

# THE IMPORTANCE OF FREE EXPRESSION AND ITS LIMITS

*An Essay*

*by*

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*Freedom of thought is the only good that is perhaps more precious than peace, for the simple reason that, without it, peace would simply be another word for servility.*

- ANDRE COMTE-SPONVILLE

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## INTRODUCTION

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Defending free expression is not simply a matter of promoting freedom but our entire ability to speak *of* freedom. For this reason, it is our most important form of freedom. How are we to defend free expression without itself? How are we to make headway in dialogues on boundaries if already the lines are drawn? Free expression is *not* a licence to say anything. We should *not* consider free expression or speech\* as “promoting our ability to say or express anything at any point”. Free expression is best defined as *the **ability** to engage in open dialogue or through any medium, on any topic, ideally in an amicable and open-minded way, which leaves room – most importantly – for debate and discussion.* Within this rubric falls the ability to express a dissenting view on a prevailing opinion: through artistic, philosophical or even mundane formats, like everyday conversation. For any organisation, be it a government or the United Nations, to draw lines on what may and may not be spoken of is an indication that they have drawn chalk-outlines of the very freedoms they are meant to defend. By doing thus, they have done away entirely with our most important liberty. It tells us that such organisations lack an understanding of what free expression is for and what it can continue to do; since, as an ability, it must be treated as an important tool not as a poisoned blade. Within free expression, many complicated questions arise: *Why should we not defend racists but defend religious critics? What differentiates those who criticise homosexuality from those who criticise Christianity?* By deepening our understanding of our most important liberty, we will make headway in these questions and others. We will see that simply *asserting* boundaries, even in supposedly clear-cut examples, defeats free expression entirely.

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\* I will use the terms free-speech and free expression interchangeably, but I view the latter as an umbrella term that incorporates the former.

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Finally, we will see how, by virtue of being defended, free expression perpetuates itself and other freedoms, thus making it an important tool for those who fight for it in oppressive societies.

The philosopher Arthur Schopenhauer wrote: “No rose without a thorn. But many a thorn without a rose.” (Schopenhauer, 1970, p. 325) As I highlighted in the beginning, free expression is the rose in this example. With free expression come all its thorns: offence, hate-speech, freedom of the press to create scandal, and others. These issues, these thorns, are easily considered by themselves. Yet, as Schopenhauer’s quotation highlights, seen as *part* of free speech we must constantly commit to its defence; we must defend the rose, not the individual thorns. If we become too bogged down by avoiding giving offence, we lose the thread as a whole. Our primary focus then becomes certain groups’ feelings whilst society’s freedom as a whole becomes a blurred background object.

But why should we consider free expression as something so profound? Let us first investigate what it is. What follows is an elaboration on the classical, liberal defence, as elaborated by John Stuart Mill, in *On Liberty*, and John Milton, in the *Areopagitica*.

Free expression, or free speech, is best thought of as an ability to give voice or expression – through many mediums, from conversation to books, from columns to paintings – to an idea, opinion or criticism on any idea that an individual wishes to engage with. “Commitment to free speech involves protecting the speech that you don’t want to hear as well as the speech that you do,” says Nigel Warburton (Warburton, 2009, p. 1). This two-pronged approach highlights its individual properties’ distinction: thus, it is not enough to express whatever you want but prevent others from doing the same; similarly, one is unable to fight for a dissenting view, even if you disagree with it, if one cannot *give voice* to that view. As Hubert H. Humphrey put it: “The right to be heard does not automatically include the right to be taken seriously.”

## FREE EXPRESSION AS A HUMAN RIGHT



Why do I focus on free expression as an ability, rather than, say, strictly a human right? It is true that free expression is given credence and an ardent defence in the United Nations Universal Declaration of Human Rights (UDHR) – as part of Article 19. As a right or an ability, the importance rests in taking issues that we have within smaller societies to a universal level, that is: *what matters for all that will enable all to flourish?* Whilst the UDHR is important it is not flawless and simply putting it down on a large paper, to be held up by Eleanor Roosevelt, does not immediately indicate it will be integrated into the world.

A human right, like politics in general, takes ethics between individuals and individual actions and incorporates it onto a larger stage. It is, however, more useful to consider free expression as an ability especially when compared to *other* rights: for example, a right to housing and education is difficult to consider as abilities – since there are economic and land restrictions which also play a part in housing, jobs, education (all of which are universal human rights), one cannot exercise these rights at will. Thus, free expression, which is not restricted by land or money, can be exercised as an ability by any individual. In fact, it often is. In oppressive societies, human rights’ defenders from across the world often speak out against international oppressive regimes or help give voice to those within them. Though it has based itself as a human right, it is, for most purposes, more useful to think of it as an ability, able to be used by anyone.

Human rights, as they are considered, are there to be respected, maintained and – sometimes – enforced by people and governments the world over. Of course, the reality is not so rosy. Though drafted after the Second World War, the UDHR fell on deaf ears in South Africa – where a truly democratic government only emerged in 1994 – and in Islamic countries, like Saudi Arabia – where people are constantly oppressed for being female, adulterers, apostates, and so on. Muslim countries, as we will see, continue to oppose the UDHR, as a whole, and free expression, specifically. When people talk about “human rights’ abuses”, they usually conjure up images of starvation, poverty, genocide, and so on. Most people remember the “abuses” part but

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forget *what* is being abused. That is: when basic human rights – all of which are incorporated into *universal* human rights – are not heeded, societies function poorly. To illustrate this point, it is necessary to quote Paul Kurtz at length. The reader will apologise for the lengthy indulgence:

To say that there is a human right is simply to say (1) there are claims that we make as humans, and (2) if they are truly to be considered equitable and just, then we have an *a fortiori* [after the fact] obligation to respect and fulfil them. Why? Primarily, I think, because of the demonstrative negative effects of violating them. The test is consequential, for rights lay down effective rules for governing a society. They have an empirical rationale, for they prescribe the most efficacious ways of living and working together, and they are transcultural, because as humans we share common problems and needs. They thus are both a biogenic and a sociogenic basis. But since civilization at long last is truly global, human rights have emerged as the moral conscience of humanity as a whole. The respect for a doctrine of human rights has a profound effect on human consciousness, and these societies (largely democratic) that recognize them are better able to allow the moral decencies to be expressed and to realize values, individual and social, diverse and similar. (Kurtz, 1988, pp. 233-234)

Established within a constitution or able to be defended by the law, rights enable the individual to have a say, a voice, and a mind within a society. We cannot stop someone from obtaining a job, based on the colour of their skin, their sex, or nationality. If we did, he could take it to court and legal proceedings would follow. This does not mean that rights are, by virtue of being rights, made part of a society's constitution; rather they are an amalgam of what we understand to be the necessary steps to facilitating a functioning, plural society, based not on any identity-class except being human. There are many problems with this view, such as: *What counts as a human? What rights should be made into law? Are some rights more important than others?* And so on.

Rights can conflict. For example, using the UDHR as a basis for discussion, consider these two articles:

Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontier

Article 3: Everyone has the right to life, liberty and security of person

What happens if an expression upsets the “security” of a person? What happens if they feeling are hurt by the free expression of *another* person? Should governments or global bodies step in to gag the offender, if he continues to upset a person or group? Is it a violation of human rights if you express yourself – which is itself a human right – but upset the security of people?

For this reason, formulating free expression strictly as a right is unhelpful and limiting. This does not mean it should not be a right – indeed, as I have maintained, it is our most important – but leaving it amidst the mire of idealist contemplation for good governance is not enough. What we need is to utilise it to show *why* it matters.

The example conflict above is the cornerstone of recent discussions involving free expression on an international scale. Indeed, the United Nations has recently begun taking heed of (religious) societies that want “defamation of religion” to be drafted as a human rights *abuse*. (The irony of all this, I will maintain, remains that the ability to mock, deride, and criticise religion is the natural extrapolation of using free expression. By not allowing religions to be mocked, the ability is not able to be used, thus negating free expression as a whole. We cannot even talk about *why* we cannot mock religion, since to be able to defend criticism of religion as whole is to some extent to engage in it, indirectly. One cannot defend criticism of religion unless one, fundamentally, believes that religion should be able to be criticised.)

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Before we come to the politics involving the so-called “defamation of religion” acts, let us first understand, from using and analysing it from the perspective of a human right, why free expression matters.

## WHY FREE EXPRESSION MATTERS



Through the last century, borders have slowly been ground to dust: though fences, patrols and other restrictions exist, we have more knowledge about our neighbours on this planet than ever before. Even with the physical barriers, we have crossed and continue to cross international borders everyday: through the Internet, through “snail mail”, through products, through language and media. Potent ideas permeate through the world, eclipsing traditions with their new light and promise of betterment. Some are not new; indeed, Aristotle said: “It is not once or twice but times without number that the same ideas make their appearance in the world”. All that has happened, perhaps, is we have become better at communicating, packaging and distributing ideas. The better ones have caught on and we are seeing the betterment of people through the realisation that, for example: women are not inferior, that skin-colour does not matter, and so on. Ideas, of course, are fallible by virtue of being human, for example: Marxism and those who applauded the Soviet Union in its beginning came to see its flaws and terrible outcomes.<sup>†</sup>

This indicates that lines we draw are crossed, whether we like it or not. They are crossed by encountering ideas and people from across the world. Physical barriers cannot, even if they wanted to, stop the integration of a global society. With this growth has arisen the understanding that we need some sort of guidance to deal with a pluralistic world – let alone a plural society. It is not just that as horizons expanded, human rights were made but that they formed concurrently. We realised we needed promotion of what would work for *everyone*: We are no longer individual countries or people, but one unified global body. Even if there are those who are unhappy about this prospect – nationalists, for example, who want anyone who is not, say, British, to be in Britain – they are fighting against the juggernaut of progress.

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<sup>†</sup> “Two ideas are always needed: one to kill the other” – Georges Braque

And a platform of such a discussion of what matters universally needs a prescription which is itself universal. This universal we shall see is free expression.

Since we can no longer rely on identifying with others because they are the same creed, ethnicity, nationality or sex – because we are almost guaranteed on a global scale they will not be – there must be another property that we should utilise.

Indeed, the very basis for conflict in human societies rests in the poisoning of identity creation: that is, labelling someone *another* creed, *another* sex, *another* nationality and making enemies out of them for their differences. This dissolves their “humanity” in the sense that they are not worth our moral concern (to be human in this sense means to be “worthy of moral concern”). Responsibilities to act “good” or “well” do not apply to “others” because they are not *x*, *y*, or *z* like me: indeed, if I do kill or hinder them, it is good for my identity or my people or my idealistic goal. There is some reward in killing infidels, making life hard for African Americans, or viewing women as a chattel. In each case, my identity - as a Muslim, a white, or male respectfully - is raised as each opposite identity is lowered.

Psychologists call this “deindividuation” and it has proved a powerful way to understand conflict and horrific “inhumane” crimes. The Nobel laureate, Amartya Sen, has written a powerful manifesto for the diffusion of placing identity-labels on people (individually and as a group). As he says: “A major source of potential conflict in the contemporary world is the presumption that people can be uniquely categorized based on religion or culture. The implicit belief in the overarching power of a singular classification can make the world thoroughly inflammable.” (Sen, 2007, pp. xv-xvi) The power of this singular view of people can have far-reaching and terrible consequences, according to Sen: “Indeed, many of the conflicts and barbarities in the world are sustained through the illusion of a unique and choiceless identity.” (Sen, 2007, p. xv) So powerful is the illusion of someone’s identity (and therefore their “destiny” in Sen’s words, or the inevitable consequences of that singular identity’s continued existence) that it overwhelms emotions one can feel for strangers: sympathy, compassion and so on.

Thus this is not to create a singular identity like “humanity”, instead, but to understand the diversity of humanity itself. To speak of the fluidity rather than the

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rigidity of our species; to be comfortable with the plurality of ideas and opinions and ways of seeing the world through the eyes of strangers. A novelist who attempts to capture the “humanity” in his characters finds millions of readers able to understand that character, able to feel as though the writer had each reader specifically in mind. This is the endless human paradox: sharing so many dreams but differing in our ways of achieving them.

It’s the recognition of a foundation that is so important. Here we can call it whatever we like: the spiritual, numinous, transcendent, or just basic human level. By basing our characterisations *not* on numerous labels, which when applied so vigorously prevents us from seeing the person himself, but on a fundamental characteristic, we lay a foundation for growth. What we are guaranteed, almost without fail, is that we benefit from identifying with someone on a human level. As the great Desmond Tutu has constantly maintained, the more we recognise people as people, the more we are recognised as people ourselves; and vice versa: the more we degrade other people, the more we debase ourselves further and further away from being fully human. We are recognised as human from our perspective, since to be human is to encapsulate a myriad of labels (black, male, homosexual, doctor, and so on are all forms of identity). And others recognise this humanity by each of us showing it to others. Thus from a subjective *and* objective perspective we are reinforced in our humanity.

The point here is not to tackle the problem of persons or what makes a human but rather an understanding that there *is* something that unites us; that there *is* a basis, a platform, on which we can all stand that allows us to see a horizon clearly but does not prevent us from reaching it in different ways. This is not an assertion but rather a helpful temperament in ethical dealings. This, it seems, is most clearly and deftly labelled humanistic or human in its endeavour. For all its simplicity, it knocks the nails out of this self-sacrificing idea for there is no cross to bear with this label. There is no idealistic model to live up to: as a male, we degrade women to achieve some state of manhood; as a Muslim we can kill infidels because we can reach Allah. But to maintain humanity is never to reach a point where we can say we’ve done enough or we can stop. It’s an endeavour that is self-perpetuating, since by engaging with it, we further its goals.

We have a foundation then: that of recognising our humanity, its inherent diversity and diversification, and the many ways people harmonise with each other's goals. Taking into consideration the myriad approaches to the same horizon, we must also formulate a way of bringing these ideas into bloom.

The only way we are able to deal with ideas is through packaging and distributing them; that is *communicating* the ideas, putting them amidst other communicated ideas. Ideas not communicated are like books not written, enjoyable for the creator but useless to the rest of us. (This reminds me of a remark by Christopher Hitchens who said: "Everyone has a book in them. And that, for the most part, is where it should stay.")

Judge Oliver Wendell Holmes, who famously defended free-speech and its limitations but stating free-speech does not allow one to shout "Fire!" in a crowded theatre, believed that good ideas are the ones that survive the free-market of ideas. By this, he meant bad ideas would not catch on or survive criticisms; good ones were the ones that *did* survive the criticisms, the derision and indeed allowed for further elaboration. This might be considered the "critical attitude" toward ideas. The great Austrian philosopher, Karl Popper, understood this better than anyone.

The critical attitude, the tradition of free-discussion of theories with the aim of discovering their weak spots *so that they may be improved upon*, is the attitude of reasonableness, of rationality. It makes far-reaching use of both verbal argument and observation – of observation in the interest of argument, however ... The critical attitude might be described as the result of a conscious attempt to make our theories, our conjectures, suffer in our stead in the struggle for survival of the fittest ... We thus obtain the fittest theory within our reach by the elimination of those which are less fit. (By 'fitness' I do not mean merely 'usefulness' but truth) (Popper, 2007, pp. 67-69)

Popper was speaking here specifically about scientific theories. However, there is no reason why it cannot be applied to good ideas in general (Popper understood that well). This is a healthy attitude and one that our species has only recently begun to

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take into account. Knowledge used to and is still considered by many to be divinely given. It arrives celestially and overwhelmingly rather than internally and tentatively. The former is the fundamentalist and dogmatic attitude to ideas, whilst the latter is the rational, scientific and philosophical attitude. Once again, we must remember that just because one is religious does not mean one cannot be rational.

The “critical attitude” is correctly described by Popper as coming from the Ancient Greeks: the parents of philosophy and science (since the two subjects used to be one). The classicist Peter Jones describes this “Western tradition” as “the tradition that tradition must be fought”. Jones goes on to say: “It [was the Ancient] Greeks who challenged authority and tradition in this world, and threw everything open for anyone to partake in, if they wished, without fear of interference on any other than intellectual grounds.” (Jones, 2009, p. 214)

One may refute this by saying: “tell that to Socrates” but that is to miss the point. Even the *idea* of an open-market place of ideas, an *agora*, is itself a *good* idea since it showed itself to be useful. The birth of philosophy, and therefore science, came as a result of humanity realising that knowledge was not tied to nooses of credence or poisons of traditions. Knowledge arose from the ground up, not given by the gods from the heavens downward.

The reasons we eradicated smallpox, are able to live longer and healthier, are a direct result of us realising that we created knowledge and dealt with it; that it was, by virtue of being a human endeavour, fallible and therefore uncertain. This attitude is still viewed with suspicion. This world-view is still not accepted by the majority since it is easier to lap up traditional and other forms of nonsense thinking than to submit our minds to critical reasoning, which might uncover bad thinking and shed a nihilistic light on one’s existence. “They [traditional and nonsense thinking] meet so many strong human desires,” says Bryan Magee, “including the desire for extravagant emotional self-indulgence.” He goes on:

They give us all the answers – and this in turn gives us a sense of mastery of the problems that we see as confronting us ... Real thinking is hard – not only

laborious but more often than not unsuccessful, leaving us with a frustrating sense of our own inadequacy and our ignorance, not to mention exposing these to the raised eyebrows of others.

Magee then makes a very important point, concerning traditional thinking: “It will always be easier to flee in the direction of what is safe, and safe because approved already.” (Magee, 1999, p. 430)

Thus to engage in critical examination of ideas is to open oneself up to being fallible, wrong, or meaningless. To many people, the knee-jerk reactions to having deep-seated ideas or beliefs questioned is to stand their sense of meaning on its head, and thus to view it like a circus act: loud and extravagant but ultimately silly and unfulfilling (as Macbeth says: “Full of sound and fury, signifying nothing”).

But that is the price of having ideas communicated freely. And freely communicated ideas, expressed and distributed via and because of Popper’s “critical attitude” or Jones’ “Western tradition”, is done via free expression.

Free-expression encapsulates all this: the open-market place of ideas, how and why ideas need to be spread, and of course the undermining of religious or traditional attitudes. But this is all done for the betterment of our species. Ideas are the motors of history, the fuel that pushes us further along toward the horizon of possibilities. Horizons, of course, are never reached since that would make them particular destinations rather than the focus of our trajectory. Ideas and their destruction or growth depends on many factors but perhaps the most important is whether they are good ideas. Was looking at the stars a good idea? To us, yes, but to the Church of Galileo and Copernicus’ day it was not. To look at the stars was to undermine the knowledge the Church had received (bottom-down) via the Bible. Galileo and Copernicus’ knowledge was knowledge tentatively acquired (bottom-up) rather than dogmatically asserted and justified by a Bible passage.

But their ideas finally reached others, through written-texts, through the creation of inventions (“inventions are evidence of ideas,” says the historian Peter Watson [Watson, 2006, p. 9]), and so on. The Church was right to be antagonistic toward

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independent and bottom-up approaches to knowledge, since, through what became known as the Copernican revolution, humanity was ripped from its central place in the universe.

Charles Darwin provided a similar instigation by showing us that we are “nothing more” than apes: we are animals. This notion of “nothing more” is a loaded sentence, showing disdain and translating as: “nothing better than”. This is as if (other) apes are wild, mad, uncontrollable, stupid creatures when any visit to a jungle or zoo will show otherwise. And indeed any news-broadcast will show that such descriptions are more suited for our species.

In both cases, there has to be a radical readjustment of the anthropocentric nature inherent for many of us. More and more we came to see that we mattered less and less – in terms of the universe and the world we lived in. The easy traditional approaches which fed into the anthropocentric nature of humanity were undermined. We are no longer the central focus of the universe; we might not be that important. This all arises from the free expression of ideas, thus we can encapsulate why it is such a hard ability for the majority to defend.

Free speech unfolds fists of ideas to show a bare palm of human frailty before a stark universe. With the free flow of ideas, using the motor of freedom of expression, we are more prone to having our deepest held beliefs undermined, our ideals tested and our thinking debunked. The fear of being wrong, being “nothing more than” an animal, being unimportant is too much to bear for many people for obvious reasons. This does not make these people childish: it makes them human. We have only recently begun to deal with the paradox that though free expression is the cornerstone of liberty and science, and therefore central to human life, it brings with it the open wounds of human fallibility. Without the open expression of ideas, we could never test claims about the empirical world; we could never advance our technology and better our lives, through cures and preventions and an understanding of our world; we could never challenge the authorities of governments and groups who claim to know better for their people, undermining these rights and abilities to be human. Without free expression we could do nothing to help our fellow man since we could have no

way of expressing the first step in helping others: namely, a desire to do so and, thus, convincing others to do the same. Without free expression, we would be slaves to dead ideas, walking puppets manipulated by the hand of tradition. Without this most important ability, therefore, we would be slaves and never even know it.

For many people, this would be an acceptable scenario, considering the properties of tradition mentioned by Magee above. For those of us who care about what is true, rather than what placates, this will not do at all.

#### THE LIMITS OF FREE EXPRESSION – AGAINST THE UNITED NATIONS’S RESOLUTION ON THE “DEFAMATION OF RELIGION”



Free expression, as has been highlighted, has its source from the Ancient Greeks. However, perhaps its most lucid defence and elucidation arose during the period of thought known as the Enlightenment (18<sup>th</sup> century Europe). This was a very Euro-centred (as opposed to Euro-centric) outlook in that its most prolific supporters and defenders were European: they ranged from Voltaire to Jean-Jacques Rousseau, from David Hume to Immanuel Kant. Today, rather than speak about the defence of Enlightenment, we speak of the defence of Enlightenment *values*. We have already seen that without free expression we would be slaves to tradition and backward thinking, never able to progress in our thought beyond the confines imposed by the past.

One can see free expression’s relation to the Enlightenment as a whole, which Kant defined beautifully as: “[The Enlightenment is] man’s emergence from his self-imposed immaturity. Immaturity is the inability to use one’s understanding without guidance from another. This immaturity is self-imposed when its cause lies not in lack of understanding but in lack of resolve and courage to use it without guidance from another. *Sapere Aude* [dare to know]! Have your courage to use your own understanding! That is the motto of enlightenment.” (Kant, 1784)

Kant continually stresses courage because, as we have seen, it takes courage to accept many ideas that confront us today. It takes courage to strip ourselves free of traditional thinking especially ones that make us the centre, literally, of the universe

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and the centre, metaphysically, of god's consideration. Daring to know made us look into the skies, it makes us probe the macro- and microcosms to uncover wonders never imagined. Instead of being humbled by how small we are in relation to the universe or how large we are in relation to the microorganisms that control us, too many continue with the ideas bestowed by traditional thinking.

It is because of Enlightenment values that we can afford to have things like universal human rights, advances in science and greater access to information and knowledge. Free expression yet again makes itself apparent in an important way of thinking: we have seen it as the cornerstone of science, of better political policies liberating people from being oppressed because they are, for example, black or female, and now we see it again as the single ability that encapsulates the whole of Enlightenment thinking.

Those who oppose free expression were and are usually those who have something to gain from imposed, traditional ways of thinking: it was the reason the Church did not want Bibles to be printed so freely, lest the common man was to gaze upon the inconsistencies inherent in god's word; it was the reason oppressive regimes, from Stalin in Russia to Verwoet in South Africa, towered heavily over the words of the press and political fighters.

But today the most vitriolic opponents of free expression are those from religious lobbies, directing their opposition against those who either criticise or mock the tenets of their religion. There are many examples of this, especially from the Islamic world: the 1989 fatwa against Salman Rushdie, calling for his, his publishers and translators' deaths; in 2005, the Danish conservative newspaper, *Jyllends-Posten*, cartoon fiasco, which resulted in 139 deaths; the murder of Theo van Gogh, who made a film called *fitna* which criticised Islam's enslavement of women; and the banning of Sherry Jones' *Jewel of Medina*, around the world, an historical novel about the relationship between Islam's prophet Muhammad and his most beloved and youngest wife, Ayesha.

In each case, someone has viewed Islam as it should be: as simply another human phenomenon. As we have seen, being human means being fallible. Thus to view Islam

as fallible and human, rather than “holy” and “sacred”, is to undermine many people’s deeply held beliefs. This is to open up the chasm of human frailty so terrifying to many. Of course, the other major reason Muslims are attacking critics has arisen from the horrid racial element of associating all non-white<sup>‡</sup> Muslims with terrorists, especially after the terrorist attacks of September 11<sup>th</sup>, 2001.

Using the latter to justify *all* criticism of Islam has been a technique of many Muslim countries, groups and leaders. Of course there is a difference between bigots who call all Muslims terrorists and those who, rightly, criticise Islam as a doctrine. The former attacks people whilst the latter attacks ideas. Free expression as an ability is best used to criticise, attack, mock, and deride ideas but is, sometimes effectively, used against a *particular* person. The difference between its usages here is that it targets a particular person, rather than being used to as a generalisation. Once again, though some defenders of free speech like Nigel Warburton might see this as a limitation on free-speech, I see it as improper usage of our most important ability. I will make my defence in the next section.

For now let us take examine the goals of Muslim lobbies within the United Nations, hankering for a ban on free expression when it comes to Islam.

Since its adoption in 1948, the UDHR has been opposed by various Islamic countries on the basis that Islamic communities need special rights designed for a Muslim community. It has been proclaimed by a collective group, known as the Organization of the Islamic Conference (OIC), made up of 57 member-states. The OIC has argued that the “Western” UDHR does not take heed of Muslim views. Of course, the OIC forgets that many Muslim countries were part of the formation of universal human rights – even if they had reservations about certain aspects (Dacey & Koproske, 2008).

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<sup>‡</sup> I stress “non-white” because Muslim is not a matter of genetics, like a race, but a matter of religious upbringing. You can give up the latter, but not the former, by mere thinking. And race is being seen more and more as irrelevant in the world. See Guy P. Harrison’s *Race and Reality* (Harrison, 2010, pp. 19-32)

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For decades, the OIC has been passing yearly resolutions in the upper echelons of the United Nations to suppress criticism of religion, under the guise of “defamation”.

Every year since 1999, a member of the OIC has proposed a resolution in the Human Rights Council (formerly the Human Rights Commission) called “Combating the Defamation of Religions,” which decries the outbreak of “Islamophobia” across the globe and calls for greater efforts to curb defamation, discrimination, or hate speech against Muslims or the Islamic faith ... This resolution has passed each year with nearly unanimous support. From 2005 to 2008, similar resolutions were adopted by the UN General Assembly. (Dacey & Koproske, 2008, p. 7)

The OIC has played into the mistaken assumption of viewing race and religion as synonymous. Indeed, there is a report from the UN entitled: “Report of the Special Rapporteur on Freedom of *Religion* or Belief and the Special Rapporteur on Contemporary Forms of *Racism* on the incitement to *racial and religious* hatred and the promotion of tolerance.” From such a source the title “Islamophobia” has come to fruition, defying definition but used by many (including the general public) when talking about criticism of Islam. By giving a racial flavour to criticising Islam, Muslim apologists have their work done for them when critics silence themselves.

And this does not amount to simply abstract considerations. Consider the growing influence of the OIC. The following occurred on June 18<sup>th</sup>, 2008:

The representative of the Association for World Education, in a joint statement with the International Humanist and Ethical Union, had denounced the stoning to death of women accused of adultery and of girls being married at the age of nine years old in countries where Sharia law applies [most of these are countries that are member-states of the OIC].

The speaker, David Littman, was interrupted by no fewer than 16 points of order and the proceedings of the Council were suspended for forty minutes when the Egyptian delegate said that “Islam will not be crucified in this

Council” and attempted to force a vote on whether the speaker should be allowed to continue. (Discussion of Religious Questions Now Banned at UN Human Rights Council, 2008)

Effectively, this means that criticism of religion is not possible in the most important organisation aimed at promoting and maintaining global peace. Some might argue, as the representatives have done, that criticising religion is counterproductive to maintaining peace: indeed, one need only consider the examples I mentioned before, such as Salman Rushdie or the Danish cartoons. Yet it is not a matter of silencing critics that will show their criticism false. As Peter Singer has highlighted, this gives rise to suspicions that the OIC and its member-states cannot answer the critics at all and, therefore, have to resort to silencing. If they want to soften the blow of constant criticism, they should use the same ability that they wish to see eroded: free expression. Recalling Warburton’s statement that “Commitment to free speech involves *protecting the speech that you don’t want to hear* as well as the speech that you do” this means that our ability to criticise these nations in the first place means they can respond in kind. They must be able to say *why* critics of shari’ah law and, with it, adultery and underage marriage, are wrong. Free expression is a two-way street. The OIC is happy when the traffic of ideas flows in its direction but is unhappy when the headlights shine on them from the opposite. This is neither a respectable nor mature approach to our most important liberty.

Let us look at the proposal itself (U.N. Doc. A/HRC/10/L., 2009). The prelude states: “The Human Rights Council - Reaffirming the pledge made by all States, under the Charter of the United Nations, to promote and encourage universal respect for and observance of all human rights and fundamental freedoms without distinction as to race, sex, language or religion”. It then makes this ludicrous statement:

Stressing that *defamation of religions is a serious affront to human dignity* leading to restriction on the freedom of religion of their adherents and incitement to religious hatred and violence (par. 10)

The entire idea makes no sense in human rights’ terms for the simple reason that *human rights belong to persons and individuals not ideas or beliefs*. With this simple

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understanding, it appears that the entire approach falls flat. Ideas are just that: ideas. They are not perfect or infallible since they reside in human minds. Even if they were given by a divine figure, they still rest in fallible brains of talking apes. A human talking about perfection is as logical as a monochrome monitor showing colour. It simply cannot be done and when it is, we need to remain very doubtful of how true it is.

Similarly for beliefs. The statement that “I believe this is true” makes little sense in most cases, since it is either true or it is not. One’s belief about it is irrelevant to whether x is true or not. Usually it can be proved empirically or if it is a metaphysical position, it still has nothing to do with beliefs and everything to do with good philosophical reasoning. That is why people are able to justify almost anything else in their life: their politics, career, choice of partner, and so on (this does not make their justifications true or good, but at least there is an *attempt* at justification if one has to ask or push for a reasoning).

But something so fundamental as “meaning” is “believed to be true” because of religion; devoid of rationality it rests entirely on faith and when light is shed on it, it coils into a posturing of a wounded creature.

Ideas do not deserve protection because ideas could be wrong. This was John Stuart Mill’s major claim against censorship, in the famous second chapter of *On Liberty*. If the OIC is indicating what we cannot speak about, then they have become censors. They have decided what may be spoken about or at least forcing others to agree with them. In the same way, like censors, they must assume something fundamentally opposed to being human: infallibility. If you can claim that something must be censored, you must assume that you know that it is better for it not be viewed, publicised, distributed, and so on. But of course, you can not know this. And a simple glance through history will show that banning or silencing that which upsets the status quo is only pushing below the surface that which will inevitably rise again.

Many religious authorities, as we have seen, wanted many works of science and literature banned: the great James Joyce’s *Ulysses*, Rushdie’s *The Satanic Verses*,

many of Bertrand Russell's more polemical books, Galileo's works, even the Bible itself were all banned books. David Hume could not publish his *Dialogues Concerning Natural Religion* while he was alive – which today, remains the best one-volume critique of monotheism. Many works of science, literature and philosophy, which have pushed us further toward understanding of the world, have seen flames. These works were censored. Yet we can safely say that these books did not result in the moral decay of society; indeed, books like the works of Galileo or Darwin or Mill are central to our understanding of ourselves, our world and our lives.

What remains important is this: one cannot assume infallibility, therefore to silence dissent is either unjustifiable or despotic. The point behind expressing ideas, even if you do not like them, is that you must counter it with the same ability your critics use. If the OIC is unhappy about what “Westerners” are saying about their religion, they must indicate with empirical evidence why the criticisms are false. This childish attitude of keeping opponents quiet because you do not like hearing what is being said or expressed belongs in a school-yard not in the United Nations. And simply asserting it as a human rights' abuse will show itself to have no basis in international law. Indeed, as many legal experts highlighted at the time, the OIC has no legal basis to make the claim that defamation of religion is an abuse.

*Who* is being abused? The women that are being stoned to death or the men who are doing the stoning? To the OIC, they are defending the latter by claiming hurt feelings or offence. But offence is not a justification for silencing opponents. Offence is a matter of individual and subjective opinion: the same expression might find amusement from the majority but offend a minority. Does the minority's offence mean we do not allow the expression to continue? It certainly cannot be a democratic decision. As John Stuart Mill so memorably phrased it, we must actively work against the “tyranny of majority” opinion. Just because the majority holds it to be true does not make it so. “The fact that an opinion has been widely held is no evidence whatever that it is not utterly absurd,” said Mill's godson Bertrand Russell. “Indeed in view of the silliness of the majority of mankind, a widespread belief is more likely to be foolish than sensible.”

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If it is not democratic, we must at least understand the inherent nature of free expression. This is why defending it as an ability has a particular advantage. Free expression, as we have seen, is important for the growth of our species. We need to be grown up enough to realise that we live in an increasingly integrated world, with various hues of ideas becoming a kaleidoscope of the human endeavour. We need to be mature enough to realise that with this integration comes ideas we may not like, things we do not want to see, expressions we may not want to hear. But what has led us to this point of freedom, in most places in the world, is directly related to questioning authority and not living an unconsidered life.

By giving in to the childish whining of Muslim countries, we are not only debasing what many have died for: we are patronising the very countries we wish to “not offend”. We are saying to them: “we may have free expression, we may learn how to maturely deal with critics. But because you are offended, we are going to silence all discussion around your religion because you are not democratic/Western/capitalist/etc.” Thus, the othering that Amartya Sen warns about finds itself reinforced by those who are meant to be aware of it. Instead of breaking down barriers to make us into a global union of humanity, the United Nations is doing exactly the opposite: more borders and more differences. By giving into religious bullying, the UN is doing the exact opposite of what it is meant to.

If this does not give us pause, then the UN has become nothing more than a weak, posturing, hand-wringing liberal ideal afraid to actualise its goals.

To see how far this complete reversal of goals has gone, consider this statement by Dacey and Koproske:

On March 28th, 2008, the Council actually undermined its own ability to protect free speech. An amendment to a resolution on freedom of expression (passed 27-15, 3 abstentions) now requires the UN Special Rapporteur on Freedom of Expression to “report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious

discrimination” ... Instead of traveling the world in search of instances in which free speech is unjustly limited, the Rapporteur will now do just the opposite, in an effort to police “abusive” speech. The protector has become the oppressor. (Dacey & Koproske, 2008, p. 7)

The worst part of all this is the unjustifiable nature of the OIC’s claims. The rights they speak about are already protected by the Universal Declaration of Human Rights and other important documents. There is no right to protect your beliefs from criticism, since your beliefs are ideas. And ideas could be wrong. If they are not wrong, it is up to you to show your critics why. It is not up to you to cover their mouths.

#### NO LIMITS TO FREE EXPRESSION?



Guillermo Habacuc Vargas, a Costa Rican artist, chained a dog and starved it to death. He called it art (“Dog chained and starved - in the name of art”, 2008). Is this free expression? A best-selling book in 1994 was *The Bell Curve* by Richard J. Herrnstein and Charles Murray (Murray & Richard, 1994). In it, they discuss the interaction between races and intelligence and the implications of this for society. Some have argued that they were promoting scientific racism. Should *The Bell Curve* be banned?

Let us look at the former. Throughout this essay, we have worked the following as the definition of free expression: *the ability to engage in open dialogue or through any medium, on any topic, ideally in an amicable and open-minded way, which leaves room – most importantly – for debate and discussion.* I have also defended this view as more appropriate than a “right” and shown why as an ability it matters. The two central points of free expression are thus: 1) open dialogue or expression and 2) leaving room for debate and discussion.

Whilst I think Vargas actions disgusting, I think the reasons for opposing him cannot and should not be done via free expression. We can make better arguments through the avoidance of suffering, the aesthetic ideal and rights of animals.

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It is best not to talk about limiting free expression since opponents will see it as an opportunity to act. Indeed, if one is going to make a case for “limiting free expression” I am going to adopt the somewhat controversial viewpoint that we must defend the “no limits” approach. We can do this not by actually stating there are no limits – because as in Vargas case which involves the actual suffering as opposed the OIC’s hurt feelings – but by making a case by refraction.

If we are going to discuss the limits of free expression, it must never ever be a general approach: it must look at each case individually and judge accordingly. And when done individually, other factors can probably make a better case for not allowing the expression to take place. For example, child-pornography or revealing state secrets can be better opposed with arguments *other* than limiting free expression. Child pornography, like Vargas’ art, involves direct suffering; revealing state-secrets can have consequences for our society. In neither case is there mention of limiting free expression.

Done in this way, we can better approach free expression discussions. Opponents to free expression, like the OIC, cannot use any slightly open doorway to breach the floodgates of despotism.

Free expression is our most important ability. It is a tiny flame held to a very foggy existence. To clear that fog we must breathe fresh life into these discussions, be firm in cupping the flame close to our chests. As fragile as this ability is, it remains powerful. It can set the whole world aflame if we are not careful. That is why free expression, today, matters more than ever; because those of us who defend it must also protect it from itself. But as we have seen, rather than putting barriers around free expression, we can defend the barriers themselves as good enough arguments. It is time we held the flame high without fear of the fog consuming it.

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