

A short summation for the defence

What, in the end, do we lose if we quietly give up on defending free speech as an indivisible liberty? Fighting for freedom of speech has played a crucial role in the advance of civilisation and liberty through history. But what will we really be giving up today if we allow new restrictions, formal and/or informal, to be placed around that freedom?

Nothing that is worth defending, say supporters of measures to curb offensive speech. Some might lose the 'right' to spout racist or homophobic bigotry, but who wants to fight for that? Meanwhile what we all gain, they will claim, is a safer, more civil society where people have to respect each other. After all, it's not as if the UK and US are about to be turned into Saudi Arabia, where bloggers can be flogged for offending the authorities, is it?

Nice try. The problem is we risk losing far more than that if we allow free speech to be but-ed into submission today. And the losers will be more than a few extremists.

What we are facing in Anglo-American society today is not old-fashioned censorship, but new forms of strait-laced conformism. There is a prohibitive atmosphere hanging over many public discussions, where the threat of being told that You-Can't-Say-That

always seems to be just a rhetorical slip away. People might not be formally barred from expressing an opinion, but are often unsure of where the limits of acceptable speech lie.

There is no need to dream up horror fantasies of a dystopian future in which freedom is crushed under a jackboot. The real trends in our culture that have been discussed here already point the way towards a society in which the stymying of debate and the fettering of free speech risk robbing us of the chance of a better future.

One thing we are in danger of losing is the meaning of words. What language is anybody allowed to use to express themselves today? The rules and codes are always shifting and, generally, narrowing the acceptable terms of debate. The award-winning actor Benedict Cumberbatch can be hauled over the coals for letting slip the word 'coloured', even though he was trying to highlight racial discrimination. When the *Sun* accurately described the pilot who deliberately crashed a passenger plane into the Alps, killing 149, as a 'madman in the cockpit', it was widely lambasted for giving what one academic called 'a kick in the teeth for people who suffer from mental health issues'.¹

In a world where there is such confusion about the meaning of language, and nobody can be sure what they are allowed to say anymore, the danger is that words lose their meaning. Instead of meaningful debates, we are left with empty exercises in tiptoeing around words that have become detached from reality. An obsession with using the correct language and code words, rather than saying what we believe to be right, is a recipe for self-censorship and apologies rather than clarity through argument.

We also risk losing sight of new ways to advance human knowledge. How can knowledge flourish in an atmosphere where there are questions that cannot be asked and arguments that cannot be had? For example, when debates about anything from the history of the Holocaust to the causes of climate change or the efficacy of rape laws can all be ended with a shout of 'Denier!' it is not only

the proponents of alternative or crankish views who lose out. Some of the well-founded arguments of modernity – the undeniable case for racial or sexual equality, for example – risk losing their intellectual dynamism without being tested, and instead become arid prejudices that are never properly justified but only repeated by rote. That is unlikely to advance our knowledge, or to convince future generations to accept the traditions and values of our society. From science through history or politics, open discussion and the ability to question everything are the tools we need to keep sharp if we hope to test what is right and prove what we believe to be the truth.

We are in danger, too, of losing the lifeblood of important political and moral debates. In a world where You-Can't-Say-That, for fear of causing offence or inflaming opinions, many controversial issues will be taken off the table for debate and put into suspended animation. There can be no free and open debate about the pros and cons of immigration, for example, or the morals of Islam, in case these issues prove 'inflammatory' to some section of the allegedly wooden-headed public. There can be no proper discussion about the future of the family, or same-sex marriage, due to anxieties about attracting a charge of homophobia.

It is a sign of the times that in US court hearings about the legality of same-sex marriage in 2015, no top law firms proved willing to represent the traditionalists who oppose gay marriage on religious principle. In the past leading American lawyers have recognised that even such unpopular figures as British soldiers accused of the 1770 Boston massacres, or opponents of racial desegregation in schools, or Guantanamo Bay detainees accused of al-Qaeda links, were entitled to the best legal representation. Now opponents of gay marriage, who still reflect a sizeable minority of American public opinion, are not to be allowed proper representation.²

Without full and frank debate of controversial issues there can be no proper conclusions, simply declarations that 'the issue is

settled' leaving unresolved tensions waiting to burst forth. We are left uncertain of what minorities or the majority in society really believe or deem acceptable. Young people in particular will be taught how to follow – or secretly reject – rules and etiquettes, but not how to make properly-informed moral judgements or arguments about what is good or bad.

We are also in danger of losing the ability to be different, to say something out of the ordinary and shake up the world. We live in an Anglo-American culture where the emphasis seems always to be on the need for safety, for avoiding offence and making others feel comfortable. If this continues the likely upshot will be an anodyne culture in which any opinion considered too strong or colourful or strange must be toned down, whether it is expressed in a satirical magazine, a football chant or a university seminar. If you want to imagine that grey future, picture not Orwell's image of a boot stamping on a human face, but the human mind and imagination drowning slowly in a bland blancmange of colourless conformity.

And we are in danger too of losing our sense of independent adulthood. Too many demands for restricting freedom of expression today reflect the assumption that adults need to be treated like vulnerable children, swaddled in protective blankets for their own safety and security. The phrase 'Not in front of the children' has traditionally been used to distinguish between what is considered fit to say or show to adults but not to our offspring. That line is becoming increasingly blurred.

These patronising attacks on freedom of expression infantilise adult life. They risk robbing people of the moral autonomy that is central to a system based on free speech – the freedom to listen, think, and judge for yourself. And they inevitably hand the authorities the power to act *in loco parentis*, to protect us from each other and ourselves.

Freedom of thought and speech is essentially about the liberty to make your own choices. That has long been a mark of mature

adulthood, as opposed to the childish acquiescence in doing what you are told is good for you. Dependent children have to learn to talk. Autonomous adults have to learn again how to deliberate and argue for themselves. Unfree speech is for children, who should sometimes still be seen but not heard and protected from bad words. Free speech is for adults in a grown-up world of give and take who do not need to be spoiled, cosseted, coddled or swaddled for our own good.

So yes, we have a lot to lose by giving up the fight for freedom of expression. The one thing we do need to lose instead is the fear of free speech. As the subtitle of this book suggests, it is the fear of being offensive that risks 'killing free speech'.

Far too much public discussion today focuses on the dangers of allowing speech to run wild and free. If we let any Tom, Dick or Ali say what they like, we are warned, it runs the risk of encouraging extremism – inciting hatred of Muslims, or provoking Islamic terrorism, or in some other way letting loose the beast supposedly lurking within us all. (All of us, that is, apart from the enlightened few who issue these warnings.)

Fear of free speech is about far more than the unlikely prospect of being shot for your opinions or cartoons. That is the far end of a spectrum of fear that begins with the embarrassment of saying something different from what is expected, and the sense that one should apologise the moment anybody takes exception.

That fear is not entirely unfounded. Free speech is far from being the risk-free easy option. Words can hurt, talk can start trouble and even wars, there are words and opinions that some might reasonably think would be better unsaid, and freedom does inevitably mean that other people are free to talk and tweet out of their backsides as well as their frontal lobes.

Yet whatever discomfiting symptoms it might bring on or risks it might entail, in the end free speech is always a price worth paying, and the alternative of restricting it out of fear is always worse.

But, some might say, what about *Charlie Hebdo*? Wasn't that massacre a consequence of the cartoonists 'going too far' with their insulting caricatures of Muhammad? Wasn't it 'natural,' as the Pope suggested, that their provocations would be met with 'a punch,' or worse? Wouldn't a little less freedom and a little more discretion have avoided the tragedy? The implication is that had the cartoonists been a bit more fearful of the consequences of free speech, they might still be here. Some others may draw that conclusion to be careful about what they say or draw in future.

But the *Charlie Hebdo* massacre was not provoked by too much press freedom. To suggest that it was is to give in to the murderers.

If that violence was invited by anything, it was actually the public displays of fear of free speech and the over-sensitivity about giving offence in the upper echelons of French and wider Western society. The authorities have legitimised and institutionalised the culture of You-Can't-Say-That. That official fear of free speech, as I argued at the start of the book, can only have handed the murderers political ammunition by endorsing the idea that the offensive cartoonists had gone too far.

To suggest now that the *Charlie Hebdo* victims provoked the attack and would have been better off using blunter pencils is little different from how the police and Labour council not only tried to blame those girls in Rotherham for their own abuse but also attempted to stop the press reporting it, for fear of how people might react. Freedom of speech is not the problem. Fear of it is.

No doubt the right to free speech has been used to pursue all manner of offensive ends down the centuries. But we should not accept that as an excuse for limiting it today. The value of free speech outweighs the possible harm, and defending 'freedom for the thought that we hate' is the only sure way to protect it for all. As the Polish-born leader of German revolutionaries Rosa Luxemburg nailed it a century ago: '*Freedom is always and exclusively freedom for the one who thinks differently.*'³ Some of those

who fought the historic battles for freedom of speech and of the press used it for low purposes, from John Wilkes, the English scandalmonger and pornographer in the eighteenth century, to Larry Flynt, the *Hustler* publisher in the twentieth, who pithily captured the essence of why it is important to defend the right to be offensive: 'If the First Amendment will protect a scumbag like me, it will protect all of you.'⁴

Defending the right to be offensive need not mean celebrating obnoxiousness or looking for the opportunity to exercise that right at somebody else's expense. It is about upholding the freedom to think what you like and say what you think. It is for others then to take offence or not (which they are fully entitled to do, so long as they don't imagine that gives them the 'right' to take away yours). Our sole responsibility should be to ensure that we have expressed the truth as we understand it, clarified the argument or cracked the joke to the best of our abilities, then allow others the same freedom to respond.

The fear of free speech for all is often ultimately based on fear and loathing of the masses, who might dare to use that freedom as they see fit rather than as they are told. Support for freedom of expression always blooms at moments in history when humanity is marching forward and filled with confidence in itself; it shrivels in more fearful and misanthropic times. That is why supporting unfettered free speech today is a declaration of faith in the future, an invitation to an open, no-holds-barred debate about the sort of societies in which we, and our children, might want to live. To accept instead that it should be restricted would be an admission that we fear the future too much to trust people to think and decide for themselves. We need more free speech and open debate if we are to stand a chance of resolving the conflicts in our society today and creating a less fearful tomorrow.

If anything, public debate today would benefit from some more seriously offensive – or offensively serious – arguments. It would be good to use the right to be offensive in a more meaningful fash-

ion, and not just to draw naughty cartoons or make edgy jokes (although there is nothing wrong with either of those) but to pose some bigger questions about many of the accepted truths of our culture today, starting with questioning the notion that free speech is too offensive to be let loose.

Over the past century, many of the great debates about free speech and its limits in the Anglo-American world have focused on cases heard in the US Supreme Court. Perhaps then we might leave the final thought on the fear of free speech to Justice Louis Brandeis, from a 1927 Supreme Court case that considered the conviction in California of Anna Whitney, a member of the Communist Labor Party of America, for engaging in speech deemed to have threatened society. Justice Brandeis insisted that, before speech could be restrained, 'there must be reasonable ground to fear that serious evil will result if free speech is practiced' and reasonable ground to believe that the danger is 'imminent'. He dismissed the notion that mere fear of what might happen could be ground for suppressing speech, in words that echo down the decades: 'Fear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears.'⁵

Despite that rousing declaration, Brandeis then went on to vote with the rest of the Supreme Court judges to uphold Whitney's conviction for speech crimes. Proof, if any more were needed post-*Charlie*, that whatever fine words we hear from the Western authorities, free speech is never a liberty that can be taken for granted.

Epilogue

The Trigger Warnings we need

Trigger Warnings have become symbols of the culture of You-Can't-Say-That. Those ominous letters 'TW' have spread across university campuses, the Atlantic and the web like banners of the forces driving back free speech. As the title of this book suggests, it is time we raised new banners to warn about the dangers posed by the silent war on free speech today.

Trigger Warnings point a gun at the head of free speech and demand it surrenders. They appear at the start of books, films, articles or news reports to warn that the following contains words or images which some might find harmful or disturbing, followed by a list of all the things we are supposed to be wary of – from A for Ableism or B for Bi-phobia, to X for Xenophobia or Z for Zionism.

The idea began as a questionable attempt to warn mental health sufferers that an online posting contained violent or sexual content that might 'trigger' an unhappy memory and cause a disturbed reaction. Now it seems as if encountering any sort of potentially challenging or offensive speech can be equated with a damaging mental health episode.

Trigger Warnings have become the modern equivalent of those 'Here Be Dragons' notices that used to be inscribed on uncharted