



## The University and Civil Society The Challenges of Free Communication

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**Abstract:** An authentic university must have appropriate dynamics and guidelines with respect to discussion and dialogue. There is some legitimacy to be found in imposing constraints on communication (a) within the university; (b) within civil society; and (c) in the relation between these two. There are some problematic tensions and conflicts with regard to truth-seeking, solidarity-building, and compromise-forging. These issues will be explored through reference to some contemporary implications of Jaspers' ideas regarding freedom and inquiry, both within and beyond university life.

**Keywords:** Jaspers, Karl; Hegel, G. W. F.; communication; contextualization; enlightenment; freedom; university education.

In what follows I understand myself in somewhat the role cast by John Locke for those whom he termed "underlaborers." Their task was to clear away underbrush so that the real work could begin more successfully.

We can think of freedom in broadly cognitive settings as either freedom of expression or freedom to pursue the truth, wherever it might lead. The former is typically being labeled "freedom of speech." Here in the United States, it is protected by the First Amendment to the Constitution. It is a right. The latter is being labeled "academic freedom," the opportunity to undertake an unfettered search for truth regardless of its consequences. This form of freedom gets also construed as a right, but even more so as a responsibility.

Next, a very few and some very basic words about listening, a topic that is not often taken up, but is in recent times in need of further discussion. One does not always have a right to listen in. There are laws protecting certain kinds of communications, "privileged

communications" as they are called, doctor-patient being one of them. Overlapping these there are laws protecting privacy more generally, and certain sorts of intrusions into such privacy can be legally prosecuted.

Public unlike private settings and circumstances are another matter. Semantically and thus conceptually the public and the private, of course, differ. And there are gradations of public spheres, ranging at least from city parks to auditoriums on privately endowed college campuses. Generally speaking, does one have a right to listen to what is being said in such settings? It is hard not to respond affirmatively, to say "yes." And yet, does one have the right to attend them in the first place? This may depend upon such variables as membership status, the cost, if any, of tickets, seating availability, and the conditions of admittance as provided by prior announcements, invitations, advertising, or promotions issued by a sponsoring group.

Matters, as one might have expected, now become somewhat more contentious, and not just because of

disagreements regarding various people's right to enter variously defined public spaces. (Clearly, civil rights issues as have plagued many decades of life in the United States are in play here, though they have now largely been settled in law, if not often enough in actual practice.) Consider the following question, however: assuming that the right to listen is underwritten, thus sanctioned and made operative through the right to attend, does anyone have the countervailing, oppositional right— itself then also a basis and justification of free speech, if acknowledged—to interfere with and thus prevent such listening from successfully taking place? In short, can one legitimately shout speakers down?

In the sort of settings and circumstances now under consideration, it would appear to be a prohibitively steep hill to climb, at the top of which would be found the right, for some the obligation to prevent officially sanctioned and sponsored communication from occurring successfully. To do so would be of a piece with disrupting free speech itself, though, paradoxically, in the name of free speech. After all, the concept of free speech is performative, that is, free speech cannot be free if no one is able to hear it in a manner that enables its comprehension.

Surely the same sorts of reflections would apply and be valid, not just of free speech but of academic freedom as well, the pursuit of truth wherever it might lead, now also construed as taking place in sanctioned and sponsored locales in public educational settings. In his *The Idea of the University* Karl Jaspers insisted that it is the task of a community of scholars and students to be engaged in the seeking of such truth.<sup>1</sup> And, he saw institutions such as universities as prime places for this activity, this enterprise and undertaking.

Unfortunately, however, it is not as quick and easy as I have made it out to be, and this is so mostly for two reasons—although there are others. One reason involves the distinction between a public place in the sense of a space in which a public may gather, a city park, for example, or a public beach—and a legally private place wherein a particular grouping of diverse people, a particular public might under certain conditions be allowed to enter and congregate.

Worrisomely, it looks as of the former sort of place, the city park, is less amenable to justifiable control if by this is meant the legitimized prevention or closing down

of attempted disruptions of free communication loops and patterns: I intend here specifically, contextualized and responsive speaking and listening in their reciprocal and in fact mutually entailed interrelatedness. However annoying and frustrating it so often is, unless shouting reaches the level of disturbing the peace—or comes up against noise abatement or crime considerations, there may be nothing at all that can effectively be done. This is just one of the consequences of the manifestations of a robust, messy, and often contentious democracy at work, even, especially perhaps, apparent in various sports stadiums, themselves often privately owned, but open to the public through ticket purchases and other procedural mechanisms. (After all, the home crowd often tries to prevent the visiting team from hearing the calling of its own signals in the field. And there are rarely any attempts to prevent this from occurring.)

The other cause for concern arises out of historical circumstances, quite possibly, even probably ours. What I have sketched to this point has incorporated in a rough and ready way reasonable thinking regarding free speech and academic freedom. Here again one can mention Jaspers who believed that a university should always remain committed to providing a space for free intellectual communication, even at the cost of allowing those with less tolerant views to speak. A university environment should feel confident enough to allow such views. But such a sketch is most and some might say only helpful in normal, thus stable times. In such times there is large-scale, though by no means universal agreement regarding the rules of civil engagement. There are also consensually accepted algorithms regarding decision procedures for resolving disputes, whether over rules or rulings. There is a sufficient degree of transparency in place in order to enable somewhat harmonious and collegial investigations of opaque areas and vague boundaries. Although one must not idealize these conditions, transforming them into the way things surely never were, even if only as a regulative principle, I do think that it can be understood what we are talking about when we talk in this way. We do have a clear conceptual vision of so-called "normal times."

What may come into play in abnormal, meaning transitional times, however, is quite another matter. What the rules of engagement will turn out to be, and what the decision procedures will come to be for overcoming civil log jams, potential conflicts or chaos, and seemingly irreconcilable because starkly opposing agendas are themselves very much, and

<sup>1</sup> Karl Jaspers, *The Idea of the University*, transl. Harold A. T. Reiche and H. F. Vanderschmidt, Boston, MA: Beacon Press, 1959. [Henceforth cited as *IU*]

often altogether in contention. And there proves to be little, if any accepted common ground or grid, thus no meta-level through whose platform resolutions can be effectively developed, conveyed, and acknowledged.

For most of our historical time, a time often severely challenged and damaged, though nonetheless impressively resilient and robust, the "rules of the game" in so-called advanced and advancing democracies have largely been consensually accepted. We have often labeled this historical period "The Enlightenment," and we have lived largely in the protection of its lengthy wake. (And of course this is a selective overview.)

Transitions, prolonged or abrupt, invariably problematic and often frightening and destructive, have irregularly but frequently occurred in our historical past. There has never been longevity, much less a guarantee of permanence for any era, and thus neither for our own. In this respect G. W. F. Hegel's *Phenomenology of Spirit*, and in particular ways its "Absolute Freedom and Terror" chapter, have provided an instructive template for what has happened in the past and it could easily become a window upon our pending future, perhaps even our emerging present.<sup>2</sup>

Let me close off this first portion of my remarks with a brief and hopefully helpful, if somewhat unsettling set of reminders. Free speech and academic freedom, civil society and the University, are historical realities embodying normative notions. Such realities are rule-guided and subject to strategies of upheaval and attempts at radical restructuring in abnormal times, that is to say in transitional ones. What are more or less pervasively understood to be valid distinctions and altogether cogent, thus appropriate regulative procedures can come to be impinged upon, derided, attacked, and overthrown.

What outcomes might then be expected as a consequence of such extraordinary historical conditions? One can in fact only surmise. But I believe that at least one thing can be counted on: If, after historical abnormality gives way, and a new normality is being established to take its place, it is likely to be some time before its outlines come into full focus. A new (supposed) normal would surely involve the emergence of essentially new lenses for observation and evaluation. And most likely there would be significant consequences for what freedom, truth, and

communication would then come to mean.

It is instructive to ponder the illustrious Greeks of ancient times. Let us remember that they had no notion of will, as in "free will," which is by no means to suggest that they could not and did not engage in unconstrained actions. Nonetheless, their experience of themselves and their world was quite different than ours. And theirs to this day remains less than fully transparent to us, as would ours to them.

Many other examples of this sort, some more striking than others could also be adduced. To forward this perspective and quandary in a complementary way, consider institutions. If institutions embed, contextualize, and thereby structure and inform human identity in fundamental ways—and we grant that such institutions are historical in nature, arriving on the scene, lingering for an indeterminate time, and then are departing—it is hard not to conclude that even civil societies and universities as we have known them may morph in material enough ways as to render a number of the questions we ask regarding them currently speculative and perhaps at some future date largely inscrutable.

Before continuing further and in the interest of a more complete disclosure, I should state that the views I now mention and ever so briefly explore are somewhat foreign to me. But I do believe that they deserve this mention, for one aspect of academic freedom is, or at least, might be the good faith effort to provide a charitable account of an opposing way of construing various core matters that are in dispute.

Some will claim that the self, and the attendant values and freedoms that spring from it, are contingent, that is, that they are historically formed constructs. From this perspective it might be said that freedoms of speech and academic freedom were and are significantly accelerated, if not largely engendered by the Enlightenment and its particular grid of knowing and attendant norms. Freedom of speech and academic freedom are thus best comprehended precisely as enlightened values and far less so as (allegedly) eternal values.

To be sure, to the degree that we can extract and disengage the self from its various historical settings, we might want to make a case for certain, so-called "Universal" freedoms, and historically inviolable norms. Purportedly discovered, and then articulated as potentially independent of any and all such settings, what would we then have in hand, however, and what would this actually make possible? Surely, we

<sup>2</sup> G. W. F. Hegel, *The Phenomenology of Spirit*, transl. Arnold V. Miller, New York, NY: Oxford University Press 1977, pp. 355-63.

can find no focused content. What, in fact, would our extractive accomplishment mean? Unfortunately, such an accomplishment would be largely bereft of meaning. What would freedom in its varieties and distinctive variations look like in total abstraction from its historical instantiations? Here again, we are highly likely to come up empty.

Such a freedom will show multifariousness, as actual, concrete freedoms surely do, with several of its aspects in potential and often actual conflict with other ones, or with its own dimensions or aspects. And what could be made of the notion of an underlying (or overarching) de-contextualized and univocal "freedom?" In a minimal sense it must accommodate the distinction between freedom *from* and freedom *for*, a variant of Isaiah Berlin's influential, if controversial distinction between negative and positive liberty.<sup>3</sup> If taken out of context, however, such a conception of univocal, de-contextualized freedom, might no longer be viable. In fact, it could even emerge as a vacuous notion. (Parenthetically and *in concreto*, the right not to be interfered with as listener, as we have seen, collides with the positive right of others' self-expression in free speech.)

On the other hand, a different belief system will emerge in a given culture if the claim is nurtured that the self, its rights and its freedoms are historically generated and circumscribed realities, and that it has become subject to varying alternations and transitions through such factors as institutional and socio-political disruptions and upheavals. Would the later Plato in dialogues such as *The Laws*, or all of Thomas Hobbes, or the mainstream of Western theology, or Immanuel Kant in his political writings, or even John Locke in terms of his underlying commitments, live comfortably in an Enlightenment infused environment with all of its attendant values? This is most doubtful, even in the case of the largely enlightened Kant, whom I included in this list exactly for this reason.

Again, I offer these reflections not to champion but to elucidate them, to remind us of the precariousness of what I have termed the Enlightenment orientation and the historical dangers it unavoidably confronts as part of its continuing future.

Let me mention one further shadow following upon any Enlightenment utopia: the projected era of genetic engineering, cyberspace, and Ray Kurzweil's

*Singularity*. Assuming such an era as probably being altogether fanciful—for many surely in a horrifying way—what might this futuristic projection nonetheless convey, especially when construed in part as an incubator for regulative principles impacting our behavior today?

It is the subject of many further, yet imminently looming investigations and controversies, but the human techno-future, the purported habitat for post-humanity, exudes almost invariably the aura of Fyodor Dostoevsky's Grand Inquisitor, now reincarnated and brought up to speed at the frontier of many a three-dimensionally-printed, architecturally-projected cyberspace. It is at best highly dubious that traditionally humanistic and enlightenment-created values and norms such as freedom will find an easy residence in such a space.

Given these most recent, potentially disquieting reflections, it is not difficult to anticipate such a situation; in fact it is virtually unavoidable that the notion of truth itself will be forced to come into question as well. At a minimum, truth must become a central subject of concern and, potentially, recalibration.

It is said that truth is liberating and, thus, that in knowing it we are set free of superstition, sin, prejudice, ignorance, or the subjugation of enforced silence. But of course for us to come to know any truth, much more so the Truth, and thereby to be liberated, we must from the start have some critical mass of freedom, a methodologically protected space of and for cognitive maneuver. Only the guarantee of this sort of platform allows us to pursue the truth, wherever it leads.

For a happy and productive number of centuries now the foundational freedom required has been construed and endorsed as some close collaboration, even fusion of academic freedom and the unobstructed adoption of scientific investigation as proper method of inquiry, inquiry as experimental not exegetical. This is the algorithmic grid that emerged and was hammered in greater outline and detail in the aftermath of the decisive confrontation between Galileo and the Catholic Church and its unsuccessful, though intelligent and earnest intellectual protector, Cardinal Robert Bellarmine.

Currently we might very well be at the cusp of some newly forming grid. And how, then, will it stand with truth and freedom as we have known these? Surely vigilance and, beyond that, some genuine courage may prove to be our best and possibly only allies.

<sup>3</sup> Isaiah Berlin, *Four Essays on Liberty*, New York, NY: Oxford University Press, 1990.