power. This morally and politically exemplary kind of free speech is not merely “speaking truth to power,” because, over and above truth per se, it is also *ethically*-driven and peacefully *rebellious*. It’s therefore *emancipatory* speech.

What rationally and morally justifies free speech? In *On Liberty*, chapter II, Mill famously attempts to provide an adequate justification of free speech on Utilitarian grounds. But Mill’s attempt fails, since it’s always possible that the greatest happiness of the greatest number of people, relative to that historical context and relative to what we are capable of doing by way of action in that context, will consist, precisely, *in our collectively restricting and suppressing free speech*. Mill tries to finesse this problem by re-defining the concept of utility:

I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being. (Mill, 1859/1978: Introduction, p. 10)

Nevertheless, Mill’s “utility in the largest sense, grounded on the permanent interests of man as a progressive being” is *nothing like* the concept of utility as he defines it in *Utilitarianism*:

The creed which accepts as the foundations of morals “utility” or the “greatest happiness principle” holds that actions are right in proportion as they tend to promote happiness; wrong as they tend to produce the reverse of happiness. By happiness [i.e., utility] is intended pleasure and the absence of pain; by unhappiness [i.e., disutility], pain and the privation of pleasure.... [P]leasure and freedom from pain are the only things desirable as ends; and ... all desirable things ... are desirable either for pleasure inherent in themselves or as means to the promotion of pleasure and the prevention of pain. (Mill, 1861/1979: ch. II, p. 7)

Now it’s of course possible to refine the Utilitarian concept of “happiness” or “utility” by defining it in terms of preference-satisfaction, or whatever. But no matter how the concept of utility is refined, when it’s understood in terms of *the greatest happiness principle*, it always picks out a certain class of “felicific” or happiness-making consequences for as many people as possible, relative to that agent-centered historical context. That being so, then the Utilitarian concept of utility has nothing inherently to do either with any

person's "permanent"—that is, *innate, universal, unconditional*—interests or with any person's nature as a "progressive being," which is necessarily underdetermined by, although still consistent with, her actual or possible happiness: namely, a person's nature as an absolute source of human dignity and as an autonomous moral and political agent, inherently capable of "enlightenment" in the sense classically formulated by Kant in "What Is Enlightenment?," namely, one who "dares to be wise" (*Sapere aude!*), that is, one who dares to think, feel, and act for themselves, hence autonomously:

Enlightenment is the human being's emergence from their self-inflicted immaturity. Immaturity is the inability to use one's own understanding without the guidance of another. This immaturity is self-inflicted if its cause is not lack of understanding, but lack of resolution and courage to use it without the guidance of another. The motto of enlightenment is therefore: *Sapere aude!* Have the courage to use your own understanding! ... [O]nce the germ on which nature has lavished most care—the human being's inclination and vocation to think freely—has developed within its hard shell, it gradually reacts upon the mentality of the people, who thus gradually become increasingly able to *act freely*. Eventually, it even influences the principles of governments, which find that they can themselves profit by treating the human being, who is *more than a machine*, in a manner appropriate to their dignity. (Kant, 1784/1996: pp. 17 and 22; Ak 8: 35 and 41-42, italics in the original)

From *that* point of view, the rational and moral justification of free speech would be our unwavering commitments to universal sufficient respect for human dignity and autonomy, and to universal resistance to human oppression. And that in turn entails that the rational and moral justification of free speech is robustly *non-consequentialist, dignitarian, autonomy-oriented, liberationist, and broadly Kantian*.

Correspondingly, from a robustly non-consequentialist, dignitarian, autonomy-oriented, liberationist, and broadly Kantian point of view, the *only* moral and political limits of free speech are: (i) incitement to or triggering of dignity-violating violence, (ii) slander (that is, malicious, false or at best half-true, and injurious speech) about individuals that destroys their social standing, and (iii) coercion. By *violence*, I mean *the use of actually or potentially destructive physical force*. And by *coercion* I mean: either (i) using violence (e.g., injuring, torturing, or killing) or the threat of violence, in order to manipulate people against their will according to certain predefined purposes of the coercer (*primary coercion*), or (ii) inflicting appreciable, salient harm (e.g., imprisonment, termination of employment, or large monetary penalties) or deploying the threat of appreciable, salient harm, even if these are not in themselves violent, in order to manipulate people against their will according to certain predefined purposes of the coercer (*secondary coercion*). So all coercion is a form of *manipulation*, and proceeds by following a variety of strategies, that share the same core characteristic: treating people

as mere means or mere things, thereby violating our universal moral obligation always to treat people with sufficient respect for their human dignity. In other words, then, the *only* moral and political limits of free speech are the very things that constitute the highest good of free speech when we use it peacefully to criticize them, protest against them, and resist them, by means of *emancipatory speech*, namely (i) violations of sufficient respect for human dignity, (ii) human oppression, and (iii) immoral uses of sociopolitical political power.

That brings us to *hate speech*. Notoriously and unfortunately, the term “hate speech” is a grab-bag label whose meaning is deeply ambiguous as between two sharply distinct conceptions: (i) speech *that’s actually aimed at specific individuals, whose purpose is inciting or triggering violence towards those people, slandering those people, or coercing those people*, all of which are *morally impermissible*, because they treat people as mere means or mere things, violate their dignity, and undermine their autonomy, and (ii) speech *that some, many, or even most people take to be hateful and repulsive*, whether it’s intended to be such or not, even though it’s *not* speech that’s actually aimed at specific individuals, whose purpose is inciting or triggering violence towards those people, slandering those people, or coercing those people, which is *morally permissible*. Let’s call type-(i) speech, *evil speech*. And let’s call type-(ii) speech, *merely offensive speech*.

It’s obvious why evil speech is morally *impermissible*. But in turn, the two-part rationale behind holding merely offensive speech to be morally *permissible* is this. **First**, even though merely offensive speech, by definition, is taken to be hateful and repulsive by some, many, or even most people, also by definition it’s *not* speech that’s actually aimed at specific individuals, whose purpose is inciting or triggering violence towards those people, slandering those people, or coercing those people. **Second**, and even more importantly, all sorts of emancipatory free thinking and expression that’s aimed at the highest good of free speech is *also* taken to be hateful and repulsive—and perhaps it’s *also* even *taken to be downright evil*—by some, many, or most corporate capitalists, Statists, coercive moralists, and coercive authoritarians (in short, by *powerful elites*) more generally; therefore, such *emancipatory* offensive speech must be morally protected as morally permissible and perhaps even morally *obligatory*, in the face of the enmity of those powerful elites, *even if* that means allowing in merely offensive speech at the low end of the moral permissibility bar.

Now, what about higher education? Here’s what I wrote in an earlier essay, “Higher Education Without Commodification, Mechanization, and Moralization”:

What is the ultimate end of higher education? Giambattista Vico, echoing Socrates’s Delphic oracle, claimed that the ultimate end of all education is *self-knowledge* (Vico

1709/1990: p. 24, 1699-1707/1993: pp. 37-38). I fully agree with Vico's claim, but also want radically to extend his idea about education, in accordance with contemporary and futuristic Kantianism (Hanna, 2023a), and then apply it specifically to contemporary and near-future higher education. In 1784, Kant published an essay called "An Answer to the Question: What is Enlightenment?," in which he argued that the fundamental thesis of "enlightenment" or *Aufklärung* is that all rational human animals are strictly obligated to think for themselves and to act freely, with resolution and courage, in accordance with their own and everyone else's human dignity [see the indented quotation on p. 3 above].

Taking together Vico's Socratic idea about self-knowledge with Kant's idea about enlightenment, and then creatively revising-&-updating them both to fit the contemporary 21st century existential, moral, and sociopolitical predicament of humankind, then in my view, the ultimate end of higher education is not only (i) *self-knowledge*, but also (ii) *rational autonomy in thinking, caring, and acting*, (iii) *authentic human creativity* (Hanna, 2023b), and (iv) *sufficient respect for everyone's human dignity* (Hanna, 2023c, 2023d, 2023e). In turn, the four-part conjunction of these ultimate ends is what I call *radical enlightenment* (see also Hanna, 2016, 2018). Therefore, I'm saying that the ultimate end of higher education is radical enlightenment.

If I'm right about this, then the ultimate aim of higher education is *not* how best to satisfy our individual or collective self-interests by means of instrumental reason and corporate capitalism, as per their ideological valorization, *neoliberalism* (Maiese and Hanna, 2019: ch. 4; Maiese, 2023). Let's call that the *commodification* of higher education. *Nor* is it how best to advance the research projects of mechanistic formal and natural science, especially including computer science and digital technology, as per their ideological valorization, *technocracy* (Hanna, 2023f, 2023g). Let's call that the *mechanization* of higher education. *Nor* is it how best to advance the coercive and moralistic demands of post-1970s identitarian multi-culturalist social justice theory, as per its ideological valorizations, *cancel culture* and *wokeism* (Rorty, 1994; Mann, 2019). Let's call that the *moralization* of higher education. In other words, radical enlightenment is the ultimate aim of a higher education that's *without* commodification, mechanization, or moralization. (Hanna, 2023h: pp. 1-2)

That all being so, then emancipatory free speech is essential to a radically enlightened higher education. At the same time, however, as I noted above, emancipatory free speech is invariably found offensive by some or another coercive authoritarian ideologues: in this case, either inside higher education, or who fund higher education from outside it, or who police higher education from outside it, whether rightist, centrist, or leftist. More generally, blacklisting, calling out, cancelling, censoring, reprimanding, or punishing people who engage in morally permissible speech in higher education, merely because that speech is offensive to people who possess sociopolitical power either inside higher education itself or that can be imposed on higher education from outside it, is *always* morally impermissible.

Finally, it's up to you, Dear Reader, *to dare to think for yourself*, and apply this theory of free speech, hate speech, and higher education, to the contemporary free speech wars in higher education. But obviously, the core of the issue is whether any of the relevant contemporary altercations in those free-speech-wars involves, on the one hand, *evil speech* (in which case, it's morally impermissible), or, on the other hand, *merely offensive speech* (in which case it's morally permissible, even if almost everyone would agree it's hateful and repulsive). Of course, it's also possible that at least some of the altercations involve a complex combination of some speech that's evil (hence morally impermissible), and some other speech that's merely offensive (hence morally permissible): so we shouldn't assume that the moral and sociopolitical reality of any of those actual altercations must be *monolithic* and *simple*.¹

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